

North Carolina Department of Justice Consumer Protection Division

CONSUMER PROTECTIONS FOR MILITARY SERVICEMEMBERS

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Consumer Complaints, The Big Picture

– Over 21,00 annually. Top 10 for 2014

- 1: Do Not Call
- 2: Telemarketing Fraud
- 3: Lending
- 4: Motor Vehicles
- 5: Home Repair
- 6: Credit (debt settlement, debt collection, etc.)
- 7: Internet/Computers
- 8: Health Care
- 9: Television Services (cable, satellite)
- 10: Telecommunications

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Chapter 75

“[U]nfair or deceptive acts or practices in or affecting commerce are declared unlawful.”
“Commerce” includes “all business activities however denominated”
N.C. Gen. Stat. 75-1.1

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Judge or Jury?

- Determination of whether an act or practice is an unfair or deceptive practice in violation of Chapter 75 “is a question of law for the court.”
Gray v. NC Ins. Underwriters Ass’n, 352 N.C. 61 (2000)

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Attorney General Authority

- Injunctive Relief: 75-14
- Refunds, Restitution, and Cancellation of Contracts: 75-15.1
- Penalties: 75-15.2

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State v. Rich Foods 139 N.C. App. 691 (2000)

- Chapter 75 provides remedies to aggrieved consumers but individual amounts in consumer cases may make prosecution difficult. The Attorney General, may, however, seek recovery on behalf of a group of injured consumers and may secure relief. Thus, the full resources of the State are brought to the aid of consumers who might be unable otherwise to obtain full redress.

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INVESTIGATIVE AUTHORITY OF ATTORNEY GENERAL

- Power to investigate “all corporations or persons in North Carolina doing business in violation of the law.” N.C.G.S. 75-9
- Power to serve “civil investigative demands” (similar to pre-lawsuit subpoenas) N.C.G.S. 75-10

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Complaints

- Can Submit Electronically or Via Mail
- (877) 5NO-SCAM (566-7226) or www.ncdoj.gov.
- For assistance in Spanish: 919-716-0058
- Complaints do not go up chain of command

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Violations of Other Statutes May Implicate Chapter 75

- Violations of statutes designed to protect the public and violations of established public policy may constitute unfair and deceptive practices. *Stanley v. Moore*, 339 N.C. 717 (1995)

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Example: Lending, Usury Statutes

- N.C. Gen. Stat. 24-2.1: It is a “paramount public policy of North Carolina to protect North Carolina resident borrowers through the application of North Carolina interest laws.”

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Is it a loan?

State ex rel Cooper v NCCS Loans, 174 N.C. App. 630 (2005)

- * High interest, short term loans
- * Claimed charging for Internet service
- * Court said was “merely a guise” for operation of small loan business

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Military Servicemembers Are Targeted



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Examples of Cases Brought to Protect Military Servicemembers

- Freedom Furniture
- Rome Finance
- GIBill.com

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FREEDOM FURNITURE CASE

- Retailer sold furniture, electronics, jewelry and other products
- 14 locations near military bases, 1 near Fort Bragg
- When purchased, monthly draft set up from paycheck or military allotment; also backup payment set up (spouse or parent credit card)
- MCS – extended credit; FAC – collected debt

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Freedom Furniture Case

- MCS and FAC sometimes doubled billed for monthly payments

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Freedom Furniture Case

- Contacted commanding officers about debt
- Violated North Carolina law: N.C.G.S. 75-53
- Generally can't communicate with persons other than debtor or attorney about debt except in limited circumstances not present here

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Freedom Furniture Case

- Sued in Virginia courts and obtained default judgments
- Violated North Carolina law: N.C.G.S. 75-55(4)
- Generally debt collection suit must be brought in county where debt was incurred or where debtor resides

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Freedom Furniture Case

- NC AG, VA AG, and CFPB
- \$2.5M in relief for servicemembers
- \$100K in penalties

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Rome Finance (Culver Capital, Colfax Capital)

- Financed debts for military consumers' purchases of computers and electronics at SmartBuy (had stores near Fort Bragg and Camp Lejeune)
- SmartBuy charged 2-3 times market price for item and had consumers fill out onerous credit application and financing agreement. Some key terms not properly disclosed.
- High interest rates and fees resulted in bad credit, large debts

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Rome Finance Case

- NC AG, other states, CFPB
- \$92M in relief; 17,000 military consumers
- \$6.8M in N.C.; 1328 military consumers in N.C.

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GIBill.com (Quin Street)

- Targeted servicemembers and veterans
- Gave impression that endorsed by military and federal government
- In fact, a private company promoting certain for-profit schools
- Gave impression that certain schools on the website were the only schools that accepted GIBill funds when, in fact, most schools accept such funds

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GIBill.com (Quin Street) Case

- NC AG and 19 other states
- Company relinquished ownership of website
- \$2.5M payment

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Consumer Protection Information for Military Personnel

- Brought hard copies
- Can also be found at www.ncdoj.gov
- Contains tips regarding cars, how to avoid scams, info regarding protections for military renters, pre-deployment tips, FAQs, etc.

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DOD's New Rules to Close Military Lending Act Loopholes

- Designed to address credit products that previously skirted regs so could impose interest rates over 36% cap
- Applies to payday, auto title, installment loans etc.

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- DOD's New Allotment Rule
 - Designed to "eliminate that aspect of the allotment system most prone to abuse by unscrupulous lenders that prey on service members"
 - Allotments now can't be used for vehicles, appliances, electronics (laptops, tablets, cell phones, and televisions) and other items


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Ongoing Issues

- Freedom Furniture type conduct
- Lending Issues
- Collections Issues
- Contract Issues
- Auto Issues
- Security, ID Theft issues
- Other

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Questions?



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Thank You!

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