IN THE MATTER OF: AG Case No.: L17-3-1094

PRIVATE LABEL SK.IN, NA LLC, d/b/a Hashtag Fulfillment, Private Label Skin, and Quality Harbor,

Respondent.

ASSURANCE OF VOLUNTARY COMPLIANCE

PURSUANT TO the provisions of the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes, Office of the Attorney General, State of Florida, Department of Legal Affairs (the “Attorney General”), has investigated the business practices of Private Label Sk.in, NA LLC (“Respondent”), in connection with alleged deceptive and unfair business practices. These practices primarily occurred between May 2016 and through approximately 2018 (“Relevant Period”).
Respondent agrees to enter into this Assurance of Voluntary Compliance ("AVC") without any admission that Respondent has violated the law and for the purpose of resolution of this matter with the Attorney General only. Pursuant to Section 501.207(6), Florida Statutes, the Attorney General accepts this AVC in termination of its investigation.

1. STIPULATED FACTS

1.1 Respondent is an active Delaware limited liability company with its principal place of business located at 11201 Corporate Circle North, Suite 300, St. Petersburg, FL 33716.

1.2 In approximately May 2016, Respondent purchased various assets of Hashtag Fulfillment, LLC, Quality Harbor, Inc., and Private Label Skin, Inc., companies primarily engaged in the manufacturing or fulfillment of numerous products.

1.3 Respondent has registered the following fictitious names with the Secretary of State for the State of Florida: Hashtag Fulfillment, Private Label Skin, and Quality Harbor.

1.4 During the Relevant Period, among other things, Respondent engaged in the business of manufacturing and/or fulfilling the online sales of skin care products and nutraceuticals sold – not by Respondent, but by its customers –
through a negative option plan. A negative option is a “type of sales term or condition that allows a seller to interpret a customer’s silence, or failure to take an affirmative action, as acceptance of an offer.”

1.5 Following its receipt of numerous consumer complaints related to products sold by Respondent’s customers and ultimately fulfilled by Respondent, the Attorney General opened an investigation pursuant to Section 501.204, Florida Statutes, which prohibits, among other things, unfair or deceptive business practices. According to the Attorney General, many consumer complaints allege that the consumers were unaware they were enrolled in a continuity plan, but rather, the consumers believed they were purchasing a free-trial of a product at a minimal price.

1.6 The Attorney General has reviewed information, including approximately two-hundred and fifty (250) consumer complaints received by the Attorney General (approximately 57% of the consumer complaints were filed by senior citizens) and supporting documentation and numerous consumer complaints filed with the Better Business Bureau, and alleges that some of Respondent’s customers used deceptive marketing and failed to include adequate disclosures of the negative option in their on-line advertisements. The Attorney General also

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1 Negative option plans are also known as a continuity plan, a free-to-pay plan or nominal-fee-to-pay plan.

alleges that Respondent facilitated the on-going sale of these negative option products through fulfillment services by (i) servicing large volumes of returned products, and (ii) not implementing fulfillment practices that, in all cases, provided in shipping boxes sent to consumers the appropriate contact information for the actual sellers of the products which hindered the ability of consumers to identify the actual seller of the product purchased. The Attorney General alleges that Respondent was aware or should have been aware of the high volume of consumer complaints related to certain products it fulfilled, and that Respondent was aware that its customers sold such products with negative options. The Attorney General alleges that Respondent was engaged in potentially unfair and deceptive trade practices by facilitating the continued sale of negative option products by Respondent’s customers.

1.7 This AVC is based upon the stipulated facts detailed herein, and Respondent stipulates to them for purposes of this AVC only while denying all liability. The Attorney General shall not be estopped from taking further action in this matter should the facts described herein be shown to be incorrect in any material way or this AVC not be complied with in full.
2. JURISDICTION AND VENUE

2.1 The parties agree that the Attorney General has jurisdiction over Respondent for the purposes only of entering into this AVC and any enforcement action arising out of this AVC.

2.2 It is further agreed by the parties that this AVC shall be governed by the laws of the State of Florida, and the venue for any matters relating to or arising out of this AVC shall lie solely in Hillsborough County, Florida.

3. COMPLIANCE TERMS

3.1 Respondent shall not engage in any business practice that would cause a reasonable consumer to believe that it is the seller of the products it fulfills.

3.2 For products fulfilled on behalf of Respondent’s customers that are shipped to consumers by Respondent, Respondent shall ensure that such shipments include (a) contact information indicating where consumers should address any complaints related to the product or the purchase of the product, including but not limited to complaints regarding subscription or negative option purchases; and (b) contact information indicating how and where consumers should address product returns.

3.3 Respondent shall maintain a policy and procedure to address consumer complaints.
3.4 Respondent shall inform its respective customer within seven days of receipt of any consumer complaint related to products sold by Respondent’s customers and fulfilled by Respondent.

3.5 Respondent shall work diligently to resolve any complaint related to its fulfillment of products.

3.6 If Respondent has a reasonable belief that any of its clients are engaged in deceptive or unfair business practices, Respondent shall conduct additional due diligence to determine if that particular client should be terminated.

3.7 For a period of three (3) years from the Effective Date of this AVC, Respondent shall notify the Attorney General at least thirty (30) calendar days prior to creating, operating, or exercising any control over any business entity or organization in Florida, whether newly formed or previously inactive, including, but not limited to, any partnership, limited partnership, joint venture, sole proprietorship, corporation, or incorporated entity. Said notification shall include a written statement disclosing: (1) the name, address and telephone number of the business entity; (2) the names of the business entity’s officers, directors, principals, managers, and employees; and (3) a detailed description of the business entity’s intended activities.

3.8 Time is of the essence as to each deadline and the payment requirements in Section 4 in this AVC.
4. MONETARY RELIEF

Disgorgement

4.1 Respondent shall pay disgorged funds in the total amount of Fifty Thousand Dollars ($50,000) to the Attorney General, and payment shall be made by wire transfer, cashier’s check, or other certified funds payable to the Department of Legal Affairs Revolving Trust Fund and shall be sent to the address listed in Section 8.9 of this AVC simultaneously with the submission of Respondent’s partially executed copy of this AVC. The Attorney General shall thereafter allocate and distribute the funds for consumer relief as the Attorney General determines is reasonable and in its sole business judgment. Any funds remaining after consumer relief is paid shall be paid to the Department of Legal Affairs Revolving Trust Fund to defray the costs of consumer relief distribution or for attorney’s fees and costs of investigation.

Civil Penalties

4.2 Respondent shall pay the Attorney General a civil penalty in the amount of Twelve Thousand Five Hundred Dollars ($12,500) pursuant to Section 501.2075, Florida Statutes. Payment shall be made by wire transfer, cashier’s check or other certified funds payable to the Department of Legal Affairs Revolving Trust Fund and shall be sent to the address listed in Section 8.9 of this AVC simultaneously with the submission of Respondent’s partially executed copy.
of this AVC. The payment shall be deposited into the General Revenue Fund, pursuant to Section 501.2075, Florida Statutes.

**Attorney’s Fees and Costs**

4.3 Respondent shall pay to the Attorney General Twelve Thousand Five Hundred Dollars ($12,500) for attorney’s fees and costs incurred investigating this matter. Payment shall be made by wire transfer, cashier’s check, or other certified funds payable to the Department of Legal Affairs Revolving Trust Fund and shall be sent to the address listed in Section 8.9 of this AVC simultaneously with the submission of Respondent’s partially executed copy of this AVC. The payment shall be deposited into the Department of Legal Affairs Revolving Trust Fund pursuant to Section 501.2101(1), Florida Statutes.

**5. FAILURE TO COMPLY WITH TERMS AND CONDITIONS OF AVC**

5.1 In the event Respondent fails to comply with the any of the terms and conditions of this AVC, Respondent shall be in default of this AVC and hereby stipulates to entry of a final judgment against it in favor of the Attorney General. Evidence of the failure to comply with the terms and conditions of this AVC may be in the form of an affidavit from the Attorney General.

5.2 Respondent acknowledges and agrees that any failure to comply with the terms and conditions of this AVC is, by statute, *prima facia* evidence of a violation of FDUTPA, and will subject Respondent to any and all civil penalties
and sanctions provided by law, including the award of attorney’s fees and costs.

6. BUSINESS RECORDS

Respondent agrees to retain documents and information reasonably sufficient to establish its compliance with the provisions of this AVC for three (3) years from the Effective Date of this AVC. Respondent shall provide the Attorney General reasonable access to such documents and information upon written request from the Attorney General, and Respondent shall provide the Attorney General reasonable access to such documents and information requested by the Attorney General within fifteen (15) calendar days of the written request.

7. CONSTRUCTION

7.1 If any clause, provision or section of this AVC shall, for any reason, be held illegal, invalid or unenforceable, such illegality, invalidity or unenforceability shall not affect any other clause, provision or section of this AVC, and this AVC shall be construed and enforced as if such illegal, invalid or unenforceable clause, section or other provision had not been contained herein.

7.2 This AVC is the result of joint negotiations between the parties and shall be deemed to have been drafted by both the Attorney General and the Respondent. In the event of a dispute, this AVC shall not be construed against either party.
7.3 This AVC is the final, complete, and exclusive statement of the parties' agreement on the matters contained in this AVC, and it supersedes all previous negotiations and agreements. The parties have made no representations or warranties to each other excepting those representations expressly stated in this AVC. Moreover, no party's decision to enter into this AVC is based upon any statements by the other party which are not contained this AVC.

8. MISCELLANEOUS

8.1 Within thirty (30) calendar days of the Effective Date, Respondent shall make the terms and conditions of this AVC known to any managers, members, officers, directors, employees, agents, independent contractors, or other persons who are substantially affected by this AVC and are involved in the businesses, projects, and/or activities of the Respondent, or anyone else acting for or on behalf of the Respondent.

8.2 The obligations imposed by this AVC are continuing in nature and shall apply to any and all of the Respondent's successors and assigns as well as any and all current or new officers, employees, agents, representatives or any other person who become engaged in the business or activities of any and all of the Respondent.

8.3 Nothing in this AVC shall be construed as a waiver of any private rights of any person or release any private rights, causes of action, or remedies of
any person against the Respondent. In addition, nothing herein shall be construed
to limit or bar any other governmental entity from pursuing other available
remedies against the Respondent for acts and practices addressed by this AVC.

8.4 The Attorney General has not approved of any of Respondent’s
business practices, and Respondent shall not use the existence of this AVC in any
way to imply such approval.

8.5 Respondent shall not alter either its business practices or the
organizational identity of any existing business entity or create any new business
entity as a method of avoiding the obligations, terms and conditions set forth in this
AVC.

8.6 Respondent expressly acknowledges that it had the opportunity to
obtain the advice and counsel of an independent attorney of its choosing to assist in
the negotiation and preparation of this AVC. Respondent has read this AVC, is
aware of its terms and conditions, has voluntarily executed it, and acknowledges
that to the extent it has waived any rights or defenses by entry into this AVC, such
waiver was made voluntarily and with full knowledge of the ramifications of such
waiver.

8.7 Respondent further waives and releases any and all claims it may have
against the Attorney General, its employees, representatives, or agents with respect
to this investigation and AVC.
8.8 The parties agree that facsimile copies of signatures and notary seals may be accepted as original for the purposes of establishing the existence of this agreement, and this AVC may be executed in counterparts the compilation of which shall constitute the full and final agreement.

8.9 Notice to any of the parties to this AVC as may be required shall be made by certified mail at the addresses set forth below unless any party notifies the other parties in writing of another address to which notices should be provided.

To Respondent:

Mr. Christopher Marto
Chief Compliance Officer
Private Label Sk.in NA, LLC
11201 Corporate Circle North, Suite 300
St. Petersburg, Florida 33716

with a copy to:

Ari N. Rothman, Esq.
Venable LLP
600 Massachusetts Avenue, NW
Washington, D.C. 20001
anrothman@venable.com

To the Attorney General:

Jennifer Hayes Pinder
Senior Assistant Attorney General
Office of the Attorney General
Consumer Protection Division
3507 East Frontage Road, #325
Tampa, Florida 33607
9. ACCEPTANCE OF THE AVC

9.1 The Attorney General may refuse to accept this AVC at its discretion, and the AVC shall only become effective upon the execution of this AVC by the Director of Consumer Protection Division.

9.2 The effective date ("Effective Date") of this AVC is the date on which the AVC is fully executed by the parties.

IN WITNESS WHEREOF, Respondent has caused this AVC to be executed by an authorized representative, as a true act and deed, in the county and state listed below, as of the date affixed thereon.

[INTENTIONALLY BLANK; SEE SIGNATURES ON FOLLOWING PAGES]
PRIVATE LABEL SK.IN, NA LLC

Agreed to and signed this 21st day of January, 2020, by the below-stated person who states and affirms as follows:

BY MY SIGNATURE, I hereby affirm that I am acting in my capacity and within my authority as **Authorized Signatory** of PRIVATE LABEL SK.IN, NA LLC and that by my signature I am binding PRIVATE LABEL SK.IN, NA LLC to the terms and conditions of this Assurance of Voluntary Compliance.

By: [Signature]  
Date: 1/21/20

State of **New Jersey**  
County of **Essex**

BEFORE ME, an officer duly authorized to take acknowledgments in the State of New Jersey, personally appeared **Richard Damms**, as **Authorized Signatory** of PRIVATE LABEL SK.IN, NA LLC, and acknowledged before me that he executed the foregoing instrument for the purposes therein stated, on this 21st day of January, 2020.

Sworn to and subscribed before me this 21st day of January, 2020.

**John O. Rosenberg**  
Notary Public, State of **New Jersey**  
Type of Identification Produced: **New Jersey Drivers License**
STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS

Jennifer Hayes Pinder
Assistant Attorney General
Consumer Protection Division
Office of Attorney General, Ashley Moody
3507 E. Frontage Rd., Suite 325
Tampa, Florida 33607
Tel: (813) 287-7950
Fax: (813) 281-5515

Accepted this 28th day of January, 2020.

Victoria Butler, Director
Consumer Protection Division
Office of Attorney General, Ashley Moody
3507 E. Frontage Rd., Suite 325
Tampa, Florida 33607

Accepted this 21st day of February, 2020.