

BBB NATIONAL PROGRAMS, INC.
The Direct Selling Self-Regulatory Council
Case Number: 43-2021 – Monitoring Inquiry – Limbic Arc, LLC

Company Description

Limbic Arc, LLC (“Limbic Arc” or the “Company”) is a direct selling company based in Utah that offers a wellness-related technology product to its subscriber affiliates.

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 DSSRC pursuant to its ongoing independent monitoring of advertising and marketing claims in the direct selling industry.

DSSRC’s inquiry concerned earnings claims and product claims disseminated by both the Company and its salesforce members. The representative earnings claims and product claims that formed the basis of this inquiry appeared on the Company’s website and on social media accounts of Company salesforce members. Those claims are set forth below:

Earnings Claims:

- “A better quality of life is made up of many facets. First & foremost...HEALTH. Without health you are already in the minus column. Second, financial health. It’s hard to have balance in life if you are always worrying about where the next dollar is coming. Limbic Arc combines these 2 aspects of health. Physical health & financial health. Get on board for an amazing 2020!
- Passive income & a healthy future together amazing!”
- “Did you know that you could GROW a business to \$2000+ per month and never talking about the money side of it. That’s how we are building Limbic Arc, 1 testimonial at a time!”
- “Coupled with our powerful web app, your financial freedom is closer than you think!”
- “Comp Plan Basics
 - A full 50% of every dollar is paid out weekly
 - Receive up to \$20,000 per week from our ‘Non-Flushing Binary’ pay plan
 - Receive up to 3 generations of ‘Weekly Check Match’ with no earning cap
 - Our weekly ‘Leadership Bonus Pool’ rewards all leaders
- The Limbic Arc opportunity has been designed to help you build successful, thriving, and long-term business. Our comp plan empowers you to create the future you want!”

Product Claims:

- “IT WORKS!!! We also have a Boost for Corona Virus specifically!”
- “After two weeks, I am pain free, following over 20 years of chronic Fibromyalgia pain. These extraordinary InfoBoosts have changed my life! I could have never imagined these astounding results so quickly. -Irene Lauria”
- “I twisted my right ankle and fell one Saturday afternoon after not seeing an uneven pavement and landed on my hands and knees on the concrete. Nothing hurt at the time, not even my pride, because I was intent on getting to my destination. Within the hour, my foot and ankle began hurting and I barely made it to my car. Over the next hour, the pain increased and became excruciating so I couldn't put weight on it without screaming – despite ice, heat, and elevation. I prayed... then remembered someone else had given a testimonial about ‘Pain Relief’ InfoBoost. I searched, found, and activated the boost. The pain began to subside and later that night, I was able to walk. The amazing thing is it never swelled up, I am VERY grateful to Vaughn for sharing this Godsend with us! - CJG, MD”
- “A little background is important to put my results in context. I'm 82 years of age and in better than average health, especially for my age. However, I've been dealing with recurring knee pain for several years. X-rays showed degeneration and meniscus damage. The pain has not kept me from my hiking/jogging the hilly trails, but each step is a painful reminder of the deterioration from 60 years of running marathons, triathlons, trails, and a genetic tendency for arthritis. Lately, I noticed a lack of energy and the need for more naps than usual. My awareness of these two health challenges led me to choose the InfoBoosts, “Pain Relief” and “Energy”, on the Limbic Arc app.

Within just a few hours, I sensed a positive feeling of increased energy. It was a subtle thing, but I was less tired and walking and moving more swiftly.

This improvement in energy got me out for a hike on the hilly trails near my home and, what was intended as a 2 mile outing, became a more challenging 4-mile hike/jog on a trail that I take just a few times a year because it's steeper and longer than my usual outing.

The amazing thing for me was that I not only had the energy and desire to attempt it, but that I completed it feeling zero pain in my knees. The fact is the trail is very uneven with rocks and erosion making for uneven footing that puts extra stress and torque on the knees. No pain—only the memory of the usual pain!

It's still hard to believe that I can receive these quantum-energy InfoBoosts with no physical connection to their source. My cell phone is acting as a “Library Card” to the storehouse of wellness information at Limbic Arc. It seems almost like science fiction, but it's real and it certainly worked for me.

My next challenge is the InfoBoost "Weight", so I look forward to reporting positive results in the future. – David 'Mr. Ageless' Tanner"

- "Using "Allergy", "Immune", and "Focus" InfoBoosts. Within seconds of activating the "Focus" InfoBoost, I could feel it coming into my third-eye area. When I activated the "Sleep" InfoBoost, I started to feel relaxed and my sleep seems deeper when it's active. The "Calm" InfoBoost is felt on both sides of my head and crown like a soft warm blanket Thank you! – Rev. Pam Hurst"
- "When I heard about Limbic Arc, I was very skeptical but wanted to try it! In February 2018, I had open-heart surgery and have been in the hospital seven other times for various reasons. For the past couple of years, I've been taking medication to sleep and couldn't sleep without it. I also have been on pain pills for over a year and couldn't survive the day without some kind of pain killer. At age 35, I needed my life back so I could spend time with my wife and children! When my sister told me about Limbic Arc, she said there were InfoBoosts for pain relief and sleep - and many more. I may not understand everything about it, but I know it works as I no longer take sleep medicine or pain killers! I feel so much better now and am so thankful to be back to work and spending time with my family! Thanks to the Limbic Arc family for sharing this wellness with me! – Charles Deaton"
- I wanted to share my results on the Limbic Arc app: 1) Ten noticeable pounds gone in two weeks and I dropped two pants sizes with inches gone especially. Very noticeable! 2) 98% reduction in knee pain and no back pain. 3) During stressful situations, I'm calm as a cucumber, as pointed out by my son. 4) Energy! I am getting back to Darryl of old. Walked to the end of a city block last night at a brisk pace without breathing hard and no pain. 5) Focus! I can't say enough about the focus - completing tasks with a bulldog mentality and no mental fatigue. 6) I can literally feel my lungs open up with deep breathing and my coughing greatly reduced after using the "Allergy" InfoBoost. 7) My sleep is undisturbed and I'm sleeping through the night... deep, restful, and feeling good when I awaken.

My wife says she has her husband back and my son mentioned that I'm not 'creaking when I walk'. For people who are health conscious, this is completely undervalued and I'm grateful for the price. This product has exceeded my expectations! – Darryl Thomas Sr."

- "About ten years ago, I was diagnosed with asthma, and it's been really concerning because it gets worse every single year. So I have been using this technology, Limbic Arc, which was developed by Dr. Cook. It provides my body with information. This information seems to be working because after three and a half months using this technology, my asthma symptoms, the tightness in my chest, the coughing, the inflammation, hard to breathe sometimes, I don't have anymore. It's totally gone!"

- “My main interest in it was the fact that it could help with pain. I twisted my knee several years ago in a fall from slipping on black ice and I actually twisted all the cartilage of my knee, and as a result I’ve had pain for years... I’ve been on it, maybe now about two to three weeks and I have not experienced any major pain at all with my knee. I also tried out the energy, and again, with the energy, I have had a lot more energy that I’ve had because I don’t sleep a lot. And, one other I tried, I tried the one that allows you to concentrate and I do know that when I tried that, I seemed to be taking in and retaining more information than I normally retain.”
- They allow you to try three products at one time so I tried the Energy, the Pain, and the Focus. So immediately I noticed that the pain that I had had since I was a teenager dissipated...And then the energy, my energy just picked up. And I lose focus at the drop of a hat because I’m a sleepy head. But my focus was there and I was able to concentrate.

I am on a journey to lose weight. And I have started engaging with more activities. So I said I was going to reincorporate walking into my lifestyle. But me with no energy, I would be drained. I couldn’t walk a half block without just wanting to pass the crap out. But since I’ve been using this app, oh my god. I walk two and half or more miles every single day...And I mean every day I walk these miles and I am so excited, so happy and eager to just get this out to the masses. This is something that will be beneficial and change everyone’s life.

DSSRC informed the Company of its concern that a reasonable consumer may interpret these and similar claims, to mean that Company salesforce members can earn significant income from the Limbic Arc business opportunity. In addition, DSSRC expressed concern that the product claims may convey unsubstantiated, health-related and wellness benefits.

Company’s Position

Limbic Arc is a company related to ZYTO Corporation which licenses via a retail platform software and sells hardware products to medical professionals. The Company noted that ZYTO is subject to regular audits by the United States Food & Drug Administration (FDA) and that it has previously had conversations with the Federal Trade Commission (FTC). The Company noted that given its previous dealings with these regulatory agencies it takes compliance very seriously and strives to be proactive in its approach to compliance with the Company’s affiliate software licensees. The Company stated that, as a foundational matter, Limbic Arc is committed to operating in a highly ethical manner.

Limbic Arc stated that, in addition to operating with strict adherence to all laws and regulations, its affiliate agreement contains the following language:

2.3 Customer represents, covenants, and warrants that Customer will use the Services only in compliance with Company’s standard published policies then in effect (the “Policies & Procedures”) and all applicable laws and regulations. Customer hereby

agrees to indemnify and hold harmless Company against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from Customer's use of Services. Although Company has no obligation to monitor Customer's use of the Services, Company may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

Limbic Arc further noted that its Terms and Conditions also specifically commit users to adhere to the Direct Selling Association Code of Ethics:

1. BUSINESS ETHICS

DSA CODE OF ETHICS. The Company adheres to the Code of Ethics of the Direct Selling Association (DSA). Along with the ethical guidelines of this Section, you must comply with the DSA Code of Ethics in your business operations. The DSA Code of Ethics can be found at www.dsa.org.

GENERAL ETHICS. You must operate your Affiliate Business in an ethical, professional, and courteous manner. This means, among other things, the following:

You must comply with the Contract and with applicable law.

You must operate your Affiliate Business honestly.

You should indicate to prospective customers and Affiliates who you are, why you have contacted them, and what Products you are selling.

You may not make false or misleading claims about potential earnings under the Sales Compensation Plan or about the benefits of using the Company's Products.

You may not pressure any Affiliates or prospective Affiliates to operate in a financially irresponsible way.

You must not encourage or recommend that Affiliates or prospective Affiliates incur debt in order to participate in the business.

You must explain how to cancel a software subscription.

You must not represent to prospective Affiliates that they are required to purchase Products or Product packages to become Affiliates. Prospective Affiliates must be informed that they can license Company software without promoting the software to other potential customers.

In addition, the Company noted that its website contains a prominent link to "Compliance & Legal" where, in addition to a video discussing ethical and legal compliance, there are two pages devoted to "Legal Compliance" and "Legal Compliance Examples." The video states that affiliates are barred from making non-specific factual earnings claims and cannot make any claims stating that the software has been used to diagnose and/or treat any disease or medical condition.

The Company further stated that its "Legal Compliance" page contains a very

specific write-up of what Limbic expects of its affiliates, specifically including the following text:

Limbic Arc is committed to strict compliance with all applicable laws, rules, and regulations. We support important regulatory and law-enforcement bodies who are charged with protecting the public against harm. Because we are a legitimate business, you can be confident in being a part of the Limbic Arc family.

The U.S. Federal Trade Commission (FTC) is charged with protecting consumers from deceptive and unfair business practices. They accomplish this by ensuring that consumers have access to accurate information and bringing administrative and legal actions against companies that deceive consumers. Limbic Arc supports the FTC in this important mission and is appreciative for the work they do to protect the American public.

Limbic Arc stays in the good graces of the FTC by doing two things: first, we don't deceive consumers by making any false statements; and second, we make sure to disclose enough accurate information so that consumers can make an informed choice regarding our products. Our agreements with our affiliates require them to also follow these rules. It is pretty simple: Don't lie and always disclose the truth. We at Limbic Arc are committed to doing these things and demand all those involved with our business do the same.

The U.S. Food and Drug Administration (FDA) regulates medical devices... Limbic Arc supports and sustains the FDA in its important work protecting Americans from those who would lead people away from established and approved treatments for medical issues. Instead we operate in the wellness space shared with nutritional supplements. The Limbic Arc software is not designed to treat or prevent any disease or medical condition. We at Limbic Arc make no such claims. If any of our users stated that Limbic Arc should be used to diagnose or treat medical conditions, it would violate our agreements and the offender's account would be terminated and their position in the commission downline eliminated. If a person is sick or injured, they should seek competent professional medical assistance immediately. Don't improperly use Limbic Arc software in attempts to practice medicine. We freely admit that Limbic Arc is not part of the currently accepted Western scientific and medical wisdom. No user should believe that our offerings are accepted or approved by the American Medical Association. Our technology is not taught in traditional medical schools. We are beyond the boundary of generally accepted scientific knowledge. We do not hide from this reality and we want to clearly disclose it.

The Company also stated that its "Legal Compliance Examples" page is largely adapted to specifically apply to Limbic Arc from the General Wellness: Policy for Low Risk Devices page found at <https://www.fda.gov/media/90652/download>. This page sets forth four rules and then gives both positive and negative examples of what affiliates may say/not say:

Rule Number 1: Do not make any diagnosis or treatment claims.

Rule Number 2: It is okay to make general wellness claims.

Rule Number 3: Only refer to chronic medical conditions in the context of prevention or management, not diagnosis or cure.

Rule Number 4: Do Not Make Specific Financial Promises

As a general matter, Limbic Arc stated that it recognizes that it needs to take more general remedial actions to police the claims its affiliates make in the marketplace. Limbic Arc noted that it is a young company, just recently expanding beyond its few founding employees and stretched thin in both manpower and budget. Nonetheless, Limbic Arc informed DSSRC that it has now committed one-half of a full-time employee as a resource to police the market for inappropriate earnings or health-related medical claims.

In addition, the Company informed DSSRC that it is implementing a monthly legal compliance conference call where affiliates may join senior company officers and the Company's outside counsel to receive legal compliance training and ask questions. The Company noted that these trainings will be posted on the Company's website going forward.

Earnings Claims

In response to DSSRC's concern regarding one of the Facebook posts, Limbic Arc expressed a belief that the language concerning "Physical health and Financial health" as well as "Passive income & a healthy future together amazing" is representative of non-specific claims and therefore is legally appropriate.

With respect to the Facebook post that stated "you could GROW a business to \$2000+ per month" regarding Limbic Arc, Limbic Arc informed DSSRC that it reached out to the affiliate that disseminated the post by phone and email and that the affiliate never responded. As a result, the affiliate was terminated by Limbic Arc for cause and will not be allowed to continue to be an affiliate.

With respect to the statements on the Limbic Arc website: "Coupled with our powerful web app, your financial freedom is closer than you think!" and "Receive up to \$20,000 per week from our 'Non-Flushing Binary' pay plan in the 'Comp Plan Basics' section, the Company stated that it carefully considered the language in light of the FTC's Business Guidance Concerning Multi-Level Marketing, particularly paragraph 13, and modified the language. Limbic Arc stated that it appreciated DSSRC's feedback and that the Company was engaged in a comprehensive review of the Company's website.

Product Claims

Limbic Arc addressed social media posts which stated that Limbic Arc's products were effective in the treatment of COVID-19. Limbic Arc noted that it contacted the affiliates responsible for the posts and the affiliates immediately deleted the claims. With respect to one of the affiliates, Limbic Arc noted that it engaged in a one-on-one training session with the affiliate regarding the compliance documents on the company website. Regarding the other affiliate, Limbic Arc noted that it provided additional training for the affiliate as well as the affiliate's associates.

Concerning the testimonial claims at issue, Limbic Arc indicated that it was engaging in a comprehensive audit of all of the company's testimonials to ensure compliance with the FTC's Guides Concerning the Use of Endorsements and Testimonials in Advertising. Limbic Arc informed the DSSRC that it will remove testimonials from the company website.

Analysis and Recommendation

Earnings Claims

DSSRC was concerned about social media posts made by a Company affiliate using the language "Physical health and Financial health" as well as "Passive income & a healthy future together amazing" in the context in which those claims appeared. Here, such claims were presented along with a statement that "It's hard to have balance in life if you are always worrying about where the next dollar is coming Limbic Arc combines these 2 aspects of health."

As stated in DSSRC's Guidance on Earnings Claims for the Direct Selling Industry, while 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 commonly used in earnings claims can carry a particularly high risk of being misleading to consumers. Such words and phrases include claims such as "financial freedom," "full-time income," "replacement income," "residual income," and "career-level income." Furthermore, earnings claims must be substantiated and representative of a level of earnings that can be generally expected by the audience.

Accordingly, DSSRC determined that the claims presented in their advertised context on social media could be reasonably interpreted by consumers as meaning that they can expect to earn significant or substantial income from the Limbic Arc business opportunity. Therefore, DSSRC recommends that the Company make a bona fide effort to effectuate the removal of the post.

Limbic Arc did not contest or attempt to substantiate the claim made in an affiliate's social media post, stating "Did you know that you could GROW a business to \$2000+ per month and never talking about the money side of it." While the post remains active as of the date of this decision, DSSRC acknowledged the Company's good faith efforts to effectuate the removal of the post and the termination of the affiliate that had disseminated the post which DSSRC determined to be necessary and appropriate.

With respect to the earning claims made on the Company's website, the

Company informed DSSRC that the language had been modified and brought into compliance with FTC regulations. DSSRC, however, noted that the language identified in DSSRC's opening letter remains unchanged. DSSRC remained concerned with the statements on the Company's website that "Coupled with our powerful web app, your financial freedom is close than you think" and "receive up to \$20,000 per week" that are presented in an unqualified context. Thus, DSSRC recommended that this language be removed or significantly modified.

Product Claims

DSSRC acknowledged and appreciated that the Company addressed the health-related claims made by its affiliates that were identified by DSSRC in this inquiry including health-related claims regarding COVID-19 as well as the Company providing the affiliates responsible for the posts with further compliance training and guidance.

DSSRC identified testimonials found on one of the Company's websites (limbicare.com) that claimed that the Company's product was effective in the treatment of several health-related conditions, including fibromyalgia, chronic pain, asthma, and allergies as well as weight loss claims. During the course of this inquiry, the Company removed the testimonials from the website (limbicare.com) and noted that it was engaging in a comprehensive audit to ensure that user testimonials were compliant with FTC regulations. However, DSSRC noted that at the time of decision, the same testimonials at issue were still available at another website operated by the Company (limbic-arc.com) and the video testimonials remained available on the Company's YouTube page. The Company has agreed to remove the testimonials from the Company's YouTube page.

DSSRC acknowledged the Company's commitment to ensuring that all testimonials are accurate and made by genuine users of the Company's products. Nonetheless, DSSRC remained concerned about the Company's use of testimonials that depict atypical success. According to section 255.2 (b) of the FTC's Guides Concerning the Use of Endorsements and Testimonials in Advertising, an advertisement containing an endorsement relating the experience of one or more consumers on a central or key attribute of the product or service also will likely be interpreted as representing that the endorser's experience is representative of what consumers will generally achieve with the advertised product or service in actual, albeit variable, conditions of use. Therefore, an advertiser should possess and rely upon adequate substantiation for this representation. If the advertiser does not have substantiation that the endorser's experience is representative of what consumers will generally achieve, the advertisement should clearly and conspicuously disclose the generally expected performance in the depicted circumstances. Accordingly, with respect to any testimonial that depicts atypical success, DSSRC recommended that such testimonial be removed or significantly modified to include a clear disclosure of generally expected results.

DSSRC, was additionally concerned with the testimonials at issue because certain testimonials communicate strong health-related claims such as treatment of chronic fibromyalgia, pain, clogged arteries. DSSRC determined that the requisite level of

support for the subject claims is competent and reliable scientific evidence because the claims at issue are health-related claims that the Company's products provide powerful health-related benefits. This conclusion is also consistent with the Federal Trade Commission's (FTC) position that advertisers must possess competent and reliable scientific evidence before making claims about pain relief, disease treatment, or health benefits. In the absence of any such evidence submitted by the Company, DSSRC recommended that the Company remove any health-related or disease treatment claims from the testimonials it features on its websites or managed social media accounts and refrain from disseminating any similar claims.

Conclusion

DSSRC recommended that the Company make a bona fide effort to effectuate the removal of the social media posts claiming "Physical health and Financial health" as well as "Passive income & a healthy future together amazing" in the context in which those claims appeared along with a statement that "It's hard to have balance in life if you are always worrying about where the next dollar is coming Limbic Arc combines these 2 aspects of health."

DSSRC acknowledged the Company's enforcement steps to terminate the affiliate that had disseminated the post stating "Did you know that you could GROW a business to \$2000+ per month and never talking about the money side of it," an action and the which DSSRC determined to be necessary and appropriate.

With respect to the earning claims made on the Company's website, DSSRC remained concerned with the statements that "Coupled with our powerful web app, your financial freedom is closer than you think" and "receive up to \$20,000 per week" that are presented in an unqualified context and recommended that this language be removed or significantly modified pursuant to the Company's commitment to DSSRC.

Regarding the product claims at issue in this inquiry, DSSRC acknowledged and appreciated the Company addressing the health-related claims made by its affiliates. As to the product testimonials featured on the Company's websites and social media accounts, DSSRC recommended that the Company remove any social media and website testimonials that depict atypical results or significantly modify such testimonials to include a disclosure of generally expected results. DSSRC also recommended that the Company remove any testimonial conveying a strong health-related or disease treatment message and refrain from disseminating any such claims in the future.

Company Statement

Limbic Arc is grateful for the work of the DSSRC to help police and clean up the direct sales industry and accepts the recommendations made by the DSSRC in full. Limbic Arc has implemented a regular review of social media posts made by affiliates and redoubled its efforts to educate them regarding appropriate health and earning claims. Limbic Arc is committed to being an additive and valuable member of the direct sales community and is fully committed to compliance with both the letter and the spirit of all laws and regulations protecting consumers.

(Case No. 43-2021 HJS, closed on 7/27/2022)

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