

ADVERTISING, MARKETING & PROMOTIONS

>>ALERT

FTC BRINGS FIRST ACTION AGAINST COMPANY FOR POSTING FAKE REVIEWS

The Federal Trade Commission (FTC) has brought its first court case alleging that a marketer violated federal law by paying for fake reviews to be written and posted on an independent retail website.

The FTC also contended that claims for the product, which was sold as a weight-loss supplement, were false and deceptive.

THE FTC'S ACTION

In a complaint filed in the U.S. District Court for the Eastern District of New York, the FTC asserted that Cure Encapsulations, Inc., and its owner, Naftula Jacobowitz (Nat Jacobs or Nate Jacobs), violated the FTC Act in connection with the labeling, advertising, marketing, distribution and sale of a product known as "Quality Encapsulations Garcinia Cambogia Extract with HCA" (Quality Encapsulations) that the defendants contended caused weight loss.

According to the FTC, the defendants paid a website to create fake reviews of Quality Encapsulations and to post the fake reviews on Amazon's website so that their product would attain high rankings in search results and customer ratings.

The FTC's complaint asserted that the claims in the reviews were false and unsubstantiated in that they represented, among other things, the

THE BOTTOM LINE

It should come as no surprise to companies that they should not be purchasing or posting fake reviews of their products as a way to improve sales to customers. The action against Cure Encapsulations and its owner shows that the FTC is interested in taking action to halt the publication of fictitious product reviews on retail websites such as Amazon.com. That's another set of eyes watching and seeking to prevent companies from acting in this fashion.

defendants' product as a "powerful appetite suppressant," that caused "significant weight loss" and blocked "the formation of new fat cells."

Moreover, the FTC's complaint charged that the defendants represented the Amazon reviews as truthful reviews written by actual purchasers, when in reality they were fabricated.

THE SETTLEMENT

The defendants, without admitting or denying the FTC's allegations, reached a settlement with the FTC that obligates them to take a variety of steps.

First, the settlement requires that the defendants have "competent and reliable scientific evidence" to support

weight loss, appetite suppression, fat blocking, disease treatment or other health or efficacy claims for any dietary supplement, food or drug they make in the future.

Second, the defendants are prohibited from making any misrepresentations about endorsements of their products, including that an endorsement is truthful or that it is made by an actual user if it is not.

Next, the defendants must notify consumers who purchased their Quality Encapsulations product to inform them about the FTC's allegations regarding their claims about the efficacy of the product. In addition to other information, the notice must specifically state that, "according to the FTC, we deceptively claimed – among other things – that our product

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causes significant weight loss, is a powerful appetite suppressant and blocks the formation of new fat cells. We don't have scientific proof for any of those claims."

In addition, the defendants must tell Amazon that they purchased reviews of Quality Encapsulations and they must point out the purchased reviews to Amazon.

The defendants also agreed to the imposition of a \$12.8 million judgment against them – although that judgment will be suspended when they pay \$50,000 to the FTC and make certain tax payments.

Finally, the settlement, which is subject to being approved by the district court, also imposes certain recordkeeping and reporting requirements on the defendants.

FOR MORE INFORMATION

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