

**STATE OF FLORIDA  
OFFICE OF THE ATTORNEY GENERAL**

**IN THE MATTER OF**

**Case No. L05-3-1034**

**CONSUMER SAVINGS DIRECT, INC.  
D/B/A FREE MEDICINE DIRECT**

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**ASSURANCE OF VOLUNTARY COMPLIANCE**

**PURSUANT** to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes, the Office of the Attorney General (“the Attorney General”) investigated the business practices of Consumer Savings Direct, Inc., d/b/a Free Medicine Direct ("Consumer Savings Direct"). The Attorney General and Consumer Savings Direct enter into this Assurance of Voluntary Compliance ("Assurance"), effective as of the date of execution by the last signatory hereto ("Effective Date"), pursuant to Section 501.207(6), Florida Statutes, and agree to the following:

**STIPULATED FACTS**

1. Consumer Savings Direct is a Florida corporation with its principal place of business at 1016 Collier Center Way, Suite 103, Naples FL 34110.
2. Under the name Free Medicine Direct, Consumer Savings Direct has offered to assist members of the public in applying for free prescription drugs from pharmaceutical companies (the "Service") for a fee of \$199 for one year.
3. Free Medicine Direct has advertised its Service throughout the United States on radio and television, and in publications and direct mailings.
4. The Attorney General investigated Consumer Savings Direct’s marketing and billing

practices to determine whether these practices were in compliance with Florida law.

5. Consumer Savings Direct denies having violated the law of Florida or any other jurisdiction.

### **DEFINITIONS**

6. A representation, statement or term is "clear and conspicuous" if it is readily noticeable by and understandable to the persons to whom it is directed. A determination of whether a representation, statement or term is clear and conspicuous is based on factors including but not limited to:

a. whether it is presented in a size and location, compared to other information with which it is presented, that it is readily noticeable by and understandable to the persons to whom it is directed;

b. in the case of a broadcast or oral representation, statement or term, whether it is of sufficient duration and volume to be understandable and readily noticeable;

c. whether it is ambiguous or confusing; and

d. whether it contradicts, or renders ambiguous or confusing, any other information with which it is presented.

7. The "Matters Investigated" consist of Consumer Savings Direct's marketing and billing practices.

### **AGREEMENT TO COMPLY**

8. **IT IS AGREED** that Consumer Savings Direct is on notice and shall comply with Chapter 501, Part II, Florida Statutes, the Florida Deceptive and Unfair Trade Practices Act.

9. **IT IS FURTHER AGREED** that Consumer Savings Direct shall not use the word

"free" in any fictitious name unless the services that it offers to consumers under that name are completely free and do not require the payment by consumers of any fee or charge.

10. **IT IS FURTHER AGREED** that Consumer Savings Direct shall not represent that any service or product is available free of charge unless all material terms, conditions and obligations attendant to that offer are clearly and conspicuously disclosed.

11. **IT IS FURTHER AGREED** that all advertising materials by or on behalf of Consumer Savings Direct, including telephone calls to consumers, that represent to consumers that Consumer Savings Direct will assist individuals in applying for free prescription drugs from pharmaceutical companies, or words of similar meaning and intent, shall clearly and conspicuously disclose :

a. that consumers must pay Consumer Savings Direct a fee for the Service, and the approximate amount of the fee;

b. the specific criteria that Consumer Savings Direct uses to determine whether or not individuals are eligible to use Consumer Savings Direct's Service, including, if applicable, income requirements, insurance coverage and monthly prescription costs;

c. Consumer Saving Direct's refund policy, including, if applicable, that consumers will not receive a partial refund of the fees they pay to Consumer Savings Direct if consumers are able to obtain any of the drugs that consumers apply for using Consumer Savings Direct's Service.

12. **IT IS FURTHER AGREED** that Consumer Savings Direct shall disclose all material terms and conditions of its Service before charging any fee for its Service.

13. **IT IS FURTHER AGREED** that with respect to purchases (if any) of the Service after the Effective Date of this Assurance of Voluntary Compliance, Consumer Savings Direct

shall refund the fees it charges any consumer who applies for free prescription drugs using Consumer Savings Direct's Service within ten (10) days after notification by all relevant pharmaceutical companies that the consumer is not eligible to receive the drug(s) if that is the policy, or pursuant to the terms of such other refund policy that Consumer Savings Direct may adopt, which policy shall be clearly and conspicuously disclosed to consumers before they pay any funds or fees to Consumer Savings Direct.

14. **IT IS FURTHER AGREED** that Consumer Savings Direct shall not withdraw any funds from consumers' bank accounts without the consumers' express approval of each such withdrawal and only in the manner agreed upon with consumers.

15. **IT IS FURTHER AGREED** that before obtaining information from consumers about their bank accounts or credit cards and their express authorization to be charged or to have funds withdrawn, Consumer Savings Direct shall clearly and conspicuously disclose the approximate date(s) when it will submit the charge(s).

16. **IT IS FURTHER AGREED** that Consumer Savings Direct shall refund money equivalent to the bank overdraft fees incurred by the specific consumer if it withdraws funds on any date(s) other than those disclosed pursuant to Paragraph 15, above, and as a result causes consumers to incur overdraft fees.

#### **CONSUMER PRACTICES AND REFUNDS**

17. **IT IS FURTHER AGREED** that Consumer Savings Direct shall provide a full refund (or credit, as applicable) to consumers who purchased Consumer Savings Direct Service prior to the Effective Date, and who have requested but not previously received such refunds or credits, as follows:

- a. Within ninety (90) days after execution of this Assurance of Voluntary

Compliance to consumers who had a request pending with Consumer Savings Direct on or before the Effective Date;

b. Within ninety (90) days after receiving notification from the undersigned Attorney General's office of the identity of a consumer who requested a refund through the undersigned Attorney General's office;

c. Within fourteen (14) days of a request to consumers who submit a request directly to Consumer Savings Direct after the Effective Date;

PROVIDED THAT, Consumer Savings Direct shall not be required to provide a refund (or credit) to any consumer who did not, in fact, pay any money to Consumer Savings Direct, and shall not be required to provide a refund (or credit, as applicable) to any consumer to whom it has already provided a full refund (or credit, as applicable).

18. **IT IS FURTHER AGREED** that for a period of one year after the Effective Date of this Assurance of Voluntary Compliance the Attorney General's office may submit to Consumer Savings Direct the names and contact information of consumers to whom Consumer Savings Direct shall provide refunds as provided for above at Paragraph 17. To enable Consumer Savings Direct to validate requests and issue refunds, the Attorney General shall submit a list or lists containing the following information about each consumer: (a) name; (b) address; and (c) amount of refund requested; when available, the Attorney General's shall also provide (d) the last four (4) digits of the account the consumer provided for payment; and (e) the date(s) of the consumers' enrollment. The Attorney General may submit the contact information in Excel or Word document(s) and may transmit it via email, hard copy, or facsimile.

19. **IT IS FURTHER AGREED** that Consumer Savings Direct shall provide its Service to existing customers who do not request a refund for a period of one (1) year from the date of

their enrollment.

20. **IT IS FURTHER AGREED** that within ninety (90) days after the Effective Date of this Assurance of Voluntary Compliance Consumer Savings Direct shall reimburse (or credit, as applicable) overdraft fees of all consumers whose their bank accounts were debited by Consumer Savings Direct at a time contrary to that agreed upon by the consumers and Consumer Savings Direct, if they can demonstrate that the overdrafts were caused by withdrawals by Consumer Savings Direct.

### **REPORTS AND RECORDS**

21. **IT IS FURTHER AGREED** that between the Effective Date of this Assurance of Voluntary Compliance and three (3) years thereafter, Consumer Savings Direct shall retain the following information and provide it upon request to the Attorney General:

- a. the names and contact information of all consumers who agree to pay Consumer Savings Direct a fee for its Service, along with the dates of those agreements;
- b. the names and contact information of all consumers charged a fee by Consumer Savings Direct for its Service, along with the dates those fees were charged;
- c. the payment methods;
- d. a list of the drugs requested by each consumer, along with the dates of the requests;
- e. all communications between Consumer Savings Direct and pharmaceutical companies concerning requests for each consumer; and
- f. requests by consumers for refunds, responses by Consumer Savings Direct, along with the dates on which any refunds were made; and
- g. any and all complaints by consumers about Consumer Savings Direct's Service.

## SETTLEMENT AND RELEASE

22. **IT IS FURTHER AGREED** that this Assurance constitutes a complete settlement and release by the State of Florida in connection with the Matters Investigated. Releasees consist of Consumer Savings Direct's subsidiaries, affiliates and licensors, past and present, and their past and present representatives, successors, administrators, employees, shareholders, officers, directors, board of directors, attorneys, agents, servant, and assignees (collectively referred to as "Releasees").

23. **IT IS FURTHER AGREED** that the Attorney General shall not institute any action against Consumer Savings Direct or the Releasees, including but not limited to actions seeking restitution, injunctive relief, fines, penalties, attorneys' fees or costs arising out of the Matters Investigated, except that the Attorney General may institute an action to enforce the provisions of this Assurance.

24. **IT IS FURTHER AGREED** that the parties acknowledge and agree that Consumer Savings Direct is entering into this Assurance solely for the purpose of settlement and nothing contained herein may be taken to be an admission or concession of violation of law, or of any liability, all of which Consumer Savings Direct expressly denies. No part of this Assurance constitutes or shall constitute evidence against Consumer Savings Direct in any action brought by any person(s) or entity or other party of any violation of any federal or state statute or regulation or the common law except in an action brought to enforce the terms of this Assurance.

## MISCELLANEOUS PROVISIONS

25. **IT IS FURTHER AGREED** that Consumer Savings Direct shall be responsible for making the substantive terms and conditions of this Assurance of Voluntary Compliance known to all of Consumer Savings Direct's officers, directors, partners, employees, agents,

representatives, licensees, franchises, independent contractors, successors and assigns engaged in Consumer Savings Direct's business, projects or activities.

26. **IT IS FURTHER AGREED** that Consumer Savings Direct shall not effect any change in its form of doing business as a method of avoiding the terms and conditions set forth in this Assurance of Voluntary Compliance.

27. **IT IS FURTHER AGREED** that violations of this Assurance of Voluntary Compliance shall subject Consumer Savings Direct to any and all civil penalties and sanctions provided by law and payment of attorney's fees and costs.

28. **IT IS FURTHER AGREED** that receipt or deposit by the Attorney General of any monies pursuant to this Assurance does not constitute acceptance by the Attorney General, and any monies received shall be returned if this Assurance is not executed by the Attorney General.

29. In the event the Attorney General believes that Consumer Savings Direct has committed a violation of this Assurance and intends to file a motion or other pleading seeking contempt of court or other sanctions for violations of this Assurance, then the Attorney General shall first give Consumer Savings Direct five (5) business days' notice before filing such motion or pleading. Notice shall be given by facsimile and mail addressed to the attention of: Michael J. Connors, Consumer Savings Direct, 1016 Collier Center Way, Suite 103, Naples, FL 34110 (facsimile number 239-254-0144), with a copy to Ian D. Volner, Venable LLP, 575 7<sup>th</sup> Street NW, Washington, DC 20004 (facsimile number 202-344-8300). The giving of such notice shall not prevent the Attorney General from beginning any such proceeding following the expiration of the five (5) business day period. Prior to the expiration of such five (5) business day period, Consumer Savings Direct may respond in writing to the Attorney General with any information that it wishes to provided regarding the alleged violation of the Assurance and, if Consumer

Savings Direct so requests, it will meet during such time period with a representative of the Attorney General to attempt to resolve any such alleged violation.

**ATTORNEY'S FEES AND COSTS**

30. IT IS FURTHER AGREED that upon execution of this Assurance of Voluntary Compliance Consumer Savings Direct shall pay to the State of Florida, Office of the Attorney General, attorney's fees and costs of investigation in the sum of THIRTY THOUSAND DOLLARS (\$ 30,000.00), which shall be deposited in the Department of Legal Affairs Revolving Trust Fund in accordance with Section 501.2101(1), Florida Statutes. Payment to the Legal Affairs Revolving Trust Fund shall be made by check payable to the Department of Legal Affairs Revolving Trust Fund, and shall be delivered to Allison Finn, Assistant Attorney General, Office of the Attorney General, The Capitol PL-91, Tallahassee FL 32399-1050.

**IN WITNESS WHEREOF**, Consumer Savings Direct causes this Assurance of Voluntary Compliance to be executed by Michael J. Connors as President of Consumer Savings Direct, as a true act and deed, in \_\_\_\_\_ County, \_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_\_ 2005.

By my signature I hereby affirm that I am acting in my capacity and within my authority as President of Consumer Savings Direct and that by my signature I am binding the corporation to this agreement.

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

BEFORE ME, an officer duly authorized to take acknowledgments in the State of \_\_\_\_\_, personally appeared Michael J. Connors as President of Consumer Savings Direct and acknowledged before me that he/she executed the foregoing instrument for the purposes therein stated, on this \_\_\_\_ day of \_\_\_\_\_ 2005.

Sworn to and subscribed before me  
this \_\_\_\_ day of \_\_\_\_\_ 2005.

Personally known \_\_\_\_ or  
produced identification \_\_\_\_  
Type of identification produced

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ (print name)

NOTARY PUBLIC

(Print, type or stamp commissioned name of Notary Public)

\_\_\_\_\_  
Allison Finn  
Assistant Attorney General

Accepted this \_\_\_\_ day  
of \_\_\_\_\_ 2005.

\_\_\_\_\_  
GEORGE LEMIEUX  
Deputy Attorney General  
OFFICE OF THE ATTORNEY GENERAL  
The Capitol, PL-01  
Tallahassee, Florida 32399-1050  
(850) 487-1963