

Via Overnight Mail and Electronic Mail

June 15, 2023

Joseph Smith Andrade
Bodega Importadora de Pallets
802 E 6th Avenue
El Paso, Texas 79901
info@bodegaimportadoradepallets.com

RE: Potential Violations of Section 18(a)(4) of the Federal Deposit Insurance Act

Dear Mr. Andrade:

The Federal Deposit Insurance Corporation (“FDIC”) has reason to believe that Bodega Importadora de Pallets (“Bodega”) and/or its officers have made false and misleading statements, directly or by implication, concerning Bodega’s insured status, in violation of section 18(a)(4) of the Federal Deposit Insurance Act (“FDI Act”), 12 U.S.C. §1828(a)(4) (“Section 18(a)(4)”), and its implementing regulation, 12 C.F.R. Part 328, Subpart B (“Part 328”). We hereby demand that you cease and desist and take immediate corrective action to address these false and misleading statements, as more fully set forth below.

Section 18(a)(4) and Part 328 prohibit any person from representing that an uninsured financial product is insured or guaranteed by the FDIC using FDIC-Associated terms or images as part of an advertisement, solicitation or other publication, or dissemination. Further, pursuant to Part 328, this prohibition applies to the publication or dissemination of information, regardless of the media or platform, that suggests or implies that the party making the representation is an FDIC-insured institution if this is not in fact true. The FDIC has the authority to enforce these provisions against any person or entity. Enforcement tools available to the FDIC include the authority to issue cease-and-desist orders and to assess civil money penalties for violations of Section 18(a)(4) and Part 328. See 12 C.F.R. 328.104-107.

Misrepresentations regarding the insured status of Bodega appear on Bodega’s website. On the website www.bodegaimportadoradepallets.com, Bodega, in Spanish, falsely states that customer purchases and funds used to purchase Bodega’s products are guaranteed by the FDIC and improperly uses the FDIC name and logo. Specifically, in addition to using the FDIC name and logo prominently on its website, Bodega’s false statements, as translated to English, include the following:

- “[T]o guarantee that we are a reliable company and that your money is safe, we have joined the FDIC, it is a Federal Deposit Insurance Corporation.”¹
- If the customer does not receive the product within 7 days or product arrives damaged, the FDIC

¹ <https://www.bodegaimportadoradepallets.com/ayuda.php> (“Sin embargo para garantizar que como una empresa confiable y que su dinero esta seguro, nos hemos asociado al FDIC, se trata de una Corporacion Federal de Seguros de Depositos.”)

will “begin the process to return your money in an integral way or repair the damage!”²

- The FDIC “is in charge of protecting you as a client in case you do not receive the product or us as a company in case the merchandise suffers any accident.”³

These statements misrepresent Bodega’s insured status as it is not an insured depository institution, and the FDIC does not insure or guarantee Bodega’s products and customer purchases.

Based on the foregoing, it appears these statements violate Section 18(a)(4) and Part 328. Consequently, the FDIC hereby demands the following corrective actions:

1. You shall immediately remove any and all statements, representations, logos, or references that suggest in any way, explicitly or implicitly, that (1) Bodega is FDIC-insured, (2) FDIC insurance applies to non-deposit products, (3) FDIC guarantees customer purchases, or (4) FDIC insurance provides protection or coverage in any manner or extent other than those set forth in the FDI Act. Such statements shall be removed from Bodega’s website (including any pop-ups, hyperlinks, or chatbots), Twitter, LinkedIn, Instagram, and any other social media platforms (including both corporate accounts and personal accounts of individuals associated with Bodega, mobile app, online outlet, and any other form (electronic or hard copy) of marketing, advertising or other consumer-facing publication, or materials of any kind that you control, including any publication or materials in any other languages or in any of the other countries in which Bodega purports to operate in.
2. You shall cease and desist from using FDIC’s name and logo and from making any statements, representations, or references, directly or through your owners, officers, directors, or employees, that suggest in any way, explicitly or implicitly, that: (1) Bodega is FDIC-insured, (2) FDIC insurance applies to non-deposit products, (3) FDIC guarantees consumer purchases, or (4) FDIC insurance provides protection or coverage in any manner or extent other than those set forth in the FDI Act.
3. Within fifteen (15) business days of receipt of this letter, you shall provide written confirmation to the FDIC that Bodega has fully complied with the requests set forth above. Such confirmation shall detail all efforts that you took to comply with this letter, including all efforts to identify and locate all misrepresentations and the scope of your removal.

If you believe that any statement you have made, as described above, is true and accurate, please provide a full listing of all such statements on any medium or platform, together with information and documentation supporting the accuracy of all such statements, not later than fifteen (15) business days from the date of this correspondence.

Failure to respond to this letter may result in the FDIC taking appropriate action as authorized by the FDI Act and any other applicable law or regulation. This letter constitutes an advisory letter within the

² *Id.* (“Automaticamente ellos EMPIEZAN EL TRAMITE PARA REGRESARLE SU DINERO DE FORMA INTEGRAL O BIEN REPARAR EL DAÑO!”)

³ *Id.* (“Asi pues esta empresa de caracter federal en USA se encarga de protegerlo a usted como cliente en caso de no recibir el product o bien a nosotros come empresa en caso que la mercancia sufra algun siniestro.”)



meaning of 12 C.F.R. § 328.106. Accordingly, pursuant to 12 C.F.R. § 328.102(b)(6), future false or misleading deposit insurance representations may be deemed to have been knowingly made.

The FDIC has jurisdiction to enforce violations of the FDI Act and Part 328. This letter does not confirm or otherwise suggest the legitimacy of Bodega's website or business. If a consumer has a complaint about the website other than violations of the FDI Act, consumers may contact the Federal Trade Commission or other appropriate agencies.

Finally, this letter is intended to address only potential violations of Section 18(a)(4) and Part 328. Your response to this matter may or may not affect our conclusions as to those violations, and does not preclude the FDIC from taking any further action, as appropriate, with respect to the foregoing or any other violations of laws or regulations. Moreover, nothing in this matter bars or estops any other federal or state agency from investigating, or pursuing actions for, violations of other laws and regulations.

Should you have any questions about the contents of this letter, please contact Counsel [REDACTED], at [REDACTED]@fdic.gov.

Sincerely,

/s/
Seth P. Rosebrock
Assistant General Counsel,
Enforcement Federal Deposit
Insurance Corporation