

**BONUS ON HERBALIFE NETWORK MARKETING COMPANY IN THE  
PERSPECTIVE OF *JU'ĀLAH* CONCEPT**

**THESIS**

**by:  
Najibullah Mazamy  
NIM 09220068**



**SHARIA BUSINESS LAW DEPARTMENT  
SYARI'AH FACULTY  
THE STATE ISLAMIC UNIVERSITY OF MAULANA MALIK IBRAHIM  
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MALANG  
2013**

## **STATEMENT OF THE AUTHENTICITY**

In the name of Allah,

With consciousness and responsibility toward the development of science, the writer declares that thesis entitled:

### **BONUS ON HERBALIFE NETWORK MARKETING COMPANY IN THE PERSPECTIVE OF *JU'ÂLAH* CONCEPT**

is truly writer's original work. It does not incorporate any materials previously written or published by another person. If it is proven to be another person's work, duplication, plagiarism partly or whole content of this work, this thesis and my degree as a result of this writing will legally be invalid.

Malang, 17<sup>th</sup> of April 2013

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The supervisor stated that the thesis has met the scientific requirements to be proposed and tested on the Assembly Board of Examiners.

Malang, 17<sup>th</sup> of April 2013

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2.	17 <sup>th</sup> of January 2013	Proposal	
3.	31 <sup>st</sup> of January 2013	Proposal, Chapter I and II	
4.	14 <sup>th</sup> of February 2013	Review Chapter I and II	
5.	7 <sup>th</sup> of March 2013	All Chapters	
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MOTTO

وَلْيَخْشَ الَّذِينَ لَوْ تَرَكُوا مِنْ خَلْفِهِمْ ذُرِّيَّةً ضِعَافًا خَافُوا عَلَيْهِمْ فَلْيَتَّقُوا اللَّهَ  
وَلْيَقُولُوا قَوْلًا سَدِيدًا

*And let those [executors and guardians] fear [injustice] as if they  
[themselves] had left weak offspring behind and feared for them. So  
let them fear Allah and speak words of appropriate justice.*

(QS. An Nisâ: 9)

## DEDICATIONS

*Along with shalawat and prays,*

*I dedicate this thesis to:*

*Father, mother, brothers, sisters, grandpas, grandmas, and the closest people*

*who support me more than others.*

*The peaceful relation with you all makes my life more beautiful.*

*May Allah SWT gives the greatest graces and blesses for you all.*

*My ustadz and ustadzah, teachers and lecturers*

*Who have devoted the knowledge and taught me good life.*

*I hope that your science save you in The Last Day.*

*My friends in Pesantren Gondang, Sepanjang, Paiton, and Gasek, being with you*

*in twelve years society has built my mind and my life as Santri.*

*The whole friends in schools and UIN Maulana Malik Ibrahim Malang, you all*

*are my life teachers.*

*May God place you all as the best actors in this world and as neighbours of*

*Rasulullah SAW in the Paradise.*

*We always hope that we are the people of shalih and shalihah and ashâbul yamîn*

*and saved fî Kawnayn. Amîn...*

## LEGITIMATION SHEET

The Assembly Board of Thesis Examiners of Najibullah Mazamy (09220068), student of Sharia Business Law Department of Sharia Faculty of The State Islamic University of Maulana Malik Ibrahim of Malang entitled:

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*Alhamdulillah Rabbil 'Alamin.* Only with the help and guidance of Allah I can finish writing thesis entitled **Bonus on Herbalife Network Marketing Company in The Perspective of *Ju'alah* Concept**. Peace be upon the prophet Muhammad SAW who guided us from the darkness towards the lightness. This thesis is intended to fulfill the requirement for achieving the degree of Syari'ah Faculty of State Islamic University of Malang. Finishing this thesis is not a simple thing at all that I have spent my great deal of time and I have got a valuable experience from this. I really realize that it is impossible to make this complete without contributions and supports from some people.

With all the resources and efforts and helps, guidance and discussion of all parties during the process of writing this thesis, the writer wants to express my sincere thanks to:

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2. Prof. Dr. H. Imam Suprayogo, as the Rector of The State Islamic University Maulana Malik Ibrahim of Malang.
3. Dr. Hj. Tutik Hamidah M. Ag. As the Dean of Syariah Faculty The State Islamic University Maulana Malik Ibrahim of Malang.
4. Dr. Suwandi, M.H. as my supervisory lecturer and the Head of Syariah Business Law of The State Islamic University Maulana Malik Ibrahim of Malang.

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The writer really hopes that this writing gives a little advantage for the readers. The writer realizes that the writing is still far from perfection. This is because of the limitedness of mind, time, work, and experiences. For that, with happiness and openness, the writer really hope corrections and critics to teach better. Ultimately, May Allah bless us, *Amîn*.

Malang, 15th March 2013

The Writer,  
Najibullah Mazamy

## TRANSLITERATION GUIDANCE

Transliteration is the conversion of a text from one script to another. The conversion of scripts or writing is a procedure of replacing text written in one script or writing system with the characters of another script or system in order to make the text legible for users of another language or script. Below is the arabic transliteration converted to Indonesian script:

ا = no sign or unwritten	ض = Dl
ب = B	ط = Th
ت = T	ظ = Dh
ث = Ts	ع = ‘ (comma facing up)
ج = J	غ = Gh
ح = <u>H</u>	ف = F
خ = Kh	ق = Q
د = D	ك = K
ذ = Dz	ل = L
ر = R	م = M
ز = Z	ن = N
س = S	و = W
ش = Sy	ه = H
ص = Sh	ي = Y

Every Arabic writing in latin vocal is written "a" in fathah, "i" in kasrah, and "u" in dlommah. These vocals in a long voice will be written as below:

A (long voice) = â ; example: قال is written qâla

I (long voice) = î ; example: q nettirw si يِلَّ اِئلا

U (long voice) = û ; example: d nettirw si دُونِ اُونا.

Special for *ya' nisbat*, it is not allowed to be replaced with “i”, but must be written “iy” to describe the existence of *ya' nisbat* in the end. Likewise, diphthong sound, *wawu* and *ya'* after fathah are written with "aw" and "ay". *Ta'* Marbutah is *ta'* which show the kind of female gender. Ta marbutah is written with “h” in the end of a word. The article "ال" is written “al”.

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## ABSTRACT

Mazamy, Najibullah. 09220068. 2013. *Bonus on Herbalife Network Marketing Company in The Perspective of Ju'alah Concept*, Sharia Business Law Department, Sharia Faculty, The State Islamic University of Maulana Malik Ibrahim of Malang. Supervisor: Dr. Sudirman, M.A.

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**Keywords:** Bonus, network marketing, *ju'alah*

The activity of giving bonuses awarded by network marketing companies for the success distributors is the main system in network marketing business. Successful distributors are they who have been succeeding in selling products and building networks. The effect of their successes to the company is the expanding sales of the products. Because of this advantage, the company give promises the distributors great rewards.

The last data show that there are about 64 legitimate network marketing businesses in Indonesia and more than 8 millions of the citizens are in this business. They intend to get the most promising income in the business called bonus, a free income. Ironically, thousands even millions of them have suffered because they cannot survive in maintaining and developing the business. A data counted that 60% people who come to this business failed. Only some of the strongest people succeed and get great incomes. Selling products personally, getting people and keeping them to sell products (building networks) are the main marketing system in this business. This is not an easy job and not everyone can do this surely.

To build networks and keep expanding sales is one of the primary goals of a network marketing company. For this, they have a marketing system that says "every member who can reach certain achievements in sales and building network, he will get a free income awarded by the company that is not taken from his directly sales to consumers and other distributors. The member just have to keep great sales and maintaining networks and following the rules." This is such a kind of *shîghah* in a contract of announcing competition which the contract is called *ju'alah* in Islamic jurisprudence (*fiqh*). As it was stated in a fatwa by *Dâr al Iftâ* Egypt, that there are three kinds of contract in a network marketing business. They are. The latest is the contract of awarding free income or bonus.

The research reveals that the contract of awarding bonus especially practiced by a network marketing company Herbalife includes *ju'alah* contract seen from Islamic jurisprudence. The unexistence of agreement in front, the whoever second party who will do it, the unclear kinds of job should be done, they are in accordance with *ju'alah* concept. The only aim of the first party (company) is achievements reached by distributors following the rules. In Islamic jurisprudence perspectives madzhab Hanafi, *ju'alah* contract is not allowed due to the existence of *gharâr* and *juhâlah*. According to Madzhab Maliki, Syafi'y, and Hanbali, *ju'alah* contract is permissible referring to QS. Yûsuf: 72. They gave a *rukshah* for the existence of *gharâr* and *juhâlah* in this contract.

## ملخص البحث

مزامي, نجب الله, ٠٩٢٢٠٠٦٨, ٦٠١٣, مكافأة على شركة التسويق الشبكي هرباليفي في منظور مفهوم جعالة. الشعبة القانون التجاري الشريعة. كلية الشريعة. جامعة مولانا مالك إبراهيم الإسلامية الحكومية مالانج. المشرف: الدكتور سودرمان الماجستير.

الكلمات الرئيسية : مكافأة، التسويق الشبكي، جعالة

الأعمال في الإعطاء المكافآت التي تمنحها شركات التسويق الشبكي للأعضاء النجاح هو النظام الرئيسي في شبكة التسويق التجاري. الأعضاء النجاح هم الذين ينجحون في بيع المنتجات، وبناء الشبكات . وتأثير نجاحهم للشركة هو توسيع المبيعات من المنتجات. فلذلك، الشركة وعدت ان تعطي مكافآت كبيرة لهم. وتظهر البيانات الأخيرة أن هناك حوالي ٦٤ شركات التسويق الشبكي الصحيحة في إندونيسيا وأكثر من ثمانية ملايين من المواطنين في هذا العمل. انهم يعتزمون الحصول على الأجرة الوعيدة في الأعمال التجارية التي تسمى المكافأة، أجرة مجانية. ومهما ذلك، بل الملايين منهم لا يستطيعون البقاء على قيد الحياة في صيانة وتطوير الأعمال. عد البيان أن ٦٠% من الناس الذين جاءوا إلى هذا المكان قد سقطت. فبعض فقط من أقواهم نجحت وحصلت على مكافئة كبيرة. بيع المنتجات شخصيا، ودعاء الناس وابقائها لبيع المنتجات (بناء الشبكي) هي نظام التسويق الرئيسية في هذا العمل. بالحقيقة، هذه ليست من العمل السهيل وليس من كل شخص يستطيع القيام بذلك بطبع. لبناء الشبكات والحفظ على توسيع المبيعات هي من الأهداف الرئيسية لشركة تسويق الشبكي . لهذا، لديهم نظام التسويق التي تقول " كل عضو الذي يمكن أن يصل إلى بعض الإنجازات في مجال المبيعات بناء الشبكات ، انه سيحصل أجرة مجانية التي تمنحها الشركة التي لا تؤخذ من مبيعاته المباشرة للمستهلكين وأعضاء آخر . وظيفته هي للحفاظ على مبيعات كبيرة وصيانة شبكات واتباع القواعد". هذه هي مثل النوع من الصيغة في عقد اعلان الأمر الذي يسمى عقد جعالة في الفقه. كما جاء في فتوى دار الإفتاء من قبل مصر، أن هناك ثلاثة أنواع من العقد الموجودة في التسويق الشبكي هرباليفي هي البيع والسمسرة والجعالة. والعقد الحر هو العقد في منح المكافأة مجاناً. قال الأبحاث التي أجريت أن عقد منح مكافأة الذي تقوم به خاصة شركة التسويق الشبكي هرباليفي يتضمن العقد الجعالة لما في نظر الفقه الإسلامي. عدم الإتفاق في ابتداء العقد، وأيا كان الطرف الثاني الذي سيفعل الأمر، وأنواع غير واضح الأعمال ينبغي القيام به الطرف الثاني، فهم وفقا لمفهوم عقد الجعالة. الهدف الوحيد من الطرف الأول (الشركة) هي الإنجازات التي تحققت من قبل الأعضاء اتباعا للقواعد من الشركة . في نظرية الفقه الإسلامي على المذهب الحنفي، لا يجوز العقد لوجود الغرر والجهالة. وفقا للمذهب المالكي والشافعي و الحنبلي ان هذا العقد جائز استدلالا على النص القران سورة يوسف: ٧٢ وألقى فيها حكم الرخصة وجاز على ذلك بوجود الغرر والجهالة في هذا العقد.

## ABSTRAK

Mazamy, Najibullah. 09220068. 2013. *Bonus dalam Perusahaan Network Marketing Herbalife Perspektif Ju'alah*, Hukum Bisnis Syariah, Fakultas Syariah, Universitas Islam Negeri Maulana Malik Ibrahim Malang. Dosen Pembimbing: Dr. Sudirman, M.A.

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**Kata Kunci:** Bonus, network marketing, *ju'alah*

Aktifitas pemberian bonus yang dilakukan oleh perusahaan-perusahaan network marketing yang diberikan kepada distributor-distributor yang sukses adalah sistem utama dalam bisnis network marketing. Distributor-distributor yang sukses adalah mereka yang telah berhasil menjual produk dan mengembangkan jaringan. Efek dari kesuksesan yang mereka capai bagi perusahaan adalah penjualan produk yang semakin meluas. Oleh karena itu, perusahaan menjanjikan para distributor untuk memberikan penghargaan yang melimpah.

Data terakhir menunjukkan bahwa ada sekitar 64 perusahaan resmi yang menjalankan bisnis ini di Indonesia dan lebih dari 8 juta penduduk Indonesia ikut serta dalam bisnis ini. Mereka menginginkan pemasukan yang menjanjikan yaitu bonus, pasif income. Ironisnya, ribuan bahkan jutaan dari mereka gagal dalam bisnis ini. Sebuah data menunjukkan bahwa 60% dari mereka yang masuk dalam bisnis ini gagal. Hanya beberapa dari mereka yang kuat bertahan yang berhasil dan mendapatkan pendapatan tersebut. Menjual produk secara personal, mengajak orang-orang masuk didalamnya, dan menjaga agar mereka tetap menjual produk (membangun jaringan) adalah sistem utama dalam bisnis ini. Ini bukan pekerjaan yang mudah dan tidak semua orang dapat melakukan hal ini tentunya.

Untuk membangun jaringan dan menjaga penjualan tinggi adalah salah satu dari tujuan utama dari sebuah perusahaan network marketing. Untuk ini, mereka memiliki sebuah sistem yang berupa, "setiap anggota yang dapat mencapai pencapaian-pencapaian tertentu dalam penjualan dan membangun jaringan, maka dia akan mendapatkan pendapatan bebas yang tidak diambil dari penjualan langsungnya kepada konsumen dan distributor lain. Anggota tersebut hanya harus menjaga penjualan tetap tinggi dan mempertahankan jaringan dan mengikuti aturan". Hal ini semacam *shighah* pengumuman sembara yang dalam *fiqh* disebut dengan *ju'alah*. seperti yang disebut oleh lembaga fatwa Mesir *Daar al Iftâ* bahwa ada tiga jenis transaksi yang terdapat dalam sebuah bisnis network marketing, yaitu *bay'*, *samsarah*, dan *ju'alah*. Yang disebut terakhir adalah transaksi yang menjanjikan pemberian bonus.

Penelitian yang dilakukan menunjukkan bahwa aktifitas pemberian bonus khususnya yang dilakukan oleh Herbalife termasuk kontrak *ju'alah* dalam Islam. Tidak adanya persetujuan bersama di awal, keumuman pihak kedua yang dapat melakukannya, tidak jelasnya jenis pekerjaan dan durasi pengerjaan yang harus dilakukan, itu semua sesuai dengan konsep *ju'alah*. tujuan yang diinginkan oleh pihak pertama (perusahaan) hanyalah pencapaian-pencapaian yang dilakukan oleh para distributornya sesuai aturan yang ditentukan. Dalam *fiqh* perspektif Imam Hanafi, kontrak *ju'alah* tidak diperbolehkan karena mengandung unsur *gharar* dan *juhâlah*. Menurut imam Maliki, Syafi'y, dan Hanbali, kontrak *ju'alah* diperbolehkan mengacu pada QS. Yusuf: 72. Mereka memberikan hukum *rukhsah* terhadap adanya unsur *gharar* dan *juhâlah* didalamnya.