

## BBB NATIONAL PROGRAMS, INC.

The Direct Selling Self-Regulatory Council  
Case Number: 46-2021: –Monitoring Inquiry– SwissJust USA

### Company Description

SwissJust USA (“SwissJust” or the “Company”) is a direct selling company located in Doral, Florida that is the exclusive distributor and licensee of “Just™” products in the Americas. The Company markets and distributes such natural products for emotional, physical, and dermo-cosmetic well-being through independent consultants.

### 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.

DSSRC identified the following representative product performance claims disseminated on social media by independent salesforce members of the Company. DSSRC was concerned that the representative claims below communicate that SwissJust products can treat and protect against serious health-related conditions, including but not limited to COVID-19.

- Perfect duo fights viruses and bacteria clears the airways relieves cough, asthma, sinusitis, rhinitis, allergies, respiratory (translated from Spanish)



Duo perfecto combate virus y bacterias 🌿  
despeja las vías respiratorias 🤧 alivia la tos,  
asma, sinusitis, rinitis, alergias respiratorias



- 🙄 Are you worried about going out....  
 🦠 Are you afraid of contagion...  
 🇨🇭 Protect yourself and protect your family  
 I present to you our wonderful [#EsenciadeTomillo](#) 🙄 and [#EssenciaDequacia](#)  
 Thyme essence is a [#Antibiotic](#) [#Painkiller](#) and natural [#Deflammatory](#) 🌿  
 🚿 For shower, bathtub foot baths or use with any vehicle.  
 ▲ Clear the senses and comfort the awkwardness of [#climate](#) changes  
 ▲ Bathroom vapors help calm [#cough](#) and [#decongest](#) [#respiratoryway](#) in both  
[#children](#) and [#adults](#)  
 ▲ Comforting for people who [#smoke](#)  
 ▲ Provides a sense of wellness that helps to forget [#discomfort](#) in times of  
[#temperature](#) and [#contagions](#)  
[#la](#) [#EsenciadeEquinacia](#) 🍀  
 ✓ Elevate the Immune System.  
 ✓ Upload the body's natural defenses.  
 ✓ Energizing.  
 ✓ Help people with little physical resistance or exhaustion.  
 ✓ Helps prevent and combat diseases  
[#JutsAca](#) [#productosjust](#) [#swissjust](#) [#coronavirus](#) [#contagios](#) [#COVID19](#) [#gripe](#)
- strengthens the immune system  
 bactericidal disinfectant  
 relieve the stress  
 defenses corona times (translated from Spanish)




- Prevention by CORONA VIRUS (COVID-19). Strengthen your immune system using natural methods.  
#just #swissjust #coronavirus #covid # covid19

During the pendency of the inquiry DSSRC identified one additional social media post making similar health-related claims:

- Eucasol
  - antiviral
  - asthma
  - bronchitis
  - congestion
  - cough
  - emphysema
  - influenza
  - pneumonia
  - sinusitis<sup>1</sup>

In addition to the product efficacy claims described above, DSSRC identified a recent social media post disseminated by a SwissJust salesforce member that referenced the business opportunity as a chance to earn full time income:

- Be Part of our Team  SwissJust  
You can make SwissJust a full time job or simply earn extra income to pay for life's little extras.<sup>2</sup>

### **Company's Position**

SwissJust did not dispute DSSRC's concerns regarding the product claims at issue in this inquiry.

The Company advised DSSRC that all of the original posts that were the subject of the DSSRC inquiry originated from Company consultants located outside of the United States (i.e., two from Mexico, one from Argentina and one from Peru) and that is working with the SwissJust business units in the appropriate countries, which are independent from SwissJust USA, to have the social media posts removed.

SwissJust also maintained that it was not aware of the two additional posts that were identified by DSSRC during the pendency of the inquiry but stated that it believes that those posts also originated outside of the United States. The Company informed

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<sup>1</sup> <https://www.facebook.com/100419458569448/photos/a.100421181902609/100431845234876/?type=3>

<sup>2</sup> <https://www.facebook.com/AromatherapyTherapies/posts/104909558090554>

DSSRC that it would use its best efforts to contact the individuals responsible for the posts and have the problematic claims removed.

### **Case Disposition**

DSSRC confirmed that all six of the social media posts enumerated in the Basis of Inquiry are still publicly accessible by consumers.

#### **1. Product Claims**

The Company did not attempt to provide DSSRC with evidentiary support for product efficacy claims and, instead, took action to remove the posts and claims. While DSSRC recognized and appreciated the Company's commitment to remediate the dissemination of posts when they are brought to its attention, DSSRC remained troubled that unsupported health-related claims, including claims stating that the Company's products can protect users from COVID-19, continue to be disseminated by SwissJust consultants and are publicly accessible.

As noted in previous self-regulatory cases, health-related claims must be supported by competent and reliable scientific evidence.<sup>3</sup> The Federal Trade Commission (FTC) defines competent and reliable scientific evidence as "tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results."<sup>4</sup>

While the FTC often requires two competent and reliable studies to support establishment claims and other health and safety claims, the advertising self-regulatory forums do not rigidly require a specific number of tests to support health-related or safety claims, and, rather, focus their analyses on the quality, consumer relevance, and reliability of the scientific study offered in support of an advertiser's health-related claims.<sup>5</sup>

DSSRC acknowledged that the SwissJust social media posts that have been identified in its monitoring were disseminated by Company salesforce members located outside of the United States. Nonetheless, such posts are readily accessible by

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<sup>3</sup> VGH Solutions Inc. (Dr. Ho's Circulation Promoter), Report #6404, *NAD/CARU Case Reports* (September 2020); Molekule Inc. (Molekule MH1 Air Purifier), Report #6314, *NAD/CARU Case Reports* (October 2019); Triumph Pharmaceuticals Inc. (SmartMouth Dry Mouth Products), Report #6190, *NAD/CARU Case Reports*(June 2018); Good Health Naturally, LLC (Serranol Supplements) , Report # 5441, *NAD/CARU Case Reports* (March 2012); Nature's Cure, Inc. (2-Part Acne Treatment), Report #4797, *NAD/CARU Case Reports* (February 2008).

<sup>4</sup> FTC Guide, *Dietary Supplements: An Advertising Guide for Industry*, [www.business.ftc.gov/documents/bus09-dietary-supplements-advertising-guide-industry](http://www.business.ftc.gov/documents/bus09-dietary-supplements-advertising-guide-industry); Molekule Inc. (Molekule MH1 Air Purifier), Report #6314, *NAD/CARU Case Reports* (October 2019).

<sup>5</sup> Nature's Cure, Inc. (2-Part Acne Treatment), Report #4797, *NAD/CARU Case Reports* (February 2008); Miralus Healthcare (HeadOn Headache Relief), Report#4465, *NAD/CARU Case Reports* (March 2006); Matrixx Initiatives, Inc./Zicam LLC (Zicam Cold Remedy Nasal Gel), Report #4286, *NAD/CARU Case Reports* (February 2005); Green Pharmaceuticals, Inc. (SnoreStop), Report #4013, *NAD/CARU Case Reports* (March 2003).

consumers and potential SwissJust consultants in the United States and may impact the decision of consumers to purchase the products and/or participate in the Company's business opportunity.

As DSSRC has noted in previous inquiries, when a direct selling company is made aware of improper product (or income) claims that were made by an individual that was not within its geographical control or who was an active distributor when such a claim was made but that has since become an inactive distributor of the company, DSSRC recognizes that the direct selling company may not be able to require such salesforce members to remove a social media post. DSSRC nonetheless recommends that the direct selling company make a bona fide good faith effort to have the improper claim removed including a written request to remove improper claims made by salesforce members that have since become inactive or are unresponsive to the removal request. Young Living Essential Oils, LLC, Case #13-2020.

As a demonstration of a direct selling company's good faith efforts, DSSRC will request, as it did here, that the Company provide a copy of the takedown requests that were sent to the salesforce members responsible for the active posts. Although SwissJust informed DSSRC that such a request was made of the salesforce members who disseminated the posts that have not been removed, it did not provide DSSRC with copies of the take-down requests or provide any indication regarding the subsequent enforcement measures, if any, that were taken against the salesforce members if they are still active SwissJust consultants.

While DSSRC recognizes that SwissJust is an international company with a significant number of salesforce members in several foreign countries, this does not absolve the Company from assuring that its independent consultants are disseminating truthful and accurate information about its products and the Company's business opportunity. According to paragraph four of the DSSRC's Guidance on Earnings Claims for the Direct Selling Industry, a direct selling company is responsible for the claims made by its salesforce members. Direct selling companies should engage in effective training, monitoring, and enforcement procedures to provide reasonable assurance that claims made by salesforce members are truthful and non-misleading. Moreover, in October 15, 2020 remarks to the Direct Selling Association, FTC Commissioner Noah Philips stated that "claims made by salesforce members are attributable to direct selling companies themselves."<sup>6</sup>

In an instance such as this one where the Company's salesforce member is no longer active or is unresponsive to the Company's requests, DSSRC recommends that if the social media platform where the subject post was made provides a mechanism for reporting trademark or copyright violations, that the Company promptly utilize such mechanism and seek removal of the subject claims and posts. If the subject claim

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<sup>6</sup> The FTC has also stated that a direct selling company should direct its participants not to make false, misleading, or unsubstantiated representations and monitor its participants so they don't make false, misleading, or unsubstantiated representations. See <https://www.ftc.gov/tips-advice/business-center/guidance/business-guidance-concerning-multi-level-marketing>

occurred on a website or platform without a reporting mechanism, DSSRC recommends that in addition to contacting the former salesforce member in writing as described above, the Company contact the website or platform in writing and request removal of the subject claim or post.<sup>7</sup>

In the absence of any evidence indicating that SwissJust products are efficacious against the health-related conditions that are referenced in the social media posts of Company consultants, DSSRC recommended that the Company immediately have removed any and all social media posts communicating such claims or, alternatively, provide DSSRC with documentation indicating that it has made a good faith effort to contact the consultants who were responsible for the posts to effectuate such removal.

## 2. Earnings Claim

According to the FTC, statements indicating that business opportunity participants while not necessarily becoming wealthy, can achieve career-level income are likely to be false or misleading when made to current or prospective participants.<sup>8</sup>

DSSRC remained concerned with the claim being communicated by a SwissJust consultant on social media stating that “You can make SwissJust a full time job.”

As noted in DSSRC’s Earnings Claim Guidance 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.”<sup>9</sup>

DSSRC concluded that this earnings claim could be reasonably interpreted by consumers as meaning that they can expect to earn significant, full-time income from the SwissJust business opportunity. In the absence of evidence demonstrating that the typical SwissJust consultant can generally expect to receive career-level income from the Company’s business opportunity, DSSRC recommended that this claim be removed.

## **Conclusion**

At the time of this decision, all six of the social media posts at issue in this inquiry remain active. DSSRC remains concerned that the social media posts brought to SwissJust’s attention during this inquiry which indicate that the Company’s products are

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<sup>7</sup> In a situation where an active salesforce member is unresponsive to a Company’s takedown request, DSSRC also recommends that the company consider taking appropriate enforcement action to suspend or terminate that salesforce member pursuant to company guidelines and policy.

<sup>8</sup> See, Federal Trade Commission’s Business Guidance Concerning Multi-Level Marketing, paragraph 13, third bullet point, at <https://www.ftc.gov/tips-advice/business-center/guidance/business-guidance-concerning-multi-level-marketing>

<sup>9</sup> See paragraph 6(b) at [https://bbbnp-bbbp-stf-use1-01.s3.amazonaws.com/docs/default-source/dssrc/dssrc\\_guidanceonearningsclaimsforthedirectsellingindustry\\_2020.pdf?sfvrsn=4ecfcd36\\_6](https://bbbnp-bbbp-stf-use1-01.s3.amazonaws.com/docs/default-source/dssrc/dssrc_guidanceonearningsclaimsforthedirectsellingindustry_2020.pdf?sfvrsn=4ecfcd36_6).

effective in the treatment of serious health-related conditions including COVID-19 remain active and accessible to consumers. DSSRC reiterated its request that the Company provide copies of the takedown requests that were sent to the sales force members responsible for the social media posts. Further, DSSRC recommends that the Company take immediate action to effectuate the removal of these posts, if necessary, by filing takedown requests with the platforms on which the posts were made.

With respect to the earnings claim stating that “You can make SwissJust a full time job,” DSSRC determined that in the absence of evidence demonstrating that the typical SwissJust consultant can generally expect to receive career-level income from the Company’s business opportunity, this claim should be removed.

Should DSSRC further determine that unsupported product performance and earnings claims continue to be disseminated in by SwissJust and/or its consultants, DSSRC will open a compliance inquiry and possibly refer this matter to the appropriate governmental agencies.

### **COMPANY STATEMENT**

“After working with the appropriate countries, the 4 original international posts (two from Mexico, one from Argentina and one from Peru) have been removed.

The 2 more recent posts are one from the USA and one from Costa Rica. The US post has also been removed and we are working with Costa Rica to take that post down.

In the coming weeks SwissJust will continue to reinforce its salesforce training regarding product and income compliance. SwissJust will use its internal communication platforms to reiterate the need to strictly adhere to compliance policies and remind its third-party Consultants to avoid any claims such as “financial freedom,” “full-time income”, “residual income,” and “career-level income”

(Case No: 46-2021, closed on 09/08/21)

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