

August 13, 2010

## **ATTORNEY GENERAL ISSUES CEASE AND DESIST ORDER AGAINST XM BRANDS AND KENNETH JACOBI**

BISMARCK – Attorney General Wayne Stenehjem today issued a Cease & Desist Order against XM Brands, Inc. and its principal, Kenneth Jacobi, of Hollywood, Florida for violations of North Dakota consumer fraud law.

According to Stenehjem, XM Brands sells teeth whitening, acai berry, anti-aging and other alleged health and diet products via internet advertising through multiple websites including Dazzling Bright, EverBrite Smile, and many others. Stenehjem's office has received several complaints about XM Brands, and many thousands have been received across the country. One Better Business Bureau in Florida received over 1,000 complaints against XM Brands last year alone.

XM Brand's "free trial" or "negative option" marketing practices claim to offer consumers the opportunity to try the products for free, other than shipping charges. "These offers are anything but free," Stenehjem said. "Consumers unknowingly are enrolled by XM Brands in a membership program with automatic future shipments of products, and XM Brands charges the consumer's credit card the full price of the product each month until the consumer is eventually able to cancel the enrollment."

The Consumer Protection Division has received complaints that: 1) the company fails to clearly disclose terms and conditions; 2) consumers believe they are merely signing up for free samples and that if they want more product they will have to make a purchase; and 3) consumers are unaware their credit cards will be used for future charges.

"XM Brands' deceptive marketing practices are a ruse to trick consumers into unwanted or unauthorized purchases," said Stenehjem. "Making it worse, because consumers often purchase the products via pop-up websites, it is very difficult for them later to locate the website to cancel."

"Teeth whitening, anti-aging, acai berry, and diet pill products lend themselves to deceptive "free trial" or "negative option" marketing techniques," said Parrell Grossman, director of the Consumer Protection division. "Steer clear of deceptive website solicitations and instead talk to your dentist, health care provider, or local health food store about safe and effective solutions."

Consumers with questions about "free trial" offers or "negative option" plans should contact the Consumer Protection Division toll-free at 1-800-472-2600.

###