

This Weight Loss Supplement Gags Negative Comments: FTC

Customers who say anything negative about a weight-loss supplement marketer would find their wallets a lot thinner as a result of a gag clause in the sales contract—a deceptive practice according to the Federal Trade Commission (FTC).

The FTC sued Roca Labs, Inc. and Roca Labs Nutraceutical USA, Inc. alleging that the companies included in their terms and conditions a provision that the customer agreed not to write any negative reviews of its products. If the customers did, they would pay the “full price” for the supplements, a price not revealed to purchasers except in the terms and conditions. The products include Roca Labs “Formula” and “Anti-Cravings” powder.

The FTC complaint states that for one weight-loss product, the advertised price was \$480. However, in the terms and conditions and a summary, it was revealed that the \$480 is a “discount off the unsubsidized price of \$1580 in exchange for your agreement to promote our products and when possible share your weight loss success with us (keep the youtube videos coming). As part of this endorsement you also agree not to write any negative reviews about RLN or our products. In the event that you do not honor this agreement, you may owe immediately the full price of \$1,580.”

The companies followed up on this language threatening “to sue, for breach of the Gag Clauses, purchasers who stated that they had or would complain to third parties, such as the Better Business Bureau, or post negative comments about Defendants, their products, or their employees on internet websites. Defendants have also threatened complaining purchasers who have sought refunds by telling them that they would be subject to liability for extortion or defamation for threatening to post, or posting, truthful negative reviews,” the FTC complaint states.

The lawsuit notes the gag clauses were misleading and deceptive because purchasers did not agree to a discount nor to paying the full price if they wrote negative reviews.

The FTC also alleges that the companies’ advertising claims that their products will substantially limit a user’s stomach capacity and cause dramatic weight loss based on a scientific proof were false and misleading because no clinical studies were performed on the products. The companies also failed to disclose that the “success videos” were provided by persons who were paid or compensated for their testimonials.

Federal Trade Commission v Roca Labs, Inc., Roca Labs Nutraceutical USA, M.D. Fla. No. 15-cv-2231, filed September 24, 2015.

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