



July 10, 2019

VIA EMAIL AND OVERNIGHT MAIL

Peter C. Marinello, Director
Direct Selling Self-Regulatory Council
112 Madison Avenue, 3rd floor
New York, NY 10016
pmarinello@council.bbb.org

Re: Illegal Income Claims by LuLaRoe

Dear Peter:

We write to file a complaint with the Direct Selling Self-Regulatory Council against LuLaRoe, a California-based multi-level marketing company that sells women's and girls' apparel.

For years, LuLaRoe and its distributors have been using – and continue to use – deceptive, atypical, and unsubstantiated income claims to market the LuLaRoe business opportunity. Such marketing materials include claims of participants quitting their jobs, earning full-time incomes, getting out of debt, going on expensive vacations, buying homes, and achieving financial freedom, among other things. These claims are especially egregious given that, according to LuLaRoe's Income Disclosure Statement,¹ the overwhelming majority of LuLaRoe distributors do not earn enough money from bonuses to even recoup their initial investments (and the average annual bonus paid to a LuLaRoe distributor at all ranks is just \$92), a fact that is not disclosed in LuLaRoe's marketing materials or those of its distributors.

TINA.org has collected more than 90 examples of exaggerated income claims, many of which are posted on the company's website at <https://www.lularoe.com/lularoe-life>, as well as the company's official YouTube page.² As of July 2019, all but 21 of these examples – or 77% percent – are still in publication, despite TINA.org notifying the company of this deceptive marketing issue in its communications with counsel for LuLaRoe.³

All 90+ examples of LuLaRoe's unsubstantiated income claims are available at <https://www.truthinadvertising.org/lularoe-income-claims-database/> and on the enclosed flash drive.

It is important to note that TINA.org's database includes statements made directly by LuLaRoe's owner and founder, DeAnne Stidham. For example, in one LuLaRoe video, DeAnne tells consumers, "Be sure that you get yourself involved so that you can start making the money that you want to for your family's financial freedom."⁴ In another LuLaRoe video, DeAnne tells consumers that they can be the primary breadwinner for their families with LuLaRoe:

What really affects me is when women call me and say, 'My husband just lost his job so I guess I'm it.' And they say, 'Do you think I can do it, DeAnne?' And I get to get my poms-poms out and say 'But don't you see, this is an answer! This is easy, this is fun, this is something you guys can do together and he can watch the kids while you go and do parties. So that's why I started LuLaRoe.

Deceptive income claims also appear prominently on the company's website. For example:



“Almost four years ago, I opened up a LuLaRoe clothing business! This allowed me to quit my other jobs and work from home on my own hours. ... After a year of selling LuLaRoe, I made the decision to leave my teaching job so that I wouldn’t have to work outside of the home, and because financially it made sense. I helped my husband to have the financial security to also quit his job and work for himself running his own business. Now I am able to seriously contribute to my family’s finances; we bought a home in southern California a year ago, which seemed truly impossible before I started my LuLaRoe business. ... The LuLaRoe community is empowering and has helped so many people find confidence, reach financial freedom, develop talents, make meaningful relationships, and more.”⁵



”Before LuLaRoe, my husband and I had decided that financially we could not support another child. Children are expensive and it's not fair to put a strain on what we currently had going on in our family. Prior to LuLaRoe, we were a family of three. Thanks to LuLaRoe, we're a family of four. I call him our LuLu

baby because he truly is. Without LuLaRoe, he would not be here and our family wouldn't be complete.”⁶



“What is amazing is that I can do LuLaRoe with my illness and it has replaced the income that I was making while at Disney. We were also able to get into a bigger place, which we weren't able to do on our income before at all. I don't have to be on state disability, which is amazing. And it's all because of my LuLaRoe business that this happened.”⁷

Examples of deceptive LuLaRoe income claims made by distributors include:



“We had just made \$20,000 in 1 month... #becauseoflularoe”⁸



"#becauseoflularoe ...debt free of student loans!"⁹



"#becauseoflularoe...we have gone to so many cool places"¹⁰



“Got the car I’ve been dreaming of for years ... #becauseoflularoe”¹¹

The above examples are typical of the more than 90 examples of LuLaRoe marketing materials that make exaggerated and deceptive income claims. Put simply, the internet is littered with these types of income claims.

When a company markets its business opportunity using income claims that are not representative of what consumers will typically achieve, as LuLaRoe does, the law is clear: the marketing material – including materials made by a company’s distributors¹² – must, at a minimum, clearly and conspicuously disclose *what is typical*.¹³ LuLaRoe does not even attempt to do this. As such, LuLaRoe’s atypical income claims – exemplified by the 90+ claims collected by TINA.org – are deceptive and should be removed from publication.

In short, LuLaRoe was put on notice of this serious deceptive marketing issue, has not ceased use of this misleading tactic, and continues to deceive consumers with outrageous income claims. As such, TINA.org strongly urges the DSSRC to review the claims being made by LuLaRoe and its distributors and take appropriate action.¹⁴

If you have any questions, please do not hesitate to contact us.

Sincerely,



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



Bonnie Patten, Esq.
Executive Director
Truth in Advertising, Inc.

Encl.

¹ According to LuLaRoe's only published income disclosure statement, available at <https://www.truthinadvertising.org/wp-content/uploads/2019/04/LuLaRoe-Income-Disclosure-Statement.png>.

² <https://www.youtube.com/user/LuLaRoe>.

³ These communications followed TINA.org's publication of "LulaRoe Distributors in Bankruptcy as Founder Touts Financial Freedom," available at <https://www.truthinadvertising.org/lularoe-distributors-face-bankruptcy-as-founder-touts-financial-freedom/>, which reported that, as of April 2019, at least 115 current or former LuLaRoe distributors have filed for personal bankruptcy since 2016.

⁴ <https://www.truthinadvertising.org/wp-content/uploads/2019/04/lularoe-financial-freedom.mp4>.

⁵ <https://www.lularoe.com/jenn-king>; <https://www.truthinadvertising.org/wp-content/uploads/2019/06/Lularoe-Jenn-King-wm.png>.

⁶ <https://www.lularoe.com/cassandra-looper>; <https://www.truthinadvertising.org/wp-content/uploads/2019/06/Lularoe-Cassandra-Looper-wm.png>.

⁷ <https://www.lularoe.com/happy-traci>; <https://www.truthinadvertising.org/wp-content/uploads/2019/06/Lularoe-Happy-Traci-wm.png>.

⁸ <https://www.instagram.com/p/Bw5breiltU0/>; https://www.truthinadvertising.org/wp-content/uploads/2019/06/Instagram-4_30_19-wm.png.

⁹ <https://www.instagram.com/p/BxVZcVCl3gI/>; https://www.truthinadvertising.org/wp-content/uploads/2019/06/Instagram-5_11_19-wm.png.

¹⁰ <https://www.instagram.com/p/ByYzZ4GIMpY/>; https://www.truthinadvertising.org/wp-content/uploads/2019/06/Instagram-6_07_19-wm.png.

¹¹ <https://www.instagram.com/p/Bx-oYrMl6S6/>; https://www.truthinadvertising.org/wp-content/uploads/2019/06/Instagram-5_27_19-wm.png.

¹² LuLaRoe is responsible for the marketing of its distributors. *See FTC v. Vemma Nutrition Co.*, Order on FTC’s Motion for Preliminary Injunction, dated Sept. 18, 2015, 15-cv-01578 (D. Ariz.), <https://www.truthinadvertising.org/wp-content/uploads/2015/09/FTC-v-Vemma-pre-inj-order-.pdf> (“‘[t]hose who put into the hands of others the means by which they may mislead the public, are themselves guilty of a violation’ of Section 5(a) of the FTC Act.”); *FTC v. BurnLounge, Inc.*, Statement of Decision, dated July 1, 2011, 07-cv-03654 (C.D. Cal.), <https://www.ftc.gov/sites/default/files/documents/cases/2011/07/110701stmt.pdf> (holding BurnLounge responsible for distributor claims because, among other things, “no one was ever terminated for making income claims” and “income claims were constantly being made by BurnLounge representatives without any sanctions from the company.”)

¹³ It is not enough to simply state that the depicted results are not typical. *See* Guides Concerning the Use of Endorsements and Testimonials in Advertising (16 CFR § 255.2 Consumer endorsements), <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-publishes-final-guides-governing-endorsements-testimonials/091005revisedendorsementguides.pdf>; Business Guidance Concerning Multi-Level Marketing, <https://www.ftc.gov/tips-advice/business-center/guidance/business-guidance-concerning-multi-level-marketing> (“Even truthful testimonials from the very small minority of participants who do earn career-level income or more will likely be misleading unless the advertising or presentation also makes clear the amount earned or lost by most participants.”)

¹⁴ TINA.org will not be publishing this challenge to the DSSRC pending the Council’s investigation and decision, per DSSRC’s request.