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Case #157-2024: Monitoring Inquiry – Lemongrass Spa Products

BBB NATIONAL PROGRAMS

Direct Selling Self-Regulatory Council

Case #157-2024: Monitoring Inquiry – Lemongrass Spa Products

Company Description

Lemongrass Spa Products (“or the “Company”) is a direct selling company that markets personal beauty and skincare products specializing in those that do not contain chemicals commonly found in bath and beauty 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.

This inquiry concerns earnings claims and product claims disseminated by the Company’s salesforce members on several social media platforms. DSSRC contacted Lemongrass Spa Products and, in its Notice of Inquiry, informed the Company of DSSRC’s concern that five

social media posts may be interpreted as meaning that the Lemongrass Spa Products business opportunity will result in substantial or significant income for many Company salesforce members. These posts include claims that the Lemongrass Spa Products business opportunity could lead to a “full-time career,” “paid travel... financial freedom,” “unlimited earning potential,” or “an incentive trip to Punta Cana.”

DSSRC also expressed its concern to the Company about four social media posts being disseminated by salesforce members regarding the efficacy of the Company’s products to treat health-related conditions.

Lemongrass Spa Products responded to DSSRC’s inquiry and informed DSSRC that the Company was working with its consultants to have the identified social media posts removed.

Thereafter, Lemongrass Spa Products indicated to DSSRC that all of the social media posts identified by DSSRC had been removed. DSSRC confirmed that the Company was successful in having removed all five earnings claims identified in DSSRC’s Notice of Inquiry. DSSRC also found that Lemongrass Spa Products was successful in effectuating the removal of three of the four social media posts identified in DSSRC’s Notice of Inquiry.¹ DSSRC found that one Pinterest post, however, remained online and contained several health-related claims, including the following conditions associated with the Company’s product: “Hemorrhoid, Eczema, Psoriasis, Yeast Infections, jock itch, diaper rash.”

While corresponding with Lemongrass Spa Products regarding the claims identified in DSSRC’s Notice of Inquiry, DSSRC identified certain additional earnings and health-related product claims through its ongoing monitoring of the marketplace. DSSRC identified such claims to the Company and requested that Lemongrass Spa Products address those claims and/or provide a substantive response. Those claims are set forth below:

Earnings Claims:

- “...gives you flexibility & financial freedom 🌟 ...”
- “WANTED Women Seeking: Financial freedom...”
- “🌟 My family has been positively impacted by the residual income as well as the products.”
- “For the 2022-2023 fiscal year, my team of over 2,200 consultants submitted over \$800,000 in sales.”

Product Claims:

The representative product claims that formed the basis of this inquiry are set forth below:

- “Many uses for Recovery Balm... sciatica pain...”
- “Prebiotic facial mist- daily facial mist that helps improve conditions like scars, rosacea, acne, and redness...”

Company’s Position

The Company informed DSSRC that it contacted the individuals responsible for disseminating the social media posts identified above to address the concerns raised by DSSRC. Lemongrass Spa Products further explained that it would promptly have the posts and videos removed so long as the Company can obtain cooperation from its former and active consultants.

Analysis and Recommendation

DSSRC acknowledged and appreciated the Company’s efforts to promptly effectuate removal of five earnings claims and three health-related product claims in the social media posts that were identified in DSSRC’s Notice of Inquiry.

With respect to the four additional earnings claims specifically identified above, DSSRC acknowledged that the social media post stating “...gives you flexibility & financial freedom” was removed and the post touting team sales of “over \$800,000” was revised to remove the express reference to earnings. However, the two social media posts containing claims of “financial freedom” and “residual income” remain available online.

With respect to the two additional health-related product claims specifically identified above, DSSRC confirmed that the YouTube video stating that “Prebiotic facial mist- daily facial mist that helps improve conditions like scars, rosacea, acne, and redness...” was removed but the Pinterest post referencing “sciatica pain” remains online. As noted above, the Pinterest post identified in DSSRC’s Notice of Inquiry referencing “Hemorrhoid, Eczema, Psoriasis, Yeast Infections, jock itch, diaper rash” also remains online.

Accordingly, of the nine earnings claims and six health-related product claims that DSSRC identified to the Company throughout the pendency of this inquiry, the Company successfully effectuated removal of all but two earnings claims and two product claims. Given the Company did not attempt to substantiate the claims at issue in this inquiry and agreed that they should not have been disseminated, DSSRC determined the Company's removal of seven earnings claims and four health-related product claims to be necessary and appropriate.

With respect to the social media posts and claims that remain online, DSSRC appreciates that the Company attempted to effectuate the removal of such posts. Notwithstanding, should Lemongrass Spa Products be unable to effectuate the removal of the claims, DSSRC recommended that Lemongrass Spa Products demonstrate that it made a good faith effort to have the posts at issue disabled by providing DSSRC with documentation that it has attempted to contact the individuals responsible for disseminating the claims requesting that such claims be removed. If such individuals are active salesforce members and have been unresponsive to the Company's removal request, DSSRC recommended that Lemongrass Spa Products take appropriate disciplinary action including suspension and/or termination of the account of the salesforce member that disseminated the claim.

DSSRC recognizes that removing social media posts that were communicated by inactive salesforce members can be a challenging endeavor for direct selling companies. As DSSRC has noted in previous self-regulatory inquiries, when a direct selling company is made aware of improper claims that were made by an individual who was an active salesforce member when such claim was made but has since become an inactive salesforce member of the company, DSSRC acknowledges that the direct selling company may not be able to require such salesforce members to remove a social media post. In that instance, DSSRC nonetheless recommended that the direct selling company make a bona fide, good faith effort to have the improper claim removed.

Accordingly, if any of the four remaining social media posts at issue were disseminated by former salesforce members, DSSRC recommended that the Company provide DSSRC with correspondence that has been sent to the former salesforce members that are no longer affiliated with Lemongrass Spa Products requesting that their social media posts be removed.

In addition, DSSRC recommended that the Company take additional steps to remove such claims from the marketplace including utilizing any mechanism that social media platforms may have for removal of trademark or copyright violations. If the subject claim by a former salesforce member occurs on a website or platform without a reporting mechanism, DSSRC recommended that Lemongrass Spa Products should also contact the website or platform in writing and request removal of the subject claim or post. DSSRC notes that companies in past DSSRC inquiries have also posted a comment on the applicable social media platform indicating that the subject post is not authorized by the company and that it has requested that the individual responsible for the post have it removed.

Conclusion

DSSRC appreciated the good faith efforts of Lemongrass Spa Products to remove seven of the social media posts that communicated earnings claims and four of the social media posts that communicated health-related product claims and determined the removal of such claims to be necessary and appropriate.

Notwithstanding the actions taken by the Company to address DSSRC's concerns, DSSRC recommended that the Company also demonstrate that it made a bona fide good faith effort to have the posts at issue removed by contacting the individuals that disseminated the claims and requesting that such claims be removed. If the individuals responsible for disseminating the posts are active salesforce members and unresponsive to the Company's removal request, it is recommended that the Company take the appropriate disciplinary action. If any of the four remaining claims at issue were disseminated by former salesforce members, DSSRC recommended that the Company provide DSSRC with correspondence that has been sent to the former salesforce members that are no longer affiliated with the Company requesting that their social media posts be removed.

In addition, DSSRC recommended that the Company take additional steps to remove such claims from the marketplace including utilizing any mechanism that social media platforms may have for removal of trademark or copyright violations. If the subject claim by a former salesforce member occurs on a website or platform without a reporting mechanism, DSSRC recommended that the Company should also contact the website or platform in writing and request removal of the subject claim or post.

Company Statement

Lemongrass Spa Products has taken the required steps to address concerns presented by the DSSRC regarding our independent contractors and their unauthorized posts. Those actions include contacting those responsible for the offending posts as well as the platforms where they've been made and asking them to be removed. To date, the majority of these posts have been removed and we are continuing our efforts to complete the process. Lemongrass Spa Products will provide DSSRC with copies of correspondence it sent to our independent contractors who were responsible for making the posts.

(Case No. 157, closed on 02/26/24)

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[1] The following health-related product claims were disseminated in three YouTube videos: “If you have psoriasis, eczema, rosacea, cuts, scars, burns, dry skin, stretch marks, or any skin irritant, you need Healing Elements Balm,” “Orange stem cell boosts elasticity and repairs damaged cells,” and “I’ve had customers tell me they have used it on, ready for this, yest infections and hemorrhoids as well and it has been effective on those...psoriasis, eczema.”

5.06.24

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