

STATE OF MAINE

SUPERIOR COURT

KENNEBEC, SS.

MARC M. SIROIS, )  
d/b/a DYNAMARK PROTECTIVE )  
SERVICES )

ASSURANCE OF DISCONTINUANCE

INTRODUCTION

1. Pursuant to the Unfair Trade Practices Act, 5 M.R.S.A. § 206 et seq., the Attorney General has examined the practices of Marc M. Sirois, d/b/a Dynamark Protective Services (hereinafter referred to as Sirois) with regard to the solicitation for sale and sale of burglar and fire alarms to consumers in the State of Maine.

2. Sirois voluntarily enters the following Assurance of Discontinuance with the Consumer and Antitrust Division of the Department of the Attorney General.

NATURE OF TRADE AND COMMERCE

3. Sirois owns and operates a dealership from Dynamark, Inc., a Virginia corporation with offices in Charlottesville, Virginia. Sirois operates his dealership as a sole proprietorship from his residence in Leeds, Androscoggin County, Maine.

4. Sirois sells burglar and smoke alarms under the trademark Dynamark to consumers in this State through telephone and door-to-door

solicitations.

5. The alarms sold by Sirois are smoke detectors as defined in 25 M.R.S.A. § 2464.

6. Pursuant to 25 M.R.S.A. § 2464, no smoke alarm may be used in this State without receiving prior approval from the State Fire Marshall.

FINDINGS OF THE ATTORNEY GENERAL

FIRST VIOLATION:

7. Sirois has contacted consumers by telephone to schedule appointments for salesmen to visit consumers at their homes. Pursuant to the written scripts used by Sirois' telephone solicitors, the solicitors explain that the purpose of the Dynamark representative's visit is to provide information on home safety.

8. Sirois' telephone solicitors do not indicate to consumers that the actual purpose of the representative's visit is to sell burglar and fire alarms.

9. Sirois' conduct as described in paragraph 7 and 8 above constitutes, in the opinion of the Attorney General, an unfair and deceptive practice in violation of 5 M.R.S.A. § 207.

SECOND VIOLATION:

10. Sirois' telephone solicitors offer consumers free gifts if the consumers will meet with a representative of Dynamark in their home.

11. On at least one occasion, Sirois failed to give a consumer the promised free gift, after the consumer met with the sales

representative.

12. Sirois' conduct as described in paragraph 10 and 11 above constitutes, in the opinion of the Attorney General, an unfair and deceptive practice in violation of 5 M.R.S.A. § 207.

THIRD VIOLATION:

13. Sirois represents to prospective purchasers of Dynamark alarms that he will service the alarms.

14. Sirois is not trained to repair the alarms. If an alarm malfunctions Sirois sends the alarm to the factory for repair.

15. Sirois' conduct as described in paragraph 13 and 14 above constitutes, in the opinion of the Attorney General, an unfair and deceptive practice in violation of 5 M.R.S.A. § 207.

FOURTH VIOLATION:

16. The promotional literature given by Sirois to consumers represents the rates at which various crimes occur in the United States. For example, Sirois' promotional literature represents that a burglary occurs every eight seconds in the United States.

17. The statistics used by Sirois regarding crime rates do not accurately reflect the crime rates in the State of Maine. Crime rates in the State of Maine are significantly lower than the corresponding national rates. For example, in 1982 a burglary occurred every forty-four minutes and twenty one seconds in the State of Maine.

18. Sirois' conduct in inaccurately representing the incidence of crime in the State of Maine constitutes, in the opinion of the

Attorney General, an unfair and deceptive practice in violation of 5 M.R.S.A. § 207.

FIFTH VIOLATION:

19. The promotional literature used by Sirois refers to a report entitled "America Burning" in describing the incidence of home fires and the extent of damage caused by those fires in the United States.

20. The report entitled "America Burning" was published approximately ten years ago and includes statistics which are now inaccurate.

21. Sirois' conduct in misrepresenting the incidence of residential fires and the extent of damage caused by those fires constitutes, in the opinion of the Attorney General, an unfair and deceptive practice in violation of 5 M.R.S.A. § 207.

SIXTH VIOLATION:

22. Sirois sells smoke alarms and smoke detectors which have not been approved in the State of Maine by the State Fire Marshall in compliance with 25 M.R.S.A. § 2464.

23. Sirois' conduct in selling unapproved smoke detectors constitutes, in the opinion of the Attorney General, an unfair and deceptive practice in violation of 5 M.R.S.A. § 207.

ASSURANCES OF SIROIS

WHEREFORE, Marc M. Sirois, pursuant to 5 M.R.S.A. § 210, and without making any admission as to any issue of law or fact, assures

the Department of the Attorney General that he, his agents, employees, and any persons acting for him or under his control will:

- a) Discontinue informing prospective customers that the primary purpose of a visit from one of Sirois' salesmen is to provide information on fire and crime safety.
- b) Inform all prospective customers at the initial contact by a salesman or employee of Sirois that the primary purpose of the sales contact is to solicit the consumer to purchase fire or burglar alarms.
- c) Fulfill any promise given to a consumer and that the consumer will receive a free gift.
- d) Not represent to consumers that Sirois can service burglar and fire alarms without explaining to the consumer that any alarm which needs repairs will have to be sent to the factory for servicing.
- e) Not use promotional literature which represents national crime rates without indicating that crime rates in Maine are significantly lower than national rates.
- f) Discontinue using promotional literature which inaccurately represents the extent of fire and fire related damage in the United States.
- g) Not sell or offer to sell smoke detectors which have not been approved by the State Fire Marshall pursuant to 25 M.R.S.A. § 2464.
- h) Maintain a list of the names, addresses and phone numbers of all persons solicited by Sirois by phone or in person for the sale of burglar and fire alarms.

- i) Maintain a list of names, addresses and phone numbers of all persons who purchase burglar and fire alarms from Sirois.
- j) Provide the Department of the Attorney General a copy of the list described in the preceding two paragraphs upon 7 days written notice.
- k) Provide a copy of this Assurance of Discontinuance to (i) all current employees of Sirois within 7 days of the date of this Assurance, and (ii) to all newly hired employees within three days of the date of hiring.
- l) Provide the Department of Attorney General within fifteen days of the date of this Assurance of Discontinuance with written substantiation of the representation that Dynamark's securities systems meet the guidelines established by the National Institute of Crime Prevention, the National Fire Protection and law enforcement agencies.

Date: 6/22/83

Marc M. Sirois  
 MARC M. SIROIS  
 d/b/a DYNAMARK PROTECTIVE SERVICES

STATE OF MAINE  
 KENNEBEC, SS.

Personally appeared the above named Marc M. Sirois and made oath to the truth of the statement by him subscribed.

Dated: 6/22/83

Alfred [Signature]  
 NOTARY PUBLIC

Dated: 6/22/83

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