

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

DANA NESSEL, ATTORNEY GENERAL OF
THE STATE OF MICHIGAN, *ex rel* THE
PEOPLE OF THE STATE OF MICHIGAN,

Petitioner,

Case No. 20-39-CP

v

FREQUENCY APPS, CORP. AND BIORES
TECHNOLOGIES, INC.,

Respondents.

HON. WANDA M. STOKES

**FILING OF ASSURANCE OF VOLUNTARY COMPLIANCE AND
DISCONTINUANCE**

Attached is an Assurance of Voluntary Compliance and Discontinue.

Respectfully submitted,



Katherine J. Bennett (P75913)
Assistant Attorney General
Corporate Oversight Division
P.O. Box 30736
Lansing, MI 48909
(517) 335-7632

Dated: April 15, 2020

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_____ /

ASSURANCE OF VOLUNTARY COMPLIANCE AND DISCONTINUANCE

Dana Nessel, Attorney General of the State of Michigan, on behalf of the State of Michigan (Petitioner) and Frequency Apps, Corp. and Biores Technologies, Inc.; (collectively "Respondents"), hereby execute and agree to be bound by this Assurance of Voluntary Compliance and Discontinuance ("Assurance"). This Assurance concerns the resolution of alleged violations of the Michigan Consumer Protection Act, 1976 PA 331, as amended, MCL 445.901 *et seq.* (MCPA) as alleged in the Notice of Intended Action dated March 24, 2020.

Based on the foregoing, the Parties agree as follows:

I. Definitions

1.1 "Assurance" means this Assurance of Voluntary Compliance and Discontinuance.

1.2 "COD" means the Michigan Department of Attorney General, Corporate Oversight Division.

1.3 "Respondents" refers to Frequency Apps, Corp. and Biores Technologies, Inc.. whether doing business under any other assumed name or acting through their principals, employees, contractors, or any other business entity.

1.4 "Parties" means COD and Respondents, collectively.

1.5 All other terms shall have the meaning specifically defined in the MCPA.

II. Respondents' business model and COD investigation.

2.1 Respondents offered for sale via e-mail message an item described as the "CoronavirusDefender Patch," which Respondents alleged aided the immune system against the Covid-19 virus and could lessen the effects of the Covid-19 virus. After receiving a complaint from a consumer, COD investigated Respondents' email information and determined there was probable cause to believe Respondents were engaging in unfair trade practices made unlawful by the MCPA. As a result, on March 24, 2020, COD issued a Notice of Intended Action (NIA) to Respondents, which detailed COD's concerns regarding Respondents' business practices. Respondent responded, without debating the merits of the NIA and asserted that it had already removed the information prior to receipt of the NIA and did not sell any product. COD has requested and Respondents have agreed to execute this document as Respondents' commitment to not sell any Coronavirus (COVID-19) products. This Assurance, and COD's acceptance of it, does not constitute an admission of any wrongdoing by Respondents.

2.2 In entering into the Assurance, the mutual objective of the parties is to resolve, without litigation, COD's potential claims under the MCPA. The entry into this Agreement by Respondents is not an admission of liability with respect to any issue addressed in this Agreement, nor is it an admission of any factual allegations or legal conclusions stated or implied herein or in COD's March 24, 2020 NIA.

III. Parties Bound

This Assurance binds Respondents, whether acting through associates, principals (including Adam Petty), officers, directors, employees, representatives, successors or assigns, or through any other subsidiary, corporation, assumed name or business entity. Respondents are responsible for compliance with the terms of this Assurance, and must ensure that all employees, agents and representatives comply with the terms of this Assurance.

IV. Implementation of Compliance Measures

4.1 To the extent that Respondents may have engaged in any unfair or deceptive business practices in the State of Michigan, Respondents shall immediately cease and desist such practices.

4.2 Respondents will not sell to any Michigan consumer any product purportedly for the prevention or treatment of the Covid-19 virus. Further, while conducting business in the State of Michigan, Respondents will not offer for sale to consumers in any jurisdiction any product purportedly for the prevention or treatment of the Covid-19 virus.

V. Financial obligations

5.1 Respondents will pay \$1,000 to the State of Michigan as full and final settlement of the allegations contained in the NIA. This Amount shall be paid to COD no later than May 1, 2020.

5.2 In addition to the sum describe in paragraph 6.1, Respondents agree to pay a total of \$1,000 per consumer for any consumer who produces proof by December 31, 2020, that the consumer purchased the "Coronavirus Defender Patch" from Respondents. Such payments shall be paid within one month (30 days) after COD

provides Respondents with written notice of the consumer's claim. Such payments shall be split evenly between COD and consumers, with Respondents paying \$500 per consumer to the consumer directly and \$500 per consumer to COD.

5.3 If the payment is more than thirty calendar days late, Respondents agree to compensate the Attorney General for any litigation costs and attorney fees associated with any action brought to enforce the terms of this Assurance.

5.4 All payments to the COD shall be made by check payable to the "State of Michigan." The payments and any other information shall be sent to Katherine J. Bennett, Assistant Attorney General, Corporate Oversight Division, P.O. Box 30736, Lansing, MI 48909.

5.5 All payments to consumers required by this section shall be completed by mailing a certified check or money order to each consumer. COD will provide Respondents contact information for each consumer, as well as the consumer's proof of purchase, which shall be confirmed by Respondents. To the extent any of these payments are returned to Respondents because the recipient is no longer at the address disclosed or is deceased, Respondents shall immediately notify COD in writing of the return of such checks. It shall then be up to COD to identify an appropriate address and/or heir to receive the payment and notify Respondents' counsel of such information.

VI. Release

Upon the Effective Date, COD hereby releases and discharges Respondents and any of their parent entities, affiliates, subsidiaries, predecessors, successors or assigns, and each and all of its past or present officers, directors, associates, shareholders, controlling persons, representatives, employees, attorneys, counselors, advisors, or

agents, from any and all civil or administrative claims, demands, rights, actions, causes of action, and liabilities, of any kind or nature whatsoever, that are based directly or indirectly on the Attorney General's consumer protection investigation as identified in the aforementioned NIA, including the alleged acts, failures to act, omissions, misrepresentations, facts, events, transactions, statement, occurrences or other subject matter which were or could have been set forth, alleged, complained of or otherwise referred to in the NIA. Nothing herein shall be construed as a waiver or release of claims asserted or that may be asserted by individual consumers or other governmental entities, including but not limited to the federal government or governments of other states. This release applies to civil and administrative claims only and does not apply to criminal claims.

VII. General Provisions

7.1 This Assurance is binding upon, inures to the benefit of, and applies to the parties and their successors-in-interest. This Assurance does not bind any Division of the Michigan Department of the Attorney General other than COD, or other agencies, boards, commissions or offices of the State of Michigan.

7.2 This Assurance does not create any private right or cause of action to any third party.

7.3 This Assurance does not constitute an approval by the Attorney General of any of Respondents' business practices and Respondents must not make any representation to the contrary.

7.4 No modification of this Assurance is valid unless in writing and signed by all parties.

7.5 Within seven business days of the Effective Date of this Assurance,

COD will file a copy of this Assurance with the Ingham County Circuit Court, as described in MCL 445.906(2).

7.6 Unless a temporary restraining order is sought, COD will make reasonable efforts to provide written notice in the event that COD believes Respondents to be in noncompliance with any provision of this Assurance, setting forth the basis for such belief.

VIII. Signatories, Execution in Counterparts, and Electronic Signatures

8.1 Each undersigned individual represents and warrants that he or she is fully authorized by the Party he or she represents to enter into this Assurance and to legally bind such Party to the terms and conditions of this Assurance.

8.2 This Assurance may be executed in counterparts, each of which is deemed an original hereof, but which together constitute one and the same instrument and agreement, and that facsimile or electronically-transmitted signatures may be submitted in connection with this Assurance and are binding on that Party to the same extent as an original signature.

IX. Effective Date

The effective date of this Assurance is the date upon which the COD representative signs this Assurance.

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Dated: April 15, 2020


**Dana Nessel, Attorney General, on behalf
of the People of the State of Michigan
("Petitioner")**

By: 

Katherine J. Bennett (P75913)
Assistant Attorney General
Corporate Oversight Division
P.O. Box 30736
Lansing, MI 48909
(517) 335-7632

Dated: April 15, 2020

Frequency Apps Corp ("Respondent")


By: Adam Petty, Resident Agent

Dated: April 15, 2020

**Biores Technologies, Inc.
("Respondent")**

By: 
Adam Petty, Resident Agent

Dated: April 15, 2020

Acknowledged and Reviewed by:

By: 

W. Todd Van Eck (P54745)
Kotz Sangster Wysocki, P.C.
6739 Courtland Drive NE, Suite 102
Rockford, Michigan 49341
616.866.6064
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