

EDITORIAL NOTE: This response was updated on June 12, 2017, to reflect the change of the name of the cancer initiative to CANCER BREAKTHROUGHS 2020 as indicated in bracketed language.

**RESPONSE TO STAT'S FALSE STATEMENTS
RELATING TO NANTHEALTH AND DR. SOON-SHIONG'S FOUNDATION:**

We are writing about the inaccuracies and false and/or misleading statements contained in an article in STAT by Rebecca Robbins on March 6, 2017. While inaccuracies have appeared in STAT articles prior and subsequent to the March 6 article, this letter only addresses those errors in the March 6 article. In a separate response [letter](#) (“Response to STAT’s False and Misleading Statements Relating to [Cancer Breakthroughs 2020]”), we address inaccuracies and misleading statements in Ms. Robbins’ reporting on [Cancer Breakthroughs 2020]. This is contrary to her assertion that **no one would respond to requests** for an interview on that topic. As indicated by emails presented in that response [letter](#), she not only successfully reached multiple investigators who **provided written glowing reports** on the significant progress made during the first year of the [Cancer Breakthroughs 2020], **but she made the false statement that no one would respond to her request and chose instead to not reflect the [investigators’ positive email responses](#)** nor Dr. Soon-Shiong’s written responses in her story.

Before getting into the inaccuracies and misleading statements in the March 6, 2017 story, we feel it might be worthwhile to point out a few additional facts:

- As you may be aware, Dr. Soon-Shiong is first and foremost a physician and surgeon. He has dedicated his life to reducing the calamitous effects wreaked by cancer, diabetes, Alzheimer’s, ALS and other degenerative diseases which afflict all of human kind. This has been his mission for the entirety of his adult life, and the all-consuming focus of his resources and his energies. That is why he became a physician, despite the significant hurdles he had to overcome as a Chinese South African in apartheid South Africa. Dr. Soon-Shiong started his first company, to create a treatment for cancer when pharmaceutical companies he approached refused to develop his novel nanoparticle for breast, lung, and pancreatic cancer. It is also the driving focus of his business enterprises today: to find a cure for this disease affecting millions of patients and to change the paradigm of high-dose chemotherapy. As his bio details, after training and practicing as a physician and surgeon, he started a series of companies to find a way to help people afflicted by various serious illnesses. It also details that the last ten years have been a decade of huge events and business changes for Dr. Soon-Shiong from running public companies to starting and running private companies, all of his businesses have been dedicated to finding a way to improve and extend the quality of life. At the same time, he has remained active in extensive and robust philanthropic efforts. All of these endeavors, including his charitable endeavors, are primarily pursued with the hope that his efforts and financial support will reduce and even prevent the deadly consequences of multiple forms of cancer.

- One of the main themes of the article seems to be that Dr. Soon-Shiong received greater benefits than the University of Utah received in connection with the charitable gifts made to University of Utah. **Nothing could be further from the truth.** NantHealth did not make a profit on the work it undertook from the University of Utah and in fact performed the tests **at a loss**. Dr. Soon-Shiong **did not** take a tax deduction for the donations.

The scientific discovery at the University of Utah as a result of the gift has already resulted in a breakthrough finding of the potential genetic cause of early onset menopause and primary ovarian insufficiency in women. Neither Dr. Soon-Shiong nor NantHealth received any financial benefit from such a finding. But surely, mankind has.

- In 2015, Dr. Soon-Shiong donated over **\$200,000,000** to the Chan Soon-Shiong Family Foundation. This is a matter of public record contained in the tax returns Ms. Robbins referenced. Dr. Soon-Shiong is pleased that he was and that he still is in a position to be able to do that. His total contributions over the past 10 years amount to many hundreds of millions of dollars. Less than half of his charitable contributions have provided **any tax benefit to him whatsoever**. And they will likely expire as unused deductions. As just one example, **his charitable gift of over \$200,000,000 in 2015 has yet to produce one dollar of tax benefit to him, and he does not believe that circumstance will change.**
- At the time of the foundation's commitment to support the University of Utah there was no mention in Dr. Soon-Shiong's speech of the company NantHealth. During that speech, as shown in the [video](#), he took the opportunity to explain how he was inspired by the Huntsman Institute, The Wellcome Trust, and Howard Hughes Research Institute and how it was his and his wife's desire to follow this model to bring important data to the world to advance the science and treatments for life threatening diseases facing mankind. As one can clearly see from the video clip, the presentation was made in an auditorium filled with scientists and philanthropists in which he presented his vision. At that announcement, faculty members from the University of Utah stated, "He has committed his life to really advancing health for everyone in this country and in the world and I think we should really be grateful for that. He could be doing a lot of other things. But he is really committed, he and his family... this is a one year gift."

Ironically, at the same time as the March 6 STAT article was published, a news report in the Journal of the Endocrine Society on March 2017 [published](#), indicating that the gift made by the Chan Soon-Shiong Family Foundation contributed to the remarkable discovery of a specific mutation that was associated with the onset of early menopause and *ovarian insufficiency* in a woman. Buried in the last paragraph of her story, the STAT reporter affirmed the University's view of the value of the gift:

"All told, 1,000 blood samples, covering about 25 different diseases and conditions, were successfully sequenced. An additional 380 tumor and tissue samples, also from storage, were sent to NantHealth for sequencing... Neklason said she and her team are "thrilled" with the project. Kiefer said the university believes Soon-Shiong's foundations "delivered" on their commitments and that "the quality of the research exceeded our expectations." Neklason's

team is now analyzing the reams of data they've received back from NantHealth to help them study the genetic causes of why certain people develop a condition while others don't. An early study from the project, on the genetics of premature menopause, was published last month in the Journal of the Endocrine Society."

The article "[POLR2C Mutations Are Associated With Primary Ovarian Insufficiency in Women](#)" is attached.

The video clip of Dr. Soon-Shiong's gift announcement in 2014 is available [here](#).



<https://vimeo.com/207666746>



By 2016, as reported in the [Center for High-Performance Computing newsletter at The University of Utah](#), "By the end of March 2016 over 800 of these genomes have been sequenced and more than 600 of them have been processed through the UGP variant calling pipeline. While analysis is just getting underway for many of these studies, **the H1K project has already involved transfer of over 200 TB of raw data, data storage of close to a petabyte of total data and millions of hours of CPU compute time.**" This was made possible by the gift, but the reporter chose to ignore the generous purpose of this award.

Following are among the inaccurate statements in the article:

False Statements #1, #2, and #3:

- (1) "And the contract was worded in a way that left the University of Utah no other choice."
- (2) How the world's richest doctor gave away millions – then steered the cash back to his company.
- (3) He got a stream of cash for one of his struggling companies.

Fact:

False Statement #1:

"And the contract was worded in a way that left the University of Utah no other choice."
Not true.

It is false that the gift agreement was written so as to leave the University of Utah no choice. In fact, the University of Utah had the complete freedom to choose any vendor who could meet their *own* rigorous standards and they went to entities other than NantHealth first. The University of Utah **first** went to their own laboratory, to other vendors and an academic institution to do the testing. The wording of the contract and the extremely high standards of coverage required for the analysis of these samples (60x) was demanded by the University of Utah scientists and not determined by NantHealth or Dr. Soon-Shiong. It was only after the other entities were not willing to meet the high cost of such standards as 60x coverage of germ line blood samples, as required by the University (and not by NantHealth), they then went to NantHealth. NantHealth on the other hand was willing to meet the state of the art standards at a lower cost despite not booking any revenue but having to book the expense. In fact, this work was done at a loss.

This is further borne out by the statement by the University of Utah's spokesperson as the University of Utah themselves affirmed to STAT that the University had the freedom to identify any vendor and in fact explored alternatives:

"The University of Utah evaluated other facilities, Kiefer said, to see if they could do the sequencing as required by the gift contract. They couldn't. The university 'concluded that NantHealth was the only facility capable of meeting the state-of-the-art standards and specifications required under the gift agreement,' Kiefer said."

Additionally, the University had complete and unrestricted freedom to terminate any arrangement with any vendor who failed to comply with their required high standards. This fact is also clearly spelled out in the NantHealth agreement which the reporter stated she had received through FOIA. "***Either party may terminate this Agreement, with or without cause, upon not less than ninety (90) days advance written notice to the other.***" Yet, there is **no mention** of this fact in the STAT article.

False Statement #2 and #3:

(2) *How the world's richest doctor gave away millions – then steered the cash back to his company.*

(3) *He got a stream of cash for one of his struggling companies...Not true.*

Fact:

While Rebecca Robbins acknowledged that NantHealth did not recognize the revenue, she did not state that the testing was **performed at a loss**.

False Statement #4:

NantHealth... *“appears to have misled investors in reporting its third-quarter earnings last November.”* **Not True.**

Fact:

There was **full disclosure** to investors; investors were not misled.

The facts and details of the agreement were made clear in publicly-available documents:

The company clearly stated in its third quarter ended September 30, 2016 financial report that revenue from the University of Utah agreement was not recognized. Further, this transaction had a negative impact on NantHealth’s income statement since the company booked no revenue but had to report an expense to account for the cost of the sequencing.

Moreover, this transaction was fully disclosed in the company’s S1 IPO registration statement under the Related Party Transactions section and again in our June and September quarterly form 10-Q SEC filings.

Additionally, Dr. Soon-Shiong and Mr. Robert Watson elaborated on this disclosure as can be seen in the earnings call transcript below:

- a) Q3 2016 NantHealth Inc. Earnings Call - Nov 8, 2016 (Thomson Street Events) -- Edited Transcript of NantHealth Inc. earnings conference call or presentation Monday, November 7, 2016 at 11:00:00pm GMT
- b) Dr. Soon-Shiong *“Let me turn my attention to GPS Cancer. We've clearly made significant progress during this quarter and have learned a lot with regard to a launch of this novel breakthrough product. Of the 524 of GPS Cancer orders in the quarter, 344 were commercial and 180 were ordered under a research agreement with University of Utah, which we announced earlier this year.”*
- c) Robert Watson *“The number of reports delivered in the quarter was 334...180 profiles that were completed under the research agreement with the University of Utah **were not recognized as revenue** because it was **considered a research project** that was started in advance of the IPO.”*

On page F43 of the NantHealth Prospectus (June 1, 2016) under the Related Party Transactions section, the University of Utah relationship was described in detail:

- a) *“In January 2015, we entered into an agreement to provide certain research related sequencing services to a university which is engaged in researching the genetic causes of certain hereditary diseases. The agreement provides that the university pay us \$10 million in exchange for our providing sequencing services through our reseller agreement with NantOmics. In 2015, we provided \$6.2 million of services, which has been recorded as a deemed capital contribution instead of revenue. **At the university’s request, certain non-profit organizations***

provided partial funding for the sequencing and related bioinformatics costs associated with the project. Our Chairman and Chief Executive Officer serves as a member of the board of directors of, and may have influence or control over, these organizations. The university was not contractually or otherwise required to use our molecular profiling solution or any of our other products or services as part of the charitable gift.” Clearly there was no attempt to hide this gift by Dr. Soon-Shiong. The disclosure unequivocally stated that the University was not contractually required to use NantHealth’s services. This public disclosure was also ignored by STAT, the reporter and Boston Globe.

This same detailed disclosure was again made in our publically available second and third quarter form 10-Q reports filed with the SEC dated August 15, 2016 and November 10, 2016, respectively.

False Statement #5 and #6

False Statement #5:

“He got reams of patient data to help him build a new commercial product meant to assess patients’ risk of rare and inherited diseases.” “Such algorithms, which sift through vast quantities of genetic data to identify patterns, power GPS Cancer and, presumably, will be used to build GPS Heritage.”

False Statement #6:

“Two years later, the term “heritage” would surface again, as NantHealth told investors of its plans for a new product, GPS Heritage, to assess patients’ risk for rare and inherited diseases. The product would draw on genetic sequencing NantHealth was doing in “partnership” with the University of Utah.”

Fact:

The algorithms to assess patients’ risk of rare and inherited diseases (GPS Heritage) were developed by NantOmics, and completed in 2014 as part of the Genomics England program initiated February 2014, **over 12 months before a single sample was analyzed from the University of Utah** program in May 2015. In fact, a completed app was published by our scientists in March 2015 forming the basis of GPS Heritage, **months before** any samples were received from the University of Utah. Thus, this statement “He got reams of patient data to help him build a new commercial product meant to assess patients’ risk of rare and inherited diseases” is false.

Secondly, the University of Utah contract expressly **prohibited NantHealth’s use of any data for the development of any commercial product** and this fact was known to the reporter. The section of the agreement is clear and states the following:

“Facility shall consider all information provided by the University and all information developed or otherwise acquired by Facility in connection with the

*Omics Analyses, including without limitation all Material, the source of the Material, and other studies, reports, software, books, records, and all other documents or information developed, prepared or acquired in connection with the Services and this Agreement, and all information disclosed by the University relating to any Option invention or other information disclosed pursuant to Section 8 of this Agreement to be proprietary and confidential unless such information is otherwise available from public sources (the "Confidential Information"). Except as otherwise provided herein, Facility **shall not reproduce or use such Confidential Information for any purpose other than the performance of the Services**, nor disclose or publish such Confidential Information to any person other than the University, without the prior written consent of the University. Facility may disclose Confidential Information to employees requiring access thereto for the purposes of this Agreement; however, prior to making any such disclosures, each such employee."*

All IP developed under the University of Utah agreement would be owned by the University.

The University affirmed the fact that GPS Heritage was developed independently by NantOmics without any involvement of the University of Utah. Kiefer said that *"to the best of our knowledge, the university has no involvement or stake in the GPS Heritage product."* Yet Rebecca concluded to the contrary to defame NantHealth.

False Statement #7:

"Soon-Shiong's team counted genetic sequencing ordered by the University of Utah in those order numbers — even though the work for the university did not have anything to do with diagnosing or recommending treatments for cancer patients." Not True.

Fact:

The work had everything to do with diagnosing the genomic and transcriptomic underlying cause of cancer. In fact, **every single one of the 180 samples** we received from the University of Utah and discussed in the Q3 Earnings transcript, were tumor normal sample of **patients with cancer**.

We believe a correction/update to this article is required.