

CONSUMER EDUCATION AND LAW ENFORCEMENT

CONSUMER LAWS ARE NOT NEW IN NORTH CAROLINA. WE HAVE HAD LAWS TO PROTECT CONSUMERS FOR AS LONG AS THE STATE OF NORTH CAROLINA HAS EXISTED. THE BASIS FOR OUR JURISPRUDENCE IS THE COMMON LAW OF ENGLAND WHICH WAS INCORPORATED INTO OUR NORTH CAROLINA STATUTES AS EARLY AS 1715.

DELIBERATE FRAUD HAS LONG BEEN PUNISHABLE AS A CRIME. HOWEVER, IN RECENT YEARS THERE HAS BEEN DEVELOPED AN ENTIRELY NEW CIVIL APPROACH TO PROTECTION OF CONSUMERS AGAINST FRAUD AND DECEPTION.

WHEN THE GENERAL PROHIBITION AGAINST CRIMINAL FRAUD DID NOT STOP THE OBJECTIONABLE PRACTICES VICTIMIZING THE CONSUMING PUBLIC, SPECIFIC CONSUMER ORIENTED LAWS WERE ENACTED BY OUR GENERAL ASSEMBLY. OFTEN THE STRONGER LEGISLATION WAS SPONSORED AND SUPPORTED BY LEADING BUSINESSMEN IN THE BUSINESSES SOUGHT TO BE REGULATED.

WHEN THE PUBLIC WAS BEING MISLED BY ADVERTISING CLAIMS AND THE MERCHANDISING TACTICS OF A FEW UNSCRUPULOUS JEWELERS, WE RECEIVED NEW LEGISLATION TO REGULATE THE ADVERTISING AND MERCHANDISING OF DIAMONDS. UNDER THE PRESENT LAW, IF A DIAMOND IS

ADVERTISED AS "PERFECT" IT MUST MEET CERTAIN STANDARDS WHICH ARE CAREFULLY PRESCRIBED-- EVEN TO THE POINT OF STATING THE MINIMUM POWER OF THE MAGNIFYING GLASS WHICH MUST BE USED TO EXAMINE A DIAMOND SO ADVERTISED.

ABOUT 15 YEARS AGO, NEW LEGISLATION APPEARED TO REGULATE THE ADVERTISING OF MOTEL ROOM RATES. BEFORE THAT TIME, IF YOU WERE TRAVELING THROUGH NORTH CAROLINA AND SAW A SIGN WHICH SAID "SINGLE ROOMS--\$9.00 AND UP," YOU MIGHT NOT OFTEN FIND A \$9.00 ROOM. THAT ROOM MIGHT HAVE BEEN IN USE BY THE MOTHER-IN-LAW OF THE MOTEL OWNER--FOR AN INDEFINITE PERIOD OF TIME. NOW, IF A PRICE IS ADVERTISED, THE ADVERTISEMENT MUST INFORM THE TRAVELER IF THE RATES VARY FOR SINGLE ROOMS, AND HOW MANY ROOMS ARE AVAILABLE AT EACH RATE.

THIS WAS OUR APPROACH TO CONSUMER LEGISLATION FOR MANY YEARS. IN SOME FIELDS, IT MAY CONTINUE TO BE OUR APPROACH FOR A FEW MORE YEARS IN ORDER TO STOP SOME PRACTICES WHICH HAVE EXISTED ^{for a long time} ON A STATE-WIDE BASIS. ~~FOR MANY YEARS.~~ SPECIFICALLY, IT HAS BECOME APPARENT THAT WE NEED A STATUTE AIMED AT THE LONG-STANDING PRACTICE OF ALTERATION OF MILEAGE ODOMETERS ON AUTOMOBILES. EVERY PERSON IN THIS STATE SHOULD KNOW THAT IT IS UNLAWFUL TO MAKE SUCH AN ALTERATION AND THE PERSON WHO TRANSFERS AN

AUTOMOBILE SHOULD BE REQUIRED TO SIGN A STATEMENT WHICH INFORMS SUBSEQUENT PURCHASERS OF THE TRUE MILEAGE AT THE TIME HE SOLD THE VEHICLE. NO PURCHASER SHOULD HAVE TO PAY FOR THE MILEAGE-DEPRECIATION UNDISCLOSED AT THE TIME OF SALE. EACH SUCCESSIVE PURCHASER SHOULD BE ABLE TO BUY THAT CAR ON THE BASIS OF TRUTHFUL INFORMATION ABOUT ITS PRIOR USE. THIS IS NOTHING MORE OR LESS THAN FAIRNESS.

SPECIFIC LEGISLATION OF THAT NATURE SHOULD BE ENACTED ONLY WHERE THERE IS AN EXISTING PRACTICE WHICH NEEDS TO BE CHANGED ON A STATE-WIDE BASIS AND THEN ONLY AFTER THOSE WHO ARE TO BE AFFECTED HAVE AN OPPORTUNITY TO BE HEARD DURING THE LEGISLATIVE PROCESS.

IN 1969, THE GENERAL ASSEMBLY GAVE US A NEW CONSUMER PROTECTION LAW. AT MY REQUEST, WE NOW HAVE LEGISLATION WHICH MAKES UNLAWFUL ANY UNFAIR AND DECEPTIVE ACTS OR PRACTICES IN TRADE OR COMMERCE. NOW WE HAVE USED THIS LAW ON MANY OCCASIONS TO STOP DECEPTIVE PRACTICES AIMED AT NORTH CAROLINA CONSUMERS. WHEN WE FIND A MERCHANT USING BAIT ADVERTISING TO ENTICE A CONSUMER INTO A PLACE OF BUSINESS WHERE HE CANNOT OBTAIN THE ADVERTISED ARTICLE, AND THEN

DELIBERATELY ATTEMPTING TO SWITCH HIM TO A SIMILAR HIGHER-PRICED PRODUCT, WE TRY TO STOP THAT BAIT ADVERTISING. WE BELIEVE THAT BY STOPPING SUCH AN UNFAIR PRACTICE WE SERVE BOTH THE CONSUMER AND THE FAIR COMPETITION NECESSARY FOR THE HONEST MERCHANT TO SURVIVE.

THIS NEW LAW WAS DRAFTED SO AS TO COVER ANY NEW TYPE OF DECEPTION WHICH THE UNSCRUPULOUS MIGHT CREATE. WE DO NOT LIST SPECIFIC PRACTICES. HOWEVER, WHEN WE CAN OBTAIN EVIDENCE TO SHOW TO OUR COURTS THAT A PARTICULAR PRACTICE IS BEING USED TO DECEIVE, THE COURT HAS THE POWER TO PROHIBIT THAT DECEPTIVE PRACTICE IN THE FUTURE. IN THIS WAY, WE CAN COPE WITH ANY DECEPTIVE PRACTICE, AND ANY NEW VARIATION OF CONSUMER FRAUD. IT HAS OFTEN SEEMED IN THE PAST THAT THE CON-MEN HAD AN UNLIMITED SUPPLY OF NEW SCHEMES TO DECEIVE OUR CITIZENS. OUR NEW CONSUMER PROTECTION LAW PERMITS US TO STOP ANY UNFAIR OR DECEPTIVE PRACTICE THAT IS ATTEMPTED IN NORTH CAROLINA EVEN THOUGH IT MAY NOT HAVE BEEN PRACTICED WHEN THE GENERAL ASSEMBLY LAST MET.

UNDER OUR NEW LAW, DECEPTION BY A BUSINESSMAN IS UNLAWFUL. HOWEVER, THE LAW DOES NOT REQUIRE THAT WE PURSUE THE CASE ONLY IN THE CRIMINAL COURTS.

THE STATUTE PROVIDES A NEW APPROACH. WE CAN ASK A COURT TO ENJOIN OR STOP A PRACTICE SHOWN TO BE DECEPTIVE. IN ADDITION, A VICTIM OF AN UNFAIR OR DECEPTIVE TRADE PRACTICE IN NORTH CAROLINA CAN BRING CIVIL SUIT AGAINST THE DECEPTIVE BUSINESSMAN. IF THE CONSUMER PREVAILS, HE MAY BE AWARDED TREBLE DAMAGES.

A GOOD EXAMPLE OF THE USE OF THE TREBLE DAMAGE LAW WAS SEEN IN A ROCKY MOUNT COURTROOM RECENTLY. A MAN WHO ALTERED THE MILEAGE READING ON A CAR HE SOLD WAS FOUND BY A JURY TO HAVE CAUSED \$400.00 IN DAMAGES TO THE PERSON WHO PURCHASED THE CAR FROM HIM. AS A RESULT OF THE NEW LAW, THE JUDGMENT WAS TRIPLED, AND THE INJURED CONSUMER RECEIVED A \$1200.00 JUDGEMENT, INSTEAD OF THE \$400.00 ACTUAL DAMAGES AWARDED BY THE JURY.

WE HAVE HAD THREE YEARS TO WORK WITH THESE NEW LEGAL CONCEPTS IN NORTH CAROLINA. GENERALLY, THEY HAVE WORKED WELL. HOWEVER, AN ADDITIONAL MEASURE OF PROTECTION IS NEEDED.

IF A PERSON SUFFERS ONLY SLIGHT DAMAGES FROM AN UNFAIR OR DECEPTIVE TRADE PRACTICE, HE DOES NOT NOW HAVE AN ADEQUATE REMEDY IN OUR COURTS. FOR EXAMPLE,

IF YOUR DAMAGES AMOUNT TO BETWEEN \$50.00 AND \$100.00, YOU CAN RECOVER IN THE MAGISTRATE'S COURT. BUT YOU CANNOT RECOVER TREBLE DAMAGES THERE, BECAUSE UNDER THE PRESENT LAW, TREBLE DAMAGES ARE ONLY AWARDED WHERE A JURY MAKES THE PROPER DETERMINATIONS. A JURY TRIAL IS AVAILABLE IN THE DISTRICT COURT, BUT IN ORDER TO PROPERLY PRESENT YOUR CASE THERE, YOU NEED THE SERVICES OF A LAWYER. MOST LAWYERS CANNOT TAKE THE TIME TO PROPERLY PREPARE A JURY CASE FOR \$50.00 TO \$100.00 UNLESS THEY ARE PAID MORE THAN THE USUAL FEE FROM THEIR CLIENT.

THEREFORE, I WILL BE RECOMMENDING THAT THE 1973 GENERAL ASSEMBLY AMEND OUR PRESENT LAW. I BELIEVE THAT A JUDGE SHOULD BE ALLOWED TO AWARD APPROPRIATE ATTORNEY FEES TO THE VICTIM OF UNFAIR OR DECEPTIVE TRADE PRACTICE WHO SUCCESSFULLY PROVES HIS CASE IN COURT. IF THE PERSON WHO LOSES SUCH A LAWSUIT HAS FAILED TO SETTLE THE MATTER OUT OF COURT, IT SEEMS REASONABLE TO REQUIRE HIM TO COMPENSATE THE INJURED CONSUMER FOR HIS DAMAGES AND TO COMPENSATE THE LAWYER WHO HANDLED THE CASE FOR THE CONSUMER. I WILL ALSO RECOMMEND TO THE GENERAL ASSEMBLY THAT THE TREBLE DAMAGES PROVISION BE MADE APPLICABLE TO THOSE CASES WHERE THE LOSING PARTY HAS HAD SOME PRIOR JUDICIAL NOTICE THAT THE DECEPTIVE PRACTICE SHOULD NOT HAVE EXISTED.

YOUR PROGRAM DURING THIS TWO-DAY SEMINAR IS CONCERNED PRIMARILY WITH CONSUMER EDUCATION. I AM VERY HOPEFUL THAT EACH OF YOU WILL LEAVE HERE WITH A NEW INTEREST AND NEW PERSPECTIVE ON CONSUMER PROBLEMS, AND HOW THEY MIGHT BE SOLVED. WE HAVE FOUND THAT THE BEST PROTECTED CONSUMERS ARE THOSE WHO ARE BEST INFORMED.

TO THAT END WE HAVE INSTITUTED SEVERAL NEW CONSUMER EDUCATION PROGRAMS IN THE LAST FEW YEARS. SOON AFTER THE CONSUMER PROTECTION DIVISION WAS FORMED IN 1969, WE ASSISTED THE DEPARTMENT OF EDUCATION IN PREPARING A TEACHING GUIDE. THE GUIDE SETS FORTH A PROGRAM FOR TEACHING "CONSUMER MATHEMATICS" IN THE PUBLIC SCHOOLS. THIS INNOVATIVE APPROACH INTERESTED SEVERAL OTHER STATES.

ONE OF OUR MOST RECENT EFFORTS HAS BEEN TO COOPERATE WITH THE NORTH CAROLINA BAR ASSOCIATION IN SETTING UP A PILOT PROGRAM FOR TEACHING CONSUMER EDUCATION IN SEVERAL HIGH SCHOOLS DURING THE COMING YEAR. THIS PROGRAM SET UP BY THE LAWYERS OF OUR STATE SHOULD SERVE AS AN EXAMPLE TO OTHER PUBLIC SPIRITED GROUPS.

IN ADDITION, OUR CONSUMER PROTECTION DIVISION HAS BEGUN SEVERAL PROJECTS DESIGNED TO MAKE NORTH

CAROLINIANS BETTER INFORMED CONSUMERS. WE HAVE BEEN PUBLISHING A MONTHLY CONSUMER NEWSLETTER SINCE NOVEMBER OF 1970. IT IS NOW AVAILABLE ON A SUBSCRIPTION BASIS, AT \$1.00 A YEAR.

WE HAVE SEVERAL TELEVISION PROGRAMS WHICH ARE DESIGNED TO EDUCATE CONSUMERS. ONE PROGRAM ORIGINATES AT WSOC-TV, IN CHARLOTTE. IT IS ALSO CARRIED BY WLOS-TV, IN ASHEVILLE. ANOTHER SERIES HAS BEEN RUNNING FOR SEVERAL MONTHS ON WGHP-TV, IN HIGH POINT. THE EDUCATIONAL TELEVISION CHANNELS CARRY A CONSUMER PROTECTION MESSAGE ONCE EACH WEEK BEAMED FROM THE SIX TRANSMITTERS ALL ACROSS OUR STATE. EACH OF THESE PROGRAMS GIVES THE VIEWER A TIMELY MESSAGE DESIGNED TO INFORM HIM ABOUT A SPECIFIC CONSUMER PROBLEM OR THE AVAILABILITY OF A CONSUMER REMEDY.

A SERIES OF CONSUMER ORIENTED RADIO PROGRAMS ARE CARRIED BY APPROXIMATELY 30 STATIONS IN NORTH CAROLINA. THEY ARE SIMILAR TO THE TELEVISION PROGRAMS IN NATURE AND PROVIDE THE SAME TYPE OF INFORMATION TO RADIO LISTENERS.

I WOULD LIKE TO COMMEND THE TELEVISION STATIONS AND RADIO STATIONS WHICH HAVE BEEN OFFERING THESE PROGRAMS TO THEIR VIEWERS. THEY HAVE DONE SO AS A

PUBLIC SERVICE. WE DO NOT PAY FOR ANY OF THE VALUABLE AND EXPENSIVE PROGRAMING COSTS CONNECTED WITH THE TELEVISION PROGRAMS.

THE RADIO STATIONS WHICH PARTICIPATE BY BROADCASTING OUR CONSUMER EDUCATION MESSAGES ALL SEND BLANK REELS OF TAPE TO US. RADIO STATION WYNA OF RALEIGH THEN TRANSFERS THE CONSUMER MESSAGES TO THE BLANK TAPES FROM A MASTER RECORDING WHICH WE PRODUCE.

WHAT WE HAVE DONE SO FAR IS ONLY A BEGINNING. THE PEOPLE OF OUR STATE HAVE A CONTINUING NEED FOR PROTECTION FROM UNFAIR AND DECEPTIVE TRADE PRACTICES. I BELIEVE THAT UNLESS THAT NEED IS SERVED BY STATE GOVERNMENT AND PRIVATE INDUSTRY WE CAN EXPECT GREATER AND FURTHER ENCROACHMENT BY THE FEDERAL GOVERNMENT. THE STATE HAS THE NECESSARY ^{STATUTORY} AUTHORITY, BUT IN ORDER TO DO A FIRST RATE JOB WE MUST HAVE THE CONTINUED SUPPORT OF OUR CITIZENS AND BUSINESS LEADERS FOR THE PROGRAMS WE HAVE BEGUN. LET ME ASSURE YOU NOW THAT WE DO HAVE THE WILL TO CONTINUE WHAT HAS BEEN STARTED. *with your help we can* ~~AND TO~~ MAKE CONSUMER PROTECTION AND CONSUMER EDUCATION EVEN BETTER IN THE FUTURE.