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Case #162-2024: Compliance Inquiry – Magnetude Jewelry

BBB NATIONAL PROGRAMS

Direct Selling Self-Regulatory Council
Case #162-2024: Compliance Inquiry – Magnetude Jewelry

Company Description

Magnetude Jewelry (or the “Company”) is a multi-level direct selling company that was founded in 2017 and based in Woodbine, Maryland. The Company sells bio-magnetic interchangeable fashion jewelry to consumers.

Basis of Inquiry

In April 2023, the Direct Selling Self-Regulatory Council (“DSSRC”) administratively closed a compliance inquiry regarding the dissemination of earnings claims communicated by Magnetude Jewelry and its salesforce members.¹ As a demonstration of its commitment to advertising self-regulation, the Company removed 19 of 20 social media posts brought to its attention and DSSRC further determined that the Company made a genuine, bona-fide attempt to contact the individual responsible for the one post that remained

publicly accessible, which was disseminated in 2019, and concluded that Magnetude Jewelry's actions were necessary and appropriate.² DSSRC also noted that it would continue to monitor claims being disseminated by Magnetude Jewelry and its salesforce members.

Shortly after the resolution of that inquiry, DSSRC identified eight additional social media posts being disseminated on Facebook by Company salesforce members as well as a health-related statement that was communicated on the Company's website regarding the health-related benefits that could be realized by using Magnetude Jewelry products.

As such, DSSRC commenced a second compliance inquiry with respect to the representative claims enumerated below:

Earnings Claims:

- "Unlimited Earning....Unlimited earning potential!"
- "Have you thought about starting a second stream of income for your family?"

DSSRC was concerned that the earnings claims set forth above may convey the message that Company salesforce members can generate significant income by participating in Magnetude Jewelry's business opportunity.

Health-Related/Product Performance Claims:

- "For those that experience headaches, migraines, travel meditation or want better sleep, this is the mask for you...helps to boost melatonin for improved sleep. Increase cellular energy to counteract EMFs while you sleep."
- "While we may not be medically ill, many of us suffer from disease such as stress-related headaches, migraines, chronic fatigue, excessive weight gain, low energy, low vitality, ached, pains and even depression.... Magnetude Jewelry bio-energetic necklaces, earrings and bracelets can help bring balances to our body and bring our body to equilibrium with more vitality!"
- "our pet tag can help with joint pain, inflammation, increased vitality and energy. Add it to their dog collar and see the difference."
- "Have arthritis pain? Did you know that research shows that magnet therapy has the same pain relief effects for joint and also decreases inflammation like NSAID drugs or ice? It true! No negative side effects either! How awesome is that? ... Click here to read the research on decreasing arthritis pain: <https://bit.ly/HipsandKneeArthritis>. Click here to read the research on inflammation: <https://bit.ly/MagnetsDecreasingInflammation>. Arthritis pain Relief"
- "... scientifically proven to protect your electro magnetic field from all the common known sources of radiation, like Wi-Fi filters, your phone and of course 5G.. The company provides a great opportunity for passive income at a very affordable start up cost."
- "give you the benefit of decrease pain and inflammation, helps with better sleep, counteracts the negative effects of EMFs, assist with cellular repair. There are energetics elements on the back of the jewelry that promotes calm, boosts serotonin and immune system."
- "Our brain, heart, and nervous system contain electrical components and produce electrical fields, which are sensitive and can be influenced by EMFs. When a strong bio-magnet is put in an energy field, it increases the electrical field as well. (Faraday's, Lorentz and Ampere's law of physic). By wearing our jewelry in your energy field, you are increasing your electrical field, helping to counteract the energy depletion and negative effects from EMFs. Magnetude Jewelry has also embedded energy frequencies of Far-Infrared (FIR), Negative ion, and Germanium on the back of all of our bases. These energy frequencies are known to help increase blood flow, decrease inflammation, and boost serotonin. So, not only are you increasing your cellular energy, but there are healthy effects that can decrease pain, increase blood flow, boost your mood, and provide better sleep."

DSSRC expressed concern that the health-related product performance claims convey the message that Magnetude Jewelry products can effectively address and treat a number of health-related conditions.

Company Position

Magnetude Jewelry took immediate action to contact the salesforce members responsible for the social media posts shortly after receipt of DSSRC's compliance inquiry. The Company did not attempt to substantiate the claims but, instead, informed DSSRC that the posts would be expeditiously removed.

Magnetude Jewelry explained that it contacted each of the salesforce members responsible for the claims disseminated in the social media posts and requested that the posts be removed and offered further education to salesforce members on the appropriate dissemination of earnings and health-related claims.

Earnings Claims

The Company was successful in removing one of the two social media posts that referenced the opportunity for salesforce members to earn substantial income from the Magnetude Jewelry business opportunity.

Health-Related/Product Performance Claims

Magnetude Jewelry did not attempt to substantiate the health-related claims that were identified by DSSRC. Rather, the Company attempted to facilitate the removal of the social media posts in their entirety.

The Company was successful in removing five of the six social media posts communicating health-related claims that were identified by DSSRC.

With respect to the one remaining social media post, Magnetude Jewelry noted that the post was disseminated in 2021, and that it had no record of the individual being a salesforce member at the Company.

In addressing the claim identified on the Company website indicating that “These energy frequencies are known to help increase blood flow, decrease inflammation, and boost serotonin. So, not only are you increasing your cellular energy, but there are healthy effects that can decrease pain, increase blood flow, boost your mood, and provide better sleep,” the Company informed DSSRC that it added a disclosure on the website at the bottom of where its research appears stating: “*These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.”

Compliance Determination

DSSRC agreed that the Company’s efforts to remove the claims at issue were necessary and appropriate.

Earnings Claims

DSSRC will evaluate any claim based upon the context in which the claim appears and the potential net impression of such claim to the audience. 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. Moreover, 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.”³

Accordingly, DSSRC acknowledged the Company's actions in removing the social media post that conveyed the unqualified assertion that salesforce members could achieve a secondary income and "unlimited earning" through the Magnetude Jewelry business opportunity.

However, DSSRC remained concerned that the Company did not demonstrate that it made a bona fide, good faith attempt to remove the social media post that included an unqualified reference to salesforce members receiving “a second stream of income.” Although Magnetude Jewelry indicated that the post had been removed, DSSRC notes that the social media post remains publicly accessible on Facebook.

As DSSRC has noted in previous inquiries, when a direct selling company is made aware of an improper income claim that was made by an individual that was an active salesforce member when the claim was made but may no longer be affiliated with the company, DSSRC acknowledges that the direct selling company may not be able to require the individual remove the claim. In that instance, DSSRC nonetheless recommends that the direct selling company make a bona fide, good faith effort to have the improper claim or post removed and to provide DSSRC with evidence of its good faith efforts to contact the individual responsible for disseminating the post.

Although DSSRC requested that the Company provide copies of correspondence that were sent to the salesforce member to remove the post, the Company did not respond to DSSRC’s subsequent efforts for an additional reply to its concerns.

Health-Related/Product Performance Claims

DSSRC appreciated Magnetude Jewelry's efforts in disabling five of the six social media posts at issue and concluded that the Company's actions were necessary and appropriate.

The one remaining social media post included the claim that Magnetude Jewelry products are “... scientifically proven to protect your electro magnetic field from all the common known sources of radiation, like Wi-Fi filters, your phone and of course 5G.. The company provides a great opportunity for passive income at a very affordable start up cost.”

As noted in the Federal Trade Commission’s (FTC) 2022 Health Products Compliance Guidance, the FTC’s substantiation standard for health-related related claims is a rigorous one. The FTC has more specifically defined its standard for health-related claims 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.”⁴

Regarding the one remaining accessible social media post, while DSSRC acknowledges the Company's position that there is no record of the individual responsible for the post being a Magnetude Jewelry salesforce member, it was recommended that the Company take additional steps to have the post removed.

As DSSRC has noted in several previous inquiries, once a direct selling company learns that an inactive salesforce member or an individual unaffiliated with the Company has disseminated a post that includes language not authorized by the Company, the Company should make a bona fide, good faith effort to contact the individual to request that the improper claim be removed. DSSRC also recommends that the Company take additional steps to remove such claims from the marketplace including utilizing the mechanism that websites and social media platforms may have for removal of trademark or copyright violations. If the subject claim occurs on a platform without a reporting mechanism, DSSRC recommends that the Company should also contact the platform in writing and request removal of the subject claim or post.⁵

Therefore, as an additional demonstration of Magnetude Jewelry's genuine efforts to address DSSRC's concerns in this inquiry, it is suggested that Magnetude Jewelry take the additional step to contact Facebook to advise the platform that the post at issue contains an unauthorized claim and that it has been unable to contact the individual responsible for the post. Additionally, it is advised that the Company contemplate adding a comment to the individual's social media post feed, clarifying that the claim has not been authorized by Magnetude Jewelry.

DSSRC also remained concerned with language provided on the “Wellness/Research” page of the Company website and which states: “By wearing our jewelry in your energy field, you are increasing your electrical field, helping to counteract the energy depletion and negative effects from EMFs. ... These energy frequencies are known to help increase blood flow, decrease inflammation, and boost serotonin. So, not only are you increasing your cellular energy, but there are healthy effects that can decrease pain, increase blood flow, boost your mood, and provide better sleep.”

DSSRC reviewed similar claims made by the Company and its salesforce members in a 2020 inquiry with Magnetude Jewelry.⁶ In that inquiry, DSSRC determined that the Company's reliance on a number of studies were inadequate to support the health-related claims at issue for several reasons. First, it was noted that “[m]any of the sources provided by the Company can be categorized as study abstracts, meta-analyses or literature reviews and because of the number of variables inherent in the testing methodologies used in all of the studies referenced in the meta-analysis (i.e., number of test subjects, length of the studies, the blinding of test subjects and/or test administrators, the strength of the far infrared radiation (“FIR”) used in the studies, the ages and backgrounds of test subjects, the different statistical analysis of the test data, etc.), it is difficult to determine the relevancy of each individual study cited within the meta-analysis.”⁷

In addition, DSSRC was not persuaded of the reliability of the *in vitro* testing that was provided by the Company.⁸ DSSRC noted that “the researchers concluded that magnetic fields could reduce blood viscosity. However, the researchers specifically concluded that, “blood viscosity can be reduced with magnetic fields of 1 T[esla] or above in the blood flow direction.” The Company, however, also informed DSSRC that the neodymium magnets that are used in its products range in strength from 0.3 Tesla to 0.4105 Tesla. DSSRC determined that this difference in magnetic strength between the magnets used in the study is significant and the magnets of less strength in the Company's products calls into question the applicability and relevancy of the study's conclusion regarding Magnetude's products. A similar issue arises with respect to another study cited by the Company in which researchers used magnets with a strength of 1.47 T raising concerns about the potential effect that the Company's significantly weaker magnets will have on the human body.”

With respect to research cited by the Company that was conducted on animal subjects, DSSRC has previously noted that “the physiology of animals is different than that of humans and, therefore, animal studies are of limited value as animals may respond differently than humans”⁹ DSSRC does recognize that animal studies are useful in evaluating potential reactions in humans and are also a necessary step in scientific research, but it is not considered the type of competent and reliable scientific evidence that is needed to support a health-related product claim.

Another issue DSSRC identified in several of the studies that the Company provided in the 2020 inquiry in support of its product claims was the inconclusive nature of the research. A number of the materials provided by the Company concluded that, while there may be various possible health benefits in the application of magnetic fields, there is still not enough research conducted at this time on which to base a conclusion. Additionally, some of the studies provided by the Company indicated that the results obtained may have been due to unidentified confounding variables that affected the results and the data collected.¹⁰

Finally, DSSRC concluded that the reliability of some of the evidence offered to support the Company's product claims was flawed because of the test administrators' affiliation with the treatment product. For example, one study acknowledges that the manufacturer of the magnetic device used in the study funded the “patient recruitment, nursing staff, measuring devices, and statistical analysis,” used in the study. While this alone is not dispositive in determining whether this study is in fact reliable, it does draw the data into question. Additionally, the study concluded by stating that future studies would be beneficial in drawing more complete data observations.

Similarly, another study stated that two of the doctors involved in the research are stockholders in the company that manufactures the magnetic devices used and the study administrators acknowledged that a major limitation of their study was the lack of a placebo-control group.

DSSRC also found an issue in another study that draws the reliability of the results of the study into question. In that study, the researchers conducted an experiment to determine the effect of a pulsed magnetic field stimulus on the human hands. However, the researchers only collected data from a sample size of six participants.

As the FTC notes in its 2022 Health Products Compliance Guidance, studies can't be considered in isolation. The surrounding context of the scientific evidence is just as important as the internal validity of individual studies. Advertisers should consider all relevant well-conducted research relating to the claimed benefit and shouldn't focus only on research that supports an effect, while discounting research that doesn't. Studies relied on by an advertiser should be largely consistent with the surrounding body of evidence. Wide variations in outcomes of studies and inconsistent or conflicting results raise serious questions about the adequacy of an advertiser's substantiation. Where there are inconsistencies in the evidence, it is important to examine whether there is a sound explanation for those inconsistencies. In some instances, for example, the differences in results are attributable to differences in dosage, the form of administration (e.g., oral or intravenous), the population tested, or other aspects of study methodology.¹¹

DSSRC also concluded that the disclosure language implemented by the Company stating that *"*These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease"* was inadequate and did not appropriately qualify the claim. In this compliance inquiry, the Company did not provide DSSRC with any additional, substantive evidence to rebut the conclusions reached in the 2020 inquiry and, as such, DSSRC recommends that the health-related language appearing on the Company website conveying the message that Magnetude Jewelry products can increase your cellular energy, decrease pain, increase blood flow, boost your mood, and provide better sleep be modified or discontinued.

Conclusion

DSSRC appreciated the prompt actions taken by the Company to remove all but two of the social media posts at issue. DSSRC determined that the actions taken by Magnetude Jewelry were necessary and appropriate. With respect to the remaining social media posts it was recommended that the Company take additional steps to have the posts removed and provide DSSRC with copies of such correspondence as a demonstration of its good faith efforts.

DSSRC also remained concerned with language provided on the "Wellness/Research" page of the Company website and which states: "By wearing our jewelry in your energy field, you are increasing your electrical field, helping to counteract the energy depletion and negative effects from EMFs. ... These energy frequencies are known to help increase blood flow, decrease inflammation, and boost serotonin. So, not only are you increasing your cellular energy, but there are healthy effects that can decrease pain, increase blood flow, boost your mood, and provide better sleep."

In the absence of reliable and competent evidence to support the statements, DSSRC recommended that the health-related statement be modified or discontinued.

Company Statement

"While Magnetude Jewelry may disagree with some of the DSSRC conclusions in the past we have made good faith efforts to rectify and comply with its requests.

We will continue our efforts to monitor and use language that is acceptable to the DSSRC as best we can. We continue to educate our field on what they can and cannot say.

As for the earning claims, Magnetude Jewelry does not make any company statements about earnings. We had one outstanding old post from 2022 which DSSRC was concerned with, and we have reached out to Jessica, requesting she take that down. She is no longer a rep for us, but should comply, I forwarded DSSRC the email that was sent to her.

Magnetude Jewelry may not agree with some of the product claim conclusions that DSSRC has made, however, we will continue to revisit the language on our website and make modifications as best we can. Our goal is to comply with the concerns of DSSRC, while still providing accurate knowledge of our product."

(Case #162, closed on 02/27/24)
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[1] DSSRC Case #122-2023 - Magnetude Jewelry (<https://bbbprograms.org/programs/all-programs/dssrc/ccd/dssrc-magnetude-jewelry>).

[2] Magnetude Jewelry also confirmed to DSSRC that it contacted Facebook to request that the post be removed.

[3] See section 6 of the DSSRC Guidance on Earnings Claims.

[4] See Section III(B) of the FTC Health Products Compliance Guidance at <https://www.ftc.gov/business-guidance/resources/health-products-compliance-guidance> page 11.

[5] As a demonstration of a direct selling company's good faith efforts, DSSRC also requests that the Company provide DSSRC with copies of the correspondence that was sent to the individual responsible for the social media post, as well as the request made to the social media platform to have the post disabled.

[6] DSSRC Case #32-2021 - Magnetude Jewelry (<https://bbbprograms.org/programs/all-programs/dssrc/ccd/case-32-2021-monitoring-inquiry-magnetude-jewelry>).

[7] *Id.*

[8] *Id.* More specifically DSSRC noted that “the researchers specifically concluded that, ‘blood viscosity can be reduced with magnetic fields of 1 T[esla] or above in the blood flow direction.’ The Company, however, also informed DSSRC that the neodymium magnets that are used in its products range in strength from 0.3 Tesla to 0.4105 Tesla. DSSRC determined that this difference in magnetic strength between the magnets used in the study is significant and the magnets of less strength in the Company's products calls into question the applicability and relevancy of the study's conclusion regarding Magnetude's products. A similar issue arises with respect to another study cited by the Company in which researchers used magnets with a strength of 1.47 T raising concerns about the potential effect that the Company's significantly weaker magnets will have on the human body.”

[9] See Aloe Veritas, Inc., DSSRC Case #5-2019 (citing Cerebral Success (SmartX Premium Brain Supplement, Now with Cognizin), Report #5761, NAD/CARU Case Reports (September 2014)).

[10] *Supra* at 6. For example, in two documents the Company provided, the researchers concluded that magnets may have some beneficial impact when used for pain treatment. However, the researchers in both studies acknowledged that despite their findings, more research in the area is needed before a definitive conclusion is reached. In four of the documents the Company provided, the researchers concluded that there are possible benefits to using electromagnetic fields and magnets to treat various ailments however, there were also various confounding variables that could not be ruled out which could potentially impact the relevancy of the resulting data. More specifically, in one document, the researchers were unsure if the measured effect of the magnetic bracelets was due to a placebo effect. In another document, the researchers conducted a computer simulation of magnetic field on the lumbar spine. While the researchers did conclude that the device examined promoted repair and consolidation of bone graft material, the researchers were unable to identify the biophysical mechanism that caused this result. Similarly, in another document, the researchers concluded that a, “[m]agnetic knee wrap may significantly facilitate isokinetic quadriceps strength in patients with mild to moderate knee OA.” However, the researchers also noted that there were limitations to the study and other variables that could have played a role in the data collected. In another document submitted by the Company, data supported a conclusion that magnets may be used to treat sciatica pain but also could not rule out an effect entirely due to chance. Lastly, in another document submitted by the Company, the researchers conducted an experiment regarding the effect that jade and tourmaline powder has on skin temperature when applied to human skin in the form of a lotion. The study concluded that the lotion raised the skin temperature and hypothesized that this was partly due to the far-infrared rays emitted from the jade and tourmaline. The researchers, however, found that they could not conclusively identify the reason for the rise in skin temperature and concluded only that the results are “promising.”

[11] *Supra* at 3. Section III(B)(4), Page 21.

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