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MADIGAN: PHUSION AGREES TO BAN ALCOHOLIC ENERGY DRINKS

Chicago — Attorney General Lisa Madigan today announced an agreement with Phusion Projects LLC to ban the production and sale of its caffeinated alcoholic beverages nationwide, including the popular “Four Loko” alcoholic energy drink.

The agreement resolves allegations that the Chicago-based company marketed and sold flavored malt beverages, including Four Loko, in violation of consumer protection and trade practice statutes by promoting the drink to underage youth, promoting dangerous and excessive consumption of Four Loko and failing to disclose to consumers the effects and consequences of drinking alcoholic beverages combined with caffeine.

“Phusion used marketing and sales tactics that glorified alcohol use and promoted binge drinking,” Madigan said. “This agreement is a significant step forward in our ongoing efforts to reduce access to dangerous caffeinated alcoholic beverages, especially to underage drinkers.”

Under the agreement, which 19 other attorneys general and the city of San Francisco joined, Phusion will not manufacture caffeinated alcoholic beverages and will also reform how it markets and promotes its non-caffeinated flavored malt beverages, including Four Loko. Additionally, Phusion must not:

- Promote binge drinking, drinking while driving, consuming an alcoholic beverage by means of a rapid ingestion technique or device, or underage drinking;
- Promote to consumers, wholesalers, distributors, or marketers mixing its flavored malt beverages with products containing caffeine;
- Sell, offer for sale, distribute or promote alcoholic products to underage persons;
- Hire underage persons, or actors under the age of 25, to promote alcohol products;
- Hire models or actors for its promotional materials who are under the age of 25 or who appear to be under the age of 21;
- Promote flavored malt beverages on school or college property, except at retail establishments licensed to sell alcoholic products;
- Use names, initials, logos, or mascots of any school, college, university, student organization, sorority or fraternity in Phusion’s promotional materials for its alcohol products; or
- Distribute, sell, provide or promote merchandise bearing the brand name or logo of flavored malt beverages to underage persons.

Phusion will also police its websites and social media accounts for posts that depict or describe consumption of its caffeinated alcohol beverages, mixing of its flavored malt beverages with products containing caffeine or alcohol abuse. It will also inform its distributors and retailers that its flavored malt beverages contain alcohol and advise retailers to display its flavored malt beverages separate and apart from non-alcoholic products.

Today’s announcement is Madigan’s latest effort to protect young people from harmful products. In 2008, Madigan and the attorneys general of 12 other states and the San Francisco city attorney initiated investigations of the two leading manufacturers of alcoholic energy drinks at that time, MillerCoors Brewing and Anheuser-Busch Inc, which resulted in halting their production of these types of beverages.

In 2007, Madigan urged the Alcohol and Tobacco Tax and Trade Bureau to increase its efforts to prevent dangerous, misleading claims by alcoholic energy drink manufacturers. Similarly, Madigan joined other attorneys general that same year urging Anheuser-Busch to change its

advertising of another alcoholic energy drink, Spykes, and the company pulled the drink from store shelves.

The Assurance of Voluntary Compliance and Voluntary Discontinuance was entered with Madigan, the states and the city of San Francisco with Phusion Projects LLC and its officers Jaisen Freeman, Christopher Hunter and Jeffrey Wright. Joining Madigan in the agreement with Phusion were attorneys general from the following states: Arizona, Connecticut, Idaho, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Mississippi, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, Tennessee and Washington.

-30-

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