



October 8, 2020

VIA EMAIL

Clement D. Erhardt
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Re: Illegal Income Claims by Market America

Dear Attorneys Erhardt, Steinberg, and Millen:

I am writing to you on behalf of Truth in Advertising, Inc. (“TINA.org”), a nonprofit consumer advocacy organization dedicated to protecting consumers from deceptive advertising. We have found that Market America is engaged in a deceptive marketing campaign for the Market America business opportunity.

Specifically, Market America consistently uses deceptive income claims to market the business opportunity and lure recruits. For example, Market America advertises that its distributors (known as UnFranchise Owners) can achieve time and financial freedom, quit their full-time jobs, earn a six-figure residual income, retire early, and pay-off debt, among other things. Not only are such results not typical, but the marketing claims that boast atypical results are made without clearly and conspicuously providing appropriate income disclosures¹ and with full knowledge that such claims violate FTC law.²

TINA.org has compiled a sampling of more than 750 such deceptive income claims, 450+ of which were published just this year. This sampling is available at www.truthinadvertising.org/market-america-database/ and is not an exhaustive list.

Based on this information, we intend to notify the Direct Selling Self-Regulatory Council and/or state and federal regulatory agencies that Market America is engaged in a deceptive marketing campaign unless, by **October 15, 2020**, you have appropriately

addressed the issues described above and have taken steps to ensure that there are no future financial misrepresentations, either directly by the company or by its distributors.

Sincerely,



Laura Smith, Esq.
Legal Director
Truth in Advertising, Inc.

¹ The disclosures that accompany some of Market America’s income claims are legally insufficient as none of them clearly or conspicuously disclose what typical participants earn, as is required by FTC law. *See* 16 CFR § 255.2.

In addition, though TINA.org focused exclusively on the company’s own marketing, Market America distributors are also making deceptive income claims about the business opportunity. *See, e.g.*, <https://www.instagram.com/p/B7FFP-lp2F1/>; <https://www.instagram.com/p/CD6PYy1hlZ9/>.

Further, the company and its distributors have also made unsubstantiated disease-treatment claims about the company’s products. *See, e.g.*, <https://www.instagram.com/p/B-ojOYMj3Ob/> (migraines, constipation); <https://www.facebook.com/marketamerica/videos/324734098683080/> (arthritis); https://www.facebook.com/permalink.php?story_fbid=538521560014822&id=103979763469006&__tn__=-R (COVID-19).

² In a July 8, 2020 Facebook Live video, for example, Mr. Erhardt stated, among other things:

“Under no circumstances can we tie any income representation into the COVID crisis. What the FTC is looking at is they don’t want us to promote the UnFranchise business as a replacement for people who have lost their jobs, as a Plan B for people that have had problems because of the economic fallout from this pandemic. They don’t want any tie-in.” <https://www.facebook.com/marketamerica/videos/2386801524953774/>. Meanwhile, TINA.org’s sampling includes claims made by the company and CEO that the Market America business opportunity is a financial solution to the economic downfall resulting from the COVID-19 pandemic.

Market America’s awareness of what it can and cannot say is not new. For example, in November 2012, the company knew full well that “income claims such as ‘make six figures’” should not be used in advertising for the business opportunity. *See, e.g.*, November 7, 2012 letter from Market America to WITI-TV, <https://localtvwiti.files.wordpress.com/2012/11/response-letter-to-fox-6-now.pdf>.