



Bureau de la concurrence Competition Bureau
Canada Canada

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Cartels and Deceptive Marketing
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3110335

November 9, 2015

REGISTERED MAIL

Mr. Dhamendra Lachman
Saba
711 NE 39th Street
Oklahoma City, OK 73105

Written Opinion – FourConcept Marketing Canada, Inc dba Saba

Dear Mr. Lachman:

Thank you for your email dated September 23, 2015, requesting a written opinion under section 124.1 of the *Competition Act* (the “Act”) with respect to the application of sections 55 and 55.1 of the Act to the proposed business conduct of FourConcept Marketing Canada, Inc dba Saba.

Under section 124.1 of the Act, the Commissioner of Competition (the “Commissioner”), where he considers it appropriate to do so, may indicate whether particular provisions of the Act, as specifically requested, apply to proposed conduct or a proposed practice described by an applicant. Please note that the Commissioner has no authority to decide the law, and under certain circumstances, may commence an inquiry under paragraphs 10(1)(a)¹ and 10(1)(c)² of the Act.

We have carefully considered the information you provided in your original request of February 12, 2015 and subsequent submissions on May 6, July 23 and September 23, 2015 in light of the constituent elements of subsection 55(1) of the Act. Based on our understanding of the information you have provided, we are of the opinion that subsection 55(1) would appear to be applicable to the proposed business conduct; as such, it appears that the proposed plan could be considered a multi-level marketing plan.

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¹Paragraph 10(1)(a) provides that upon receipt of a six-resident application filed pursuant to section 9 of the Act, the Commissioner shall commence an inquiry.

²Paragraph 10(1)(c) provides that the Minister may direct the Commissioner to commence an inquiry.

We have also carefully considered the information provided in light of the constituent elements of subsection 55(2) of the Act. Based on our understanding of the information you have provided, we are of the opinion that subsection 55(2) would not appear to be applicable to the proposed business conduct as it appears that no representations relating to compensation would be made to prospective participants under the plan.

We have also carefully considered the information provided in light of the constituent elements of section 55.1 of the Act. Based on our understanding of the information you have provided, we are of the opinion that section 55.1 would not appear to be applicable to the proposed business conduct; as such, it appears that the proposed plan would not be considered a scheme of pyramid selling.

We approach each request for a written opinion on its own facts. In accordance with section 124.1 of the Act, this opinion regarding the applicability of sections 55 and 55.1 depends upon there having been no material facts omitted from your submissions to the Competition Bureau. If there is any change to the material facts applicable to the proposed business conduct, our opinion regarding the applicability of sections 55 and 55.1 would no longer apply. Further, this letter should not be interpreted as generally applicable guidance for other proposed business conduct.

Should you have further questions, please do not hesitate to contact Andrew McAlpine, Senior Competition Law Officer, Division B, by e-mail at andrew.mcalpine@canada.ca or by telephone at (819) 953-7728.

Yours truly,

A handwritten signature in black ink, appearing to read 'M. Boswell', with a long horizontal flourish extending to the right.

Matthew Boswell
Senior Deputy Commissioner of Competition