

ON CONSUMER PROTECTION IN NORTH CAROLINA AND THE  
PARTICULAR PROBLEMS RELATING TO "GASOLINE GAMES"

ROBERT  
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For  
Attorney  
General

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It is a real pleasure for me to be here with you in Wrightsville Beach and to share a small part in your program. You have flattered me by your invitation, and I hope that my comments here today will in some way be informative and help you to better understand the manner in which we are approaching our new duties as Attorney General of North Carolina.

I want to talk with you for a few minutes primarily about our efforts in the area of consumer protection. I thought that you would particularly be interested in this phase of our program because, first of all, you----like myself----are members of the consuming public and are purchasers in the marketplace. In addition, you are sellers, you are very important members of the free enterprise system, and each day thousands of consumers visit your places of

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ROBERT  
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2

business and call upon you for the services and products you have to offer.

The 7,000 members of your organization are honest businessmen who believe in the American system of competition in the marketplace----the 7,000 members of your organization are honest businessmen who offer a dollars value for a dollar spent----you are honest businessmen who pay taxes to support local schools and provide governmental services, and who contribute your time, money, and personal effort to making the communities in which you live the best in the nation.

No one would deny that you have given your wholehearted support to your local and state governments. I, for one, believe that in turn you deserve the concern, the support, and the protection----when that is required----that your government can legitimately provide.

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Just yesterday, a hearing was held in Raleigh concerning the promotion "games" which have become so commonplace in the retail oil business. I need not explain the nature of these games to you, for you of all people are most familiar with them----and you have expressed your feelings about the problems you feel these "games" are creating for your industry.

Avery Upchurch, your very capable president, testified at that hearing on your behalf-----and may I say that from reports I have received, represented your position well. He told the story of 7,000 hard-working, highly independent businessmen in our State ----businessmen who in turn employ more than 20,000 persons. He told the story of coercion, of the ever-present threat of lease cancellation, of forced participation in "games" which surely must mean big money to someone----somewhere----but too often means only dollars out of the pockets of the members of this association and, consequently, increased prices for the consumers you people are dedicated to serving.

ROBERT  
**morgan**  
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General

4

Avery summed up his statements by saying, "Aren't we good enough businessmen to make it without this kind of thing?" Frankly, I don't know---- I have a strong opinion----but I do know that the spirit of free enterprise demands that you be given that chance if you want to "make it without that kind of thing." The spirit of free enterprise demands that the market in fact be free and that you be able to at least choose, free from coercion, what methods you wish to use to promote your own product. And if it takes new legislation to ensure to you this right, then I think such legislation should be forthcoming.

If it takes an open and public confrontation of conflicting interests-----and it appears that it may----to open the marketplace and allow each member of this organization to promote his products, to seek customers, and to sell his services in the manner he considers best for him----in his particular town, in his particular location, and with his particular clientele----then I see no reason why

ROBERT  
**morgan**  
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General

5

you should not welcome such a confrontation. Certainly it would be in the spirit of free enterprise and in the best interest of the consuming public in the State of North Carolina.

Thus far, I have talked about the pressing, particular problem of your industry----the problem which holds your immediate attention. But allow me for the next few minutes to broaden my scope, to talk with this important segment of our business community about the problems the consuming public and honest merchants alike are facing today.

When I became Attorney General in January of this year, I did have some understanding of how poorly the consuming public in North Carolina has been protected and how it has been exploited by unscrupulous, fly-by-night operators, operating under the guise of legitimate business. But I did not know the true dimensions of the problem: its serious social consequences; its detrimental effect on ethical and legitimate businessmen----such as you; its peculiar

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viciousness among the poor, the aged, the uneducated;  
in short, its true cancerous qualities in the fiber  
of the life of our State.

The average citizen in North Carolina today  
would be amazed if he knew the diminsions of the  
problem and how lax we have been in ensuring fair  
play and justice in the marketplace between the buyer  
and seller.

Our concepts of consumer protection, though  
rapidly changing now, have not yet caught up with the  
Twentieth Century. Our laws, our government regulatory  
agencies, our self regulation by business itself----  
in short, our total approach to consumer problems----  
have not been modernized to cope with the recent ex-  
plosion in consumer buying and credit and the changing  
conditions in technology and marketing. Most regre-  
tably, that ruthless, age-old, philosophy "Caveat Emptor,"  
or "Let the buyer beware," or "That the law has no obli-  
gation to protect a fool from his folly" is in some  
instances still too much with us.

ROBERT  
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Where did this doctrine of "let the buyer beware" originate? It sprung up during the middle ages and was based on the equality of bargaining positions between the buyer and the seller, which were quite realistic at that time. First, all goods were displayed (grain, vegetables, cloth) on the open market and could be thoroughly examined for defects. Secondly, a man bargained almost entirely with his neighbors, who cheated him only at the risk of severe social repercussions in the community. A buyer who actually had the poor sense to believe the sales pitch of a stranger was regarded as a fool by his friends.

We have now seen pronounced changes. Because of the Industrial Revolution and mass production, the customer has become increasingly further removed from the source of the goods, and he is evermore at the "mercy of strangers." The corner grocery store, with free shopping advice from the grocer, has been supplanted by the super market with its rows of impersonal foodstuffs, where the package itself must do



ROBERT  
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the selling. The upsurge in production and the explosion of credit within the last 20 years have been intertwined to foster unprecedented consumption of automobiles, television sets, washing machines, foodstuffs, clothing, by all economic classes. It seems, therefore, that the government must work to make the consumer's choice fully effective. The consumer must be protected against unsafe products, against misleading information, and against the deceitful practices of a few businessmen that can undermine the confidence in the vast majority of diligent and reputable firms.

These five deceptive business practices ----the special price, the bait and switch, chain referrals, free gimmicks, and free selling----form the core of dishonest business, and dishonest business cheats not only the customer but the honest businessman as well. Such dishonest business procedures are not only a drain on the financial sector but also a drain on the social sector of society, for they breed contempt for law and order, loss of faith in

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the free enterprise system and our way of life. In short, such business practices are unpatriotic for they weaken the nation.

If we are to have a strong nation such fraudulent practices must be stopped, and trying to stop such practices is called consumer protection even though it protects legitimate business as well. North Carolina has not sought to adequately provide this protection in the past, but it must if North Carolina is not to become a haven for the disreputable firms being driven from other states, for it is well known that as fraudulent operators are driven from one state, they migrate to others with weaker laws.

Fraudulent business practices not only create hardships for unsuspecting customers, they stifle economic growth, cheat the business community out of legitimate sales, breed disrespect for law and order, and destroy the citizen's faith in our form of government. We cannot afford to tolerate

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them, if liberty and justice for all is to prevail in  
this land.

(Note: Give illustrations, then conclude.)