



October 22, 2018

**VIA EMAIL AND REGULAR MAIL**

Annette Johnson, Senior VP and General Counsel  
Schwartz Health Care Center 15  
c/o New York University  
530 First Ave  
New York, NY 10016  
[REDACTED]

Re: Deceptive Marketing by New York University

Dear Ms. Johnson:

I am writing to you on behalf of Truth in Advertising, Inc. (“TINA.org”), a nonprofit consumer advocacy organization dedicated to protecting consumers from deceptive advertising.

We recently conducted a review of patient testimonials used to promote the 50 cancer treatment centers in the U.S. that spent the most money on advertising in 2017.<sup>1</sup> Our results revealed that, of the cancer centers still in business in 2018, 43 out of 48 – or 90% – deceptively used patient testimonials in their marketing materials by promoting anecdotal, atypical patient results without clearly and conspicuously disclosing what the generally expected results for a patient in a similar situation would be. *See* <https://www.truthinadvertising.org/cancer-centers-summary-action/>.

Specifically, TINA.org’s investigation found hundreds of testimonials featuring patients with cancer types that have a less than 50 percent five-year survival rate,<sup>2</sup> being used in direct-to-consumer marketing materials to advance the narrative, either explicitly or implicitly, that treatment at a specific cancer center will provide patients with a therapeutic advantage, allowing them to beat the odds and live beyond five years. Moreover, within this sampling of deceptive testimonials many also promote novel treatments, such as clinical trials, immunotherapy, and/or experimental procedures, without clearly and conspicuously disclosing their limitations, risks and relative rarity.

Cancer patients and their families are uniquely susceptible to this type of deceptive marketing, which not only generates false hope but may also persuade patients to leave

their homes, families, and other support systems in their communities in order to pursue the promise of better treatment or a cure that is not likely to exist.<sup>3</sup>

TINA.org found that New York University is one of the cancer centers using this type of deceptive marketing tactic. A database containing a sampling of patient testimonials that are being deceptively used in New York University's marketing can be found here: <https://www.truthinadvertising.org/new-york-university-database>.

We trust that New York University will take immediate action to remediate or remove any and all deceptive testimonials from its marketing materials – including its website, social media pages, television, radio, internet, and print advertisements, and anywhere else such deceptive testimonials may be published or aired – as well as ensure that no future marketing materials promote atypical experiences without clearly and conspicuously disclosing what patients in similar situations should generally expect. If you have any questions or need further information, please do not hesitate to contact us.

Sincerely,



Laura Smith, Esq.  
Legal Director  
Truth in Advertising, Inc.

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<sup>1</sup> Based on data obtained from Kantar Media.

<sup>2</sup> TINA.org used the five-year survival statistics published on the NIH National Cancer Institute Surveillance, Epidemiology, and End Results Program website (<https://seer.cancer.gov/statfacts/>) in determining which testimonials portray atypical results and are thus deceptive. In cases where such statistics were not available, TINA.org looked to other sources, including Cancer.org and Cancer.net.

<sup>3</sup> Lisa M. Schwartz and Steven Woloshin, *Cancer Center Advertising – Where Hope Meets Hype*, 176 JAMA Intern Med. 1068 (2016).