

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

Case Number: 17-2020– NGO Inquiry – dōTERRA International LLC

INQUIRY BACKGROUND

Product and income claims for dōTERRA International LLC (“dōTERRA” or the “Company”) were brought to DSSRC’s attention by a not-for-profit, nongovernmental organization dedicated to protecting consumers against questionable advertising and marketing.

dōTERRA is a Utah based multi-level direct selling company that offers essential oils and related products to consumers. dōTERRA has over three million wholesale customers and Wellness Advocates in the United States.

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 pursuant section D(ii) of the DSSRC Policies & Procedures.

Specifically, several core health-related and income claims being disseminated on the social media pages of certain distributors of dōTERRA were brought to DSSRC’s attention. It was alleged that many of the representations at issue include both express and implied claims that dōTERRA’s oils can treat diseases and/or medical symptoms. In the initial written submission to DSSRC”), 140 examples of such claims were identified.¹

The representative product performance/health-related claims that were the subject of this inquiry are as follows:

1. Product Performance/Health-Related Claims

- “PTSD treated natural...WHAT?? Thank God or doTERRA!!”
- ““Many of you may already know that I had some issues, both physically and mentally, after returning from Afghanistan. Finally cleaned out my prescription shelf. The mess of the bottles and boxes is where I was two years ago. The bottom is where I’m at now. Which would you choose? Thanks dōTERRA.””

¹ See Tina.org for additional information.

Empowered by Oils for life,
Wellness Advocate, MI
June 1 · 🌐

PTSD treated naturally...WHAT?!?! Thank God for dōTERRA!!
This is an amazing testimony of one man's triumph in overcoming PTSD. WOW! What an incredible story of hope and perseverance...
"Many of you may already know that I had some issues, both physically and mentally, after returning from Afghanistan. Finally cleaned out my prescription shelf. The mess of bottles and boxes is where I was two years ago. The bottom is where I'm at now. Which would you choose? Thanks dōTERRA."
What is your health worth to you?!"



👍❤️👏 3

5 Comments 2 Shares

- “Diabetes & dōTERRA Essential Oils Class:Learn how to reverse Type II Diabetes and other diseases with dōTERRA...”
- “Learn about dōTERRA’s new blend for ADD/ADHD and for focus and concentration”
- “Did you know that there’s an essential oil for every issue of the body?.....

Acne, allergies, arthritis, asthma, high blood pressure, bronchitis, bug bites, cellulites, codes, high cholesterol, cramps diabetes, diarrhea, earaches, toothaches, headaches, the flu, migraines, hemorrhoids, pink eye, chapped or dry skin, sinus infections, warts, varicose veins, wrinkles, and any other ailments I’ve got an essential oil for you.....”

- “Who knew natural essential oils from dōTERRA could treat ear infections, strep, viral infection (yes viral!), ADHD, Autism...SAFE FOR KIDS!”
- “I live with endometriosis but endometriosis doesn’t have control over me! Thank you to my Nutritionist, Board Certified Homeopathic Dr. and Thermographer I learned how to

manage my pain, bloating, mood, cycle EVERYTHING with the proper food, essential oils and supplements! 🙌

dōTERRA's LifeLong Vitality is my daily vitamin and seriously kicks my endometriosis in the butt hard! I really cannot go without it. These essential oils are my daily go-to's to keep symptoms at bay entirely or if I've been bad with my diet (sugar, dairy, and gluten are no no's for endometriosis but irresistible at times) then these essential oils give me immediate relief!

😁 These right here are game changers! I don't really suffer from endometriosis anymore thanks to all my natural solutions. While there is no cure for this disease I am totally happy knowing I can eliminate all the issues that come along with it!



- “CLARY SAGE – THE OIL OF CLARITY & VISION

Clary sage has quite a distinct aroma, its musky and feminine which give you the clue that it may be good for us ladies. This beautiful oil is steeped in history for uses with all female complaints everything from period pain to childbirth to depression.

Let me introduce you to some of the uses of this gorgeous oil

- ☆ Endometriosis – Clary sage has been reported to help to regulate oestrogen imbalances and has been reported to reduce symptoms of endometriosis. Apply diluted topically

☆ PMS & Menopause – Again due to its ability to regulate oestrogen, Clary Sage can be helpful during PMS & Menopause. Apply topically diluted to abdomen & bottom of the feet

☆ Hot Flushes – Combine in water with peppermint in a spray bottle and spray on back of neck for a lovely cooling effect

☆ Post Partum Depression & Anxiety – Clary Sage has a lovely calming effect on the nervous system and can be very useful during times of emotional imbalance after birth. Diffuse or apply to the heart area and the bottom of the feet

☆ Child Birth & Low Milk Supply – Clary Sage can be applied down the spine and the abdomen to help bring on labour. After the birth it can be applied diluted to the breasts to help increase milk supply

☆ Insomnia – As mentioned before this oil is lovely and calming. Clary Sage is known for its hypnotic effect on the mind and the emotions bringing about peaceful and tranquil states. Great diffused with Bergamot for a restful nights sleep

☆ Spiritual Awareness – Clary Sage can help to promote clear insight and increase your intuition. Apply to base of neck and down spine during mediation.

Can you see now why this oil is simply a must for us ladies?? everything from PMS to childbirth to postpartum depression this baby has us covered.”

- “Absolutely LOVE using essential oils for my son...it’s made SUCH a difference in his health! We used to be at the hospital all the time. 😬 Not fun. BUT since we started using essential oils, he hasn’t needed antibiotics at all. Not once. This is huge for us! 🙏

I love teaching other mommas how to help their kiddos too...so empowering! 😊💪 If you’re interested in learning simple ways to help your children be happier and healthier, check out this free e-book: <https://media.doterra.com/us/en/ebooks/essential-oils-and-children.pdf>

And if you have any questions or want to learn more, please message me. I’d love to help you! 😊

#ebook #healthykids #momboss #passionate empoweryourself #wecandobetter #happykids #autism #chargesyndrome #tiredofhospitals #doterra #essentialoils #saynotogerms #disability #specialneeds #happerhealthierliving

In addition to the health-related claims that were identified, DSSRC also identified the following health-related/disease-treatment claim:

- “Frankincense is an ancient essential oil that is mentioned on the New Testament. This oil is commonly used for symptoms of Alzheimer’s as well as improving brain function and much more.”

2. Earnings Claims

In addition to the representative claims that were identified, DSSRC has also discovered the following earnings claims being disseminated on behalf of the Company:

Following our review, we have identified the following earnings claims that are being communicated to consumers:

- Image detailing monthly average income of dōTERRA representative

DōTERRA
Monthly Average Income

Elite:	\$300 - \$500
Premier:	\$800
Silver:	\$2,166
Gold:	\$4,750
Platinum:	\$8,835
Diamond:	\$16,916
Blue Diamond:	\$41,584
Presidential Diamond:	\$114,333

KeeleMartinez.com

Essentially Obsessed
May 20

When I first looked at dōTERRA's Average Earning Income statement my first thought was... Really? You can get paid THAT well for helping people with oils? 🤔

For reference, I had been at my corporate job for 4+ years, managed a staff of over 20 people, worked a salaried 40-50+ hours a week, worked REALLY hard to "get noticed" in my corporate career...all to feel STUCK 😞

I remember clearly saying, "I'm not doing network marketing" because I honestly didn't understand the true POWER of this business model, and entrepreneurship is not something they teach you in college. So the unknown felt scary...so I judged.

Until I didn't.

Because what in the HECK was I doing with my life anyways? 🤔 I worked for someone else, who truly could have "let me go" at any point because of any reason really.

So with a DEEP BREATHE and a lot of oils, I freaking jumped! I knew that true success would take a lot of hard work, time and showing up even when I could think of 999 other things to do...but F it.

I was IN!

These averages are just that, an average of what this rank can earn if you are doing the WORK. And it's not a bad payday for empowering other to care about themselves 🙌

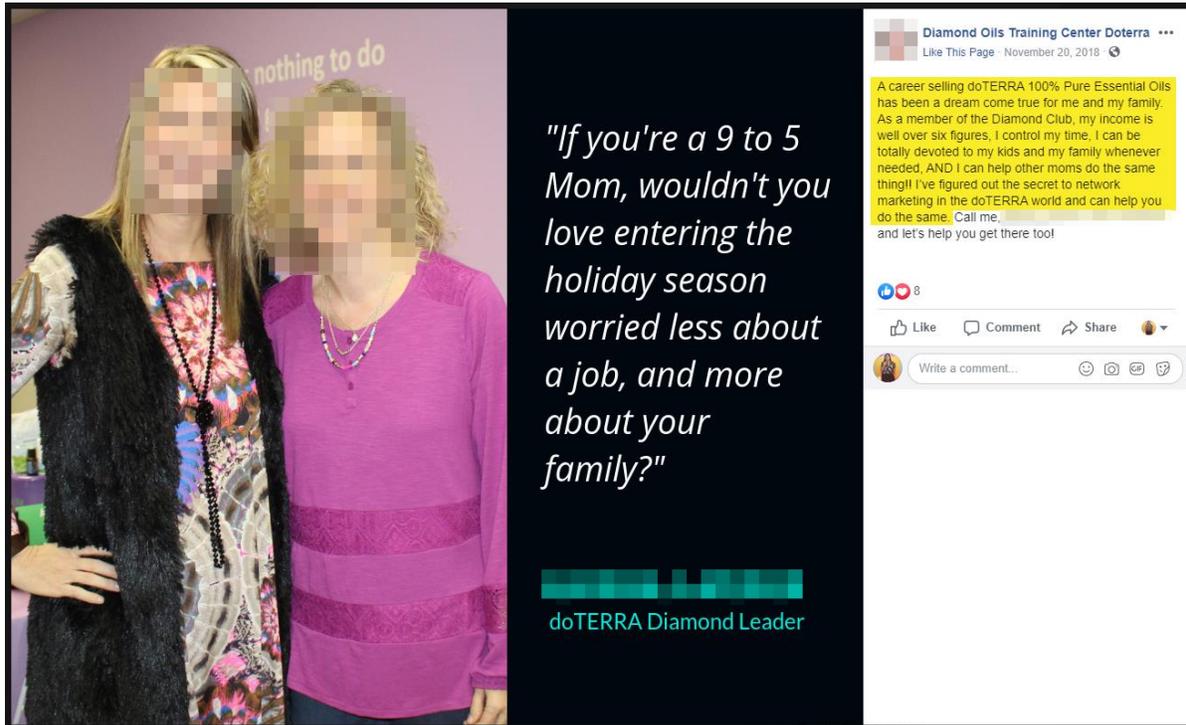
If you are curious, let's chat! I have a full training that will walk you through The Fundamental of HOW my team has reached the TOP RANK in dōTERRA in 3.5 years 💎

Oily babes, what are your thoughts on this business?

Write a comment...

- “💎 DōTERRA is a debt free company and has allowed me to become debt free also. If you’re interested in learning more about how you can get your oils paid for, provide a supplemental income for your household and pay off your debt by helping other people discover natural solutions that will change their lives, let’s chat!!!! 📧💜”

- “A career selling dōTERRA 100% Pure Essential Oils has been a dream come true for me and my family. As a member of the Diamond Club, my income is well over six figures, I control my time, I can be totally devoted to my kids and my family whenever needed, AND I can help other moms do the same thing!! I’ve figured out the secret to network marketing in the dōTERRA world and can help you do the same.”



- “How to make space for what matters most while creating time and financial freedom with a 6-figure dōTERRA business”
- “So I’m curious how many of you decided to start a dōTERRA business because you were bored and you had an extra 10 maybe 20 hours a week to hang out, twiddle your thumbs. Probably nobody. So most people decide to join the dōTERRA business because they see a much greater purpose. So I want you to think back to that spark and what that spark was for you. So was it the possibility of elevating your own health while helping others? Was it perhaps paying your bills? Maybe upgrading your home? Maybe sending your kids to a private school or college? Perhaps retiring? Or what about vacations? Those are fun.”
- “I knew that I could help people feel amazing with the products and I was really appealing to the idea that I could really create a true financial pipeline that would create financial freedom and time freedom, which I was craving the most for the rest of my life. If I chose a season of imbalance, so focus time, dedicating a lot of time to get my dōTERRA business

launched I knew that it would create financial stability and freedom for the rest of my life while helping others do the same.”

IDENTIFICATION OF ISSUES

According to documents submitted to DSSRC, it was asserted that dōTERRA has been using – and continues to use – unsubstantiated product claims and health-related disease treatment claims to market its products. It was stated that such claims – made both expressly and implicitly – include, but are not limited to, representations that dōTERRA’s essential oils can treat or alleviate the symptoms of, among other conditions, ADHD, diabetes, PTSD, autism, fibromyalgia, IBS, epilepsy, gout, bronchitis, insomnia, endometriosis, and arthritis.

It was alleged that the vast majority of these claims were made after dōTERRA received a warning letter from the U.S. Food and Drug Administration (FDA), admonishing the Company’s use of disease-treatment claims to market its products, none of which are FDA-approved drugs. Moreover, it was asserted that several of dōTERRA’s promotional posts – including claims the company’s essential oils can treat diabetes and ADHD – have been on the internet for more than five years and are still in publication today.

It was further maintained that certain dōTERRA marketing materials treat essential oils as a cure all, making multiple disease-treatment claims and that many dōTERRA ads target women, claiming dōTERRA oils can treat endometriosis, PMS, and menopause.

Additionally, it was contended that dōTERRA representatives also target parents. DSSRC’s attention was called to one dōTERRA “essential oils consultant” that explains that she “was completely blown away” by the “effectiveness in both prevention of illness and the[] healing properties” of essential oils on her “new baby” and, “[a]s a result, she has focused her business on teaching parents how to keep everyone in the family happy and healthy with the use of dōTERRA 100% certified pure therapeutic grade essential oils!” It was asserted that many dōTERRA marketing materials similarly try to encourage parents to use essential oils in the place of antibiotics or over the counter medicines.

It was noted that dōTERRA did not dispute the fact that unauthorized marketing claims have been used to market its products and business opportunity. DSSRC was informed that such claims continue to proliferate and that notwithstanding dōTERRA’s description of its business structure, compliance training, distributor support system, and ongoing monitoring ensure that its distributors are properly educated, these efforts have not adequately addressed the ongoing issue of the dissemination of unsupported and egregious product and income claims that exist on various social media platforms. DSSRC was also advised that over one hundred improper claims have been identified even after a federal government agency instructed dōTERRA to cease using disease-treatment claims to market its product. Accordingly, it was asserted that such findings make it clear that whatever tactics dōTERRA is using to ensure that its distributors adhere to Federal Trade Commission (FTC) law are not working.

It was emphasized to DSSRC that as a result of the Company's ineffectiveness in curbing the ongoing dissemination of unauthorized product and earnings claims, it is imperative for dōTERRA to thoroughly examine all of its marketing materials (including those of its distributors), as well as its training, oversight, and enforcement mechanisms, to ensure that any deception is fully eradicated, as well to as ensure the truthfulness and legality of marketing claims going forward.

Further, the Company's recitation of its company policies was objected to. It was noted, for example, that according to dōTERRA, the Company informs its distributors that "[u]nder no circumstances should [dōTERRA] products be likened to drug products prescribed for the treatment of specific ailments." However, it was argued that such a policy is incomplete. It was also asserted that, in addition to being prohibited from making claims that dōTERRA products can treat ailments, dōTERRA and its distributors are also prohibited by law from claiming dōTERRA products can alleviate the symptoms of, prevent, or reduce the risk of developing diseases and disorders and that this should be addressed in the Company's training and Policy Manual.

Additionally, DSSRC's attention was called to dōTERRA's statement that it informs distributors that they "are to be honest in explaining the income one may earn under the sales compensation plan and are not permitted to promise specific income. Distributors are not to use their own income as an indication of other's potential success." It was contended that, according to the FTC, when making atypical earnings claims, dōTERRA and its distributors must state – clearly and conspicuously – the amount of income that dōTERRA distributors can *generally expect to earn* before accounting for expenses and, simply being honest and not promising specific income is insufficient.

In sum, it was argued that dōTERRA continues to disseminate false product and income claims while consumers continue to be misled, some of whom may be induced to use these essential oils in lieu of physician-recommended medications for serious health conditions.

COMPANY'S POSITION

dōTERRA explained to DSSRC that the Company sells essential oils and related products and that its major product lines include cosmetics, foods and dietary supplements. The Company informed DSSRC that these products are sold through retailers and direct sales by dōTERRA distributors.

The Company informed DSSRC that to become a dōTERRA distributor, an individual must enter into a dōTERRA distributor agreement with the Company and also agree to abide by the terms of the dōTERRA Policy Manual.

Under both the distributor agreement and the Policy Manual, distributors are strictly prohibited from making any claim, either expressly or impliedly, that dōTERRA products treat, cure, or prevent diseases. More specifically, distributors are directed to promote the products only for purposes of supporting wellness and personal appearance. Additionally, with respect to earnings claims, under the distributor agreement and Policy Manual, distributors are to be honest in explaining the income one may earn under the sales compensation plan and are not permitted to

promise specific income. Distributor are not touse their own income as an indication of other's potential success.

dōTERRA's Compliance Process

dōTERRA informed DSSRC that it provides compliance training to ensure compliance with Company policies as well as with applicable laws and regulations. The Company stated that that distributors receive initial training through their introductory kit which includes information on sharing products with potential consumers. dōTERRA's website also provides marketing materials, including information on the types of claims which may be used by distributors in their day-to-day sales/sharing of products. dōTERRA stated that it also provides training with disibutor up-line leaders directly through regular conference calls during which information regarding compliant claims may be provided. Up-line distributors are then directed to provide such information to train downline distributors.

dōTERRA informed DSSRC that it also has Member Service Agents who may be contacted by distributors regarding any questions they may have pertaining to product marketing including product claims. When a Member Service Agent cannot respond to a question that may be raised by a distributor, including a compliance inquiry, that distributor will be referred to a compliance specialist who will provide further information and advice regarding Company policies applicable to the marketing and sale of dōTERRA products.

With respect to the Company's compliance and monitoring structure, dōTERRA stated that it proactively monitors distributors for compliance with its policies and that it has procedures in place to respond to any actions by distributors that are potentially in violation of applicable laws and regulations. dōTERRA informed DSSRC that it has a team of full-time compliance specialists who are responsible for proactively monitoring and enforcing Company requirements. More specifically, dōTERRA monitors claims made about its products using automated search tools that notify dōTERRA when a disease name is used in connection with one of its products. When a claim of concern is found, either through the compliance specialists own monitoring or as a result of third-party notification, the specialist will initiate an investigation of the distributors potential non-compliance by reviewing the distributor's websites, or other marketing materials. If the specialist determines that claims of concern are potentially being made by the distributor, the specialist will contact the distributor to notify them of the claims at issue and remind them that the promotion of dōTERRA products through non-compliant claims is a violation of the Company's Policy Manual.

At the time of communication, the compliance specialist will provide a short time period for the distributor become compliant. If no response is received from the distributor, the compliance specialist will require compliance to be made within a short period of making additional notifications. According to the Company, under most circumstances, the distributors will willingly remove the claims at issue after the initial communication and a second request is not necessary. The compliance specialist may also recommend that a distributor participate in a certified website program that permits the Company to automate regular scans of the distributor's

website to detect terms related to non-compliant claims. The compliance specialist may also give additional education to the distributor to hopefully ensure future compliance.

If, for some reason, a distributor fails to comply with the request of the compliance specialist, the dōTERRA Policy Manual permits progressive levels of disciplinary action, including but not limited to: (i) issuing warnings or admonitions; (ii) implementing increased monitoring of the distributor for a period of time; (iii) requiring additional assurances from the distributors that compliance with the Policy Manual will be maintained; (iv) denying or suspending distributor privileges; (v) discontinuing or limiting payment for sales; (iv) imposing fines; (vii) reassigning all or part of the distributor's organization; and/or (viii) terminating the distributor agreement with the distributor.

The Claims At Issue

It was dōTERRA's position that the subject claims that were brought to its attention by DSSRC include claims made by persons that are not distributors, terminated distributors, and distributors inside and outside the United States. The Company asserted that it has a compliance team that proactively educates and disciplines distributors violating Company policies. The Company pointed to its prompt action in addressing its notification of 150 claims that were being disseminated regarding dōTERRA's products and business opportunity.²

More specifically, the Company stated that it corrected 105 of the claims by reaching out to the distributor responsible for the content and requested the content be removed and that its distributors complied with the Company's request. dōTERRA also explained that when compliance specialists are not able to contact the creator of social media content containing dōTERRA's intellectual property, dōTERRA routinely submits trademark/copyright infringement take down requests to social media sites. The Company explained that although social media site trademark/copyright infringement take down requests differ and can have inconsistent results, dōTERRA was able to remove five images identified through this process.³

dōTERRA also attempted to address:

- a) content belonging to persons who are not distributors;
- b) content it could not locate;
- c) one partial image that Twitter did not fully delete through a trademark copyright infringement take down request; and
- d) seven images attributed to current distributors that are going through the disciplinary process.

² dōTERRA stated that, as of November 2019, it has removed 57 of the 150 claims and has addressed each claim in an October 23, 2019 letter to the Company.

³ dōTERRA believes that it removed thirteen (13) images that were identified prior to the Company receiving notifying dōTERRA of the content. Of the 13 images, dōTERRA located the creators of nine images and has been informed by each image creator that the content was removed. DoTERRA stated that if links are provided for any of these thirteen images that show the content is still live, the compliance specialists will seek to have the images removed through dōTERRA's

More specifically, dōTERRA asserted that there are three images that do not belong to distributors. The Company noted that while persons who are not distributors are not required to comply with dōTERRA's requests, dōTERRA nevertheless has requested the third parties remove the content. The Company also noted that with regard to five images it was not provided with sufficient information that would allow it to locate the posts and determine if they were posted by dōTERRA distributors.⁴

In addition, according to dōTERRA, there were 11 images belonging to distributors that were previously terminated. After the Company's cease and desist letter was not complied with, the matter was referred to and is being handled by dōTERRA's outside counsel in an attempt to address the matter on an intellectual property infringement level. The Company also advised DSSRC that there are seven distributors going through the disciplinary process due to their failure to abide by dōTERRA's requests. These distributors have had their account access suspended, pending further discipline if they fail to comply.

The Company reinforced that each of the 26 claims belonging to the respective foreign or United States dōTERRA distributors that were brought to its attention in this challenge have been removed.

DoTERRA stated that while it is appreciative any time a third-party informs it of needed improvements to its compliance processes and efforts, it nonetheless respectfully disagreed with the minimization of what the Company considers a comprehensive and robust compliance process. Nevertheless, dōTERRA informed DSSRC that it remains committed to continuing to proactively seek ways to increase the effectiveness of its compliance efforts.

ANALYSIS AND RECOMMENDATION

DSSRC agreed that the product claims at issue in this inquiry included a number of aggressive health-related representations that in many instances could be interpreted as drug claims by the reasonable consumer.⁵ More specifically, the claims at issue involve powerful health-related claims indicating that dōTERRA's products may treat or alleviate symptoms of a number of health-related conditions including post-traumatic stress disorder, type II diabetes, arthritis, asthma, high blood pressure, bronchitis, bug bites, cellulites, colds, high cholesterol, cramps, diabetes, diarrhea, earaches, toothaches, headaches, the flu, migraines, hemorrhoids, pink eye, and sinus infections. As DSSRC has noted in previous decisions, the requisite level of support that any advertiser should possess for health-related claims and establishment claims is competent and reliable scientific evidence.⁶ For health, safety, or efficacy claims, the FTC has generally required that advertisers possess "competent and reliable scientific evidence," defined as "tests, analyses,

⁴ According to dōTERRA, a partial image of one of the Twitter posts remains due to inconsistencies with Twitter's trademark/copyright infringement take down process. DoTERRA stated that it intends to resubmit the trademark infringement request to Twitter

⁵ Id.; POM Wonderful vs. FTC, United States Court of Appeals for the District of Columbia Circuit (2015) <https://www.cadc.uscourts.gov/internet/opinions.nsf/CF44C4FA22F615C585257DDD00549353/%24file/13-1060-1535012.pdf>.

⁶ See Young Living Essential Oils, LLC, DSSRC Case Number: 13-2020 (2/20/20).

research, or studies that have been conducted and evaluated in an objective manner by qualified persons and [that] are generally accepted in the profession to yield accurate and reliable results.”⁷

Here, dōTERRA did not attempt to substantiate the health-related claims at issue and conceded that such claims should not have been disseminated by the Company’s distributors. Indeed, the Company’s own educational and training materials for distributors make clear that health-related claims such as those at issue in this inquiry are not authorized by dōTERRA. Accordingly, there was no dispute in this challenge regarding the appropriateness of the product and income claims that were at issue, as dōTERRA immediately recognized that the social media posts referenced by DSSRC included claims that were not expressly authorized by the Company.

As DSSRC has stated in previous self-regulatory decisions, a direct selling company is responsible for the claims and representations made by its distributors and, moreover, a direct selling company’s representations and messaging concerning the business opportunity it offers must be truthful and non-misleading to avoid being deceptive under Section 5 of the FTC Act.⁸ DSSRC certainly recognizes the significant burden of direct selling companies to oversee the compliance of large sales forces with in some cases, as here, millions of distributors, many of whom are inactive and no longer associated with company. However, this ongoing, comprehensive oversight is critical in order to maintain company integrity and to foster trust in the minds of consumers and regulators.

Here, as the truth and accuracy of the subject claims is not in dispute, the underlying issue centered on the sufficiency of the internal compliance checks and balances that the Company has in place to identify and address unauthorized income and product claims. To that end, dōTERRA provided DSSRC with specific information regarding its proactive monitoring process of supervising and assuring that distributors are compliant with company policies regarding claim dissemination and that it has sufficient procedures in place to respond to any actions by distributors that are potentially in violation of applicable laws and regulations. In addition, the Company has been responsive when unauthorized health and product claims have been brought to its attention as evidenced by its immediate and voluntary actions to remove all of the claims brought to its attention by DSSRC in this inquiry. Most pertinently this includes those claims made by current distributors who also face disciplinary ramifications by dōTERRA for violating Company policy including the potential suspension of their accounts and, if necessary, termination of the distributor’s account. More specifically, the Company stated that it corrected 105 of the claims that were brought to its attention by reaching out to the distributor responsible for the content and having the questionable social media post removed.

Additionally, dōTERRA asserted that when compliance specialists are unable to contact the creator of social media content containing dōTERRA’s intellectual property, the company will submit trademark/copyright infringement take down requests to social media sites. Though social

⁷ See, e.g., *POM Wonderful LLC*, 155 F.T.C. 56, 193 (2013), *aff’d in part*, 777 F.3d 478, 504-05 (D.C. Cir. 2015), *cert. denied*, No. 15-525, 2016 U.S. LEXIS 2991 (May 2, 2016).

⁸ See *WildTree, Inc.*, DSSRC Case No. 1-2019 and the FTC Business Guidance Concerning Multi-Level Marketing. January 2018.

media site trademark/copyright infringement take down requests differ and can have inconsistent results, dōTERRA was able to remove several images identified through this process.⁹

DSSRC appreciates the voluntary steps taken by the dōTERRA to remove a significant number of the health-related and income claims disseminated by its salesforce that were at issue in this inquiry, actions that DSSRC deemed necessary and appropriate. Here, the Company removed all of the enumerated claims in DSSRC's opening letter and also addressed over one hundred other claims that had been brought to its attention both before and after the DSSRC inquiry was commenced.

Notwithstanding the policies and procedures that dōTERRA has in place to oversee and enforce salesforce compliance with claim dissemination by its salesforce, DSSRC concluded that, in addition to dōTERRA prohibiting its distributors from representing that the Company's products are similar to drug products prescribed for the treatment of specific ailments and diseases, its distributors should also be advised that they should not disseminate claims indicating that dōTERRA products can alleviate the symptoms of, prevent, or reduce the risk of developing diseases and disorders. Accordingly, DSSRC recommends that the Company continue to actively monitor the marketplace for health-related claims or claims from its distributors suggesting that the products can alleviate the symptoms of, prevent, or reduce the risk of developing diseases and disorders. The Company should also continue to employ the enforcement mechanisms including suspension or termination of a distributor's account if necessary.

DSSRC also recognized that many of the social media posts at issue were unauthorized statements from inactive or former distributors (and even from individuals who had no present or former association with the Company). In that instance, despite its best efforts, a direct selling company may not be able to require a former distributor to remove an unauthorized claim (i.e., a claim made while that distributor was active). In such a scenario, DSSRC nonetheless recommends that the direct selling company make a bona fide, good faith effort to have the improper claim removed.¹⁰

Removing unauthorized content that was communicated by inactive distributors or by individuals who had no previous relationship with dōTERRA was, not surprisingly, more of a challenge for dōTERRA. While persons that are not distributors are not required to comply with dōTERRA's requests, dōTERRA has requested such persons remove the content. Further, dōTERRA attempted to address content belonging to persons who are not distributors, through cease and desist letters and trademark copyright infringement take down requests. dōTERRA informed DSSRC that it would also engage outside counsel in an attempt to address the matter by enforcement of the Company's intellectual property rights. DSSRC acknowledged the good faith efforts taken by the Company to address unauthorized social media posts disseminated by inactive

⁹ DoTERRA believes that thirteen (13) images at issue in this inquiry were removed prior to the Company receiving a letter notifying it of the content. Of the 13 images, dōTERRA located the creators of nine images and has been informed by each image creator that the content was removed. dōTERRA's stated that if links are provided for any of these thirteen images that show the content is still live, the compliance specialists will seek to have the images removed through dōTERRA'

¹⁰ Supra at 7.

and former dōTERRA distributors while also noting the ongoing necessity of having a robust, comprehensive compliance process in place to pursue egregious, unauthorized representations being communicated by active and inactive salesforce members.

DSSRC expressed its concern that unsupported product and income claims for dōTERRA and its business opportunity have continued to appear in isolated instances on various social media platforms and reinforced that it is not the responsibility of others in the industry to bring questionable claims to the attention of the Company. Nevertheless, DSSRC determined that, at this time, it could not dispositively identify an internal, systemic compliance concern with the Company and noted that dōTERRA has demonstrated a good faith effort to immediately address any claims that are not consistent with its company policies.

In sum, DSSRC determined that actions exercised by dōTERRA including proactive monitoring of distributor compliance, ongoing training to ensure adherence with Company policies and having access to Member Service Agents combined with processes to investigate distributors potential non-compliance by reviewing distributor websites, or other marketing materials demonstrated that the Company has an appropriate mechanism in place with respect to removing improper claims made by distributors. Similarly, DSSRC recommends that when a direct selling company such as dōTERRA is made aware of an improper product or income claim that was made by an individual that was an active distributor when such claim was made but that has since become an inactive distributor of the company that it proactively exercise due diligence and make a bona fide, good faith attempt to request removal of the unauthorized claim.

DSSRC concluded that dōTERRA's efforts to reach out to the individuals responsible for the problematic claims removed and, if necessary, the utilization of trademark/copyright infringement take-down requests demonstrate the Company's good faith efforts to remove income and/or product representations that are not consistent with Company policy. As noted by previous DSSRC self-regulatory inquiries, if the social media platform where the subject post was made provides a mechanism for reporting trademark or copyright violations, DSSRC recommends that the direct selling company promptly utilize such mechanism and seek removal of the subject claims and posts.¹¹ If the subject claim that came to the attention of the direct selling company occurred on a website or platform without a reporting mechanism, DSSRC recommends that, in addition to contacting the former distributor in writing, the Company contact the website or platform in writing and request removal of the subject claim or post.

Lastly, DSSRC agreed that future product and income claims communicated by dōTERRA's salesforce merit ongoing scrutiny by DSSRC to assure that the Company's compliance policy and procedures are meaningful and effective. As such, DSSRC will continue to monitor the messages disseminated by the Company salesforce on social media and, should DSSRC identify an ongoing proliferation of troublesome product or income claims by dōTERRA salesforce members or from the Company itself, a compliance inquiry will be promptly initiated.

¹¹ Supra at 7.

CONCLUSION

DSSRC agreed that the product claims at issue in this inquiry included a number of very aggressive health-related representations as well as unsupported atypical income claims. dōTERRA did not attempt to substantiate the health-related claims at issue and conceded that such claims should not have been disseminated by the Company's distributors. The Company removed a significant number of the income and health-related claims disseminated by its salesforce that were at issue in this inquiry and also used significant efforts to remove unauthorized statements from inactive or former distributors. DSSRC concluded that the Company's demonstrated a good faith effort to remove product and/or income representations that are not consistent with Company policy.

DSSRC also agreed that, in addition to dōTERRA prohibiting its distributors from representing that the Company's products are similar to drug products, its distributors should also be advised that they should not disseminate claims indicating that dōTERRA products can alleviate the symptoms of, prevent, or reduce the risk of developing diseases and disorders.

Lastly, DSSRC agreed that future product and income claims communicated by dōTERRA's salesforce merit ongoing scrutiny and, as such, DSSRC will continue to monitor the messages disseminated by the Company salesforce on social media and will immediately initiate a compliance inquiry should it identify an ongoing proliferation of egregious, unsupported product or income claims disseminated by dōTERRA and/or its salesforce.

COMPANY STATEMENT

dōTERRA appreciates the opportunity to respond to the Challenger's allegations and to participate in DSSRC's process. This process has helped dōTERRA. We continually seek to improve our comprehensive and robust compliance program, which monitors a large number of customers and distributors. As recommended by DSSRC, we will continue to engage our distributor compliance program by: (i) actively monitoring and removing distributor non-compliant claims from the marketplace; (ii) using appropriate intellectual property rights and remedies to address distributor and former distributor non-complaint claims; and (iii) employing our contractual enforcement mechanisms to help distributors be compliant.

(Case No. 17-2020 PCM, closed on 3/27/2020)
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