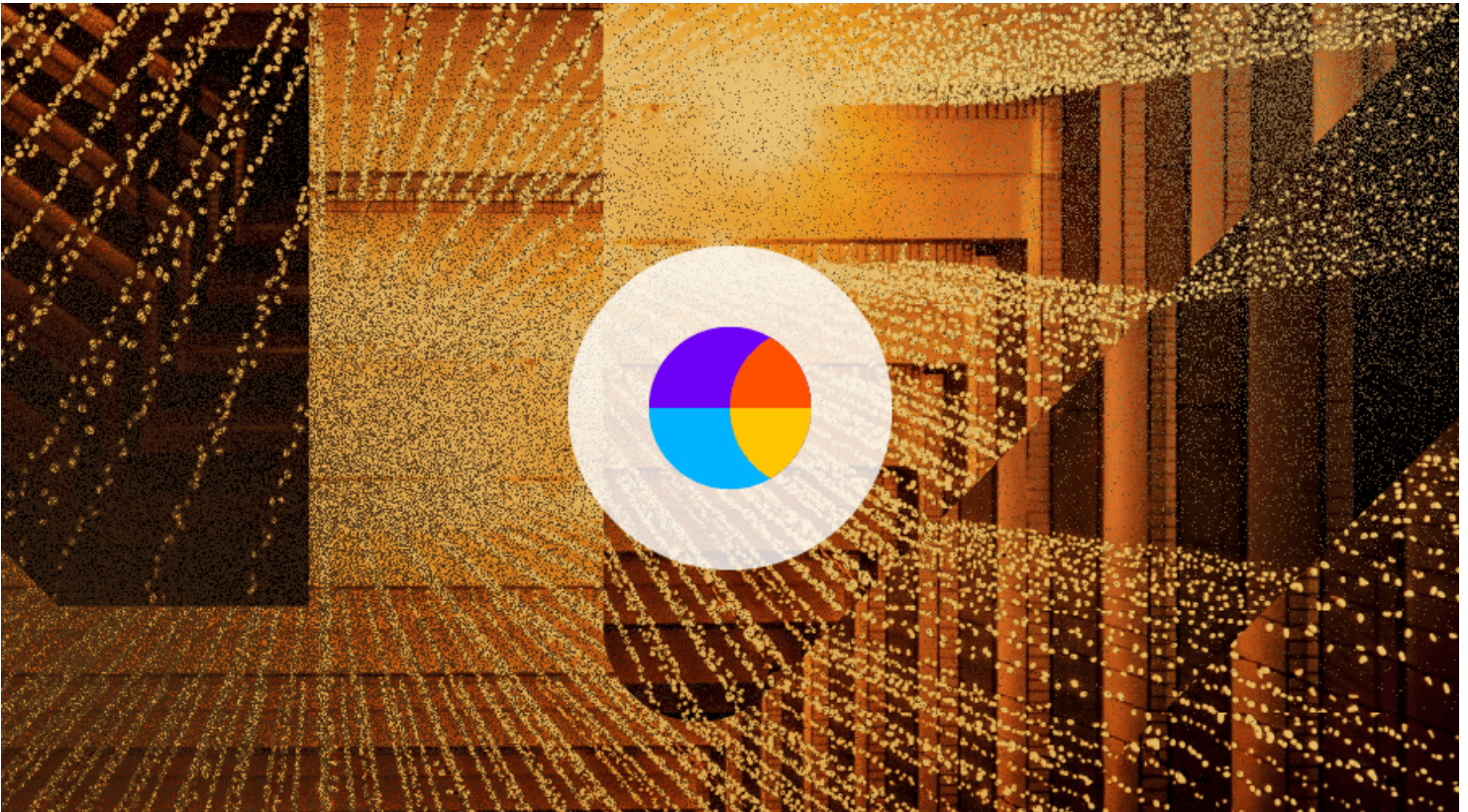


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# Case #190-2024: Monitoring Inquiry – Reshaping and Nutritional Company, LLC d/b/a ArdyssLife

## BBB NATIONAL PROGRAMS

Direct Selling Self-Regulatory Council

Case #190-2024: Monitoring Inquiry – Reshaping and Nutritional Company, LLC d/b/a ArdyssLife

## Company Description

Reshaping and Nutritional Company, LLC d/b/a ArdyssLife (“Ardyss” or the “Company”) is a multi-level marketing company headquartered in Henderson, Nevada and founded in 1990. The Company markets men's and women's reshaping apparel, nutrition, personal care, and home care products.

## Basis Of Inquiry

The Direct Selling Self-Regulatory Council (“DSSRC”) is a national advertising self-regulation program administered by BBB National Programs. This inquiry was commenced by DSSRC pursuant to its ongoing independent monitoring of advertising and marketing claims in

the direct selling industry.

DSSRC was concerned that the challenged earnings claims overstate the amount of income that can be earned by the typical Ardyss salesforce member participating in the Company's business opportunity and that the representative product performance claims communicate the message that Ardyss' products are efficacious in addressing serious health-related conditions.

#### *Earnings Claims:*

- Image of woman holding stack of hundred-dollar bills with copy stating "Unlock income streams that allow you to live the life you deserve"
- Image of \$17,000 check with copy stating "...New team president with a check of nearly \$17,000 in just 3 weeks of entering the business!...We have a new president! That earned a check that reached almost \$17,000 in only 3 weeks!!!!"
- "You can gain financial freedom even I this time of Pandemic."
- "Ready to embrace abundance and financial freedom?"
- "Elevate your lifestyle, embrace financial freedom, and create the future you've always imagined."

#### *Product Performance Claims:*

- "Aids conditions like arthritis and arthrosis  
Useful in acne treatment  
May provide relief from allergies  
Supports respiratory health and conditions such as asthma, pneumonia  
Useful in illnesses caused by bacteria, viruses and funguses  
May help support normal kidney, liver and gall bladder functioning"
- "BENEFITS: Optimizes health and wellness, Aids conditions like arthritis and arthrosis, Useful in acne treatment May provide relief from allergies, Supports respiratory health and conditions such as asthma, pneumonia, Useful in illnesses caused by bacteria, viruses and funguses, May help support normal kidney, liver and gall bladder functioning."
- BODY SYSTEMS BENEFIT: Urinary, Immune, Intestinal, Respiratory"
- "Packed with antioxidants, Vitamin C, and a synergy of superfruits, this blend supports cellular health, strengthens immunity, and actively works towards cancer prevention. #superfruit #noni #antioxidants #celular #anticancer"
- "They could help tame inflammation, lessen stress, and help protect your heart, too. Some experts recommend elderberry to help prevent and ease cold and flu symptoms. Use Ardyss Shield to protect you from contracting Covid 19"
- "Can help prevent and ease cold and flu symptoms . . . may help to protect your cells from free radicals and increase your body's defense."
- Testimonies are coming in about people using this product who has Covid 19 and getting great results.
- Weight loss product for my challenge, 30-day, 30 min. 30lbs.
- 25 Reasons to drink the juice (0:56) (ranging from preventing tumors to sleeping better)

#### **Company's Position**

Ardyss communicated with DSSRC during the initial stages of the inquiry and indicated that it was in the process of reconciling the claims enumerated in DSSRC's Notice of Inquiry.

Ardyss did not attempt to substantiate the earnings claims and product performance claims identified by DSSRC and instead took action to contact the salesforce members who were responsible for the social media posts and requested that the social media posts be taken down.

The Company was successful in removing one of the 13 claims (i.e., "...New team president with a check of nearly \$17,000 in just 3 weeks of entering the business!...We have a new president! That earned a check that reached almost \$17,000 in only 3 weeks!!!!") and removed the image of a woman holding a stack of hundred-dollar bills that appeared on the website, although the accompanying claim stating "Unlock income streams that allow you to live the life you deserve" remains visible on the website.

With respect to the remaining earnings claims and product performance claims, despite repeated requests from DSSRC to further address the concerns at issue, the Company failed to provide any substantiation for those claims.

#### **Analysis**

The Company assured DSSRC that it was working on addressing its concerns. However, all but one of the social media posts brought to Ardyss' attention remain publicly accessible and there was no evidence provided by the Company demonstrating its ongoing good faith actions to resolve the subject claims. DSSRC requested additional information from the Company, regarding whether the individuals responsible for the remaining claims were active salesforce members with Ardyss, and for copies of the correspondence that was sent by

the Company to those individuals requesting that the social media posts be taken down or significantly modified. Ardyss did not respond to DSSRC's information request.

While DSSRC appreciated the efforts of Ardyss to remove one of the posts at issue and remove one of the problematic images featured on the Company website, DSSRC remained concerned because 12 posts/claims are still publicly accessible, and the Company did not provide evidence confirming that it attempted to contact the individuals responsible for disseminating the existing posts.<sup>1</sup>

As DSSRC has noted in previous inquiries, when a direct selling company is made aware of an improper claim that was made by an individual and the company recognizes the claim to be untrue and unsupported, DSSRC acknowledges that the direct selling company may not be able to require the individual to remove such claim if the individual is no longer active with the company. In that instance, in addition to the company attempting to contact the individual responsible for disseminating the claim at issue, DSSRC recommends that the direct selling company promptly seek removal of the subject claims and posts if the social media platform where the subject post was made provides a mechanism for reporting trademark or copyright violations. If efforts to utilize a mechanism for reporting trademark or copyright violations are unsuccessful or if the subject claim occurred on a website or platform without a reporting mechanism, DSSRC recommends that in addition to making a bona fide good faith effort to contact the individual as described above, the Company should contact the website or platform in writing and request removal of the subject claim or post.

### *Earnings Claims*

According to the Federal Trade Commission's (FTC) Business Guidance Concerning Multi-Level Marketing, an MLM's or its participant's representations related to the business opportunity, including earnings claims, violate Section 5 of the FTC Act if they are material to consumers and false, misleading, or unsubstantiated. This is true wherever the representations are made, including on social media, in live presentations, in one-on-one conversations, or in any other medium. Any earnings claim should reflect what the typical person to whom the representation is directed is likely to achieve in income, profit, or appreciation. An MLM or participant making claims about MLM income must have a reasonable basis for the claims disseminated to current or prospective participants about the business opportunity at the time it makes the claims. A "reasonable basis" means reliable, empirical evidence that supports the claim, not subjective beliefs or personal anecdotes. It is deceptive to make claims without appropriate supporting evidence.<sup>2</sup>

Similarly, in DSSRC's Guidance on Earnings Claims in the Direct Selling Industry ("the DSSRC Guidance"), DSSRC cautions direct selling companies and their independent salesforce members against the use of any words or images communicating that a direct selling business opportunity will result in earnings beyond what can be generally expected by the typical salesforce member in the depicted circumstances. DSSRC notes that it is a core principle that it is misleading for a direct selling company and/or its salesforce members to make any earnings claims unless the direct selling company and/or its salesforce members have a reasonable basis for the claim at the time the claim is made and have documentation that substantiates the claim at the time the claim is made. The DSSRC Guidance also notes that some words or phrases carry a particularly high risk of being misleading to consumers when communicated in a general context. Such words and phrases include but are not limited to "financial freedom" and "time freedom."

Ardyss provided no evidence to DSSRC indicating that the typical company salesforce members participating in the Company's business opportunity can achieve either financial freedom or the level of income stated in the claims at issue. In the absence of such evidence, DSSRC determined that all of the earnings claims at issue in this inquiry should be discontinued.

### *Product Performance Claims*

Ardyss did not produce any evidence to support the health-related product performance claims at issue, including but not limited to claims that the product can prevent COVID-19 and other cold and flu symptoms, respiratory health and conditions such as asthma and pneumonia, reduce stress and inflammation, and actively works towards cancer prevention.

Pursuant to the FTC's Health Products Compliance Guidance, in addition to conveying product claims clearly and accurately, marketers need to ensure that there is adequate support for their claims. Under FTC law, advertisers must have a reasonable basis for their product claims before disseminating an advertisement. What constitutes a reasonable basis depends greatly on what claims are made, how they are presented in the context of the entire ad, and how they are qualified. The FTC's substantiation standard is a rigorous one, particularly when claims relate to health.

When applied to claims about the efficacy or safety of health-related products, the FTC generally requires that the representations be supported by "competent and reliable scientific evidence." The FTC has more specifically defined that standard as "tests, analyses, research, or studies that (1) have been conducted and evaluated in an objective manner by experts in the relevant disease, condition, or function to which the representation relates; and (2) are generally accepted in the profession to yield accurate and reliable results." In addition, the FTC requires that the research must be "sufficient in quality and quantity based on standards generally accepted in the relevant scientific fields, when considered in light of the entire body of relevant and reliable scientific evidence, to substantiate that the representation is true."

Here, there has been no evidence provided by Ardyss to substantiate the eight product performance claims at issue. In the omission of substantiating evidence DSSRC determined that the product performance claims be discontinued.

DSSRC also recommends that if the Company concedes that the claims at issue were, in fact, unauthorized representations, Ardyss take further action to put the public on notice and demonstrate that it has made a bona fide good faith attempt to address the concerns in this inquiry.

As DSSRC has noted in previous inquiries, when a direct selling company is made aware of an improper claim that was made by an individual and the company recognizes the claim to be untrue and unsupported, DSSRC acknowledges that the direct selling company may not be able to require the individual to remove such claim if the individual is no longer active with the company. In that instance, if the social media platform where the subject post was made provides a mechanism for reporting trademark or copyright violations, DSSRC recommends that the direct selling company promptly utilize such mechanism and seek removal of the subject claims and posts. If efforts to utilize a mechanism for reporting trademark or copyright violations are unsuccessful or if the subject claim occurred on a website or platform without a reporting mechanism, DSSRC recommends that in addition to making a bona fide good faith effort to contact the individual as described above, the Company also contact the website or platform in writing and request removal of the subject claim or post.

## Conclusion

Ardyss was successful in removing one of the 13 claims at issue in the inquiry and removed an image on its website depicting a woman holding a stack of one hundred-dollar bills. Although the Company maintained that it attempted to contact the individuals responsible for the remaining 12 posts, Ardyss did not provide copies of the correspondence that was sent to those individuals, despite several requests from DSSRC. Accordingly, in the absence of proof demonstrating a bona-fide good faith effort to contact the individuals responsible for the posts or provide the necessary support for the earnings claims and product performance claims that were the basis of the DSSRC inquiry, DSSRC determined that all of the subject claims should be discontinued.

Lastly, if the social media platform where the subject post was made provides a mechanism for reporting trademark or copyright violations, DSSRC recommends that Ardyss promptly utilize such mechanism and seek removal of the subject claims and posts. If efforts to utilize a mechanism for reporting trademark or copyright violations are unsuccessful or if the subject claim occurred on a website or platform without a reporting mechanism, DSSRC recommends that in addition to making a bona fide good faith effort to contact the individual as described above, the Company should contact the website or platform in writing and request removal of the subject claim or post.

## Failure of Ardyss to Provide a Company Statement

Although DSSRC requested in writing that Ardyss provide a Company Statement to this report pursuant to section VI(D) of the DSSRC Policies and Procedures, the Company did not submit a Company Statement to DSSRC demonstrating that it made good faith effort to have the 12 remaining claims at issue removed or notify the public that the identified claims were not authorized by the Company.<sup>3</sup>

Accordingly, as provided in section VI (E) of the DSSRC Policies & Procedures, DSSRC referred this matter to the appropriate government agency for review and possible law enforcement action.

(Case No. 190. Closed on 01/06/25)  
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[1] According to Section (V)(D)(3) of the DSSRC Policies and Procedures, DSSRC may request that the Company provide DSSRC with copies of its request(s) to its salesforce member(s) and/or its request(s) to the applicable forum including the social media platform on which such claim was disseminated.

[2] Section 13 at <https://www.ftc.gov/business-guidance/resources/business-guidance-concerning-multi-level-marketing#deceptive>.

[3] Pursuant to section VI(E) of the DSSRC Policies & Procedures, DSSRC sent a 10-Day Notice to Ardyss by both email and 2-Day US Mail, advising the Company that should it fail to provide a Company Statement within 10 days, the matter would be referred to the

1.26.25

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