

STATE OF MAINE  
OFFICE OF THE ATTORNEY GENERAL

In re: )  
 )  
DAN MCNUTT AND ) ASSURANCE OF DISCONTINUANCE  
ADVANCED DIRECT, LLC )

This Assurance of Discontinuance (“Assurance”) is entered into by the Attorney General of the State of Maine (“Attorney General”) acting pursuant to 5 M.R.S. § 210, Dan McNutt and Advanced Direct, LLC (collectively, “Respondents”).

BACKGROUND

1. Advanced Direct, LLC (“Advanced Direct”) is a Maine limited liability company, located at 856 Spring Street, Westbrook, Maine 04092 that markets a grocery discount program via inbound telemarketing and radio advertising.
2. Dan McNutt is a resident of South Portland, Maine. At all times relevant to this Assurance, Dan McNutt was the sole member of Advanced Direct.
3. The Attorney General commenced an investigation after learning of complaints from consumers about the grocery savings program marketed by Advanced Direct.
4. Advanced Direct advertised its program outside the State of Maine via radio. Transcribed copies of all three versions of the radio advertisements are attached here to as Exhibit A.
5. All three ads state “As part of national grocery stimulus program we are currently conducting a special consumer spending survey in your local area.”

## THE ATTORNEY GENERAL'S POSITION

The Attorney General contends that:

- (A) No consumer spending survey was conducted;
- (B) The use of the word "stimulus" is misleading to consumers because it implies that government funds are involved. The statement in the second version of the ad "This is not a government funded program" contradicts rather than explains the use of the word stimulus and is therefore insufficient to cure the misleading statement;
- (C) All three ads refer to "grocery savings program" and "certificates." Nowhere is it disclosed or explained that the program consists of manufacturers' coupons. Failure to disclose the fact that the program consists solely of manufacturers' coupons is misleading to consumers; and
- (D) The Respondents' actions as described above constitute unfair and/or deceptive trade practices in violation of 5 M.R.S. § 207.

## RESPONDENTS' POSITION

Respondents deny that their actions as described above constitute unfair and/or deceptive trade practices in violation of 5 M.R.S. § 207. Respondents deny any wrongdoing, intentional or otherwise.

## AGREEMENT AND ASSURANCE

The parties hereby agree to the following provisions to resolve, without resort to litigation, the concerns of the Attorney General:

1. For a period of 3 years from the date that this Assurance is fully executed by the parties, Respondents agree they will not:

- (A) Make claims, directly or indirectly, in connection with the advertising, promotion, offering for sale, sale or distribution of coupons that such coupons are being provided to consumers for participating in a survey or study;
- (B) Create, publish, disseminate, sell, distribute, or assist in the distribution of any type of advertising that is false or deceptive;
- (C) Use language suggesting there is a government funding source unless in fact the program is funded by the government; and
- (D) Represent, directly or indirectly, or in any manner whatsoever, that the Attorney General has sanctioned, condoned or approved, in any manner whatsoever, any part or aspect of their past, or any future, business operations. It is agreed and understood that the contents of the Assurance are, and shall be, public information.

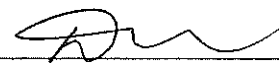
2. Respondents represent that they have issued, and will continue to issue refunds to all consumers who have filed written complaints against Respondents within 6 months after paying to participate in the grocery savings program marketed by Advanced Direct, which refunds shall reimburse such consumers for the amount that they have previously paid to Advanced Direct and such refunds will be issued by Respondents within a reasonable time after receipt of such written complaints.

3. In exchange for Respondents' agreement to the provisions herein, the Attorney General waives any claims that he has, or may have had, against Respondents arising from possible violations of 5 M.R.S. § 207 relating to the conduct of their businesses prior to October 31, 2012.

4. It is further agreed and understood that, while the parties to this Assurance presently intend to cooperate in securing and obtaining compliance with the terms of the Assurance, in the event Respondents violate the terms of this Assurance, the matters settled by the filing of this Assurance may be reopened at any time by the Attorney General, notwithstanding the waiver and release of claims referenced above.

5. The Attorney General agrees that before commencing an action to enforce this Assurance he will provide the parties 10 days advance notice and an opportunity to meet and confer.

6. Upon execution of this Assurance, Respondents shall pay the sum of \$1500 to the Attorney General, by bank check made payable to the "Maine Attorney General," for attorneys' fees and investigative costs incurred in this matter.

Date: 11-27-12 ADVANCED DIRECT, LLC  
By:   
Dan McNutt  
Its Member

Date: 11-27-12  
  
DAN MCNUTT, INDIVIDUALLY

Date: 11-29-12  
  
LINDA J. CONTI  
ASSISTANT ATTORNEY GENERAL

### **Coupon Savers - ver1**

How would you like to save \$1000 on groceries at your local supermarket? Great news, now you can. As part of National Grocery stimulus program we are currently conducting a special consumer spending survey in your local area. We are providing \$1,000 dollars in grocery savings to participants so we can study their buying pattern at local grocery stores. You can buy anything you want at your grocery store with your \$1,000 in savings. Our certificates track what you buy and the research is complete. It's that easy. Participation is completely confidential and there are no restrictions on what groceries you can buy at your local supermarket. So call now to receive your \$1,000 in grocery savings. Call now to participate in the National Stimulus program grocery survey. Call now 1-800-869-5048 for your \$1,000 in grocery certificates. Call 800-869-5048. That's 800-869-5048. Limit one per household. 800-869-5048.

### **Coupon Savers - ver2**

How would you like to save \$1,000 on groceries at your local supermarket? Great news! Now you can. As part of national grocery stimulus program we are currently conducting a special consumer spending survey in your local area. We are providing \$1,000 in grocery savings to participants so we can study their buying patterns at local grocery stores. You can buy anything you want at your grocery store with your \$1,000 in savings. Our certificates track what you buy and the research is complete. It's that easy. Participation is completely confidential and there are no restrictions on what groceries you can buy at your local supermarket. So call now to receive your \$1,000 in grocery savings. Call now to participate in the national stimulus program grocery survey. Call now: 800-492-2577 for your \$1,000 in grocery savings. That's 800-492-2577. Limit one per household. Call 800-492-2577. This is not a government funded program. Processing and participation fees may vary.

### **Coupon Savers - ver3**

How would you like to save \$1,000 on groceries at your local supermarket? Great news! Now you can. As part of national grocery stimulus program we are currently conducting a special consumer spending survey in your local area. We are providing \$1,000 dollars in grocery savings to participants so we can study their buying patterns at local grocery stores. You can buy anything you want at your grocery store with your \$1,000 in savings. Our certificates track what you buy and the research is complete. It's that easy. Participation is completely confidential and there are no restrictions on what groceries you can buy at your local supermarket. So call now to receive your \$1,000 in grocery savings. Call now to participate in the national stimulus program grocery survey. Call now for your \$1,000 in grocery certificates. You'll just need to cover the \$19.95 processing fee. Call 800-495-0206. 800-495-0206. 800-495-0206. That's 1-800-495-0206.