



# CONSUMER NEWS

## SAN DIEGO CITY ATTORNEY'S OFFICE

### False Advertising

February 2009

#### *FALSE OR DECEPTIVE ADVERTISING:*

In California, it is a crime to advertise the sale of goods or services in a false or misleading manner. Put another way, advertising must be truthful *and* not misleading.

All types of advertising are included, including print, TV, radio, internet, mail and phone solicitations, and face-to-face.

Here are the some of most commonly seen unlawful advertising schemes. The San Diego City Attorney's Consumer and Environmental Protection Unit's investigates and prosecutes false or deceptive advertising cases. Let us know if you come across these violations.

#### *"GOING OUT OF BUSINESS" SALE*

A classic deceptive practice is the "Going Out of Business" sale. This type of sale can take many forms, such as a "Close Out", "Liquidation", "Bankruptcy" sale or any other term which conveys to

the public that the business is closing when the sale ends. Any business of this nature operating in the City of San Diego is required to apply for a permit to conduct and advertise such a sale from the San Diego Police Department, who then monitors the business. The business must provide a list of merchandise to be sold at the sale and it cannot add merchandise to its inventory for the sale. The sale must end within 60 days of the issuance of the permit, unless extended another 30 days by the Police Department.

Consumer Tip: Be wary of businesses in the City of San Diego that seem to always be "Going Out of Business" and report those businesses to the City Attorney's Consumer & Environmental Protection Unit (see page two of this newsletter for contact information).

#### *FAKE SALE*

Another type of sale prohibited in the city of San Diego is a "fake" sale. A fake sale is:

- a sale with a very limited quantity of merchandise or

which does not include all of such merchandise

- a sale which misrepresents the quantity, quality, or brand of merchandise
- a sale which requires the purchase of other items of a different nature, quality or brand

#### *BAIT AND SWITCH*

This practice of deception involves a business advertising an item with no intention of selling that item. An example of a "bait and switch" would be an electronics retailer advertising a TV set for sale but then telling customers the set is an older and obsolete model. Customers are then steered to other TV's that are more expensive.

Consumer Tip: Before shopping for advertised items, research the product and prices via the Internet and bring the research with you when you shop.

#### *FALSE PRICE*

Deceptive advertising may include falsely inflated "original" or "regular" prices, creating the

impression that the buyer is getting a bargain by purchasing at the sale price. It is unlawful to advertise an "original" or "regular" price if the item was not offered for sale at that price in the same market during the 3 months prior to the advertisement.

Consumer Tip: Beware of "MSRP's", or Manufacturer's Suggested Retail Price, because that price may not reflect the true market value of an item.

*USED OR REFURBISHED MERCHANDISE*

Items advertised for sale are usually new, but not always. If an item is not new, then the advertisement must state that it is not new. For example, advertisements for "floor" or "display" items must conspicuously state that the items are refurbished, secondhand, or blemished.

Consumer Tip: If you have a doubt that an advertised item may not be new, be sure to ask the seller prior to purchasing. If the item is not new, be sure to ask about the warranty and return policy.

*GOVERNMENT LOOK-ALIKES*

Another common method of deception is a mail solicitation designed to look like an official government document. An example of this is businesses that file property tax reassessment appeals to the County Tax Assessor that use mailers disguised as a bill for the service.

Consumer Tip: Before paying for services, make sure that you know who sent you the offer.

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**San Diego  
City Attorney's Office  
Consumer and Environmental  
Protection Unit  
(619) 533-5600**

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Newsletter written by D. McKean.

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The information provided in this newsletter is intended to convey general information and is not intended to be relied upon as legal advice.

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The San Diego City Attorney's Consumer & Environmental Protection Unit prosecutes criminal and civil violations of California's unfair competition and false advertising laws committed in the City of San Diego. The Unit maintains a Phone Hotline for consumers to report possible violations. You can reach the Hotline at **(619) 533-5600**.