

# Consumer Fraud and the San Diego District Attorney's Office

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Recently a San Diego citizen noticed an advertisement by an appliance center offering a "Tape Cassette, Regular \$110.00, Now \$19.95." Anticipating an excellent bargain, he presented himself at the store. He picked out a tape recorder and handed the salesman a twenty-dollar bill. At this point, according to the investigator's report, "the salesman stated, 'Go pick out a stereo.'" "Go pick out a stereo?" The salesman explained, "I can't sell you the tape cassette without your buying a stereo." After heated protest, involving return to the store several times, the would-be customer could get no satisfaction. The salesman informed him that the advertisement was the result of a "printer's error," that their attorney said that they weren't obliged to sell anything to anyone, and that he could still have the cassette if he purchased a stereo console and components "as low as \$199." Angry at this deception, the disappointed customer contacted the District Attorney's Office.

This incident is typical of the challenge presented to the legal system by consumer fraud. It would be generally agreed that the

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The author gratefully acknowledges the valuable assistance of Law Clerk, Steve Polatnick, student, University of Michigan, Law School.

conduct of this business was outrageous and deserving of some form of legal sanctions. Surely advertisers cannot be permitted to make knowingly false assertions; otherwise public confidence in advertised products would evaporate entirely. The outrage, aggravation, and humiliation inflicted upon victims of consumer fraud calls for some kind of retaliation upon the defrauders. Even the staunchest supporters of *caveat emptor* would concede that the victim in this case had no possible way to avoid being deceived; "Regular \$110.00, Now \$19.95" is quite unambiguous, false as it may be.

## I

### COMMUNITY ORGANIZATION

Given the need for some type of legal response, the actual remedies available in most communities are disappointing. The common law actions, in addition to their inherent difficulties of proof, are unavailable to the victim in this case because he has suffered no out-of-pocket loss.<sup>1</sup> Even if he did successfully sue, his recovery would be small, leaving similar victims uncompensated and allowing the offending company to continue its deceptive practices unhindered. Although various sections of the law prohibit false, misleading and deceptive advertising, and other unique tactics such as a method known as "bait and switch," local law enforcement officers are hesitant to investigate such transactions because of inadequate manpower and the priority given to investigating the voluminous potpourri of violent crimes committed in the community. It is therefore apparent that a criminal remedy is not readily available under such circumstances. Although it is reasonable for understaffed police agencies to concentrate on the violent or traditional crimes, it is no consolation to the consumer who has spent time and effort in pursuing an alleged bargain only to later find it is false. In most cases the amount a citizen is individually defrauded is relatively small but coupled with the multitude of victims the offender is enriched through sheer volume.

Investigation is therefore the basis for effective consumer protection. Some communities have discovered the need for a separate agency to investigate all consumer complaints and have enacted a separate body of law that extinguishes the problem of priorities inherent within police agencies. Legislation creating a Department of Consumer Affairs has been enacted in Nassau County<sup>2</sup> and New

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1. [Ed. note, For a discussion of the fault system and the effectiveness of common law remedies, see, Kelner, *The Fault System, The Courts and the Consumer Revolt*, this volume at 75.]

2. Nassau County, New York, Local Law No. 9-1967, § 2102. [Ed. note,

York City<sup>3</sup> in the State of New York. Although consumer agencies have been successful in New York State, many communities have neither the capability to pay for the luxury of a new agency nor the desire to do so.<sup>4</sup> Such programs are in the hands of the State Legislature, County Board of Supervisors or local City Council in California. Although a separate consumer agency may be the most desirable, there is an effective alternative to handle consumer problems. The alternative can be categorized as "Agency Cooperation for Consumer Protection." A cooperative effort with other agencies is employed by the San Diego Office of the District Attorney. The same cooperation may be effected in any community with a desire to aid its citizens with relatively little extra cost.<sup>5</sup> Presently, two full-time investigators have been assigned to consumer fraud investigation. One investigator handles all community complaints over the phone, maintaining a file on all potential violators. This investigator acts as a clearing house, advising the complaining party whether the complaint falls within the purview of a consumer fraud, a strictly civil question, or may be better handled by another agency. The second investigator does field investigations.

The District Attorney's Office is therefore the depository for all complaints. It maintains a complete file on all potential violators reported in the County. Because of the magnitude of the consumer problem and the need for specialized expertise, cooperation and mutual assistance is given by agencies with investigators knowledgeable in specialized areas. Such assistance in San Diego is given by the State Food and Drug Inspectors, County Department of Weights and Measures, Legal Aid Society, Postal Department Investigators, specialized members of the various police agencies, Department of Motor Vehicles, Department of Corporations, Real Estate Commission, and Office of the State Attorney General. The District Attor-

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For an extensive discussion of the unique Nassau County Consumer Protection Program see, Occhiogrosso, *Consumer Protection, Information and Education: A County's View*, this volume at 38.]

3. New York City, New York, ADMIN. CODE ch. 64, §§ 2202d-1.0 to 2203d-8.0.

4. In 1970 the majority of the City Council of the City of San Diego voted against appropriating funds for the City Attorney's Office to hire an investigator to investigate consumer fraud in the city.

5. CAL. BUS. & PROF. CODE § 17536 (West 1970) grants damages to the County thereby creating the opportunity for a consumer fraud section to be self-sufficient financially.

ney's Office Fraud Division offers legal assistance to such investigators and determines what disposition should be effected. It is only logical that the office with county-wide legal capabilities should act as a clearing house for community complaints. The investigators employed by other agencies are not associated with the Office of the District Attorney and may utilize the information gathered for their own various uses, but the cooperation given by the investigative staff of other agencies by securing evidence in specialized areas, aids the District Attorney's Office in filing consumer fraud complaints.

## II

### LAW RELATING TO CONSUMER FRAUDS

Laws prohibiting false advertising and other schemes are legion but are buried within the depths of the Penal Code, municipal codes, county ordinances, Civil Code, Business and Professions Code and federal statutes. The multitude of laws, sometimes overlapping, is a propitious basis for creating a single body of law for consumer protection such as enacted in New York.<sup>6</sup> Yet, in California, if one is of the mind to delve into California jurisprudence, a penal sanction can be found to fit most schemes. Once found, the realization that most are misdemeanors, as a practical matter, mitigates against filing such charge. A misdemeanor may be effective for isolated cases, but a small fine, the usual penalty, is no obstacle to a consistently dishonest business operation. For consistent violators an effective weapon is available to the District Attorney in the civil sphere through an enabling statute in the Business and Professions Code for injunctive relief.<sup>7</sup>

Since 1941 California law has contained a general prohibition against false and deceptive advertising. In 1965 this legislation was toughened further by provision for assessment of civil penalties of \$2,500 for each act violative of the 1941 legislation.<sup>8</sup> If civil suits and municipal ordinances are mere popguns in the war against consumer fraud, the State statutes now codified as Business and Professions Code sections 17500-17536, are nuclear weapons. The power to assess a \$2,500 fine for *each* violation means that a repeated offender could conceivably be fined \$25,000, \$50,000 or even \$100,000, sufficient to put him out of business in most cases. The fines available under this section are large enough to be effective against even the largest corporations and chains. For example, our office re-

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6. See, notes 1 and 2 *supra*.

7. CAL. BUS. & PROF. CODE § 17535 (West 1964); CAL. BUS. & PROF. CODE § 17536 (West 1970).

8. CAL. BUS. & PROF. CODE § 17536 (West 1970).

cently settled an action against a large chain for \$8,000. Faced by damages of this magnitude, chain officials move swiftly to discipline subordinates committing the offenses complained of and make sure the deceptive practices are curtailed.

To bring an action under Business and Professions Code sections 17500-17536 all that need be shown is that a statement is misleading, even if the statement is true, and no intent to deceive need be shown.<sup>9</sup>

Under Civil Code section 3369,<sup>10</sup> a showing of any one of the types of conduct set forth in the statute is sufficient to justify injunctive relief.<sup>11</sup>

Advertising is misleading when the words used have a double meaning.<sup>12</sup> It is misleading to use forms which give the impression of being something other than what they are.<sup>13</sup> Relief is granted when there is the likelihood of consumer confusion, whether or not the practice is unfair or fraudulent. The ultimate test is whether the public is likely to be deceived; and when this is the case the absence of competition in the same field is disregarded.<sup>14</sup> It is not necessary to prove fraud.<sup>15</sup> The availability of injunctive relief plus civil damages is an effective bar to deceptive practices as demonstrated by the following uses and effects:

Single Action—A single action can be taken against a company; all of its officers, directors, salesmen, agents and representatives will be bound. The injunction is binding upon all those who have notice of it. An injunction can require the company or the defendants to give notice to every individual who in the future becomes an officer, director, agent, salesman or representative.

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9. *People v. Wahl*, 39 Cal. App. 2d 771, 773, 100 P.2d 550, 551 (S.C.A.D. 1940).

10. CAL. CIV. CODE § 3369 (West 1970). This section includes every act denounced by BUS. & PROF. CODE §§ 17500 to 17535.

11. *Wood v. Pepper*, 55 Cal. App. 2d 116, 123-24, 130 P.2d 220, 224-25 (D.C.A. 1942); *Visser v. Macres*, 214 Cal. App. 2d 249, 29 Cal. Rptr. 367 (D.C.A. 1963).

12. *Garvi v. Board of Chiropractic Examiners*, 216 Cal. App. 2d 374, 31 Cal. Rptr. 187 (D.C.A. 1963).

13. *Independent Directory Corp. v. Federal Trade Commission*, 188 F.2d 468 (2d Cir. 1951).

14. *Silver v. Russell*, 113 F. Supp. 119 (S.D. Cal. 1953).

15. *Sarkes Tarzian, Inc. v. Audio Devices, Inc.*, 166 F. Supp. 250 (S.D. Cal. 1958), *aff'd mem.* 283 F.2d 695 (9th Cir. 1960).

Discovery—In a criminal action discovery is quite limited. In an injunctive action such means of discovery are available as interrogatories, depositions, subpoenas duces tecum, and request for admissions that can save investigative time and can uncover material unavailable to an investigator in a criminal case. As the action is a civil matter it is not necessary to admonish a party of his constitutional rights.

Civil Penalty—The civil penalty is usually joint and several and can be collected against the most responsible party.

Broad Injunction—The court in granting the injunction has the power of enjoining the company from using practices which may not in themselves be deceptive, but which have been used by the company or individuals in a deceptive manner.

Enforcement—The court can require the defendants to make available for inspection by the District Attorney for a certain period of years or permanently, various types of records so that the District Attorney can easily determine whether there has been a violation of the injunction. If such violation exists, contempt proceedings can be initiated.

Constructive Trust—The court has the power to declare that money received by the defendants is a constructive trust and should be held for the benefit of all or some of the consumers with whom the defendants dealt. The court may require the funds to be placed in trust to fulfill guarantees given to consumers.

Temporary Restraining Order and Preliminary Injunction—The use of the temporary restraining order and preliminary injunction is an important part of the injunctive process in that it prevents continuing abuses while the case is in process.

Penalties go to County—All of the damages obtained by the District Attorney go to the County. The Consumer Fraud Division therefore has the capability of self-sufficiency, financially.

### III

#### NATURE OF CONSUMER FRAUD

These California statutes then are the primary weapons with which we hunt the elusive quarry of consumer fraud. What is the nature of this quarry?

With the rapid growth of the population of San Diego County (now above 1.3 million according to the 1970 census) and the concomitant economic growth, the consumer fraud "industry" has expanded to keep pace. San Diego is the scene of an astonishing ar-

ray of different types of frauds. Just as the city contains a cross section of Americans of different racial, religious and national backgrounds, so the various types of consumer fraud are well represented here. It would defy a Linnaeus to classify this assortment of practices, ranging from the crudest to the most sophisticated methods of parting the consumer from his money and giving him nothing in return. Residents of the county have received "jackpot letters" falsely informing them they have won a free stereo or sewing machine, and phone calls offering "free" magazine subscriptions for a "service charge" that is higher than the price of the magazines themselves. They have sought employment through agencies which consciously and deliberately cheat the job-seeker. They have had to contend with automobile repairmen who charge but leave the vehicle in a more dangerous state than before; merchants who adulterate hamburger meat with excess fat, computer dating services without computers and without dates; and a myriad of other dishonest business practices of various kinds.

It has been our experience that the overwhelming majority of San Diego businessmen are honest. How can one reconcile the paradox that while the county is deluged by frauds, the overwhelming majority of its businessmen are strictly honest?

The answer lies in the enormous size of the economy of San Diego County. The "Yellow Pages" are 888 pages long for San Diego City alone, including listings for more than 62,000 business enterprises. The total for the county as a whole is the remarkable sum of 150,000 or one business for every nine inhabitants, men, women and children. Let us suppose for the sake of argument that one-tenth of one per cent are dishonest, a not ungenerous estimate of human nature. This would mean about 150 dishonest business operations for our office to contend with. Speaking in rough approximate terms, this is about the size of the consumer fraud problem in San Diego, although complaints extensively exceed this figure. Yet even such a small number of defrauders are able to flood the county with false advertisements, and create outrage in thousands of citizens who deal with these establishments directly. The harm done is great, because duping a man strikes a blow at his pride as well as at his pocketbook. The effect of these few on the public confidence in business can best be described by the "rotten apple in a barrel" doctrine.

The District Attorney's Consumer Fraud Unit receives approximately four hundred phone calls a month from aggrieved consumers but far less merit recordation or investigation.<sup>16</sup> The complaints break down into several main categories. These are best considered as a function of the stages of the business transaction. The typical transaction involves three phases: pre-sale (advertising, preliminary negotiation); sale; and post-sale (unsatisfactory performance, demand for rescission or refund). Complaints arise at all three stages of a buyer-seller relationship.

The behavior of businessmen prior to sale that is complained of most often includes falsely advertising to the general public and making specific misrepresentations to the particular customer in order to induce purchase.

False advertising is called to our attention less often than other types of consumer fraud. This is because it does not cause any loss to the potential customer in and of itself. Often, as in our example of the appliance store, the customer realizes the false nature of the advertisement when he appears in the shop in response to it. He typically refuses to buy, returns home, and counts himself lucky to have escaped being bilked. Since he has not lost any money out-of-pocket, he is inclined to forgive and forget the time, trouble, and gasoline expended in answering the false advertisement, and makes no report of the incident.

Few citizens realize that false advertising is not only irritating, it is flatly illegal as well under California law. This is true regardless of whether there are any victims. Our experience has been that it is a rare consumer fraud scheme that does not make "suckers" out of at least a few consumers—often the poor, the uneducated, and the non-English speaking.

False advertising ranges from the mildly deceptive "Burgers 22-1/2 More!" (than what?) all the way to the advertisement cited in the first paragraph of this article, which is deliberately, completely and

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16. March 1970-August 10, 1970. Only cases within the purview of consumer fraud recorded.

Resolved by telephone _____	87	
Resolved by letter _____	72	
Referred to other agency _____	56	
Files for information only, awaiting further complaint to show common scheme or de- sign _____	78	
Open for further investigation _____	36	
Total number of Cases _____	329	
*Total Civil Consumer Frauds filed _____	12	
Damages received by County _____	\$11,000	*Includes cases prior to 1970

maliciously deceptive, with no way for even the most intelligent consumer to "read between the lines". Other examples of false advertising we have encountered: the store which advertised "50% Off All Games and Toys" when the actual reductions were 50%, 30%, 20% and nothing; a "free rubber plant" offered without mention that a \$3.00 purchase was required to obtain it; a "Water Softener" machine falsely alleged to remove salt from water, and a "Help Wanted" advertisement that was used as a scheme to get people into an office where they were solicited for \$1,000 "investments". Further, false advertisement included unauthorized use of trademarks, false claims of being incorporated, and use of "Advertised in Reader's Digest" and "Advertised in Look" crests without authorization.

The overwhelming majority of false advertising complaints are directed against local advertisers. Few complaints are heard against national firms which advertise over television. If the viewer disbelieves what he is told by television advertisers, he nonetheless would not even think of complaining to the District Attorney. The old woman whom I recently overheard at a service station growling, "Is this the 'service with a smile' they talk about on television?" has not contacted us.

Yet there certainly seem to be legally sufficient grounds for complaint against national advertisers who televise into San Diego County, and such actions are conceivable under Business and Professions Code section 17500. For example, the cigarette advertisements which show rugged western landscapes or cool glades and springtime meadows falsely imply that cigarettes are somehow related to healthful outdoor life. We have all seen the commercial with the two automobiles with one running on plain "X" gasoline without additives, the other on "X" with highly touted extra ingredient "Y". The first car stops after a certain distance and a paper screen is set up across the road. The second car bursts through the paper and continues on. This advertisement is extremely misleading as to the relationship between "X" gasoline and other brands, which is after all what the consumer is interested in. It tells us *nothing* about that relationship. It is entirely conceivable that "X" gasoline, even with the addition of extra ingredient "Y", is still far inferior to gasoline "Z". The advertisement seems to be telling us something about the comparative qualities of "X" gasoline. In

fact, the comparison is with a straw man, and the favorable comparison is achieved by derogating the same company's previous product, notwithstanding the fact that in its time the latter too was hailed as a superior product. What the advertisement proves, in fact, is nothing more than that a mileage ingredient is—after all—a mileage ingredient.

Advertisement such as this raise anew the important question of how misleading an advertisement must be before Business and Professions Code section 17500 is violated. In other words, where does one draw the line? Does the statute extend even to the prohibition of minor falsehoods and mildly misleading claims? The operative language is as follows:

It is unlawful for any person, firm, corporation . . . to make or disseminate . . . any statement, concerning such real or personal property or services . . . , or concerning any circumstance or matter of fact connected with the proposed performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading . . . .

Seemingly, this language, which prohibits untrue and misleading statements, would apply to relatively minor misrepresentations. There is no statutory requirement that the statements misrepresent material facts, or points of major importance. Thus it is to be expected that the advertiser who falsely claimed his product had been "Advertised in Reader's Digest" would be held in violation of the statute, even though this representation is of peripheral importance and there is no showing that anyone was actually induced to buy by this alone. The tougher problems arise in determining just what is "misleading." Is a cigarette commercial showing green meadows, weeping willows bending gently in the breeze, and a fringed surrey gliding down a country road "misleading" according to the statutory definition? The courts have not spoken in this area.

One point has been settled—it is not necessary to have a victim for the People's cause of action to be successful. The law is directed against the false advertising itself, not just the harm it does to consumers.

A second major category of consumer fraud complaints is specific misrepresentation made by the dealer or merchant prior to sale. For example, one auto dealer allegedly promised new tires and a new bumper for a car at the time of sale, then refused to supply them thereafter. Another dealer promised repairs as part of a used car exchange, then failed to carry out his promise. Particularly upsetting in this area is the occasional practice of some automobile dealers in representing vehicles as being a later model year

than they actually are—calling the 1968 Ford a 1969 model, or the 1966 model motorcycle a 1968, and entering the false date on the documents.

We now take our bird's-eye tour of consumer fraud to the two biggest sources of consumer complaint in San Diego—(1) Products or services contracted and paid for which, are simply not supplied; (2) Products and services supplied, but for one reason or another found unsatisfactory.

When a consumer complains that he has paid for a service or product in advance and it has not been supplied to him, several explanations are possible. The businessman involved may be entirely honest but simply too busy to make sure that every customer is properly taken care of, or there may be error by his employees. He may, on the other hand, be negligent or even overtly criminal. Every one of these explanations has been found to be true in numerous cases of this type. Examples of complaints in this area include the romantic hopeful who sent ten dollars to a computer dating service and never heard from them again; a man who ordered phonograph records and other merchandise through the mail, paid for them, received a cancelled check but no merchandise; customers who paid for paint jobs and burglar alarms in advance, and waited in vain for their appearance. One noteworthy figure in this type of consumer fraud is the man who, according to the complaint, "Takes in tax work but never turns it in to the Internal Revenue Service."

The outcome of such cases usually depends on the original intention of the delinquent businessman and his agents. If the situation is the outcome of an honest mistake, it is easily and quickly rectified. If the original intent was simply to commit petty or grand theft by false representations, criminal fraud prosecution is the indicated response, if the defendant can be apprehended. The classic example of using a "business" framework purely and simply for theft is the solicitation of money for investment, followed by the rapid disappearances of the promoter with the "invested" funds.

In this connection it is worth noting that many defrauders are difficult to apprehend. The principle of natural selection operates in the area of frauds as well as in biology, and many of the frauds which have endured are amazingly successful and difficult to unmask. The telephone subscription racketeers mentioned earlier

not only refused to identify themselves over the phone, but go so far as to keep their own employees in the dark as to whom they are working for. The girls are given a list, seated before a phone, and put to work. In these circumstances it is extremely difficult to find the identity of the defrauder, in order to file suit. Other racketeers migrate from place to place with amazing rapidity. In our files we get a glimpse of an "obscure man driving a Cadillac" from town to town setting up fraudulent appliance stores. When we file against the local employees, the man probably leaves town to spread his fraudulent scheme elsewhere. There are tantalizing glimpses of nationwide consumer fraud rings. The same deceiving "Congratulations—you have won a free stereo," letters which have deluged San Diegans in recent months were the subject of a Federal Trade Commission suit in Denver in 1963.<sup>17</sup> Where is the link between these two seemingly disconnected events? Only a nationally expanded consumer investigatory body such as envisioned by the Federal Trade Commission can link nationwide practices.<sup>18</sup>

Perhaps the most common source of complaint to our office is from citizens who have contracted for and received products and services that are in some manner unsatisfactory. The number of outright criminals in this area is fewer than in the preceding one. Usually these businessmen are around to "face the music" when the customer complains. Nonetheless, many serious wrongs are committed through supply of an inferior product or service. One employment agency took a \$240.00 fee to supply its client with a job on commission which paid a total of \$15.00 in the first six weeks of employment. Another man paid more than \$1,000.00 for breeding chinchillas which subsequently failed to reproduce. Other complaints have involved defective hearing aids, carpets, photographs, and exercise machines. In the service area, frequent complaints are made against inferior car repair, employment and management consultant services.

Often, after the sales or service agreement is agreed upon to the satisfaction of the consumer, certain businessmen will precipitate claims of consumer fraud by suddenly demanding additional payments or otherwise unilaterally altering the contract to the detriment of the consumer. The classic example of this practice is the case of the San Diegan who became a member of an out-of-state

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17. *In re* Central Sewing Center, Inc., 63 F.T.C. 788 (1963).

18. Southern California Joint Law Enforcement Consumer Protection Committee, Chairman Frank Beeson, Los Angeles Police Department; General Secretary John Wilcox, Federal Trade Commission. This would involve the process of computerizing complaints for use of all communities to deter duplication of effort and mobility of suspects.

tape club. After he had joined, he was suddenly billed for an additional "membership fee" not previously mentioned at the time he joined the club.

This type of consumer fraud is typified by the demand for extra money above the agreed-upon price of an item after purchase. Another common form is the demand for more money to perform repairs already paid for and performed ineptly by the same garage.

Finally, some businessmen spark consumer fraud complaints by refusing to honor a contract term providing for rescission. One complainant withdrew from a computer programming school and was refused payment of the balance of his money. An old woman brought a note from her doctor asking to be excused from an exercise club, as provided in her contract, but the club refused to refund the money for sessions not yet taken.

When the Consumer Fraud Unit of the District Attorney's Office receives a complaint, a record is made thereof, and preliminary phone calls are made to the relevant parties. In many cases this is sufficient to resolve the matter. Busy Mr. Upholsterer finally gets around to returning Mrs. Housewife's couch, and everyone is happy. In cases such as these, the Consumer Fraud Unit functions much like the Better Business Bureau by providing a source of pressure on businessmen to behave equitably. Most cases are resolved at this stage. Others are referred for criminal fraud prosecution. If further investigation and the large number of complaints indicate, a civil cause of action will be brought under Business and Professions Code section 17500 and Civil Code 3369. Most of these actions are brought only against repeated and flagrant violators.

Consumer fraud cases present the usual pyramid found in legal work. A large number of complaints are made by consumers, of which a smaller number are investigated further. Of these a still smaller number actually lead to the filing of a complaint by the District Attorney for consumer fraud and an even smaller number actually reach trial.<sup>19</sup>

#### IV

##### FUTURE EXPECTATIONS FOR PUBLIC CONCERN AND ENFORCEMENT

As the level of public concern over consumer fraud increases it is

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19. CAL. BUS. & PROF. CODE § 17536 (West 1970).

expected that greater demands will be made on agencies investigating consumer complaints. It is therefore the responsibility of local governments to allocate the proper funds to combat the growing sophistication and subtleties of the many schemes. Planning should be effected on a level commensurate with the ability to appropriate funds, whether it be federal, state, county or city government, otherwise it becomes necessary for subordinate agencies to deviate from the programs and dissemination of previously allocated manpower to cope with the justifiable outcry of the public. Idealistically, if sufficiently financed, a separate agency such as a Department of Consumer Affairs with an investigatory capability in all specialized areas would be preferable. On what level of government this form of agency should be developed is outside the purpose of this article.

California law is adequate to bar consumer schemes; therefore new law is not necessary. If it is feasible that a separate agency for consumer affairs in California be created, it would be natural to combine such an agency with a body of laws covering the field of ecology. Our experience with consumer fraud epitomizes the need for maintaining a sensitivity to public consensus. The philosophy of *caveat emptor* for so many years the rule, was altered to "Let the Seller Beware" before most agencies were geared to cope with the volume of complaints. Conglomerates, mechanization, mobility and affluency crept into society causing business to expand with rapidity and the adjunct of remote ownership and responsibility. Advertising is initiated from the home office or advertising agency out of county or state, making investigations more technical, difficult and time consuming. Communities with expanding populations can expect a proportionate increase in business, therefore a proportionate increase of consumer problems. Public awareness concerning ecology is blossoming from the embryonic stage. It is hopeful that community government, with the power to allocate finances, are clairvoyant in determining the future course of ecology and can avoid the problems discovered by the failure of local government to initially plan for greater consumer protection. It would be a natural association to combine the investigation of consumer fraud and the pollution of our environment within a single body capable of maintaining the expertise necessary to investigate the broad gamut of potential violations. The police agencies would be left with the sole responsibility of enforcing the laws relating to the traditional crimes. Whether such an agency on the local level is feasible depends on finances. Because most communities are not abundant in money, the possibility further depends on priorities. What will our priorities be in ten years?

Where a void exists and there is a demand, that void must be filled. The District Attorney in San Diego filled the consumer fraud void by allocating deputies and investigators to consumer protection. It was considered that the emphasis was warranted.

The present system of mutual cooperation for consumer protection between existing agencies is a workable and efficient system. Until enlightened minds enact a more comprehensive system of laws to fight consumer fraud, the present method on the local level is effective and possibly the only practical and realistic form in light of the expense for the alternative.