



February 1, 2016

VIA REGULAR MAIL AND EMAIL

Michael J. Lindell, CEO
My Pillow, Inc.
343 East 82nd St.
Suite 102
Chaska, MN 55318
[REDACTED]

Re: MyPillow, Inc.'s Unsubstantiated Health Claims and Deceptive Marketing

Dear Mr. Lindell:

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 have found that your company, My Pillow, Inc., has been engaged in a deceptive marketing campaign. Specifically, My Pillow, Inc. claims its pillow can remedy a multitude of medical conditions when, in fact, and as your company admits, there is no competent or reliable scientific evidence to support such health and treatment claims.

For example, on the website – www.MyPillow.com – your company prominently touts that its pillow can benefit the following medical conditions: migraines, restless leg syndrome, TMJ, sleep apnea, insomnia, fibromyalgia, neck pain, allergies, and asthma. Such claims are made directly by the company, as well as through the use of hundreds of customer testimonials. The website also features testimonials that state or imply the pillow can treat, cure, or alleviate the symptoms of a multitude of other ailments, including, for example, arthritis, osteonecrosis, acid reflux, and post-traumatic stress disorder, just to name a few.

Similar health and treatment claims are found in My Pillow, Inc.'s other forms of marketing as well, including, but not limited to, video commercials and social media posts.

As you may know, in order to make health and treatment claims, such as the ones made by MyPillow, Inc. in its marketing material, a company must be able to substantiate those claims with competent and reliable scientific evidence.¹

My Pillow, Inc. does not have the requisite substantiation for its health and treatment claims as the company admits:

[Claims for MyPillow® are based on medical opinion and user experience and not on actual clinical studies.](#)

Anecdotal information and opinion are not sufficient to meet the FTC's substantiation requirement. Accordingly, My Pillow, Inc.'s health and treatment claims are deceptive and in violation of the FTC Act.²

Finally, in addition to making impermissible health and treatment claims, some testimonials used in your company's marketing materials fail to disclose material connections between the endorser and My Pillow, Inc., in violation of FTC regulations.³ For example, Thomas Clapp, an executive at My Pillow, Inc. and president of your charitable organization, the Michael J. Lindell Foundation, is shown in My Pillow, Inc. television commercials stating that "MyPillow is the greatest pillow in the world because I wake up rested every single morning," but neither he nor My Pillow, Inc. ever inform consumers of his relationship with you or the company.

Based on this information, we intend to notify the Federal Trade Commission and others that My Pillow, Inc. is engaged in deceptive marketing, unless, by **February 8, 2016**, you show us that you have fully corrected the issues described above across all of My Pillow, Inc.'s marketing materials and that you have made every effort to alert your customers of these issues.

Sincerely,



Laura Smith, Esq.
Legal Director
Truth in Advertising, Inc.
lsmith@truthinadvertising.org

¹ Federal Trade Commission Advertising Substantiation Principles, available at <https://www.ftc.gov/sites/default/files/attachments/training-materials/substantiation.pdf>; *U.S. v. Bayer Corp.*, No. 07-cv-00001 (D. NJ), Consent Decree (January 3, 2007), available at <https://www.ftc.gov/sites/default/files/documents/cases/2007/01/070104consentdecree.pdf>; *Vital Basics, Inc.*, C-4107 (Federal Trade Commission Consent Order (April 26, 2004), available at <https://www.ftc.gov/sites/default/files/documents/cases/2004/05/0400504dovital0123248.pdf>.

² The fact that MyPillow indicates in a small disclaimer at the bottom of its webpages that it does not have the requisite substantiation for the health claims does not remediate the deception. As the FTC has explained, “[i]f 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* .com Disclosures: How to Make Effective Disclosures in Digital Advertising, <https://www.ftc.gov/system/files/documents/plain-language/bus41-dot-com-disclosuresinformation-about-online-advertising.pdf>. Moreover, not only is the disclaimer legally ineffective, but its placement is such that the vast majority of consumers will never see it. As the Commission has stated, disclosures must be prominent, conspicuous, and “effectively communicated to consumers before they make a purchase or incur a financial obligation.” *See* .com Disclosures: How to Make Effective Disclosures in Digital Advertising.

³ *See* Federal Trade Commission Guides Concerning the Use of Endorsements and Testimonials in Advertising, 16 CFR § 255.1(d).