

Speech by ROBERT MORGAN,
Attorney General of North Carolina
Winston-Salem Better Business Bureau
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Let me tell you how pleased I was to receive your invitation to come to Winston-Salem today and speak to members of the Better Business Bureau here. For a long time I have been hearing about the good work this organization is doing in the cities where chapters have been established. I have read about your activities in the newspapers and talked with strong supporters of your efforts, but I must confess that this is the first time I have had the privilege of meeting with you.

Therefore, I sort of wish that this situation were reversed: that I could sit where you are sitting and listen to you talk about the many fine accomplishments I know you have made and your ideas concerning consumer matters instead of standing here before you to talk

about consumer protection - a phrase which through the efforts of concerned citizens like you is now becoming a household expression and is causing a great deal of excitement.

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But I do appreciate your invitation for it was just what I needed to cause me to look back at what we have proposed in the area of consumer protection, at what we already have begun to do, and to look forward to what we hope we will be able to accomplish during the next several months and years with your interest and your support.

As a practicing member of the legal profession, the search for justice for a long time has been my primary concern. But concern for justice should not be limited to those of us in the legal profession or those of us who are charged with enforcing our laws. For justice is certainly a patriotic virtue, and without it, in my opinion, no democratic government can ever truly acquire the respect of its people.

George Washington recognized this fact when he stated that "the administration of justice is the firmest pillar of government." But too many people think of the administration of justice as a purely governmental matter which they need not concern themselves about. Such people do not realize - as you do - that the true realm of justice lies in the field of everyday transactions between men, for ^{in the final analysis,} what is justice except giving every man his ^{just} due.

It is this ideal - ensuring that every man will get his due - that you, the members of the Better Business Bureau, are concerned about - and it is exactly ~~■~~ this that we in the Attorney General's office are concerned about when we talk of "Consumer Protection" in North Carolina.

Whenever an unscrupulous businessman deceives a consumer about the true price of a product, leading him to believe it will cost less than it actually does,

the customer has not been given his due and has not been treated justly. Trying to sell a product at the highest price the traffic will bear is one thing; deceiving the customer into a debt which he cannot afford is something else. The one is sound business, the other fraud.

Whenever an unscrupulous businessman advertises a product he never intends to sell in order to attract customers to his place of business, he is willfully and deliberately engaged in deception and justice is not being served. Such bait and switch advertising is not only intended to defraud the customer, but also the legitimate businessman as well, who advertises the products he truly intends to sell, and neither he nor the consumer is being given his due.

Whenever an unscrupulous businessman deceives a purchaser into believing that he shall receive a product for practically nothing if he will merely

refer the seller to additional customers to whom he will then make the same offer, justice is not being served, for we all know that no man can stay in business while giving products away merely for the names of other people. Such chain-referral selling does not serve justice, for we all know that no business is honest that pretends to give products away.

Business, after all, is not charity, and honest business is also a loser when a customer is tricked into paying an inflated price for an unwanted item, believing that by referring his friends to the same salesman, he will later recover the money he has paid for it.

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There ~~is~~ one such scheme now operating in North Carolina *but let me give you one* which ~~is~~ a prime example of this kind of deceptive selling, *which shows the unfairness and*
failure of such plans
A housewife is approached by a vacuum cleaner

salesman. His price for the item is higher than that of similar ones sold in local stores but, he explains that due to a revolutionary "referral selling plan", the woman can actually receive the cleaner at no cost at all. He, in effect, offers something for nothing.

The salesman goes on to describe the selling plan in this way: The housewife signs a contract to pay \$250.00 for the vacuum cleaner. The company in turn pledges to pay the woman \$10.00 for every prospect or customer she refers to the company. The only requirement, according to the salesman, is that the persons whose names the unsuspecting housewife supplies, must agree to have the cleaner demonstrated in their home.

This sounds like a bargain - it sounds like the housewife will get a free vacuum cleaner - and she signs the contract. Immediately she submits the

names of twenty-five acquaintances to the company, sits back and waits for \$250.00 to be returned to her. Instead, she quickly discovers the "catch".

Several weeks later, she receives from the company a check - but for only \$20.00! An attached letter urges her to send in more names. When she inquires about the other 23 names she submitted, she is told that some of these people could not be located and that the names of the others already had been referred by another customer.

It is easy enough for us to see where the deception lies in such a scheme. First, the consumer receives no guarantee that the company will actually contact the people referred to them. Actually, most of the time the company makes no effort to do so. They already have made their profit without such special effort. They used a referral sales pitch merely to entice consumers to purchase their product at an inflated price.

Second, and less obvious to even the educated and crafty, is the fact that a chain-referral selling scheme soon completely saturates the market with the product sold.

Let us look at numbers for just a moment. Theoretically a customer can send in the names of twenty-five people who will agree to have demonstrations conducted in their homes. Each of these 25 people might be able to lead the salesman to another 25. At this point, we already have 625 people involved. However, these 625 people would have to refer 25 names each - or 15,625 means - who in turn would have to lead the company to another 390,625 willing people!

After looking at the geometric progression of this selling scheme, it is easy to see that if the company did in fact contact every person whose name was received, every man, woman and child in this city would quickly either own or have been contacted by

the company using the referral sales pitch to sell their products.

It is also now easy to see that those who bought in the later stages of the referral chain with the idea of receiving the product free because of the names they could refer, would be left holding the bag because the market already would be saturated by the product.

This scheme involves vacuum cleaners. But swap the product involved for color televisions, for cosmetic items, or a dozen other products and you have the same dishonest selling scheme, in different wrapping, but still taking the dollars of thousands of unsuspecting North Carolinians throughout our State and giving them far less than their due in return.

Such schemes as this one, perpetrated by fast-talking, unscrupulous, selling artists, are clearly dishonest business practices. And no one knows better than you that such practices cheat not only the customer

but rob honest businessmen like you people here today. In my opinion, such business practices not only are injustices to the buyer and a drain on the financial sector, but also a drain on the social sector of our society, for they breed contempt for law and justice and cause people to loose faith in the free enterprise system and our way of life. In short, such business practices undermine the basic principles upon which our country was founded and weaken the nation we all love so much.

I am a proponent and defender of the free enterprise system and I believe that if we are to continue to have a strong nation rooted in private enterprise, fraudulent practices such as the chain-referral scheme must be stopped and consumers and honest businessmen protected.

Unfortunately, North Carolina has not sought to adequately provide this protection in the past.

I pointed out this fact often during our recent campaign for the office of Attorney General, but I am still somewhat amazed by immensity of the problem.

I feel somewhat like the late President Kenndy, who upon taking office commented, "When we got into office, the thing that surprised me most was to find that things were just as bad as we had been saying they were."

We have discovered that North Carolina has become a haven for disreputable firms driven from other states by more adequate legislation and enforcement of consumer protection laws . It is certainly no secret that when fraudulent operators are forced from one state, they migrate to others where the climate is more favorable.

I sincerely hope that North Carolina will soon cease to provide such a comfortable climate for those who would come to North Carolina to prey on our people,

defraud the consumer, and take money from the pockets of honest business. I pledge to you today that we intend to try to make it so hot in this Southern state that these modern-day, quick-buck artists will be afraid to even stop at the country store for a soda pop.

We have made a good start, I think. Just this past week, we formally established a Consumer Protection Division in the Department of Justice by appointing a Deputy Attorney General to organize such a division and direct activities in this area. Those of you who read of Gene Benoy's appointment, must be as pleased as I am by his credentials and his willingness to accept this position in our behalf.

But let me hasten to add that consumer protection involves far more than merely protecting consumers and honest businessmen from deceptive selling practices. It involves representing vigorously and effectively

the interests of the consumer public - your interests and my interests- before State regulatory agencies who set the rates, we must pay for telephone service, for electric power, for liability insurance and a dozen other things. Protecting the consumer means ensuring you and me that when we pay a dollar to a public utility, we will receive a dollar's worth of services in return.

And this is not a simple matter. Utility law is a complicated area of the legal profession. It takes a man of special training and ability to understand that delicate balance which must be struck between the right of utility companies to make a reasonable profit and the interest and protection of the consuming public. It takes a man of special training and ability to face the most competent private attorneys available across a hearing room, to hold

his own on behalf of the consuming public, and see that their interests are constantly protected. We believe we have found such a man to head this new division in the Department of Justice.

Consumer protection also means that you and I will be protected from persons or large companies who would conspire to make illegal profits at the expense of taxpayers.

The first request I made of our new consumer head was that he go to Washington to determine whether major drug companies in the nation have conspired to fix the price of drugs sold to public institutions in North Carolina. He has now reported back to me that there is overwhelming evidence that our institutions - and in turn, we taxpayers - have been overcharged.

Therefore, I have instructed Mr. Benoy, on behalf of the consuming public, to bring suit in the

United States Eastern District Court to recover
excessive profits made by these companies as a
result of what clearly appears to us to be a price-
fixing scheme. We feel that the prospect of
recovering these tax dollars is excellent.

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