

BBB NATIONAL PROGRAMS, INC.
The Direct Selling Self-Regulatory Council

Case Number: 19-2020 – Monitoring Inquiry – Initial Outfitters, Inc.

COMPANY DESCRIPTION

Initial Outfitters, Inc. (“Initial Outfitters” or the “Company”) is a direct selling company based in Alabama that offers consumers its boutique line of personalized products including engraved and hand stamped jewelry, accessories, monogrammed handbags, pet products, wedding, and home décor. Representatives, called consultants, earn commissions by selling the line through online and in-person pop ups, personal sales, a website provided by the company, fundraisers, and more.

BASIS OF INQUIRY

The Direct Selling Self-Regulatory Council (“DSSRC”) is a national advertising self-regulation program administered by BBB National Programs, Inc. This inquiry was commenced by the DSSRC pursuant to its ongoing independent monitoring of advertising and marketing claims in the direct selling industry. Through its monitoring of the direct selling marketplace, DSSRC reviews income claims and product claims made by direct selling companies and their salesforce members through all means including websites and social media.

In this inquiry, DSSRC identified several core earnings claims being disseminated on social media by representatives of the Company as well as on the Company’s website. These include claims regarding the ability of salesforce members to earn incentive trips.

The representative claims made by the Company’s salesforce on social media are as follows:

- “Because of all of you I earned a trip for two to Las Vegas. Here are a few pictures of the FUN we are having. Anyone who wants to learn more about earning free products, commissions and free trips plus so much more let me know.”
- “HEY FRIENDS! What could an additional \$500-\$1000/month mean to you? What would it feel like to have some financial freedom while making new friends?”
- “2019!! We get to wipe the slate clean! Focus on getting on track! Is your goal this year to pay down debt, spend more time with your family, or maybe work toward financial freedom? What if you could actually have TONS of fun doing it?! 🥰
I just celebrated my one year IOversary on New Years Day. Y’all. It’s been a fun ride and so much more than I expected going in. What could you do with 12 extra paychecks in 2019?! What if you spent the next 12 months working a side gig and never touch 12 extra paychecks? That could realistically be \$8-12K. That would be a great chunk of funds to pay off loans and cards.”

- “Many of you know that I have had great success with my Initial Outfitters business. The extra income I have earned has been fantastic! I’m so excited because I have won a trip to Jamaica!”

DSSRC also identified a link on Initial Outfitters’ website to a video on the Company managed YouTube channel called “A New Way to Earn.” The video contained the following claims:

- “so many ways to Earn Incentive Trips”
“Team Overrides & Generation Bonuses”
“Promotion Bonuses Up To \$25,000”
“Earn Incentive Trips to places like Disney World & all-inclusive resorts”

DSSRC informed the Company of its concern that a reasonable consumer may interpret the earnings claims identified above (such as paying down debt, earning specific amounts of income, and the availability of promotion bonuses), and similar claims, to mean that the success depicted would be the type of financial success that the typical Initial Outfitters representative will generally achieve. Similarly, DSSRC informed the Company of its concern that a reasonable consumer may interpret the claims regarding incentive rewards, including vacations, to mean that earning such rewards could generally be expected by the typical representative of Initial Outfitters.

DSSRC also identified the following claim that appeared on the Company’s website via a link to the Company’s Income Disclosure Statement.

- “Whether you’ll do this business as a hobby, your side gig or make it your full-time career, it is absolutely your choice.”
“Testimonials and examples used are exceptional results, which do not, or may not, apply to the average person, and are not intended to guarantee, promise, represent and/or assure that anyone will achieve the same or similar results. We reiterate that each individual’s success depends on his or her background, dedication, desire and motivation.”

DSSRC informed the Company of its concern that, despite the disclosure that the depicted results are exceptional, a reasonable consumer may nonetheless interpret this claim to mean that the typical Company representative could generally expect to achieve full-time or career level income if they chose.

COMPANY’S POSITION

The Company promptly responded to DSSRC’s inquiry and stated that the earnings and incentive rewards claims made by its salesforce members on social media were accurate and truthful. The Company also stated that such claims represent the representatives’ own choice of words and that their intent is to promote the business opportunity based on their personal

experiences. Initial Outfitters also stated that it strives to be open and transparent about the business opportunity afforded by the Company. The Company noted that its opportunity has a low start-up cost and does not require representatives to purchase inventory and that to do so would not be feasible because much of the Company's product line is made to order and monogrammed. The Company further stated that representatives can promote the opportunity using the Company's personalized jewelry and gifts through its catalog or online, and that representatives earn commissions on each sale. The Company further maintained that it holds contests and offers representatives incentive trips to destinations such as Disney and has a robust host plan that offers the opportunity to earn free product, exclusive items, and products at a discount for hosting a party.

The Initial Outfitters provided DSSRC with documents demonstrating that the claims were true as to the salesforce member that made the subject claim.¹ For example, the sales representative that stated "What if you spent the next 12 months working a side gig and never touch 12 extra paychecks? That could realistically be \$8-12K," actually earned over \$10,000 in a year selling the Company's products. The Company also provided documentation to DSSRC demonstrating that the representatives making claims about the incentive trip they earned had in fact earned the trips referenced in the claims.

After discussions with DSSRC, the Company stated it intended to make additional revisions to the Company website. The Company also stated that it would contact its representatives to provide additional education on making incentive trip claims and income claims generally.

Initial Outfitters also informed DSSRC that it will revise the Income Disclosure Statement on the Company website. Specifically, the Income Disclosure Statement contained the following language:

The Initial Outfitters opportunity is for anyone and everyone, regardless of where you come from or what your background is. Whether you'll do this business as a hobby, your side gig or make it your full-time career, it is absolutely your choice. Our culture is warm and supportive and is often referred by our representatives as a big family.

Initial Outfitters stated that it would be editing its website to replace the statement above which contains the language regarding the business opportunity being a "full-time career," with the following:

WHY INITIAL OUTFITTERS?

The Initial Outfitters opportunity is for anyone and everyone, regardless of your background. Our culture is warm and supportive and is often referred to by our representatives as a big family.

¹ DSSRC did not question the accuracy of the statements made by Company representatives as to their personal experience selling the Company's products.

In addition, the Company also agreed to remove the video regarding its compensation plan from the Company's website which included the claims "Promotion Bonuses Up To \$25,000" and "Earn Incentive Trips to places like Disney World & all-inclusive resorts."

The Company also stated that it would provide its salesforce with additional training regarding income claims and incentive trip claims. Specifically, Initial Outfitters indicated that it would communicate to this guidance to its entire field and thereafter include such guidance in its training of Company representatives.

Initial Outfitters also stated that it will recommend that its representatives refrain from making income claims even if the representative can support such a claim by that representative's own experience. The Company informed DSSRC that it will instruct its representatives that, in connection with any express earnings claim, representatives are required to disclose more facts as what the typical Company representative can generally expect to earn. Initial Outfitters stated that it is recommending that representatives simply not post online about income figures or exceptional purchases they have made as a result their business. If a specific sales representative would like to make a public claim about income potential on social media, the Company will ask the representative to first contact the Company to discuss language that should be included such as how to qualify the specific claim.

As to incentive trips, Initial Outfitters indicated that it was instructing its representatives that if they make incentive trip claims they should disclose that their results were not typical using the example "Thanks to all my customers for your loyalty and support over the past year. I was in the top 1% in sales and thereby earned a trip to Jamaica. I am so grateful and excited. I love my company."

ANALYSIS AND RECOMMENDATION

DSSRC acknowledges and appreciates Initial Outfitters' response and its commitment to revise its own policies and educate its salesforce regarding earnings claims and incentive trip claims. DSSRC also acknowledges and appreciates the Company's commitment to instruct its representatives generally not to make specific earnings claims and, should they wish to make such a claim, to first contact the Company regarding specific disclosure language that should be included as to what type of earnings can generally be expected by the typical Company representative.

The Company also agreed to remove the video on its compensation plan from the Company's website which included the claims "Promotion Bonuses Up To \$25,000" and "Earn Incentive Trips to places like Disney World & all-inclusive resorts." DSSRC determined that removal of the video with these claims made in an unqualified context was necessary and appropriate. The video, however, remains on the Company's YouTube channel. Accordingly, DSSRC recommends that Initial Outfitters similarly have the video removed from YouTube.

DSSRC also acknowledges and appreciates the Company's revision of the statement on its website "Whether you'll do this business as a hobby, your side gig or make it your full-time career, it is absolutely your choice" to remove the claim "make it your full-time career." As DSSRC has previously stated, if earning full-time or career level income is not what would be

expected by the typical representative of Initial Outfitters, that fact would need to be disclosed along with the typical earnings that can be expected by a representative of Initial Outfitters.²

With respect to incentive trips, Initial Outfitters is now instructing its representatives to include with any statement or claim the representative may make regarding such trips claims that their results were not typical using the following sample language: "Thanks to all my customers for your loyalty and support over the past year. I was in the top 1% in sales and thereby earned a trip to Jamaica. I am so grateful and excited. I love my company." While DSSRC views the Company's new guidance to its representatives as a positive step, DSSRC recommends that additional information be included in connection with any incentive trip claims. Specifically, the same principles that apply to testimonial earnings claims generally hold true with respect to claims regarding the ability of salesforce members to earn incentive trip vacations. Wildtree, Inc., DSSRC Case No. 1-2019; Aloette Cosmetics, DSSRC Case No. 12-2020. Consistent with the FTC Guide Concerning the Use of Endorsements and Testimonials in Advertising, DSSRC recommends that, if the Company does not have substantiation that the experience of these individuals making incentive trip claims is representative of what the typical consultant will generally achieve, the Company should remove the incentive trip claims or modify such testimonials to "clearly and conspicuously disclose the generally expected performance in the depicted circumstances" i.e., what percentage of Company representatives earn an incentive trip. 16 CFR §255.2

Finally, the specific representative social media posts that DSSRC identified to the Company in this inquiry remain online. Given that those posts do not comply with the Company's new policies or DSSRC's recommendations here, DSSRC recommends that Initial Outfitters contact the representatives who made the social media posts and have those posts deleted or significantly modified.

CONCLUSION

DSSRC determined that removal of the video on the Company's website with earnings claims made in an unqualified context was necessary and appropriate. As that video still remains on the Company's YouTube channel, DSSRC recommends that Initial Outfitters similarly have the video removed from YouTube.

² Wildtree, Inc., DSSRC Case #1-2019. "Even truthful testimonials from the very small minority of participants who do earn career-level income or more will likely be misleading unless the advertising or presentation also makes clear the amount earned or lost by most participants." Federal Trade Commission Business Guidance Concerning Multi-Level Marketing (2018). Particular attention should be given to claims such as the representative claims at issue in this inquiry that a consultant "can achieve career-level income." Id. Such claims "may represent through words or images that participants can earn thousands of dollars a month, quit their jobs, 'fire their bosses,' or become stay-at-home parents. If participants generally do not achieve such results, these representations likely would be false or misleading to current or prospective participants." Id.

DSSRC acknowledges and appreciates the Company's revision of the statement on its website "Whether you'll do this business as a hobby, your side gig or make it your full-time career, it is absolutely your choice" to remove language "make it your full-time career."

With respect to claims made by representatives regarding incentive trips, DSSRC appreciated the Company's instruction to its representatives that they should disclose that their own success in earning an incentive trip is not what could be generally expected by the typical Company representative. DSSRC also recommends, however, that the incentive trip claims be removed or modified to "clearly and conspicuously disclose the generally expected performance in the depicted circumstances" i.e., what percentage of Company representatives earn an incentive trip.

Finally, the representative social media posts that DSSRC identified and which prompted this inquiry remain online. Those posts do not comply with the Company's new policies or DSSRC's recommendations here. Accordingly, DSSRC recommends that Initial Outfitters contact the representatives who made the social media posts and have those posts removed or significantly modified.

COMPANY STATEMENT

Initial Outfitters intends to fully comply with the few remaining action steps recommended by DSSRC. We have removed the compensation video from our YouTube and website, modified the FAQ language on our website, instructed our leaders on what is and is not appropriate to post on social media, and will be asking individual consultants to remove the posts that the DSSRC feels should be either modified or deleted. We remain committed to upholding our values of running an honest family-like business that abides by FTC guidelines while providing our consultants with the opportunity to have fun making money working from home, earn incentives, and receive recognition for their accomplishments.

(Case No. 19-2020 HJS, closed on 5/11/2020)
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