

Orion Research, LLC

August 7, 2017

IPad Promotion Used to Drive and Report Documented Sales, Though Terms Contradict FTC Requirement

In a June 4 press release, Herbalife said that it was on track to meet its goal of verifying a high level of so-called documented sales by its distributors. In fact, the company stated that during the month of May, 90% of sales were documented sales. (See: Herbalife PR 90% documented.pdf)

Per a Federal Trade Commission order, Herbalife was required as of May 25, 2017 to have its distributors identify sales as documented or undocumented. If the company could exceed a threshold of 80% of its sales being documented sales, it would be permitted to pay commissions on all of its sales. Distributors and Herbalife's investors were closely watching to see if the threshold could be reached.

Documented sales are an indication that Herbalife's business is supported not just by sales to distributors trying to qualify for commissions and advancement in the marketing plan but by real demand for the company's products. Documented sales are supposed to include only:

- Volume that is purchased by the distributor from the company and sold to retail customers
- Volume that is purchased by Preferred Members (Preferred Members notify Herbalife when they sign up that they have no intention of pursuing the business opportunity but are only interested in receiving a discount on products for personal consumption)
- A limited amount of volume that is purchased by the distributor for his or her personal consumption

Prior to the issuance of the press release, Herbalife ran a promotion, offering distributors a free iPad if they and their downline recruits achieved a certain level of documented volume.

Herbalife failed to mention in its June 4 press release that distributors were incentivized to report documented sales in order to receive an iPad.

Meanwhile, it appears that there was very little to prevent distributors from exaggerating their documented sales in order to obtain the iPad. According to the promotion rules,

only one receipt was required for the documentation process. (See: Description of iPad promotion.pdf)

While the iPad promotion was initially set to run between Feb. 1, 2017 and April 30, 2017 – dates that would not have affected May sales (the reported period in the press release) – the promotion was later extended to run through July 31.

Promotion initially scheduled to end on April 30, 2017:



STARTING IN MARCH:
iPad MOBILE DIGITAL DEVICE PROMOTION

WE HAVE UPGRADED YOUR REWARD!
START CREATING DOCUMENTED VOLUME AND EARN AN AMAZING NEW IPAD® MOBILE DIGITAL DEVICE.

iPad® Mobile Digital Device Promotion

Feb 01, 2017 - Apr 30, 2017

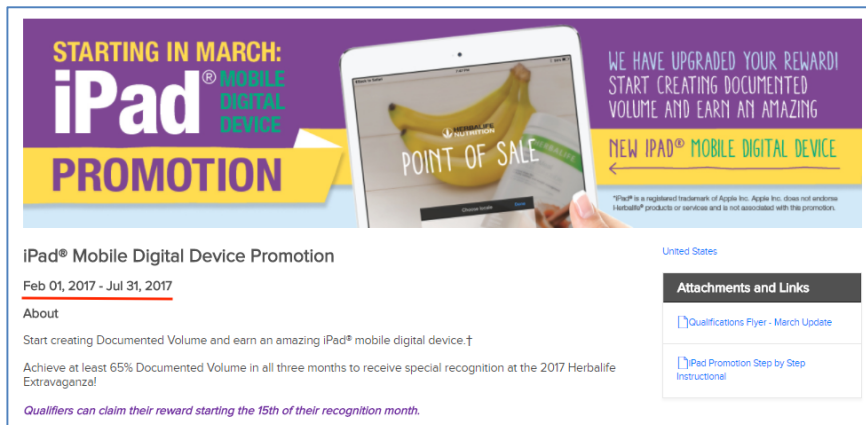
About

Start creating Documented Volume and earn an amazing iPad® mobile digital device.†

Achieve at least 65% Documented Volume in all three months to receive special recognition at the 2017 Herbalife Extravaganza!

Qualifiers can claim their reward starting the 15th of their recognition month.

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United States

Attachments and Links

- [Qualifications Flyer - March Update](#)
- [iPad Promotion Step by Step Instructional](#)