



Michael J. Schwab
Counsel
Email: mschwab@moritthock.com

July 8, 2022

WITHOUT PREJUDICE

VIA E-MAIL

lsmith@truthinadvertising.org

Laura Smith, Esq.
Legal Director
Truth in Advertising, Inc.
P.O. Box 927
Madison, CT 06443

Re: Khaled Khaled

Dear Laura,

As you know we represent Khaled Khaled (p/k/a DJ Khaled) and write in response to your letter of June 27, 2022.

We have investigated the claims set forth in your letter. Without any admission or concession of wrongdoing, in an abundance of caution, the posts identified in your letter have been deleted. We do, however, advise as follows:

1. Mr. Khaled understands his obligations under the FTC Endorsement Guidelines (“Guidelines”) to clearly and conspicuously disclose any “material connection” between an endorser and marketer of a product. He has and will continue to make all efforts to comply with these obligations. For example, an Instagram video post for Hennessy cognac cited in your letter clearly indicates that the post was made in connection with a “paid partnership with hennessyus” (copy attached). The other Hennessy post cited in your letter is a picture of Mr. Khaled. The brand is not shown or mentioned.
2. With respect to the posts related to Ciroc vodka, DJ Khaled’s contractual relationship with Diageo ended years ago and he now has no contractual, financial or any other relationship with Diageo, the owner of the brand. DJ Khaled made the posts on his own volition, not at the request or with knowledge of Diageo or anyone connected to the brand. DJ Khaled, therefore, reasonably believed and continues to believe these posts were not “endorsements”



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under the Guidelines. This conclusion is based on the express provisions of (*See Example 8 to Section 255.0*) as well as the FTC's explanation of the Guidelines. On the FTC's website there is a page entitled *The FTC's Endorsement Guides: What People Are Asking*. This page advises as follows:

I'm a blogger. I heard that every time I mention a product on my blog, I have to say whether I got it for free or paid for it myself. Is that true?

No. If you mention a product you paid for yourself, there isn't an issue. Nor is it an issue if you get the product for free because a store is giving out free samples to its customers.

The FTC is only concerned about endorsements that are made on behalf of a sponsoring advertiser. For example, an endorsement would be covered by the FTC Act if an advertiser – or someone working for an advertiser – pays you or gives you something of value to mention a product. If you receive free products or other perks with the expectation that you'll promote or discuss the advertiser's products in your blog, you're covered. Bloggers who are part of network marketing programs, where they sign up to receive free product samples in exchange for writing about them, also are covered.

Here, Mr. Khaled purchased Ciroc Passion, liked it and then posted his truthful personal opinion about the product. The posts were not made at the request of or on behalf of Diageo or anyone connected to the brand. I assume you agree that Mr. Khaled is not required to state in his post that he had a prior business relationship with Diageo in 2019. So, assuming that you do agree and given the facts as stated above what kind of disclosure do you understand Mr. Khaled is obligated to make, if any?

Thanks very much. If you would like to discuss this matter, please do not hesitate to reach out to me.

Sincerely,

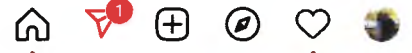
A handwritten signature in dark ink, appearing to read 'Michael J. Schwab', with a long horizontal flourish extending to the right.

Michael J. Schwab
MORITT HOCK HAMROFF LLP

cc: Khaled Khaled
Alan Soven (alan@alansoven.com)
Lisa Hageman (lisa.hageman@diageo.com)
Serena Viswanathan (sviswanathan@ftc.com)
Tarik Brooks (tbrooks@combsenterprises.com)

Instagram

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14 2



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Paid partnership with **hennessyus**
Stop. Motion • New Frontier

djkhaled Excited to be the first person in the world to own this limited-edition Hennessy Paradis decanter in celebration of the NBA's 75th anniversary. We're premiering it TODAY! Big shout-out to Hennessy for the incredible experience. GAME 1 FINALS LET'S GO! BLESS UP!

4w

hennessyus Cheers to Paradis! 🍷🍷

4w 39 likes Reply

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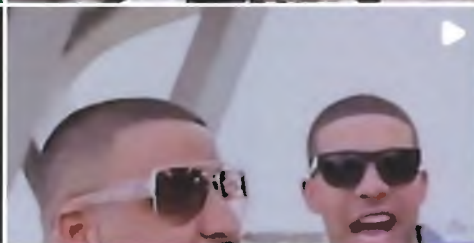
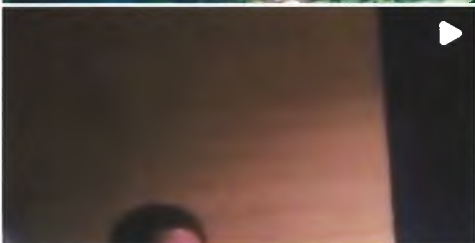
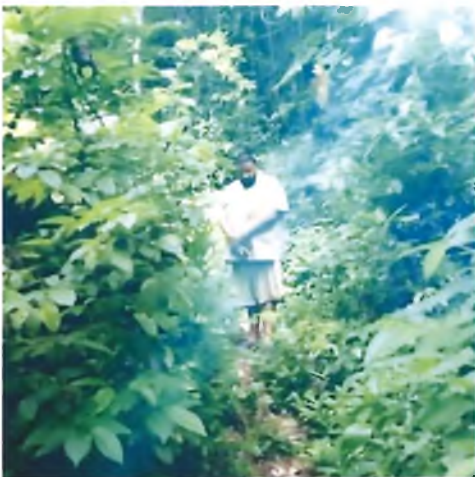


20,166 likes

JUNE 2

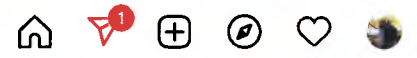
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