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### NY Attorney General brings astroturfers to their knees

My [August 9 column](#) discussed how consumer-review websites such as Edmunds were bringing civil lawsuits against marcomms firms posting fake and deceptive reviews or blogs. The column warned how consumer-review websites, which justifiably believe fake reviews tarnish their trustworthiness, are likely to continue resorting to litigation to put an end to the practice.

Shortly after publication, Yelp, another well-known consumer-review website whose business model relies exclusively on the integrity of its reviews, filed a suit against a San Diego-based law firm when that firm allegedly had its own employees (posing as members of the general public who had used its services) post positive reviews on Yelp to counter negative reviews on the site. Yelp asserted claims against the law firm for breach of contract for non-compliance with its site's terms and conditions, intentional interference with contractual relations, and false advertising.

Demonstrating the growing importance of this issue, New York Attorney General Eric Schneiderman announced earlier this week that 19 companies entered into consent orders to stop writing fake reviews online and agreed to pay more than \$350,000 in penalties. This settlement was the result of a yearlong undercover "sting" operation by the New York attorney general's offices. The companies targeted spanned a wide range of industries including fashion, wellness, hospitality, beauty, media, transportation, and technology.

The practice of preparing or disseminating a false or deceptive online review that a reasonable consumer would believe to be a neutral, third-party review is known as "astroturfing" – a word derived from the term used to describe artificial grass at sporting stadiums. Astroturfing is harmful because it influences a consumer's potential purchasing decision based on false information.

The New York attorney general, working closely with Yelp and other customer-review websites, took aim at companies who engaged in "astroturfing" by targeting entities that directed their employees or freelancers to post fake online reviews and SEO companies that were hired to post fake reviews for their clients. The inclusion of the SEO companies in the agreement demonstrated that not only would companies relying on the fake reviews be liable, but any company offering services involving posting fake reviews would also be liable for engaging in false and deceptive practices.

In their undercover efforts, the New York attorney general's investigators posed as owners of a Brooklyn yogurt shop seeking assistance from SEO companies to combat negative reviews on consumer-review websites Yelp, Google Local, and Citysearch. Several SEO companies solicited by the attorney general's investigators agreed to write fake online reviews to enhance the yogurt shop's online profile by paying \$1 to \$10 per review to freelance writers located as far away as Eastern Europe, the Philippines, and Bangladesh.

The investigation discovered that companies were soliciting freelancers in classified websites to write fake reviews with their only

qualification being their ability to evade Yelp's and other consumer-review website's filters. (Consumer-review companies use automated filtering software to identify and remove fake reviews, but SEO companies develop techniques to bypass these filters.) Some companies even offered gift certificates in exchange for posting positive reviews. The 19 companies entering into the agreement with the New York attorney general each agreed to cease all such activity, signed a consent order, and paid monetary fines ranging from \$2,500 to just under \$100,000.

There are four key lessons to be learned from these recent events:

■ Recent regulatory developments underscore the need for PR pros to carefully review consumer-review websites' terms of service before engaging in marketing campaigns for their clients. Although the attorney general's consent order did not include any PR agencies, several SEO firms providing astroturfing services entered into the agreement and agreed to pay thousands of dollars in penalties.

■ PR agencies engaging in these types of improper practices – either directly or through subcontractors – are just as likely to be targeted by regulators or named as litigants in civil lawsuits for astroturfing because they often offer similar services as some SEO companies. This includes engaging in social media and viral Internet campaigns for their clients or hiring SEO vendors to provide such services.

■ It is insufficient for a PR firm to have a strong indemnity in an agency-client agreement. Even if such an indemnity is in place, it may not cover the dissemination of false or misleading information.

■ Additionally, PR firms should be wary of suffering reputational harm by providing astroturfing services. Unlike SEO companies, PR firms are not only measured by their ability to communicate clients' messages effectively, but they are also guardians of their clients' reputations. Regulatory investigations and litigation related to PR firms' marketing practices undermine their ability to earn the trust and credibility of stakeholders. Such practices also undermine a PR firm's ability to be a persuasive advocate for its clients.

The Yelp lawsuit and the New York attorney general's investigation are further reminders to PR pros that they should consult legal counsel before engaging in marketing campaigns – or subcontracting or freelancing arrangements – that may expose them to civil lawsuits and regulatory investigations. This is particularly important for campaigns using consumer-review websites. ■

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