

# MAKING THE SALE WITHIN THE BOUNDS OF THE LAW

By: Wendy M. Canaday



*The electronic security industry's sales tactics have been under particular scrutiny in the past year. You may recall these headline news events:*

- Texas passed a law that went into effect in September 2009, aimed at curbing summertime door-to-door alarm system sales due to complaints about unscrupulous sales tactics.
- The Illinois Attorney General brought suit against a well-known alarm company for consumer fraud.
- Two alarm industry giants brought lawsuits against individual sales people for fraud, including claims that the salespeople represented they were affiliated with certain companies when they were not.

**T**hese events are aberrations in the industry, but they do put a spotlight on what behavior is ethically and legally acceptable in making a sale. On the legal side, one thing alarm companies need to be wary of is running afoul of state consumer protection laws.

Each state has consumer protection laws prohibiting what are deemed unfair and deceptive trade practices. The laws vary on what conduct is prohibited, but generally prohibit companies from representing that the goods or services they are selling have uses,

benefits, qualities, approval or sponsorship that they do not have, or are of particular standard, quality, grade, style or model, if they are of another. The laws also usually include a catch-all provision prohibiting any other conduct that creates the likelihood of confusion or misunderstanding.

Typically, a violation of the law can either be enforced by the state's attorney general, or in some instances by the aggrieved consumer. The penalty for violations can be steep: some state's consumer protection laws allow the person suing to recover their attorney's fees and triple damages.

As you can imagine, within all that legalese of prohibited conduct there are many traps for the unwary. Fortunately, there are some things you can do to protect your business from these allegations—not to mention keep your customer's trust, and perhaps even avoid a lawsuit. I won't even get into the myriad ways some companies have allegedly deceived customers—selling customers things they don't need, or signing them up for extended contracts without their knowledge. You all know better than that. But the following tips—no-brainers though they are—bear mentioning because even the most scrupulous company can find itself on the receiving end of a consumer fraud claim due to an honest mistake or an untrained employee.

## DON'T MAKE PROMISES YOU CAN'T KEEP...

Know the difference between “puffing,” which is legal, and deception, which, of course, is not legal. Puffing is general praise about what is being sold. It is an opinion or judgment that is not represented as a fact. For example, saying “We are the best in the business,” or “These are the best products on the market” is puffing and is perfectly acceptable.

By contrast, here are some statements that were alleged to be deceptive (taken from actual lawsuits):

- “The fire department will arrive within three minutes of getting an alarm signal.”
- “The house will never burn down.”
- “Your pet dogs will be safe in a fire.”

You may be rolling your eyes, asking how anyone could be deceived by these statements. But, in reality, how quickly the fire department will respond, whether a house will burn down, or whether the homeowners beloved dogs will perish in a fire—and other statements like these—are not facts that your company knows or can even reliably predict. They are promises you cannot keep. Avoid them.

Instead, let proven facts sell your products and services. Rely on trusted sources of information regarding occurrences of crime and home fires, and the statistical decrease in crime and fire fatalities in homes with alarm systems, to sell your products and services. If available, use information specific to your company about how many actual burglaries and fires were reported, and share any true stories about good outcomes.

Also, learn the specifications of the alarm products and services your company offers so you can offer your customer the correct products and services for their situation, and give accurate information about what the product and your service will and will not do.



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## KEEP UP WITH YOUR JURISDICTION'S REQUIREMENTS FOR LICENSING, PERMITS, AND CODE COMPLIANCE...

You must become (or hire) an expert on what the laws of your state, county, and city require for you to sell your products and services, and strictly comply with them. This includes, at a minimum:

- 1 Knowing and complying with any licensing laws, and the requirements for keeping and renewing the license (e.g., continuing education, insurance);
- 2 Getting all necessary permits to sell or install an alarm system; and
- 3 Selling and installing the alarm products in compliance with state and local laws regarding what equipment is required and where (e.g., a lot of jurisdictions now require a certain number and location of smoke detectors or carbon monoxide detectors in certain installations).

## DO NOT CLAIM AFFILIATIONS THAT YOU DO NOT HAVE...

This is the ultimate no-brainer, but it does happen so it bears mentioning. If you let an association membership lapse, you cannot tell people you are a member of that association. And if you are no longer an authorized dealer, you cannot tell people you are an authorized dealer. Sometimes this means getting new marketing materials, which can be expensive and time-consuming. But it must be done to avoid a claim that you misrepresented your company.

Train your sales force on these issues, and review your marketing materials, including websites, to ensure that they comply. In short, strive to tell your customers the unvarnished truth about the great products and services available, and the demonstrable benefits of having an alarm system, and you'll make a sale within the bounds of the law.