

# KING & SPALDING

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January 25, 2021

## **VIA OVERNIGHT MAIL AND E-MAIL**

North Dakota Office of the Attorney General  
600 East Boulevard Avenue, Department 125  
Bismarck, ND 58505-0040

### **Re: Notice of security incident**

Dear Sir or Madam:

We represent Nutrisystem, Inc. (“Nutrisystem” or “Company”), a provider of weight loss products and services headquartered in Fort Washington, Pennsylvania. We are writing to notify you of a data security incident experienced by Nutrisystem’s third-party vendor, Nuware Tech Corp. (“Nuware”) that may have involved information (the “Incident”) of 2,342 North Dakota residents who are users of the NuMi by Nutrisystem application (“NuMi App”).

The NuMi App is a Nutrisystem tool, which allows users to track their Nutrisystem foods, activities and measurements. Nuware provides software engineering services in support of the NuMi App.

On October 30, 2020, a third-party security researcher notified Nuware and Nutrisystem that a NuMi App database may be publicly accessible. Upon becoming aware of the Incident, immediate action was taken to secure the database and Nutrisystem promptly launched an investigation to more fully understand the scope of the Incident. Based on the investigation and with the assistance of the cloud storage provider where the database was hosted, Nutrisystem determined that the only unauthorized access was the security researcher. The security researcher confirmed that he did not disclose any database information.

The NuMi App database includes names, dates of birth, e-mail addresses and weight loss information related to the use of the application. No unencrypted passwords, full credit card numbers, security codes, bank account information, or social security numbers were included in the NuMi App database.

The security and confidentiality of the personal information of users is of critical importance to Nutrisystem and a responsibility the Company takes very seriously. Nutrisystem conducted an investigation to determine the scope of the incident. The investigation indicates that only the security researcher accessed the NuMi App database and he confirmed that he did not disclose any of the database information. During the week of January 18, 2021, Nutrisystem sent mail notifications to 2,342 users identified as North Dakota residents, pursuant to Section 50-30-02 of the North Dakota Century Code. In the notice, Nutrisystem also reminded them that Nutrisystem will never ask them for passwords, access codes, or financial account details in an unsolicited email or telephone call. The Company has also provided the notification recipients with a call center number, in case they have any questions. A sample notice letter is enclosed.

Should you need additional information regarding this matter, please contact me at (404) 572-4799.

Sincerely,



Phyllis B. Sumner  
Partner and Chief Privacy Officer



Return Mail Processing  
PO Box 589  
Claysburg, PA 16625-0589

January 21, 2021

G1499-L01-0000001 T00001 P001 \*\*\*\*\*MIXED AADC 159



SAMPLE A SAMPLE - L01

APT 123

123 ANY ST

ANYTOWN, US 12345-6789



Dear Sample A Sample,

As you know, Nutrisystem operates the NuMi by Nutrisystem application (“NuMi App”), which allows users like you to track their Nutrisystem foods, activities and measurements. We are writing you concerning a data security incident experienced by our third-party vendor, Nuware Tech Corp. (“Nuware”) that may have involved some of your personal information (the “Incident”) in the NuMi App. Nuware provides software engineering services in support of the NuMi App.

On October 30, 2020 a third-party security researcher notified Nuware and Nutrisystem that a NuMi App database may be publicly accessible. Upon becoming aware of the Incident, immediate action was taken to secure the database and we promptly launched an investigation to more fully understand the scope of the Incident. Based on our investigation and with the assistance of the cloud storage provider where the database was hosted, we determined that the only unauthorized access was the security researcher. We also have obtained confirmation from the security researcher that he did not disclose any database information.

We are contacting you because the NuMi App database includes your name, date of birth, e-mail address and other information related to your use of the application. No unencrypted passwords, full credit card numbers, security codes, bank account information, or social security numbers were included in the NuMi App database.

The security and confidentiality of your information and the personal information of all of our users is of critical importance to us and a responsibility we take very seriously. Although our investigation indicates that only the security researcher accessed the NuMi App database and he confirmed that he did not disclose any database information, we are notifying you out of an abundance of caution and to remind you that it is always good practice to be vigilant. Please note that Nutrisystem will never ask you for your password, access code, or financial account details in an unsolicited email or telephone call.

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We do not believe any special action is necessary on your part. If you have questions about this Incident, you can contact us at (877) 656-0515. Please be prepared to provide engagement number DB24922.

We value the trust that you have put in us and we sincerely apologize for any concern or inconvenience this may have caused.

Thank you,

A handwritten signature in black ink, appearing to read "DBURTON". The signature is stylized and cursive.

David Burton

Chief Operating Officer, Nutrition