

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

Case Number: 4-2019 – Monitoring Inquiry – Pure Romance, LLC

COMPANY DESCRIPTION

Pure Romance, LLC (“Pure Romance” or the “Company”) is a multi-level direct selling company that specializes in beauty products, and bedroom accessories for women. According to the Company website, Pure Romance has 30,000 active consultants located in the United States, South Africa, Canada, Puerto Rico, New Zealand, and Australia.

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.

More specifically, DSSRC identified several core earnings claims being disseminated on the Facebook and Instagram pages of Pure Romance consultants as well as on videos located on the Pure Romance website.

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

A. Express and Implied Earnings Claims – Representatives’ Social Media Posts

- *Pure Romance Consultant Facebook Post #1:*

“Just a few things Pure Romance has done for me:

- *“Quit my full time job”*
- *“extra spending money”(money bag emoji)*
- *Spend more time with my kids*
- *“pay off debt” (cash emoji)*
- *“turned me into a boss babe building an empire”(castle emoji)*

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February 14 · 🌐

Happy Valentine's Day!! 💜
 What better way to spend it then to start your own business, start your path to financial freedom, and start spending time on yourself!! This is an amazing sale!

Just a few things Pure Romance has done for me

- quit my full time job
- spend more time with my 🧒 kids
- extra spending money 🤑
- pay off debt 🏠
- turned me into a boss babe building an empire 🏢

Are you ready to #dolifedifferent. Cause I'm living my best life now! And I want you to join me!!



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- *Pure Romance Consultant Facebook Post #2:*
 Depiction of a spread of bills of various denominations into several piles on a table (i.e., one spread of \$100 bills, \$50 bills and \$20 bills marked “Pure Romance”; one spread of ten \$20 bills marked “Tacos”; a \$20 bill representing “Gas”; one \$20 bill representing “Me” and two one-dollar bills representing “Babe”).
- *Pure Romance Consultant Facebook Post #3:*
 - “Part time hours with Full time pay!!”



- *Pure Romance Consultant Instagram Post #1:*
 - “Need to make an additional \$200, \$500, \$800, \$1100 or more a month...?”
 - “Or maybe you want to #FireYourBoss Like I did! “
- *Pure Romance Consultant Instagram Post#2:*
 - “Full time mommy, part time Pure Romance consultant making full time income!”

B. Express and Implied Earnings Claims – Video Testimonials on Company Website

In addition, during the pendency of the DSSRC review, four “success story” videos (“*Real Stories – Meet women just like you who are living their BEST LIFE with Pure Romance*”) located on the Company website (<https://www.pureromance.com/join>) came to DSSRC’s attention.

- *Video #1 testimonial from a Pure Romance consultant: “Paid for wedding with no debt. It was a \$10,000 wedding. I didn’t have to pay anything on a credit card.... Also within that year, we were able to come down with a small down payment for our first home. We went from living in a trailer park into a single-family home that we actually owned, with a little backyard and three bedrooms and an office space and all of this stuff that we never had before. It was amazing to know that my business was the sole reason why this was able to happen.”*
- *Video #2 testimonial from a Pure Romance consultant: “I wanted to be able to comfortably pay bills and on top of that be able to travel and afford things, nice things, go out to dinner.... I wanted to be able to live free... After my first party, I quit my fulltime job. I have been fulltime with Pure Romance for three-and-a-half years.”*
- *Video #3 testimonial from a Pure Romance consultant: “[The Pure Romance consultant told me] If you ever need an extra \$100 a month or an extra \$1,000 a month, this could be a good fit for you...How am I going to feed my kids? I’m used to a certain lifestyle, I just took on this new car payment that I really can’t afford. [I said] Let’s talk about it I need to make \$464 a month. If you think I can do this, then I’m going to try it and that was it.”*
- *Video #4 testimonial from a Pure Romance consultant: “I went to Paris. I went to Fiji. I did the west side of America as well. I did California, Nevada, Arizona... Pure Romance has given me my life and the life I deserved, that I never knew I deserved until I found it.”*

COMPANY'S POSITION

Pure Romance indicated to DSSRC that it is in the process of contacting the independent consultants whose social media posts were identified in the inquiry requesting that they remove the posts in question and to provide the consultants with compliance guidance regarding the issues with the posts identified by DSSRC.

Pure Romance also stated that it is updating its income disclosure statement which will be posted on the Company website and will provide links to this page in other materials, particularly those dealing with recruitment or enrollment.

In addition, Pure Romance indicated to DSSRC that it has recently taken a number of significant steps to increase compliance training and the scope of its monitoring of the social media posts of its consultants and has updated its policy and procedures to include information on the type of claims that are appropriate for consultants' marketing materials.

ANALYSIS AND RECOMMENDATION

DSSRC expressed its appreciation to Pure Romance for its commitment to voluntary self-regulation and the Company's assurance that all material information regarding its income opportunity is clearly and conspicuously disclosed to consumers and that its independent consultants do not communicate claims that embellish or exaggerate the anticipated income that could be generally expected by consumers and/or incoming recruits.

A. Express and Implied Earnings Claims – Representatives' Social Media Posts

Instagram Posts:

During the pendency of the inquiry, it came to the attention of DSSRC that the two Instagram posts at issue have been removed. DSSRC was appreciative of the voluntary actions taken by the Company and determined that such an action was warranted.

More specifically, in the *Pure Romance Consultant Instagram Post #1* at issue, the independent consultant makes an implied claim regarding the amount of money that an independent consultant can earn with Pure Romance (“*Need to make an additional \$200, \$500, \$800, \$1100 or more a month...?*”). However, there was no evidence provided by the Company indicating that a Pure Romance independent consultant will typically earn these amounts of monthly income and, in the omission of such evidence, DSSRC concluded that the removal of the claim was necessary and appropriate.

It is a long-standing principle of advertising that an advertiser has the burden to support all reasonable interpretations of its claims and not simply the messages it intended to convey. Verizon Communications, Inc. (Verizon Wireless Services (“First to 5G”)), Report #6258, *NAD/CARU Case Reports* (May 2019). In the direct selling context, the DSSRC makes clear that the responsibility of the direct selling company extends to the claims disseminated by members of a direct selling company's salesforce. While the social media claims identified by DSSRC were made by Pure Romance consultants and were not claims made by the Company itself, such claims must nonetheless be truthful, accurate and presented in a manner that is not false, deceptive or

misleading. *See*, DSA Code of Ethics, § 8(b)(1); FTC Guide Concerning the Use of Endorsements and Testimonials in Advertising, 16 CFR §255.1(d).

Moreover, DSSRC also determined that the claim from the same post which encourages potential recruits to “*#FireYourBoss Like I Did*” could be reasonably interpreted by consumers and potential downline recruits as an opportunity to quit their jobs and, presumably, replace such income by becoming a Pure Romance consultant.

In addition to the omission of any evidence indicating how much a Pure Romance independent consultant typically will earn, the use of terms such as “*fire your boss*” have been cautioned against by the Federal Trade Commission (FTC). In section 13 of its 2018 Business Guidance Concerning Multi-Level Marketing, the FTC states that unless it can be demonstrated that direct selling participants can generally achieve such results, companies (and/or their representatives) should not “*represent through words or images that participants can earn thousands of dollars a month, quit their jobs, “fire their bosses”.*”¹

Accordingly, DSSRC concluded that Pure Romance’s voluntary removal of both Instagram posts that were the subject of this inquiry was necessary and appropriate.

Facebook Posts

Similarly, with respect to the three Facebook posts identified by DSSRC in this inquiry, DSSRC determined that these social media posts should be immediately removed.

In *Pure Romance Consultant Facebook Post #1*, the Pure Romance independent consultant notes that she “*quit her full-time job,*” which DSSRC concluded could be reasonably interpreted by consumers as meaning that she replaced that full-time income with the money she was earning as a Pure Romance independent consultant. As noted earlier, there was no evidence provided by the Company indicating the annual or monthly amount of earnings that could be typically expected by a Pure Romance independent consultant and, as such, the claim (particularly as presented in its unqualified context and accompanied by a promise of “*financial freedom*”) was not appropriate or substantiated. Similarly, claims pertaining to “*extra spending money*” and the ability to “*pay off debt*” would require the necessary evidence showing that a Pure Romance independent consultant typically earns enough monthly or annual income to provide the degree of financial flexibility suggested by the amount of money depicted in the post. More specifically, the post includes an image of bills spread of various denominations into several piles on a table (*i.e., one spread of \$100 bills, \$50 bills and \$20 bills marked “Pure Romance”; one spread of ten \$20 bills marked “Tacos”; a \$20 bill representing “Gas”; one \$20 bill representing “Me” and two one-dollar bills representing “Babe”*). DSSRC concluded that in the absence of evidence indicating the annual or monthly amount of earnings that could be typically expected by a Pure Romance independent consultant that the express and implied claims communicated by this post are unsupported and that Pure Romance should take the appropriate action to have its consultant remove the post.

Similarly, the same Pure Romance consultant who disseminated the above referenced Facebook Post #1 also included a second post (*i.e., Pure Romance Consultant Facebook Post #2*) on the same day which is a stand-alone photograph of the same image of bills of various denominations of currency spread into several piles. DSSRC determined that this depiction of \$100

¹ FTC Business Guidance Concerning Multi-Level Marketing, §13 (January 2018).

bills, \$50 bills and \$20 bills for various monthly expenses could be interpreted by potential consultants as meaning that they too can typically expect to earn hundreds of dollars per month as a Pure Romance consultant. However, as noted above, there has been no evidence provided to support such an implied message.

As such, DSSRC concluded that in the absence of evidence provided by the Company indicating that a Pure Romance independent consultant will typically earn this amount of monthly income this post should be immediately removed by Pure Romance.

With respect to *Pure Romance Consultant Facebook Post #3* which promises “*Part-time hours with full-time pay,*” DSSRC again referenced section 13 of the FTC’s 2018 Business Guidance Concerning Multi-Level Marketing² which discourages representations suggesting that consumers and potential downline recruits can achieve “*career-level income*” and further noted that such claims are particularly dubious when accompanied by language suggesting such income may be achieved working “*part-time hours.*” More specifically the FTC Guidance notes that “*Business opportunities may also claim that participants, while not necessarily becoming wealthy, can achieve career-level income. They may represent through words or images that participants can earn thousands of dollars a month, quit their jobs, “fire their bosses,” or become stay-at-home parents. If participants generally do not achieve such results, these representations likely would be false or misleading to current or prospective participants.*”

In a 2016 stipulated order with Herbalife International of America, Inc., for permanent injunction and money damages the FTC prohibited the defendants from “*Making any representation, expressly or by implication, regarding the amount or level of income, including full-time or part-time income, that a participant can reasonably expect to earn unless the representation is non-misleading and, at the time such representation is made, Defendants possess and rely upon competent and reliable evidence sufficient to substantiate that the representation is true.*”³

Finally, in expressing its conclusion that the “*Part-time hours with full-time pay*” post should be removed by the Pure Romance independent consultant, DSSRC noted that any claims or posts referencing an income opportunity to work for a direct selling company should not convey the message that substantial (*i.e.*, full-time) income can be earned without hard-work and effort. Conversely, with respect to those company representatives that are in the minority of having achieved a substantial income, almost all of those representatives have attained such a level of income through hard-work and dedicated perseverance. As such, any proposition that potential recruits may typically receive career-level income without having to dedicate the same amount of time as required by a full-time profession create unrealistic expectations and is strongly discouraged.

² *Id* at 1.

³ Section IV(A) of Stipulated Order for Permanent Injunction and Monetary Judgement; Federal Trade Commission vs. Herbalife International of America, Inc., et al. United State District Court for the Central District of California. FTC Matter/File Number: 142 3037 page 16.

B. Express and Implied Earnings Claims – Video Testimonials on Company’s Website

DSSRC also reviewed four videos (“*Real Stories – Meet women like you who are living their **BEST LIFE** with Pure Romance*”) residing on the Company website. In the videos, Pure Romance consultants communicate various unqualified income representations regarding the amount of money that they have earned, which DSSRC determined may be reasonably interpreted by consumers and potential downline recruits as meaning that the same income earned by those Pure Romance consultants could be typically expected by potential Pure Romance consultants as well. However, as noted in the previous section of this decision, the direct selling Company did not produce any earnings data to support such a take-away.

It was also noted that several of the videos expressly communicate quantified amounts of monthly income which DSSRC determined consequently created specific expectations for consumers and downline recruits. For example, in the testimonial identified in the Basis of Inquiry as “Video#3, the Pure Romance consultant creates definitive expectations regarding the income opportunity for a Pure Romance consultant (“*If you ever need an extra \$100 a month or an extra \$1,000 a month, this could be a good fit for you...*”). Similarly, the testimonial identified as “Video#2” also includes representations regarding the consultant replacing the income from her “*fulltime job*” with the income she receives as a Pure Romance independent consultant. However, as noted earlier in this decision, there was no evidence provided by the direct selling Company regarding the amount of income that can be typically expected from Pure Romance independent consultants.

The remaining videos that were the subject of this inquiry reference general levels of financial success (e.g., “*we were able to come down with a small down payment for our first home. We went from living in a trailer park into a single-family home that we actually owned, with a little backyard and three bedrooms and an office space...*”; “*I wanted to be able to comfortably pay bills and on top of that be able to travel and afford things, nice things, go out to dinner.... I wanted to be able to live free...*”; and “*I went to Paris. I went to Fiji. I did the west side of America as well. I did California, Nevada, Arizona... Pure Romance has given me my life and the life I deserved...*”) which, though unquantified, nevertheless imply receiving a significant level of income that, in the absence of evidence indicating otherwise, would appear to be atypical for Pure Romance consultants. It was further determined that the statements pertaining to financial success in the videos are expressed in a context which the reasonable consumer may understand to be attributable to income they received while working as a Pure Romance independent consultant.

While these testimonials referred to in the above paragraph do not expressly state that the consultants earn a specific amount of income, DSSRC believes that they do imply a substantial level of income that can be typically earned by Pure Romance consultants. Before disseminating an advertisement, the advertiser must substantiate all claims – express and implied – that are conveyed to a reasonable consumer.⁴ Further, even truthful testimonials from representatives “*...who do earn career-level income or more will likely be misleading unless the advertising or*

⁴ FTC Advertising Substantiation Policy Statement, appended to Thompson Medical Co., 104 F.T.C. 648 (1984).

*presentation also makes clear the amount earned or lost by most participants.”*⁵ Accordingly, DSSRC recommends that Pure Romance remove the implied earnings claims contained in the video testimonials or modify the videos to clearly and conspicuously disclose the typical earnings that can be expected by an independent consultant of Pure Romance.

Regarding the clear and conspicuous placement of disclosures in website videos, the FTC Dot.com Disclosure Guide (the FTC Disclosure Guide) states that in evaluating whether a disclosure is likely to be clear and conspicuous, advertisers should consider its placement in the ad and its proximity to the relevant claim. The closer the disclosure is to the claim to which it relates, the better. Additional considerations include: the prominence of the disclosure; whether it is unavoidable; whether other parts of the ad distract attention from the disclosure; whether the disclosure needs to be repeated at different places on a website, and; whether disclosures in audio messages are presented in an adequate volume and cadence.⁶ It is further explained in the FTC Disclosure Guide that because online ads often contain videos with claims that require qualification, the disclosure should accompany the claim. Visual disclosures presented in video clips or other dynamic portions of online ads should appear for a duration sufficient for consumers to notice, read, and understand them. As with brief video superscripts in television ads, fleeting online disclosures are not likely to be effective.⁷

DSSRC notes that many potential downline recruits and consumers will presumably be viewing the Pure Romance advertising on small-screen media devices such as smart phones and some members of the intended audience may be viewing the video at various intervals. However, this in no way changes the Company’s burden to make sure that its disclosures are in close proximity to the claims which trigger a disclosure requirement and that the disclosures are prominent. Accordingly, as Pure Romance continues to revise its online advertising, DSSRC recommends that any videos regarding the income opportunity for independent consultants that communicate atypical results be accompanied by a clear and conspicuous disclosure indicating the results that may be generally expected by consumers and downline recruits and that such disclosures should appear the beginning and end of a video as well as any time during the video when claims of atypical results are made.

CONCLUSION

Pure Romance was very receptive to the recommendations made by the DSSRC and in the spirit of voluntary self-regulation removed the two Instagram posts that were part of the Basis of Inquiry during the pendency of the matter. With respect to the three Facebook posts identified by DSSRC in this inquiry, DSSRC determined that these social media posts would be reasonably interpreted by consumers as meaning that the typical Pure Romance Independent Consultant will earn either substantial or career-level income when no such evidence was provided to support such a message. Accordingly, DSSRC recommended that the Facebook posts should be immediately removed.

⁵ FTC Business Guidance Concerning Multi-Level Marketing, §13 (January 2018). *See also*, FTC Guide Concerning the Use of Endorsements and Testimonials in Advertising.

⁶ FTC Dot.com Disclosure Guide. Overview; page i.

⁷ *Supra* page 20.

Similarly, it was determined that the four Success Story videos located on the Pure Romance website communicated various unqualified income representations regarding the earnings opportunity of a Pure Romance Independent Consultant. DSSRC determined those representations may be reasonably interpreted by consumers and downline recruits as meaning that the same income earned by the Pure Romance consultants in the video could be typically expected by potential Pure Romance consultants. However, there was no support provided by the Company for such a take-away and DSSRC recommended that the videos be significantly modified or removed until such time that the Company possess reliable evidence to support the implied claims that the same level of income attested to in the Success Story videos can also be expected by the typical Pure Romance Independent Consultant.

COMPANY STATEMENT

“Pure Romance lauds the motive behind the DSSRC, and accordingly has taken measures to address the concerns expressed by the DSSRC. Specifically, in some cases Pure Romance has requested that its independent Consultants remove social media posts which Pure Romance agreed with the DSSRC’s recommendations. In other situations, however, Pure Romance has determined that social media posts issued by independent Consultants would be better addressed through disclosing the generally expected income results for its Independent Consultants. Consequently, Pure Romance has developed an income disclosure statement (“IDS”) to clarify claims that may potentially be interpreted in an unintended fashion. The IDS is posted on Pure Romance’s website at [https://www.pureromance.com/footer/income-disclosure-statement-\(1\)](https://www.pureromance.com/footer/income-disclosure-statement-(1)). (A link to this statement is included on the kit purchase page.) Pure Romance is also in the process of amending its policies to require that independent Consultants include information disclosing the generally expected income results for the average Pure Romance consultant in posts and videos in which an atypical income claim is published or implied. As an additional part of this process, Pure Romance is evaluating current and future materials on its own website for modifications to ensure all materials include proper disclosures.”

(Case No. 4-2019 PCM, closed on 9/19/19)

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