



May 4, 2022

VIA EMAIL

Samuel A.A. Levine, Director, Bureau of Consumer Protection
Lois Greisman, Associate Director, Division of Marketing Practices
Federal Trade Commission
600 Pennsylvania Ave. N.W.
Washington, D.C. 20580



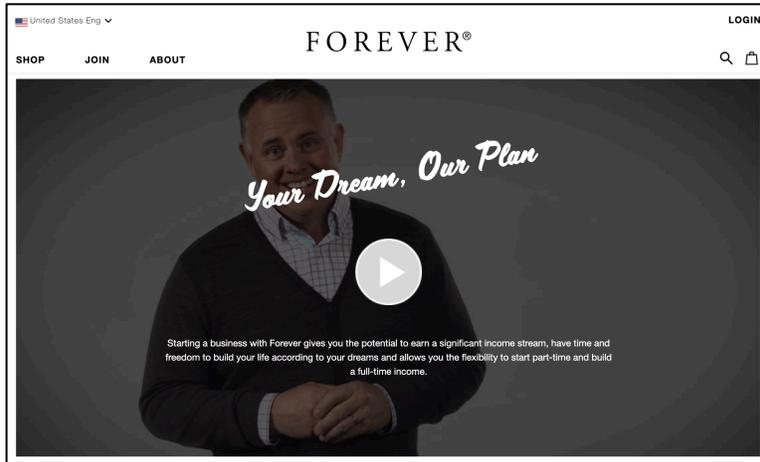
Re: Deceptive Marketing by Forever Living Despite Notices of Penalty Offenses

Dear Mr. Levine and Ms. Greisman:

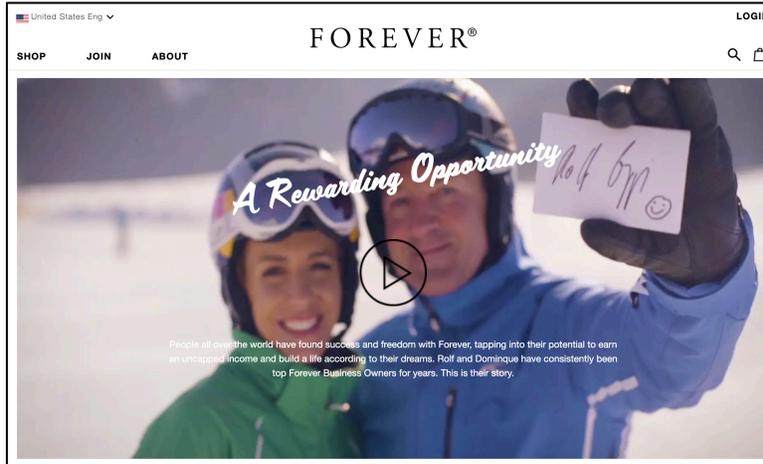
An ongoing Truth in Advertising, Inc. (“TINA.org”) investigation into Arizona-based multi-level marketing (MLM) company Forever Living Products International, LLC (“Forever Living”), which sells a variety of aloe vera wellness products,¹ has identified more than 5,500 atypical income claims being used to promote the MLM’s business opportunity – all published directly by this multi-billion dollar company and its high-level executives.

These income marketing representations were collected after Forever Living received a Notice of Penalty Offenses from the Federal Trade Commission in October 2021 concerning the use of deceptive and atypical income claims² (as well as several letters from TINA.org regarding the company’s ongoing deceptive marketing tactics³). Despite being well aware of its legal obligations, Forever Living has chosen to brazenly ignore truth-in-advertising laws and misleads consumers with thousands of deceptive and atypical earnings claims, among other things.⁴

Specifically, TINA.org’s investigation found marketing claims made by Forever Living that included being able to earn a full-time income, achieve financial freedom, travel the world, quit one’s job, and provide for one’s family during a pandemic. On its website, the company tells consumers that “Starting a business with Forever gives you the potential to earn a significant income stream, have time and freedom to build your life according to your dreams and allows you the flexibility to start part-time and build a full-time income.”⁵ The company goes on to state that “People all over the world have found success and freedom with Forever, tapping into their potential to earn an uncapped income and build a life according to their dreams.”⁶



“Your Dream, Our Plan. Starting a business with Forever gives you the potential to earn a significant income stream, have time and freedom to build your live according to your dreams and allows you the flexibility to start part-time and build a full-time income.”



“A Rewarding Opportunity. People all over the world have found success and freedom with Forever, tapping into their potential to earn an uncapped income and build a life according to their dreams.”

The company reiterates these claims in Google ads,⁷ on various social media platforms,⁸ on its mobile app,⁹ in promotional booklets,¹⁰ and at various events and rallies, photos of which it then publishes online.¹¹

Google Ad Displayed on May 3, 2022

Ad · <https://joinnow.foreverliving.com/> ⋮

Join Forever Living USA - Forever Distributor Sign Up

Take the first step toward financial freedom and start your **Forever** business today. You'll have access to amazing health & beauty products, and a life-changing opportunity.

2022 Forever Experience Event, Feb. 18-19, 2022¹²



2021 Global Rally at Home¹³



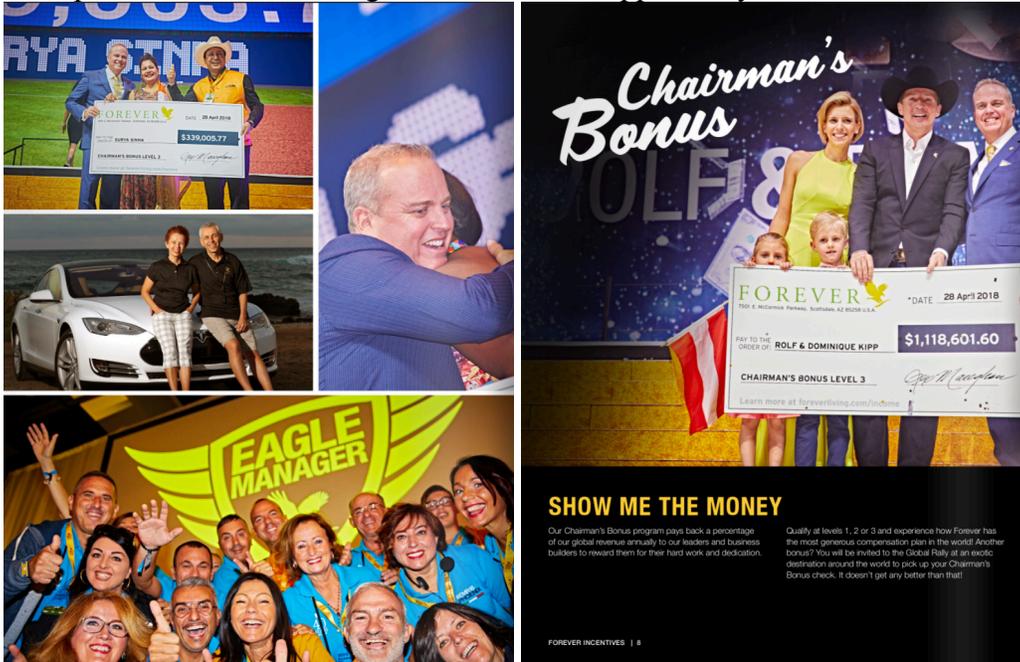
2020 Forever Experience¹⁴



Forever Living Instagram post¹⁵



Excerpts from Forever Living's "The Greatest Opportunity in the World" Book¹⁶



"SHOW ME THE MONEY. Our Chairman's Bonus program pays back a percentage of our global revenue annually to our leaders and business builders to reward them for their hard work and dedication. Qualify at levels 1, 2 or 3 and experience how Forever has the most generous compensation plan in the world! Another bonus? You will be invited to the Global Rally at an exotic destination around the world to pick up your Chairman's Bonus check. It doesn't get any better than that!"

In addition to making these deceptive income claims, Forever Living encourages and trains its distributors to repeat them,¹⁷ knowing full well that prospective recruits are persuaded by promises of financial freedom.¹⁸

Excerpt from Forever Living's "Guide to Digital Marketing"¹⁹

SOCIAL MEDIA

SOCIAL MEDIA

Telling your story is an important part of building a business.

What motivates you? How is Forever helping you reach your goals? How are you changing your life? Sharing these things is a great way to connect with like-minded contacts who may become customers or a part of your team.

Forever Living continually makes these audacious income claims,²⁰ 5,500+ of which have been identified by TINA.org (and many of which are available at <https://truthinadvertising.org/evidence/2022-forever-living-income-claims-database>), despite the fact that 89 percent of its distributors do not receive “any meaningful compensation or earnings,”²¹ a fact that is never clearly or conspicuously disclosed in any of its marketing materials.²²

Further, all of these deceptive earnings claims are present on the internet today²³ despite Forever Living (1) publishing company policies that prohibit the use of income claims in marketing materials, (2) repeatedly vowing to ensure adherence to truth in advertising laws, (3) stating that it hired a third-party company to identify and eliminate deceptive claims from the internet, (4) promising to adhere to the Direct Selling Association (DSA) Code of Ethics, which prohibits the use of false and deceptive earnings and lifestyle claims (5) receiving notices on at least two separate occasions that it was engaged in deceptive advertising, (6) being given clear notice by the Commission of the applicable FTC law, and (7) urging the FTC years ago to forego the business opportunity rule in favor of “the type of procedural safeguards companies like [Forever Living] have implemented.”²⁴ Given this history, it is clear that Forever Living will not stop its deceptive marketing campaign unless the FTC takes swift and forceful action. Such action is necessary not only to put an end to the company’s unwavering use of deceptive income claims, but also to protect millions of susceptible consumers.²⁵

In addition, TINA.org’s investigation revealed that Forever Living-sponsored athletes advertise company products on their social media accounts without clearly and conspicuously disclosing their material connection to the company in violation of FTC law,²⁶ and despite the company having received a copy of the FTC’s Notice of Penalty Offenses concerning endorsements.²⁷



Akwasi Frimpong April 2022 Instagram post



Nungshi & Tashi Malik’s April 2022 Instagram post

TINA.org has collected several examples of such deceptive social media posts, all of which are available at <https://truthinadvertising.org/evidence/2022-forever-living-influencer-database/>.

As a well-established, multi-billion dollar MLM company that is a member of the DSA and a recipient of more than enough warnings, Forever Living has no excuse for its

repeated violations of the law. Only when it is no longer economically advantageous for Forever Living to deceive consumers and low-level distributors will the company stop violating truth-in-advertising laws. The FTC's ability to fine the company more than \$250 million for its more than 5,500 deceptive earnings claims (and undisclosed influencer ads) through its Penalty Offense Authority may be the monetary incentive that finally tips the scales in favor of compliance. TINA.org urges the Commission to open an investigation into Forever Living and take appropriate enforcement action.

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.

Cc via email: Darin Reber, General Counsel, Forever Living Products International, LLC

¹ The company, which was founded in 1978, was started as a business opportunity before it even had a product to sell. *See* Forever Living Eagle Managers Retreat 2015 Highlights, https://truthinadvertising.org/wp-content/uploads/2022/04/FL-YT-10_27_15-recap.mp4 ([Founder Rex Maughan:] “When I started the company, I didn’t have a product but I knew I had a marketing plan that was going to help all of you be more wealthy and wiser than you’d ever been before.”)

² Oct. 26, 2021 FTC Notice of Penalty Offenses Concerning Money-Making Opportunities, <https://www.ftc.gov/system/files/attachments/penalty-offenses-concerning-money-making-opportunities/cover-letter-mmo.pdf>; List of October 2021 Recipients of the FTC’s Notices of Penalty Offenses Concerning Money-Making Opportunities and Concerning Deceptive or Unfair Conduct around Endorsements and Testimonials, https://www.ftc.gov/system/files/attachments/penalty-offenses-concerning-money-making-opportunities/list-recipients-mmo_notice_0.pdf.

³ Nov. 11, 2016 ltr from TINA.org to Forever Living regarding deceptive and illegal health claims, https://truthinadvertising.org/wp-content/uploads/2022/04/11_22_16-ltr-to-Forever-Living.pdf; Dec. 18, 2017 ltr from TINA.org to Forever Living regarding deceptive income claims, https://truthinadvertising.org/wp-content/uploads/2022/04/12_18_17-ltr-to-Forever-Living.pdf. *See also* June 30, 2021 ltr from TINA.org to FTC, and cc’ing Forever Living, regarding the need for a penalty offense program to address deception within the direct selling industry, https://truthinadvertising.org/wp-content/uploads/2021/06/6_30_21-ltr-to-FTC-re-penalty-offense-authority_MLM.pdf.

⁴ While not the focus of this complaint letter, Forever Living also continues to use unsubstantiated disease-treatment claims to market Forever Living products, an issue that Forever Living has been aware of since at least November 2016. *See* Nov. 11, 2016 ltr from TINA.org to Forever Living regarding deceptive and illegal health claims, https://truthinadvertising.org/wp-content/uploads/2022/04/11_22_16-ltr-to-Forever-Living.pdf; Dec. 15, 2016 ltr from Forever Living to TINA.org, https://truthinadvertising.org/wp-content/uploads/2022/04/12_15_16-Forever-Living-Response.pdf. Such marketing includes claims that Forever Living products can prevent COVID-19, prevent age-related macular degeneration of the eyes, replenish macular pigment of the eyes, fight exposure to blue light from digital devices, and impact memory, attention, and cognitive functioning in seniors, as well as others. *See, e.g.*, ForeverSuisseHQ Oct. 13, 2020 YouTube video, https://www.youtube.com/watch?v=v35Iy2Oi02k&list=PLoGXvmyQU Eaixp2H_F5D0E-qr04OZNR6; Forever iVision, <https://shopnow.foreverliving.com/usa/en-us/products/nutritional/624-Forever-iVision>; Forever Focus, <https://shopnow.foreverliving.com/usa/en-us/products/nutritional/622-Forever-Focus>; Forever Global HQ Apr. 19, 2020 Instagram post, https://www.instagram.com/p/B_KDCYsAkje/.

Such deceptive – and repeated – marketing claims, violate FTC law, including the COVID-19 Consumer Protection Act. It is for these exact reasons that TINA.org urged – and continues to urge – the Commission to implement a penalty offense program that targets deceptive health claims used by the direct selling industry. *See* June 30, 2021 ltr from TINA.org to FTC, https://truthinadvertising.org/wp-content/uploads/2021/06/6_30_21-ltr-to-FTC-re-penalty-offense-authority_MLM.pdf.

⁵ The Forever Opportunity, <https://joinnow.foreverliving.com/usa/en-US/your-opportunity>.

⁶ Why Forever? <https://joinnow.foreverliving.com/usa/en-US/whyforever>.

⁷ <https://truthinadvertising.org/evidence/other-forever-living-income-claims/>.

⁸ <https://truthinadvertising.org/evidence/forever-living-social-media-platforms/>.

⁹ <https://truthinadvertising.org/evidence/discover-forever-mobile-app/>.

¹⁰ <https://truthinadvertising.org/evidence/forever-living-websites/>.

¹¹ *See, e.g.*, <https://truthinadvertising.org/evidence/2022-forever-experience/>.

¹² Forever Living 2022 Forever Experience, Day Two images, <https://foto.foreverliving.com/Events/North-America-Events/2022-Forever-Experience/DAY-TWO/i-q9cxD8X>.

¹³ Forever Living 2021 Global Rally at Home, FGR21 Day 3 images, <https://foto.foreverliving.com/Events/2021-Global-Rally-at-Home/FGR21-Day-3/i-4szLprW>.

¹⁴ Forever Living 2020 Forever Experience, Day 2 images, <https://foto.foreverliving.com/Events/North-America-Events/2020-Forever-Experience/Day-2/i-fVCvTJ9>.

¹⁵ Forever Global HQ May 21, 2019 Instagram post, https://truthinadvertising.org/wp-content/uploads/2022/04/FL-IG-5_21_19-combined.pdf.

¹⁶ Forever Living, “The Greatest Opportunity in the World: We’ll Help You Get There,” https://gallery.foreverliving.com/gallery/FLP/download/DownloadCatList_forms_forms_11865_en_USA_1.pdf?dirembd=true&frameBorder=0.

¹⁷ Not only does Forever Living take photographs of almost every distributor receiving a big check at its rallies and conventions, it also posts these images on a “ForeverFotos” website, which the company describes as “your resource for spectacular photographs from Forever Living Products corporate offices.” The company encourages its distributors to use these images in their own marketing materials. Specifically, the Forever Fotos site goes on to state, “Need an image for an upcoming presentation or event? This is the place where you will find approved images to use on your custom marketing materials.” The company’s mobile app also directs distributors to the site stating, “To find product photography, download our logos and see photos from all our events, go to www.foreverfotos.com.” On the Forever Fotos website there are thousands of “approved” images of distributors holding large checks with amounts that are far more money than the typical Forever Living distributor will ever earn.

¹⁸ *See, e.g.*, Faces of Forever, From Football to Forever, <https://truthinadvertising.org/wp-content/uploads/2022/04/FLP-Success-UK--Faces-of-Forever--Charlotte-and-Darren-capture.pdf> (“Darren discovered Forever whilst working at a client’s house and soon realised, without knowing the details, that there was a very good opportunity available (he saw a giant cheque on the wall!).” *See also* 2019 DSA Fact Sheet, https://www.dsa.org/docs/default-source/research/dsa-2019successisdifferentfactsheet.pdf?sfvrsn=e261c0a5_2%27http://%27 (showing that nearly half of consumers who join a direct-selling company do so for long-term supplemental income); Direct Selling Education Foundation Professional and Personal Benefits of a Direct Selling Experience, Robert A. Peterson, <https://3vcm07307bmr2jg8679q77x8-wpengine.netdna-ssl.com/wp-content/uploads/2018/07/Professional-Personal-Benefits-Report.pdf>

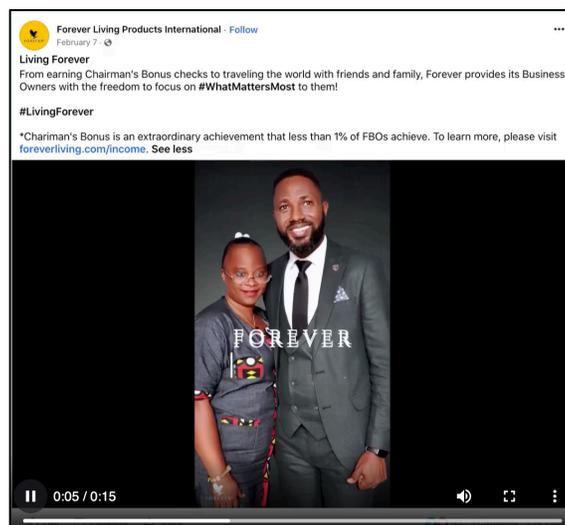
(showing that more than half of men and approximately one third of women who join a direct-selling company do so because they want a “full-time direct selling job.”).

¹⁹ Forever Living Guide to Digital Marketing, https://cdn.foreverliving.com/portals/fitapp/a1J0V0000CAi25UAD%2F1556641886026FLP_GuidetoDigitalMarketing+2019_SinglePage.pdf.

²⁰ It is worth noting that while the company on occasion says that it is free to join the business opportunity, this claim ignores the fact that distributors must purchase one of the company’s product packs to be qualified to receive all bonuses and commissions with the Forever business. See Join the Forever Family, <https://joinnow.foreverliving.com/usa/en-us/packs>.

²¹ The company’s income disclosure statement, which is available at <http://pages.foreverliving.com/income> and <https://joinnow.foreverliving.com/usa/en-us/income-disclosure>, and which is placed at the bottom of webpages that contain numerous deceptive earnings claims, is a skewed and misleading document that refers to its failed distributors as “purchasers” to cover for the high number of them that fail to make any money. By eliminating 89 percent of its business owners from its earnings data, Forever Living misleadingly inflates the income figures presented. Additionally, the “information” it does provide on earnings claims is also overstated as it represents average, gross earnings and as opposed to typical, net earnings. For those individuals simply looking for a discount on Forever products, the company offers a Forever Preferred Customers program. See Forever, Are you Sure? <https://foreverliving.com/lux/en-gb/compare-fbo-pc>; Join the Forever Family, <https://joinnow.foreverliving.com/usa/en-US/welcome>. See also Anne Coughlan et al., *Join, Stay, Leave: A Study of Direct-Selling Distributors*, Working Paper, Sept. 2016, https://www.researchgate.net/publication/308804126_Join_Stay_Leave_A_Study_of_Direct-Selling_Distributors (finding that very few consumers – 8.2 percent – join direct-selling companies as preferred customers solely to obtain product discounts).

²² While almost all of Forever Living’s deceptive income claims are unaccompanied by any disclosure of typical earnings, a select few references link to the company’s income disclosure statement. See, e.g., Forever Living Products International Feb. 7, 2022 Facebook post, https://truthinadvertising.org/wp-content/uploads/2022/04/FL-FB-2_7_22.mp4.



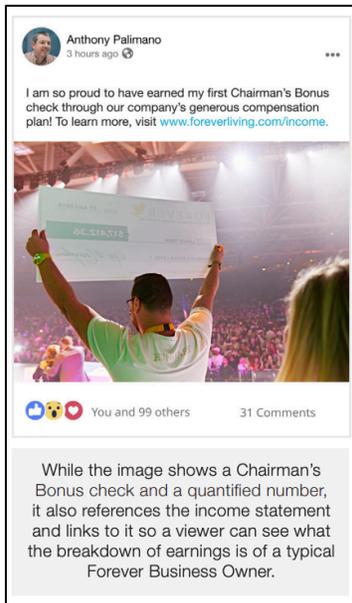
However, such disclosures are ineffective as they are neither clear nor conspicuous. These ineffective disclosures are below the fold, meaning that viewers must click on “See More” to see a reference to the full income disclosure statement, and then chose to leave the deceptive earnings representation they are viewing and click on a link to read the income disclosure statement, which can only be found by scrolling to the bottom of the linked page (beneath several colorful income claims). In other words, its placement is such that the vast majority of consumers will never read it. Moreover, as is explained above, the income disclosure statement itself is misleading and overinflates a distributor’s possible earnings potential.



The FTC has made clear that disclosures must be prominent and conspicuous – and certainly not hidden below the fold in a social media post or at the bottom of a link. *See* FTC .com Disclosures, <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-issues-guidelines-internet-advertising/0005dotcomstaffreport.pdf>; FTC Disclosures 101 for Social Media Influencers, https://www.ftc.gov/system/files/documents/plain-language/1001a-influencer-guide-508_1.pdf.

Moreover, the FTC has explained that “[a] disclosure can only qualify or limit a claim to avoid a misleading impression. It cannot cure a false claim. If a disclosure provides information that contradicts a material claim, the disclosure will not be sufficient to prevent the ad from being deceptive. In that situation, the claim itself must be modified.” *See* FTC .com Disclosures, <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-staff-issues-guidelines-internet-advertising/0005dotcomstaffreport.pdf>. Since 89 percent of Forever Living distributors typically earn nothing, it is hard to see how any Forever income claim can be cured with an income disclosure statement.

Of concern, in its “Building an Ethical Business” section of its app, Forever Living provides its distributors with contrary, and inaccurate, legal guidance regarding such disclosures. *See* Forever Living, Building an Ethical Business, https://cdn.foreverliving.com/portals/fitapp/a1J0V0000CAi2JUAT%2F1556641994786FLP_BuildingAnEthicalBusiness_2019_SinglePage.pdf.



“While the image shows a Chairman’s Bonus check and a quantified number, it also references the income statement and links to it so a viewer can see what the breakdown of earnings is of a typical Forever Business Owner.”

The Company incorrectly tells distributors the example post above is not problematic because it references a link to an income statement.

In the same guidance document, Forever Living also inaccurately tells its distributors they are permitted to make implied earnings claims such as the ability to travel the world.



“This post references the FBOs personal experience at an event and while it suggests that travel is something they’ve earned through the company, it is both true of their experience and doesn’t directly promise that a viewer can earn travel.”

This company guidance contradicts that of the FTC, which states that implied income claims can be just as false and misleading as direct claims. See FTC’s Business Guidance Concerning Multi-

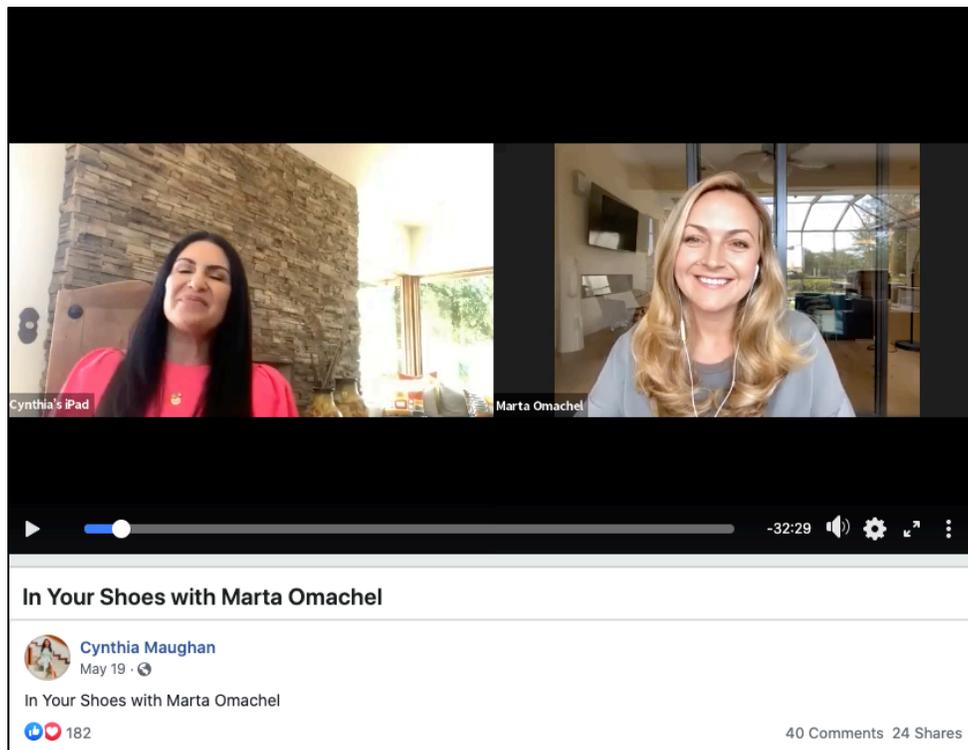
Level Marketing, <https://www.ftc.gov/business-guidance/resources/business-guidance-concerning-multi-level-marketing>. As Forever Living distributors generally do not achieve a wealthy lifestyle such that they have the opportunity to travel the world, neither the company nor distributors should be making such representations in their marketing materials.

²³ While some of the Forever Living marketing examples in TINA.org's databases were originally published some months or years ago, they are still in publication and are easily accessible on the internet to be viewed and used as promotional material for the Forever Living business opportunity and therefore remain current violations of law.

²⁴ See Forever Living Company Policies and Procedures, https://flp-prod.s3.us-west-2.amazonaws.com/content/MarketingConfigurableContent/20201101a%20NA_Co_Policy_E_FI_NAL.pdf (Forever Living distributors “may not make any representation, expressly or by implication, regarding the amount or level of income, including fulltime or part-time income, that a prospective [distributor] can reasonably expect to earn. Implied representations of income that [a distributor] reasonably can expect to earn include, but are not limited to, representations and/or images used to show a dramatically improved, luxurious or lavish lifestyle.”); May 31, 2006 Forever Living Comment to FTC Regarding the Business Opportunity Rule, R511993, https://truthinadvertising.org/wp-content/uploads/2022/04/5_31_06-ltr-from-FL-to-FTC.pdf (“Please understand that we agree with the purpose behind the FTC proposed rule. . . . We believe, however, that a better solution is to encourage or mandate the type of procedural safeguards companies like FLP have implemented over the past several decades, rather than the well intentioned but unworkable rules discussed in this letter.”); Forever Living mobile app screenshot, <https://truthinadvertising.org/wp-content/uploads/2022/05/FL-app-re-DSA-membership.png> (“The cornerstone of the Association’s commitment to ethical business practices and consumer service is its code of ethics. Every member company pledges to abide by the Code’s standards and procedures as a condition of admission and continuing membership in the Association. . . .”); February 2, 2018 letter from Forever Living to TINA.org, <https://truthinadvertising.org/wp-content/uploads/2018/02/Forever-Living-DSAi-reponse-2-1-18.pdf> (“We have . . . contracted with a company called Momentum Factor to use their tool FieldWatch, which allows us to be far more proactive in identifying and eliminating such material from a broader range of channels throughout the internet. We are committed to communicating and enforcing our company policies throughout the world to ensure truth in all forms of advertising, whether created by our own home office o[r] by our enthusiastic Forever Business Owners.”). See also Dec. 15, 2016 ltr from Forever Living to TINA.org, https://truthinadvertising.org/wp-content/uploads/2022/04/12_15_16-Forever-Living-Response.pdf (same).

²⁵ Forever Living, which has approximately 10 million distributors, once stated that it “sign[s] up hundreds if not thousands of distributors in a one year time.” See May 31, 2006 Forever Living Comment to FTC Regarding the Business Opportunity Rule, R511993, https://truthinadvertising.org/wp-content/uploads/2022/04/5_31_06-ltr-from-FL-to-FTC.pdf. See also Forever Living LinkedIn page, <https://www.linkedin.com/company/forever-living-products-india>.

In addition, in a series of Facebook interviews conducted by Cynthia Maughan, wife of Forever Living’s president Gregg Maughan, the company highlights how it works to recruit a susceptible class of immigrant women. In one Facebook video, Ms. Maughan interviews a Forever Living distributor who emigrated from Poland and has become successful in the business by targeting other immigrant women who work in unskilled jobs. See Cynthia Maughan May 19, 2021 Facebook post, <https://www.facebook.com/ForeverCynthia/videos/843012976627772>.



[Marta Omachel]: “... *I am an immigrant, I am Polish, I was born in Poland ... I came here to Chicago, to the United States when I was 19, knowing no English ... but I had a big dream, big dream of being successful living in America but the reality was...where do I find work? What do I do in a foreign country without knowing any English? And I started cleaning here, I was a cleaning lady, and that wasn't my dream job, I was doing it for several years, bringing money to the table ... and that was very challenging. Many times I wasn't treated as a good person. ... One day, when I had two little kids at home, a friend of mine told me, I've been using Forever products, and a friend of mine told me 'Marta, since you are, you love these products, you use them nonstop, why don't you start sharing these products and build a business from home?' ... So I basically jumped into the opportunity as soon as she asked me ... I started talking to other women like me who are immigrants as well, who maybe were cleaning houses ... I was targeting people like me. ... They started joining the business, they started seeing they can have a different lifestyle as well.*”

[Cynthia Maughan]: “...*Every time I see you taking your kids to riding horses or taking a lesson for tennis, or whatever it is, it's like you are clicking your dream.*”

²⁶ FTC Guides Concerning the Use of Endorsements and Testimonials in Advertising, <https://www.ftc.gov/sites/default/files/attachments/press-releases/ftc-publishes-final-guides-governing-endorsements-testimonials/091005revisedendorsementguides.pdf>.

²⁷ See Forever Global Ambassadors, <https://www.foreverknowledge.info/about-forever-living/forever-ambassadors/>; Akwasi Frimpong April 11, 2022 Instagram post, <https://www.instagram.com/p/CcNuTvNuRnB/>; Nungshi & Tashi Malik’s April 12, 2022 Instagram post, https://www.instagram.com/p/CcP3qf_pT2n/. See also FTC Oct. 26, 2021 Press Release, FTC Puts Businesses on Notice that False Money-Making Claims Could Lead to Big Penalties, <https://www.ftc.gov/news-events/news/press-releases/2021/10/ftc-puts-businesses-notice-false-money-making-claims-could-lead-big-penalties> (“Companies receiving the Notice also received a copy of the recently issued Notice of Penalty Offenses concerning endorsements and testimonials, as companies frequently use testimonials to advertise money-making opportunities.”).