

NY Attorney General Relies on General Business Law, False Advertising Rules as Formidable Weapons in its Legal Arsenal



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The New York State Attorney General has increasingly turned to one of the most powerful legal options in its arsenal to extract significant financial penalties from companies doing business in New York.

In New York, General Business Law §§ 349, 350 governs deceptive acts and unlawful business in trade and commerce, and false advertising, respectively. Coupled with the Attorney General's broad powers under Executive Law §63 (12) to investigate alleged fraudulent and illegal conduct in the business community, the Attorney General can unleash a powerful one-two punch.

The Attorney General has left no business sector immune from these types of investigations. Just some of the sectors that have been targeted by the Attorney General's office include, automobile retailers, telecommunications, retail energy, health care and medical supplies, banking, credit and lending, housing and landlord enterprises.

Attorney General investigations often begin with complaints filed by aggrieved individuals with the Bureau of Consumer Frauds and Protection. These complaints may generate letters to the business enterprise putting them on notice of alleged wrongdoing. In some cases, businesses will be served with a subpoena *duces tecum* seeking records from the business, followed by requests to question company personnel. The mere preservation and production efforts to respond to these document subpoenas are complex and can be a hardship for the business. Failure to handle these subpoenas properly can aggravate a serious legal process.

A recent settlement in November 2022 between the Attorney General and Google illustrates the severity of potential financial penalties that may be involved. In *People of the State of New York v. Google, et. al.*, the Attorney General settled claims alleging “Google paid radio personalities to record endorsement ads describing their positive experience using the Google Pixel 4 phone, however, they had never used the phone prior to recording or running the ads” (see, [Attorney General James Secures \\$9.4 Million from Google and iHeartMedia over Misleading Radio Ads about a Google Device | New York State Attorney General \(ny.gov\)](#)). The defendant companies paid \$9.4 million to settle the allegations. Seven-figure settlements are common resolutions in these unlawful trade practice and false advertising cases.

At the first instance of receiving outreach from the Attorney General’s office whether in the form of an email, letter communication or subpoena, a company would be well-served to seek legal assistance and guidance in the matter. Mismanaging the process at the beginning or proceeding without the advice of legal counsel may create significant burdens for the business as the investigatory process unfolds.

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