

I wonder how many of us can remember just a few years back when it was the common practice of a number of stores in North Carolina to engage in the practice of advertising what they referred to as "specials" on certain items which they had for sale, failing to note on these advertisements that there were only two or three of these items available for sale. These so-called "specials" were designed only to lure the public into the stores. Practices such as this were common, and it was well known that consumers all over the State were regularly being victimized by them.

Until 1969, very little could be done under the laws of North Carolina to prevent the use of these unscrupulous methods of trade, in spite of the fact that they were designed for the sole purpose of misleading and deceiving North Carolina consumers.

In 1969, the General Statutes of North Carolina were amended to include a prohibition against "unfair methods of competition and unfair and deceptive acts or practices in the conduct of any trade or commerce." North Carolina was one of the first states to adopt this type of legislation, which was patterned after the Federal laws which combat unfair and deceptive trade practices.

This protective legislation gave to the Attorney General the power and the duty to enforce this law. The Consumer Protection Division of the Attorney General's Office was created in response to this duty. Through this division, the Attorney General has successfully attacked a number of unfair and deceptive trade practices during the past three years, and has helped to create a better business climate in North Carolina for both buyers and sellers.

The unfair and deceptive acts or practices which will constitute violations of our Consumer Protection Law are not specifically described in the law of North Carolina. However, it is specifically set out in the law that a violation of the law will not constitute a criminal offense, but will be simply "unlawful". For this reason, the State's only remedy against such an act or practice is to ask a court to issue what is called an injunction against the continuation of the activity.

The Consumer Protection Division of the Attorney General's Office has asked the courts to enjoin a number of activities. Some of these actions we have all heard about because often they are of considerable public interest. But a majority of the activity which is going on in the Consumer Protection Division is not publicized.

Hundreds of complaints come in every week about consumer problems. Most of these complaints come from North Carolina citizens who have had some kind of problem dealing with a North Carolina business operation. The Consumer Protection Division

acknowledges every complaint and in most cases, contacts the manager of the business to let him know the nature of the complaint which has been received, and to determine exactly what his response will be.

Many times a business man appreciates hearing about a complaint. He can change a policy which is offensive to his customers and thereby increase his goodwill and the number of his customers. Most businessmen are basically honest and do value their good name and their customers.

There are some people, however, whose basic business goal is to cheat and defraud their customers. It is in this area that the Attorney General believes that the Consumer Protection Division can be of the greatest benefit to the North Carolina consumer. Let me give you some examples of some of the activities which the Consumer Protection Division has challenged.

A few months ago some men were going around through many rural areas of North Carolina telling homeowners that they were with the Health Department, and that a new law had been passed requiring them to put indoor plumbing in their houses. These men told their victims, who were usually elderly people who lacked education, that they must have the work done immediately or their houses would be condemned and the doors and windows would be boarded up so that they would be unable to use the house.

These men were friendly types, though, and said that they also worked with a bank which could make arrangements for these people to make monthly payments if they could not pay all the money at once.

Now as you can easily guess, the statements about the law were false and the men were not with a government agency. They were there to get these poor people to sign papers. One elderly couple, living in a house worth no more than a few hundred dollars, signed a set of these papers. They obligated themselves to pay over four thousand dollars for the addition of some basic plumbing fixtures to their house. These papers were immediately assigned to a financing institution which paid the salesmen for them.

The Consumer Protection Division brought a court action against the salesmen, their corporation, and the financing institution. A preliminary injunction forbids these salesmen from making these representations and forbids the transfer of the papers to others.

In another case, the Consumer Protection Division sought the termination of the name "Unclaimed Freight" to describe a company. This company never sold any merchandise which fitted the description, "Unclaimed Freight", but was simply using the name to lure unsuspecting customers into a place of business where the technique of "bait and switch" was a standard operating procedure.

Bait and switch, as most of you know, is the practice of luring customers into a store by advertising what looks like a tremendous bargain, and then, once the customers are in the store, encouraging them to buy something other than the item originally advertised.

In another case involving "bait and switch," the Consumer Protection Division sought the termination of advertising which described a certain grade of beef and advertised that it was being sold at an extremely low price, when in reality, very little of this grade of beef was being sold. The reason so little of this beef was being sold was that the customers who went into the business establishment were discouraged from buying that grade of beef and were encouraged to buy some more expensive grades, which constituted 99 percent of the store's sales.

Another example of an action taken on behalf of North Carolina consumers was an action to stop the sale of some ovenwear which was represented as being "just like Corningware". The price on the box said \$89.50 for forty-one pieces. The salesman represented that they had the sets on a special closeout deal and were selling them for only fifteen dollars. Someone at State University did some tests on the product and found that it was not just like Corningware, but just like glass.

It exploded when it was placed on contact with direct heat and was not at all like Corningware. Other merchants said that they would sell this product for no more than thirteen dollars. The Attorney General's Office went to court against these salesmen and got a permanent injunction, which prohibits them from making any misrepresentations regarding the products they sell.

In another action, a company that attempted to sell courses of study for computer training has been ordered not to represent that its graduates are guaranteed jobs. The injunction against this company also provided that the company would no longer represent to prospective students that the decision to enroll had to be made immediately, since the salesman <sup>supposedly would be</sup> ~~is only~~ permitted to accept applications from <sup>only</sup> ~~two~~ more residents of this State.

Some complaints about unfair or deceptive trade practices may be resolved without court action. In many instances, a businessman is aware that the practice which the Attorney General's Office complains of is one which will certainly be enjoined by the court, and he wishes to end the investigation of his company by a procedure which is less costly and would not involve a court record. In these cases, a contract is entered into by the Attorney General and the business operation, if the business operation is considered sufficiently responsible

to honor its contractual obligations. In the agreement, the Attorney General agrees not to take court action to determine a practice alleged to be unfair or deceptive, and the business operation, without admitting the commission of an unfair or deceptive act or practice, agrees to discontinue the specified activity.

With these remedies, the Consumer Protection Division attempts to protect the consumers of North Carolina from unfair or deceptive trade practices. In addition to the State's remedies, however, citizens of North Carolina who are injured by unfair or deceptive trade practices have their own remedy against these practices. Since 1969, North Carolina law has provided that a private citizen who has been injured by an unfair and deceptive trade practice can recover three times the amount of damages which are awarded by a jury.

A case which originated in Union County several months ago utilized this new law. A couple shopping for a new home was victimized by a homebuilder who misrepresented the size of the lot and several essential features of the home, as well as the warranty which the couple would receive. A jury found that the couple had been injured to the extent of \$3,500. The court used the treble damages law to boost this amount to \$10,500.

These examples represent some of the actions which we have taken under the 1969 Consumer Protection law. In 1971, the General Assembly enacted additional legislation to protect consumers. This new Buyer Protection Law placed a great many limitations upon retail installment sales in North Carolina. This new law sets limits on finance charges which may be collected in time payment sales, it provides restrictions upon home solicitation sales, and it prohibits all referral sales programs.

Because of this new law, which became effective on January 1st of this year, home solicitation sales made on credit may be cancelled by the buyer within three days. For example, if you purchase a set of encyclopedias on credit from a door-to-door salesman and this purchase is made at your home, then you may cancel the contract by giving written notice to the seller within three days. This written notice may be sent to the seller by mail.

The new law also states that sellers of consumer goods may not use the credit contract to limit or modify an express warranty made as a part of the sales agreement. This means that if a car salesman agrees to repair your new car for ninety days or five thousand miles, no provision in the credit contract can take away this repair warranty.



There are also limitations in the new law regulating the type and amount of the buyer's property a seller may take to secure payment of a consumer debt. For example, if you buy a refrigerator on credit, the seller may not take a mortgage on other property you own to make you pay for the refrigerator.

These new laws passed by the 1971 General Assembly provide a great deal of new protection for consumers in this State. The records of the Consumer Protection Division were used to substantiate the need for additional consumer protection legislation.

I believe that the business community of North Carolina is aware of the interest the Attorney General's Office has taken in terminating unfair and deceptive trade practices. I also believe that the ethical businessman is aware that in most cases the unfair business practice is unfair both to the consumer and to the honest businessman who is injured by competitive practices he does not condone. The support the Attorney General has received from the consumer and from the business community has been very encouraging.

What the Attorney General is attempting to do through the Consumer Protection Division is to create a better business climate in North Carolina for both buyers and sellers.

The old rule, "let the buyer beware" is no longer acceptable to North Carolina consumers. However, North Carolina is a large state and the number of people working in the area of unfair and deceptive trade practices is relatively small. For this reason, the Attorney General needs the assistance of each one of you to aid in his work. When a suspected unfair or deceptive trade practice comes to your attention, take action. Let the company manager know of your complaint. Let the area business and trade organization know, and please let the Attorney General know about your concern.

I believe that we have made significant advancements in North Carolina in the area of consumer protection and that all citizens are benefiting from these actions. It is only through the combined efforts of the business community and the consumers of this State working with the Consumer Protection Division that North Carolina can become a state where honesty in advertising and fairness in business practices are the rule.