

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

Case Number: 5-2019 – Monitoring Inquiry – Aloe Veritas, Inc.

**COMPANY DESCRIPTION**

Aloe Veritas, Inc. (“Aloe Veritas” or the “Company”) is a global multi-level direct selling company that offers wellness and skincare products.

**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.

Specifically, DSSRC identified several core product and health claims being disseminated on the social media pages of certain Aloe Veritas Lifestyle Coaches as well as health claims and earnings claims located on the Company’s website.

The representative product and earnings claims that were the subject of this review are as follows:

A. Express and Implied Product and Health Claims on Lifestyle Coaches’ Social Media Posts

In various social media posts, Aloe Veritas Lifestyle Coaches communicate various unqualified product and health claims.

- *“The top “herbs” for gut repair are: ALOE, LICORICE and GINGER.*

*Aloe contains major healing properties that the other two don’t contain, mainly polysaccharides and fatty acids.*

*It is a disinfectant, antibiotic, antimicrobial, germicidal, antibacterial, antiseptic, anti fungal, and antiviral!*

*Because it’s so useful on SO MANY LEVELS, it’s in almost every single one of my coaching clients’ plans. There are very few things you can take that will systematically benefit so many organs, including the gut and help alleviate symptoms from so many dysfunctions.*

*here’s a small list-*

- \* *Aloe mucilaginous polysaccharides takes stress off the immune system.*
- \* *Helps stop the bleeding, damage and leakage of the intestine wall.*
- \* *Relieves autoimmune response and allergic conditions:*
- \* *Helps restore proper immune system function.*
- \* *Is a very strong anti-inflammatory agent.*
- \* *Increases the tissue healing process.*

- \* Prevents the production of too much stomach acid (I.E. heartburn, acid reflux disease or gastro esophageal reflux disease known as GERD).
- \* Will help eliminate diarrhea and constipation.
- \* Aids in proper digestion, absorption of foods and nutrients.
- \* Protects and corrects the lining of the gut.
- \* Prevents candida, fungus, bacteria and parasites from taking over! It's an anti-bacterial, anti-viral, anti-fungal, anti-yeast and anti-parasitic.
- \* Balances pH everywhere in the body.
- \* Encourages healthy flora.
- \* Controls chronic yeast.
- \* Balances blood sugar.
- \* Helps clean out cells/works as intracellular antioxidants."

- "I have been blown 🤯 away by the results people are having with this all-natural, drug-free, opioid-free, steroids-free, and NSAID-free therapeutic cream. 🤯 I have a customer who had a double mastectomy in November 2018 & then developed a bad infection where she had to go back for another surgery to remove the infection. As you can imagine she was in extreme pain. Her wounds had to heal so that she could proceed to the reconstruction surgery, but as it does, a problem arises. One side was not healing. It was basically, a hole in her chest that had drains and had to be packed everyday. That's when she contacted me to find out about this pain cream I've been talking about. It's been about 3 weeks when she told me that her hole was almost completely healed and that her pain goes away within minutes of her rubbing it in. Last week she got to schedule her surgery.

*This cream works on the pain first and then goes to the source and starts helping it repair at the cellular level. 🤯 It has helped someone with extreme eczema on his hands and within a couple hours his hands were smooth again and the itching and pain were gone. 🤯 Bad knees? Yes, it is helping people with joint pain. 🤯 RA? Yes, it eases the pain. 🤯 My Dad is in a lot of pain from his hips needing to be replaced, but because he has a bad heart they're are advising against it. He says that this cream helps his pain. 🤯 This patented pain cream is being tested by the NFL 🏈 as we speak and we have a few former players on the team who use it for their pains and are now sharing it. This is the real deal AND is 57% more effective managing pain than the #1 Cox-2 Inhibitor on the market. Inbox me if you're in pain. [#cherylridgeway](#) [#pain#painmanagement](#) [#aloeveritas](#)"*

- "Aloe vera leaf is a miraculous healing food that is one of the oldest healing remedies and natural antibiotics in the world. Taken internally, aloe works wonders for assimilation, circulation, and elimination.

*It is known to purify the blood, reduce inflammation, ease arthritis pain, prevent kidney stones, lower high cholesterol, prevent Candida, boost physical endurance, benefit cardiovascular health, and protect the body from oxidative stress.*

*It also soothes ulcers, hemorrhoids, gastritis, diverticulitis, colitis, irritable bowel syndrome, and other digestive disorders. Aloe provides recovery from fatigue and aids in*

*muscle function as well as optimal utilization of several vitamins, minerals, and enzymes. It's alkaline nature, helps to soothe acidosis and alkalize the whole body.*

*Aloe vera is excellent for healing as it reduces poisons & toxins in the intestinal tract so that they don't travel up to the liver. This makes it highly beneficial for eczema, psoriasis, acne, rosacea, blood sugar issues, sibo, bloating, gallstones, weight issues, brain fog, dehydration, uti's, vitiligo, sinus problems, lupus, yeast infections, and strep. Start your detox today!"*

B. Claims for NuDerma MD

The language below, which appeared in a social media post as well as on the Company's website, communicates various unqualified product claims including a "Physician Recommended" claim and product performance and health claims.

- *"NuDerma MD is a patented formula created to eliminate scarring from cosmetic surgery. It provides instant and long term pain relief from all types of subcutaneous wounds and dermal abrasions, and is comprised of natural plant extracts designed to promote rapid skin repair."*
- *"Physician Recommended"*

C. Express and Implied Earnings Claims on the Company's Website

On the Company's website, Aloe Veritas communicates unqualified income representations regarding the unlimited levels of success that can be achieved by its Lifestyle Coaches. During its inquiry, DSSRC informed the Company that it was concerned that the reasonable consumer may interpret these claims to mean that selling Aloe Veritas products is likely to lead to earning a minimum level of income and/or an extravagant or lavish lifestyle.

- *"We give you the means to achieve an extraordinary level of success"*
- *"It is completely up to you to decide how much profit you wish to make and which rung on the career ladder you wish to reach.!"*

## COMPANY'S POSITION

A. Express and Implied Product and Health Claims on Lifestyle Coaches' Social Media Posts

In its written response, Aloe Veritas explained that its Lifestyle Coaches are passionate about the Company's products and may post individual expressions that are personal testimonials of their own experiences with such products. Aloe Veritas stated, however, that "[a]lthough the representatives feel that they can freely express their thoughts regarding the products, Aloe Veritas

prohibits such content referenced in your letter.”<sup>1</sup> Aloe Veritas further stated the Lifestyle Coaches whose product claims were identified by DSSRC “have since received notification of our Policy regarding product performance claims.”

In addition, and in the spirit of voluntary self-regulation, the Company stated that it took further actions to bolster its own compliance monitoring of its Lifestyle Coaches including:

- Appointing a Compliance Officer
- Ongoing corporate training
- Implementing an Advertising and Social Media Policy
- Adding a compliance section to the Company’s weekly newsletter
- Sending out notifications to Lifestyle Coaches that are in violation of Company Policies

#### B. Claims for NuDerma MD

With respect to the claims that “NuDerma MD is a patented formula created to eliminate scarring from cosmetic surgery” and provides “instant and long term pain relief from all types of subcutaneous wounds and dermal abrasions, and is comprised of natural plant extracts designed to promote rapid skin repair,” the Company stated that such statements are based upon “proprietary clinical evidence” from Dr. Joseph McWherther, Chief Medical Officer of the Company, and his MD Matrix Study. As to the claim that NuDerma MD is “Physician Recommended,” Aloe Veritas informed DSSRC it has a growing list of physicians that are recommending and using NuDerma MD, including Dr. McWherther.

Nonetheless, as part of its efforts to avoid any misinterpretation of its marketing message regarding NuDerma MD, the Company stated that it elected to remove these statements from its website and marketing materials for NuDerma MD and replace them the following revised statement:

- **CLINICALLY DESIGNED SCAR THERAPY** - NuDerma MD is a patented formula created to noticeably reduce scarring, and smooth skin imperfections

The Company also stated that it has notified its Lifestyle Coaches of this change to its marketing policy for NuDerma MD.

Aloe Veritas also maintained that its MD Matrix Study did provide reliable and competent scientific evidence to support the intended use, purpose and formulation of NuDerma MD. Upon DSSRC’s request, the Company provided DSSRC with a paper summarizing the results of the MD Matrix Study.

#### C. Express and Implied Earnings Claims on the Company’s Website

As to the earnings claims communicated on Aloe Veritas’ website, the Company stated that the claims in question were not intended to convey the message that engaging in the direct selling of Aloe Veritas’ products will yield a minimum level of income or lead to an extravagant

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<sup>1</sup> Aloe Veritas pointed to the policies in its agreement with its Lifestyle Coaches that, among other things, prohibit “claims that Company products prevent, diagnose or cure diseases or illness.”

or lavish lifestyle. Rather, the Company maintained that the statements “we give you the means to achieve an extraordinary level of success” and “it is completely up to you to decide how much profit you wish to make, and which rung on the career ladder you wish to reach” were intended as a commitment from the Company to its Lifestyle Coaches to provide them the support of an executive team, marketing materials, training materials and quality products. The Company nonetheless acknowledged that these statements “can be interpreted or mis-represented as earnings claims” and, therefore, Aloe Veritas stated that it decided to remove them from the Company’s website. In addition to removing these statements from the Company’s website, Aloe Veritas also stated that it has taken or is taking steps to implement the following actions:

- Updating its Advertising & Social Media Policy adding the statement that “All Aloe Veritas Life Style Coaches are to adhere to the guidelines established by the FTC regarding endorsements and testimonials used to advertise their products and/or opportunity to become an independent marketing representative for Aloe Veritas products.” This Policy includes a summary of Section 255.2 (b) of the FTC guidelines (a copy of the Advertising & Social Media Policy was provided to DSSRC).
- Creating an Income Disclosure Policy and Procedure document (a copy of which was provided to DSSRC).
- Updating and/or removing all marketing materials that have any figures, earnings examples, or hypotheticals.
- Implementing an “on-going training, which focuses on staying away from income/earning claims, period.”

## ANALYSIS AND RECOMMENDATION

### A. Express and Implied Product and Health Claims on Lifestyle Coaches’ Social Media Posts

With respect to the product performance and health claims disseminated by Aloe Veritas’ Lifestyle Coaches on social media, the Company acknowledged that its policies prohibit such claims (including claims that its products prevent, diagnose or cure diseases or illness) and has notified its representatives of this fact. DSSRC notes, however, that as of the date of this decision these product performance claims remain online. Accordingly, based on the acknowledgment that the subject claims are prohibited by the Company’s policies, DSSRC recommends that Aloe Veritas have these product performance claims removed from circulation and take steps to ensure that similar product and health claims are not disseminated in the future by the Company or its representatives.

### B. Claims for NuDerma MD

#### 1. “Physician Recommended” Claim

DSSRC notes that Aloe Veritas agreed to voluntarily revise its marketing for NuDerma MD and to remove the “Physician Recommended” claim for the product. While Aloe Veritas may have intended a “Physician Recommended” claim that refers to its “growing list of physicians,” including its own Chief Medical Officer, that are recommending and using NuDerma MD, DSSRC

concluded that a “Physician Recommended” claim as presented in its current unqualified context may imply to consumers that a significant percentage of physicians recommend the product in their practices. It is axiomatic that an advertiser is responsible for all the messages conveyed by its advertising, not just those that it intended. Bayer Healthcare, LLC (Claritin and Claritin-D), Report # 5853, *NAD/CARU Case Reports* (June 2015). Advertising self-regulatory authority has long held that “physician recommended” claims carry a great deal of weight with consumers and, consequently, must be supported by well-constructed physician surveys in which doctors base their conclusions on their actual experience and what they actually recommend in their practices.<sup>2</sup> Guardian Technologies, LLC (GermGuardian Air Purifiers and Replacement Filters), Report #6151, *NAD/CARU Case Reports* (January 2018). In the absence of such evidence, DSSRC determined that the Company’s commitment to discontinuing and removing “Physician Recommended” claims for its NuDerma MD product was necessary and appropriate.<sup>3</sup> As of the date of this decision, however, the Company’s website page for this product does not reflect the revision and contains the previously used language including the “Physician Recommend” claim. Accordingly, DSSRC recommends that Aloe Veritas discontinue and remove the “Physician Recommended” claim from its website and other marketing.

## 2. “Clinically Designed” / Patented Formula Claims

Aloe Veritas stated that it would replace its previous marketing copy for NuDerma MD with a revised statement: “CLINICALLY DESIGNED SCAR THERAPY - NuDerma MD is a patented formula created to noticeably reduce scarring and smooth skin imperfections.” DSSRC determined that the claim “clinically designed” could be interpreted by a reasonable consumer as being the functional equivalent of a “clinically proven” health claim. “Clinically proven” health claims have a powerful impact on consumers and must be proven by reliable, competent and consumer-relevant scientific evidence. Philips Oral Healthcare, Inc. (Philips Sonicare FlexCare and FlexCare+ Toothbrushes), Report #5320, *NAD/CARU Case Reports* (April 2011).

According to the FTC, competent and reliable scientific evidence is generally defined as “tests, analysis, 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.” Dr. Frank's Pain Relief LLC (Dr. Frank's Joint and Muscle Pain Relief Oral Spray), Report #211, *ERSP Case Reports* (July 2008). Here, Aloe Veritas submitted a paper summarizing the results of its MD Matrix Study<sup>4</sup> as support for its claims that NuDerma MD is clinically proven to “noticeably reduce scarring and smooth skin imperfections.”

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<sup>2</sup> According to the BBB’s *Dos and Don’ts in Advertising*, an advertiser should avoid broad unqualified claims that a product is ‘doctor recommended’ unless they have strong supporting evidence because claims of this nature carry great weight with consumers. Similarly, ABC’s *Guidelines for Advertising* require a survey of a minimum of 200 doctors, with a minimum of 25% preferring the product to support a “doctor recommended” claim.

<sup>3</sup> DSSRC also recommends that, in the absence of survey evidence to support such a claim, the Company also discontinue any similar claims such as “Doctor Approved” in connection with the marketing of its products.

<sup>4</sup> The MD Matrix Study was performed by Aloe Veritas’s Chief Medical Officer, Dr. McWherter, who is also one of the product’s inventors.

DSSRC acknowledges that Aloe Veritas provided it with a paper, that among other things, summarized the results of the Company's MD Matrix Study. The Company did not, however, provide DSSRC with the full study itself. As a general principle, a study abstract or summary will not provide enough information to constitute competent and reliable scientific evidence.<sup>5</sup> Cerebral Success (SmartX Premium Brain Supplement, Now with Cognizin), Report #5761, NAD/CARU Case Reports (September 2014). While the MD Matrix Study may show some cellular benefit to use of NuDerma MD<sup>6</sup>, DSSRC does not believe the paper submitted by the Company is sufficient to support a strong "clinically proven to noticeably reduce scarring and smooth skin claim."

First, a claim to noticeably reduce scarring and smooth skin implies that the product will produce noticeable, visible results to the skin. According to the Company's summary, the MD Matrix Study, however, did not test visual improvement or contain any visual component. In addition, while the MD Matrix Study was an in vivo test of oxazolone-induced murine ear edema, the study does not set forth the number of mice that were evaluated in the test, the duration of the test, the dosage used in the test, or demonstrate that the results are statistically significant. Based upon the summary of the study supplied by the Company, DSSRC cannot conclude that Aloe Veritas has produced competent and reliable evidence to support its "clinically designed" claim and, as such, recommends that such claim be discontinued.<sup>7</sup>

In addition, DSSRC notes that the MD Matrix Study was conducted on mice, not humans. 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 to the product tested. Brazilian Basics, LLC (A03 Boomer Berry Dietary Supplement), Report #218, ERSP Case Reports (July 2009). Although animal studies may be useful, they could not be considered the type of competent and scientific evidence that would be needed to support the express health claim that the product is clinically designed to "noticeably reduce scarring, and smooth skin imperfections." *Id.*<sup>8</sup>

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<sup>5</sup> For example, in the dietary supplement context, the FDA Guidance for Industry: Substantiation for Dietary Supplement Claims states that in contrast to studies, an abstract "is less reliable, because such documents usually do not give the reader enough insight into how the research was conducted or how the data were analyzed to objectively evaluate the quality of the research data and the conclusions drawn by the authors."

<sup>6</sup> While the claim at issue is made specifically as to Aloe Veritas's NuDerma MD product, the MD Matrix Study was conducted using the Company's Aloe MD Cream. Both products apparently use the Company's "patented MD Matrix compound." Because DSSRC determined that the MD Matrix Study could not be considered the type of competent and scientific evidence that would be needed to support an express "clinically proven" claim, DSSRC need not reach the issue of whether a test of the Company's Aloe MD product could be used to support a claim for its NuDerma MD product which contains the same compound.

<sup>7</sup> DSSRC notes that the Company provided its United States Patent No. 9,610,258 B2 as support. While it may be appropriate for the Company to tout that its product is "patented," it should not, for the reasons set forth above, do so in connection with specific health benefits (*i.e.*, "noticeably reduce scarring and smooth skin imperfections") that have not been substantiated by competent and reliable scientific evidence.

<sup>8</sup> Certified Nutraceuticals, Inc. (KollaJell), Report #431, ERSP Case Reports (November 2018)("Further, in accord with the FDA, as a general rule, the FTC considers well-controlled human clinical studies to be the most reliable form of evidence, where animal models are considered only if they are widely considered to be acceptable substitutes for human research or where human research is infeasible.") The Company has made no such showing here.

### C. Express and Implied Earnings Claims – the Company’s Website

As an initial matter, DSSRC notes that Aloe Veritas stated that it would discontinue the earnings claims in question from the Company’s website. DSSRC believes that action is necessary and appropriate because the statements “we give you the means to achieve an extraordinary level of success” and “it is completely up to you to decide how much profit you wish to make, and which rung on the career ladder you wish to reach” could be interpreted by a reasonable consumer to mean that the typical individual engaged in direct selling of Aloe Veritas’s products was likely to achieve a significant income and/or achieve extraordinary success.

DSSRC also acknowledges and appreciates the additional steps taken by Aloe Veritas including updating its Advertising & Social Media Policy, creating an Income Disclosure Policy and Procedure, and taking steps to generally refrain from earnings/income representations.

DSSRC reviewed the Income Disclosure Policy and Procedure provided by the Company which states, among other things, that any specific earnings or income claims that are made must be truthful and honest, and be substantiated, *i.e.*... the results depicted should be results that were actually achieved. Further, if the results achieved are not typical, the Company’s Income Disclosure Policy and Procedure states that the claim must convey that the results achieved are not typical and be followed by the following Income Disclosure Statement:

These earning, figures and/or statements should not be considered as guarantees or projections of your actual earnings or profits. Results vary and are based on Individual performance and production.

While DSSRC appreciates that Aloe Veritas instructs its representatives to use only truthful and substantiated earnings testimonials and to include disclaimer language in connection with any atypical earnings testimonials, DSSRC remains concerned that a testimonial of atypical results may still be interpreted inaccurately by consumers even if the Company’s above-referenced Income Disclosure Statement is used. Consistent with FTC guidance, if the depicted earnings results are not results that would be realized by the typical consumer, that fact must be disclosed along with the typical results that could be expected by an Aloe Veritas Lifestyle Coach. Specifically, the FTC Guide Concerning the Use of Endorsements and Testimonials in Advertising provides that:

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, and the advertiser must possess and rely on adequate substantiation for that representation.*

16 CFR § 255.2(b) (emphasis added). Here, the Company’s Income Disclosure Statement language addresses one element of the FTC’s guidance: that the results depicted are not what can be typically

expected by a consumer. The disclosure language does not, however, address the second key element, *i.e.*, clear and conspicuous disclosure of what are the generally expected results in the depicted circumstances. Accordingly, DSSRC recommends that Aloe Veritas include a clear and conspicuous disclosure (*i.e.*, a prominent disclosure in close proximity to the triggering claim) indicating the typical earnings that could be expected by a reasonable consumer in the scenario presented in connection with any future atypical earnings claim.

## **CONCLUSION**

DSSRC determined that it was necessary and appropriate that express and implied product performance claims be removed from circulation and that the Company take steps to ensure that similar product and health claims are not disseminated in the future by the Company or its representatives.

DSSRC also determined that the claim “clinically designed” could be interpreted by a reasonable consumer as being the functional equivalent of a “clinically proven” health claim. Based on the evidence submitted in the record, DSSRC concluded that the Company did not possess competent and reliable scientific evidence to support such a claim and, therefore, recommends that Aloe Veritas discontinue use of a “clinically designed” claim.

Lastly, in connection with any future atypical earnings claim, DSSRC recommends that the Company include a clear and conspicuous disclosure (*i.e.*, a prominent disclosure in close proximity to the triggering claim) indicating the typical earnings that could be expected by a reasonable consumer in the scenario presented.

## **REFERRAL TO GOVERNMENT**

After participating in the DSSRC process as described in this decision, Aloe Veritas did not provide a Responsive Statement indicating whether it will comply with DSSRC’s recommendations, will not comply with DSSRC’s recommendations or will appeal all or part of DSSRC’s decisions. In accordance with DSSRC’s Policies and Procedures, in the event the company whose marketing is the subject of a DSSRC inquiry fails to submit a Responsive Statement, DSSRC may refer the matter to an appropriate government agency for review and possible law enforcement action. Accordingly, DSSRC will refer this matter to the appropriate government agency.

(Case No. 5-2019 HJS, closed on 10/3/2019)  
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