



June 22, 2020

Via Electronic Mail

Scott Killoh, CEO
NYMBUS, Inc.
1688 Meridian Avenue, Suite 700
Miami Beach, FL 33139
smartlenders@nymbus.com

Re: Misleading Small Businesses About Emergency Assistance in the Coronavirus Aid, Relief, and Economic Security Act

WARNING LETTER

Dear Mr. Killoh,

This letter is to advise you that your website, NYMBUS.com, may be unlawfully misleading small business consumers about federal loans or other temporary small business relief in violation of the Federal Trade Commission ("FTC Act"). 15 U.S.C. § 45.

The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act") is intended to provide emergency relief to individuals, families, and businesses under severe financial strain amid the novel coronavirus outbreak (COVID-19). The Act offers vital assistance to small businesses struggling to keep their workforces employed, by creating a new Section 7(a) loan program: the Paycheck Protection Program ("PPP"). Small businesses may apply for PPP loans through U.S. Small Business Administration ("SBA")-authorized lenders or other lenders SBA has determined to be eligible.

FTC staff has reviewed your advertising and marketing at your website NYMBUS.com and on affiliated social media accounts, including @NymbusCore, as recently as June 16, 2020. These materials have included the following claims:

- That "The fastest way to your loan is here" for "The SBA Paycheck Protection Program," and that consumers can click to "Apply Now"; and
- "The NYMBUS SmartLenders Program is able to process your SBA Paycheck Protection Loan faster than any other source."

These and other claims suggest, among other things, that consumers can get PPP or other SBA loans by applying on your site, and include speed or efficiency claims about your PPP-related services. To the extent that any of these claims are not truthful, omit material information needed to prevent the claims from misleading consumers, or are not substantiated, they would

violate Section 5 of the FTC Act, 15 U.S.C. § 45, which prohibits “unfair or deceptive acts or practices in or affecting commerce.” Under Section 5, it is unlawful to make representations that are likely to deceive consumers, including small businesses. This includes express or implied representations, whether made directly or indirectly.

You should take immediate action, including by reviewing and monitoring all your marketing in any form (including websites, social media, emails, telemarketing, and text messages), to ensure all deceptive claims are removed. You also should act immediately to remediate any harm to small business consumers stemming from such claims. This letter is not meant to contain an exhaustive list of possible violations related to your products or operations.

Please notify us **within 48 hours** of the support you have for the types of claims described above and specific actions you have taken to address the FTC’s concerns by emailing COVID19ResponseDFP@ftc.gov. FTC investigators have copied and preserved your website and marketing materials and will continue monitoring your representations to evaluate whether further action is appropriate in connection with your activity. If you have any questions regarding compliance with the FTC Act, please contact us at COVID19ResponseDFP@ftc.gov.

Sincerely,

Malini Mithal
Associate Director, Division of Financial Practices
Federal Trade Commission

Eric S. Benderson
Associate General Counsel for Litigation
U.S. Small Business Administration