



February 19, 2015

**VIA EMAIL**

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RE: Request for consumer complaint records pertaining to Le-vel Brands, LLC

Dear Ms. Giani and Ms. Bolton:

Pursuant to the Utah Government Records Access and Management Act § 63-2-101 *et seq.*, Truth in Advertising, Inc. (TINA.org) is requesting copies of consumer complaints filed with the State of Utah regarding Le-vel Brands, LLC (also known as Le-Vel.com), a Utah company located at 1545 S. 4800 W., Salt Lake City, Utah, 84104 that sells and markets the supplement line, Thrive. We also request that any personal identifying information of the consumers who submitted the complaints (e.g., names, phone numbers, addresses) be redacted to protect their privacy.

As you know, the Department of Commerce recently denied similar requests made by TINA.org for consumer complaints filed against other Utah companies. In so doing, the Department took the position that because Utah Consumer Sales Practices Act § 13-11-7(1)(d) requires the Division of Consumer Protection to “receive and **act** on complaints,” the Division must **investigate** each and every consumer

complaint it receives, and therefore the complaints themselves are investigative records. Thus, according to the Department's reasoning, disclosing the complaints would reveal the confidential fact that a company is under investigation by the State, which is prohibited under Utah Consumer Sales Practices Act § 13-11-7(2).

Respectfully, such a position is untenable. First, the Act does not define the word "act" as "investigate." It is wholly silent on this point. Rather, the more appropriate definition, and the one the Division seems to follow, is "screen." In fact, the Division's own website devoted to consumer complaints specifically tells consumers that the Division will not investigate incoming complaints unless two conditions are met: (1) the substance of the complaint is a matter that is handled by the Division, and (2) if the matter is something the Division handles, the investigator assigned to it determines that an investigation is appropriate. See Utah Dept. of Commerce, Div. of Consumer Protection, Complaints, at <http://consumerprotection.utah.gov/complaints/index.html> ("Your complaint will be screened to determine whether it is a matter that can be handled by us. If it is something that we handle, your complaint will be assigned to an investigator who will determine what further action, if any, should be taken."). Thus, the automatic treatment of all consumer complaints as investigative files is overbroad and without basis.

Second, the Utah Government Records Access and Management Act clearly states that "all records are public unless otherwise **expressly provided by statute.**" Utah Code § 63G-2-201(2) (emphasis added). There is not a single statute in the State of Utah that expressly states that consumer complaints regarding a company are not public records. Rather, as explained above, the Department is relying on its own interpretation of the Utah Consumer Sales Practices Act to withhold copies of the complaints.

In short, we believe there is no basis upon which to deny TINA.org's request for consumer complaints filed with the State of Utah regarding Le-Vel Brands, LLC.

To the extent there are fees associated with searching and/or copying the requested records, please inform us if the cost will exceed \$25.

However, as a national nonprofit consumer advocacy organization and news website, we request a waiver of all fees pursuant to Utah Code § 63G-2-203(4)(a) because the disclosure of the requested complaints will benefit the public as it will contribute significantly to the public's understanding of the experience other consumers have had with this multilevel-marketing company. This information is not being sought for commercial purposes or gain.

Thank you in advance for your attention to this matter. If you have any questions regarding this request, please do not hesitate to contact either of us directly.

Sincerely,



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