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Case #107-2023: Administrative Closure – BeneYOU LLC (a/k/a Avisae)

BBB NATIONAL PROGRAMS

The Direct Selling Self-Regulatory Council

Case Number 107-2023: Administrative Closure – BeneYOU LLC (a/k/a Avisae)

Company Description

BeneYOU LLC (a/k/a Avisae) (“BeneYOU” or the “Company”) is a direct selling company headquartered in Lindon, Utah, that acquired the Avisae brand in 2018. The company markets personal care and wellness 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.

The subject of this inquiry involved 19 social media posts, which included five earnings claims and 14 product performance claims. The product and earnings claims were disseminated on Facebook, Instagram, and YouTube by Company salesforce members.

Earnings Claims

- “These products are amazing, the company is wonderful to work with and my business partners and mentors are exceptional. We have had people earn \$3,000 within their first month, some have earned free exclusive trips within their first month, and some are getting themselves healthier daily by using the products. I'd love to help you reach your financial and health goals.”
- “Do you DREAM of becoming something more... Having the financial freedom to achieve your dreams while having a system that provides you with everything you need to succeed with mentors that are willing to guide you the whole way?”
- “unlimited referral base income...\$600 for simply referring three friends;” and “residual income “
- “larger income by working less...earn thousands of dollars on a monthly basis, sometimes it takes just a little extra income to get over that hump, pay off debts, remodel the kitchen travel a little and put some money aside for a rainy day”
- Company Compensation Plan: “you’d make \$7,500 a month”

Product Performance Claims

- “Do you have problems with your weight? Are you tired? Moody? Have auto-immune diseases? Have IBD or IBS? Have depression? Acne? Eczema or other skin conditions? Did you know all these are linked to gut health as well as many other disorders?”
- “Dealing with joint pain? Avisae has a #jointpainrelief solution!!”
- “*immunity boosting with natural superfoods

*packed with super nutrients and antioxidants. Can help with:

~muscle/joints aches and pains

~arthritis

~fibromyalgia

~better sleep”

~anxiety

~mood swings

~restlessness”

- “The Love Your Gut products from Avisae are clinically proven to help restore healthy gut function, aid in digestion, reduce stress and anxiety, promote weight loss, and assist in the absorption of essential nutrients and vitamins the body needs.”
- “What most people don’t understand is that... digestive issues, food sensitivity, out of control sugar cravings, problems maintaining a healthy weight, brain fog, mood swings, fatigue, headaches, skin problems, yeast infections, UTIs, and much more all have one thing in common — your gut” Image with copy stating:

1. Gas, bloating, diarrhea, constipation

2. Abdominal pain & cramping

3. Eczema, dry skin & psoriasis

4. Acne

5. Depression or anxiety

6. Hormones unbalances & PCOS

7. Tired, fatigues, & run down
8. Weight gain
9. Trouble losing weight
10. Trouble sleeping
11. Stiffness or joint pain
12. Obesity
13. Autoimmune disease
14. B12 deficiency
15. Thyroid issues”

- My 10 year old son broke out in terrible hives yesterday evening. We're not sure why he broke out. Rather than doing topical Benadryl, which has always been our go-to, we tried having him drink Repair+. Just over 12 hours later, the spot in red is all that's left. Benadryl has normally taken 48 to 72 hours to clear things up like this in the past. Allergies conquered!”
- “I had been traveling for a week and my kiddos weren’t drinking their usual CoreAO/Soul combo every day. I could tell because my 9 yo could barely breathe with his allergies; stuffy nose, sneezing, puffy eyes. I had him drink two CoreAO a day all week. WE both noticed a difference by Tuesday, but here he is, five days later, playing outside at the ball fields, completely snout free!! His eyes are bright and he feels so much better!”
- “These products have such a variety of health advantages, such as lowering blood pressure, weight loss, decreased abdominal bloating and much more!”
- “While not every disease can be linked to gut health, the list of diseases being linked to dysfunctional microbiomes includes many human chronic diseases such as obesity, diabetes, and asthma, as well as a long list of autoimmune diseases.”
- hormonal imbalances, depression, anxiety, diabetes, autoimmune diseases, psoriasis, and chronic health problems
- “Studies have shown that Huperzine helps seizures, treats Alzheimer’s, and improves mental cognitively boosting focus and memory...anti-bacterial, and anti-cancer properties”
- “My husband has lactose intolerance, ulcerative colitis and a hiatus hernia. All these cause massive digestive issues for him. Since her started taking digestwel+ e is handing food much better. Foods that previously caused him to be running to the toilet straight after eating are now no longer an issues.”
- “Since May 1st when I started to use Avisae products daily I have lost 14lbs and have kicked my sugar and Dr Pepper cravings and habits. I'm eating healthier and have more energy to raise my 4 young kids. The Relieve helps my joint pain so I can move easier throughout the day.”
- “If you have acne, stomach pains, indigestion, skin issues like eczema, chronic headaches, trouble sleeping, depression or anxiety than you likely also have leaky gut...sleep better, have better skin, a better mood, regular bowel movements and improved immunity and less allergies and MORE”
 - Before and after image of hand with copy stating “3 Weeks on LYG; Reduced inflammation from RA

Company’s Position

BeneYOU did not attempt to substantiate the claims at issue and, instead, worked diligently to effectuate the removal of the posts and to ensure that the salesforce members responsible for the posts understood the reason(s) that each is not acceptable to avoid future issues.

The Company maintained that it has used its best efforts to remove or significantly modify all but four of the social media posts identified by DSSRC.

Regarding the remaining posts, the Company has indicated that the accounts of two of the four salesforce members that failed to comply with the Company’s take-down request have been suspended (the other two salesforce members were inactive). The Company also informed DSSRC that has submitted copyright or trademark takedown requests to the respective social media platforms with respect to the social media posts that remain publicly available.

Administrative Closing Summary

DSSRC appreciated the good faith actions taken by BeneYOU to address its concerns. The Company was successful in removing or adequately modifying all but four of the 19 posts brought to its attention by DSSRC and it was determined that the Company adequately demonstrated that it made a bona fide effort to address DSSRC's concerns with respect to the remaining posts.

DSSRC expressed its appreciation to the Company for being able to facilitate the removal of almost all social media posts that communicated unsupported product performance and earnings claims and for its ongoing efforts to address DSSRC's remaining concerns.

Earnings Claims

DSSRC was concerned with references to "unlimited income" and representations that the typical salesforce member could achieve financial freedom or replace their income by virtue of their participation in the BeneYOU business opportunity.

The Company was able to remove all but one of the social media posts identified in this inquiry that communicated earnings claims,¹ an action which DSSRC determined was necessary and appropriate.

As noted by DSSRC in Section 6 of its Guidance for Earnings Claims in the Direct Selling Industry, some words and phrases are prohibited when made to a general audience of prospective or current salesforce members. Such words and phrases include statements such as "quit your job," "be set for life," "make more money than you ever have imagined or thought possible," "unlimited income," "full-time income," "replacement income," "career-level income," or any substantially similar statements or representations.

DSSRC determined that the Company used its best efforts to address DSSRC's concerns and BeneYOU was successful in all but one of its requests to Company salesforce members to remove the posts that were the subject of the DSSRC inquiry.

Product Performance Claims

Shortly after DSSRC commenced its inquiry with BeneYOU, the Company informed DSSRC that it was successful in removing 12 of the 15 social media posts at issue that communicated the message that BeneYOU products can treat several health-related issues. DSSRC again determined that the Company's actions were necessary and appropriate.

As DSSRC has noted in previous inquiries, health-related claims must be supported by reliable and competent evidence demonstrating that the product can perform as claimed. The Federal Trade Commission's ("FTC") standard of competent and reliable scientific evidence has been defined in FTC case law as "tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results."²

The three remaining product performance posts were from 2019. Two of the posts include a laundry list of health-related conditions that the product can purportedly "help" treat several health-related conditions (i.e., muscle/joints aches and pains; arthritis; fibromyalgia, acne, depression, etc.). When utilizing such qualifying language, an advertiser should make sure consumers understand both the extent of the scientific support and the existence of any significant contrary evidence. As the FTC notes in its Health Products Compliance Guidance, "[v]ague qualifying terms are inadequate. For example, it's not enough to say that the product 'may' have the claimed benefit or 'helps' achieve the claimed benefit... Thus, consumers may interpret an ad to mean that a product will prevent or reduce the risk of a disease, even if the ad includes language indicating that the science supporting the effect is limited in some way."³

The remaining post communicated a similar health-related message as the two other publicly available posts discussed above, indicating that the product helped relieve her son's allergies, sneezing, stuffy nose, and puffy eyes. The Company did not attempt to substantiate the claim and tried, unsuccessfully, to contact the salesforce member and have the post removed. The Company suspended the account of the individual responsible for this post.

As DSSRC has noted in previous self-regulatory inquiries when a direct selling company is made aware of improper product (or income) claims that were made by an individual that was an active salesforce member when such claim was made but that has since become an inactive salesforce member of the company, DSSRC recognizes that the direct selling company may not be able to effectuate the removal of the social media posts by the inactive salesforce member. In that instance, DSSRC nonetheless recommends that the direct selling company make a bona fide good faith effort to have the improper claim removed.⁴

Here, although BeneYOU did not provide DSSRC with copies of its communications with the salesforce members responsible for disseminating the claims at issue, BeneYOU did confirm the suspension of two salesforce members that failed to respond to the Company's request to reconcile the social media posts. In addition, DSSRC acknowledged that BeneYOU submitted copyright and trademark take-down requests to the social media platforms where the claims have been posted.

In light of the good faith actions taken by BeneYOU to remove and/or modify the social media posts at issue and for its vigilance in notifying the social media platforms of intellectual property violations with respect to the remaining posts, DSSRC administratively closed this matter with the understanding that BeneYOU will continue its efforts to seek removal of those posts which remain publicly available and continue to train its salesforce regarding the principles of compliant claim dissemination.

Conclusion

DSSRC administratively closed this inquiry based upon BeneYOU good faith actions to remove 15 of the 19 social media posts at issue and made a genuine concerted effort to have the remaining posts removed by attempting to contact the salesforce members responsible for the posts, suspending their accounts, and reporting the unauthorized content to the respective social media sites.

(Case #107 closed on 3/27/23)
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[1] The remaining earnings claim post was from 2017 and referenced “having the financial freedom to achieve your dreams.”

[2] Vital Basics, Inc., C-4107 (Consent April 26, 2004); see also In Re Schering Corp., 118 F.T.C. 1030, 1123 (1994).

[3] See FTC Health Products Compliance Guidance at https://www.ftc.gov/system/files/ftc_gov/pdf/Health-Guidance-508.pdf at Page 9.

[4] Le-Vel Brands (Case#57-2021); Gano Excel USA, Inc. (Case #30-2020); Daxen, Inc. (Case #52-2021).

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