

1021018 ALBERTA LTD. o/a JUST THINK MEDIA
AND
JESSE WILLMS, DIRECTOR
AND
ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF
1021018 ALBERTA LTD. OR JESSE WILLMS

This Director's Order was issued under s. 157.1 of the *Fair Trading Act* in response to, in the opinion of the Director, contraventions of the Act. As mandated by s. 157.1 of the *Fair Trading Act*, this Director's Order is part of the public record.

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Consumer Programs

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DIRECTOR'S ORDER UNDER SECTION 157 OF THE FAIR TRADING ACT

TO

1021018 ALBERTA LTD. o/a JUST THINK MEDIA

AND

JESSE WILLMS, DIRECTOR

AND

**ANY EMPLOYEE, REPRESENTATIVE, OR AGENT OF
1021018 ALBERTA LTD. OR JESSE WILLMS**

ISSUE

1021018 Alberta Ltd., o/a Just Think Media, is an Alberta company based in Sherwood Park. In 2009 and 2010, the supplier advertised offers on the Internet to sell various products, including teeth whitening pens. These were sold under names including "Dazzle White Pro", "Dazzle Smile Pro", and "Premium White". Their websites offered trials wherein the consumer could receive the product by paying only the shipping cost. The shipping costs varied from about US\$1 to \$5 based on the product and the day. Consumers would be directed to these pages through e-mail solicitation and advertising links on popular websites.

Consumers who signed up for the trial were automatically enrolled for ongoing shipments and billings unless they contacted the company to cancel. In addition, if they did not cancel their order within fourteen days and return the trial product, the consumer would be charged full price for the trial.

Service Alberta received numerous complaints from consumers who attempted to cancel the charges and were refused by the supplier. Several of these consumers provided documents showing they did not receive a proper copy of the Internet sales contract, as required by the *Internet Sales Contract Regulation* ("Regulation"). Those consumers attempted to cancel within the 30 day period allowed when a proper copy of the contract is not sent to the consumer. Even where these rights were exercised properly, the consumers did not receive a refund within 15 days of cancellation, as required. In at least one reported case, the company continued to charge a consumer for a mouth tray that

Alberta ■

was an "up sell" to the original contract even after the original contract was cancelled and refunded.

Upon being contacted by Service Alberta, legal counsel for 1021018 Alberta Ltd. responded by stating terms and conditions were clearly listed on the websites, but issued refunds to specific complainants at that point, stating in at least one case this was made "in good faith". When expressly questioned about what the company will do to comply with the Regulation, the legal counsel did not directly respond to the issue, and instead indicated their client will no longer be offering teeth whitening offers online.

The Director is aware the specific products involved in these complaints are no longer sold by 1021018 Alberta Ltd. and each of the consumers involved in the specific complaints leading to this order have received their money back. Nevertheless, it is believed there is a significant likelihood this company and its director continue to be involved in Internet commerce and are therefore responsible to comply with the Regulation on an ongoing basis. In addition, several consumers were only refunded after Service Alberta contacted the company's legal counsel about their complaint. As such, the Director believes these consumers were only refunded because a government body was getting involved, and not out of an intent to comply with the Regulation.

LEGISLATION

The following sections are excerpts from the *Internet Sales Contract Regulation*:

Cancellation of Internet sales contract

- 6(1) A consumer may cancel an Internet sales contract in the following circumstances:
- (a) at any time from the date the contract is entered into until 7 days after the consumer receives a copy of the contract if
 - (i) the supplier does not disclose to the consumer the information described in section 4(1)(a), or
 - (ii) the supplier does not provide to the consumer an express opportunity to accept or decline the contract or to correct errors immediately before entering into it;
 - (b) within 30 days from the date the contract is entered into if the supplier does not provide the consumer with a copy of the contract pursuant to section 5.

Notice of cancellation

- 8(1) An Internet sales contract is cancelled under section 6 on the giving of a notice of cancellation in accordance with this section.
- (2) A notice of cancellation may be expressed in any way as long as it indicates the intention of the consumer to cancel the Internet sales contract.
 - (3) The notice of cancellation may be given to the supplier by any means, including, but not limited to, personal service, registered mail, telephone, courier, facsimile and e-mail.

Effect of cancellation

- 9(1) A cancellation of an Internet sales contract under section 6 operates to cancel the contract as if the contract had never existed.
- (2) A cancellation of an Internet sales contract under section 6 also operates to cancel
 - (a) any related consumer transaction,
 - (b) any guarantee given in respect of consideration payable under the contract, and

- (c) any security given by the consumer or a guarantor in respect of consideration payable under the contract, as if the contract had never existed.

Responsibilities on cancellation

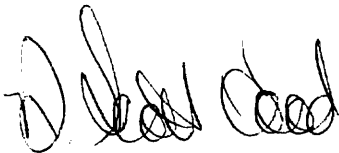
10(1) If an Internet sales contract is cancelled under section 6, the supplier must, within 15 days from the date of cancellation, refund to the consumer all consideration paid by the consumer under the contract and any related consumer transaction, whether paid to the supplier or another person.

ORDER

- 1021018 Alberta Ltd. o/a Just Think Media must comply with the *Internet Sales Contract Regulation* by ensuring all consumers who cancel contracts where cancellation rights exist under the Regulation are refunded in full within 15 days of cancellation.
- Jesse Willms, either in his own capacity or when acting on behalf of a corporation in which he has an interest or by which he is employed, must comply with the *Internet Sales Contract Regulation* by ensuring all consumers cancelling contracts where cancellation rights exist under the Regulation are refunded in full within 15 days of cancellation.
- Any employee, representative, agent or associate of Jesse Willms and/or 1021018 Alberta Ltd. o/a Just Think Media must comply with the *Internet Sales Contract Regulation* by ensuring all consumers cancelling contracts where cancellation rights exist under the Regulation are refunded in full within 15 days of cancellation.

NON COMPLIANCE WITH ORDER

ANY PERSON WHO FAILS TO COMPLY WITH AN ORDER OF THE DIRECTOR UNDER SECTION 157 OF *THE FAIR TRADING ACT* CONTRAVENES THIS ACT AND IS GUILTY OF AN OFFENCE AND MAY BE PROSECUTED PURSUANT TO SECTION 163 OF *THE FAIR TRADING ACT*.



Scott Hood
Director of Fair Trading (as delegated)
December 17, 2010