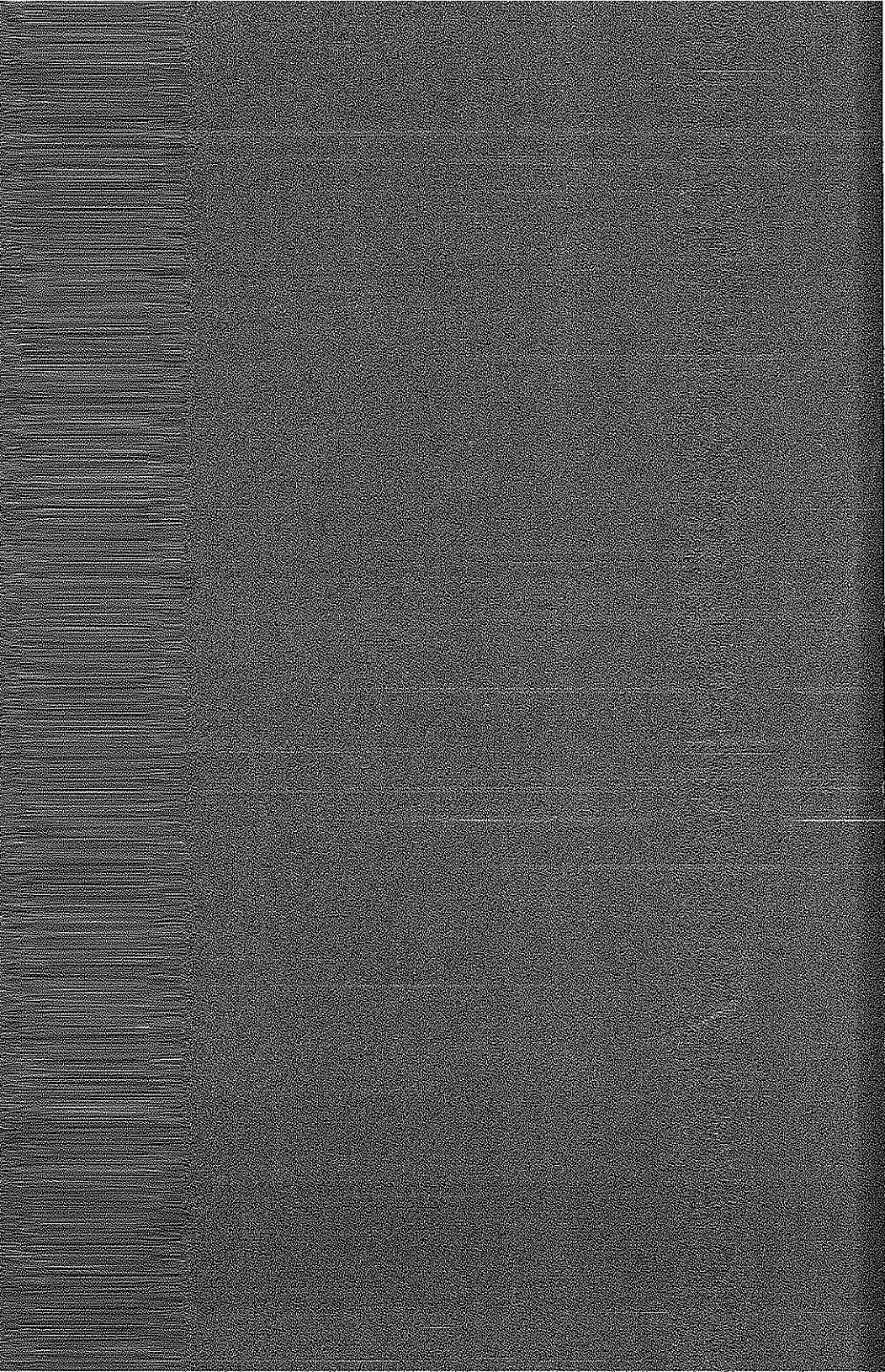


FINAL REPORT AND RECOMMENDATION
on
THE INVESTIGATION OF PROFIT-ORIENTED
COMPANIES OPERATING IN A
PSEUDO-CHARITABLE MANNER

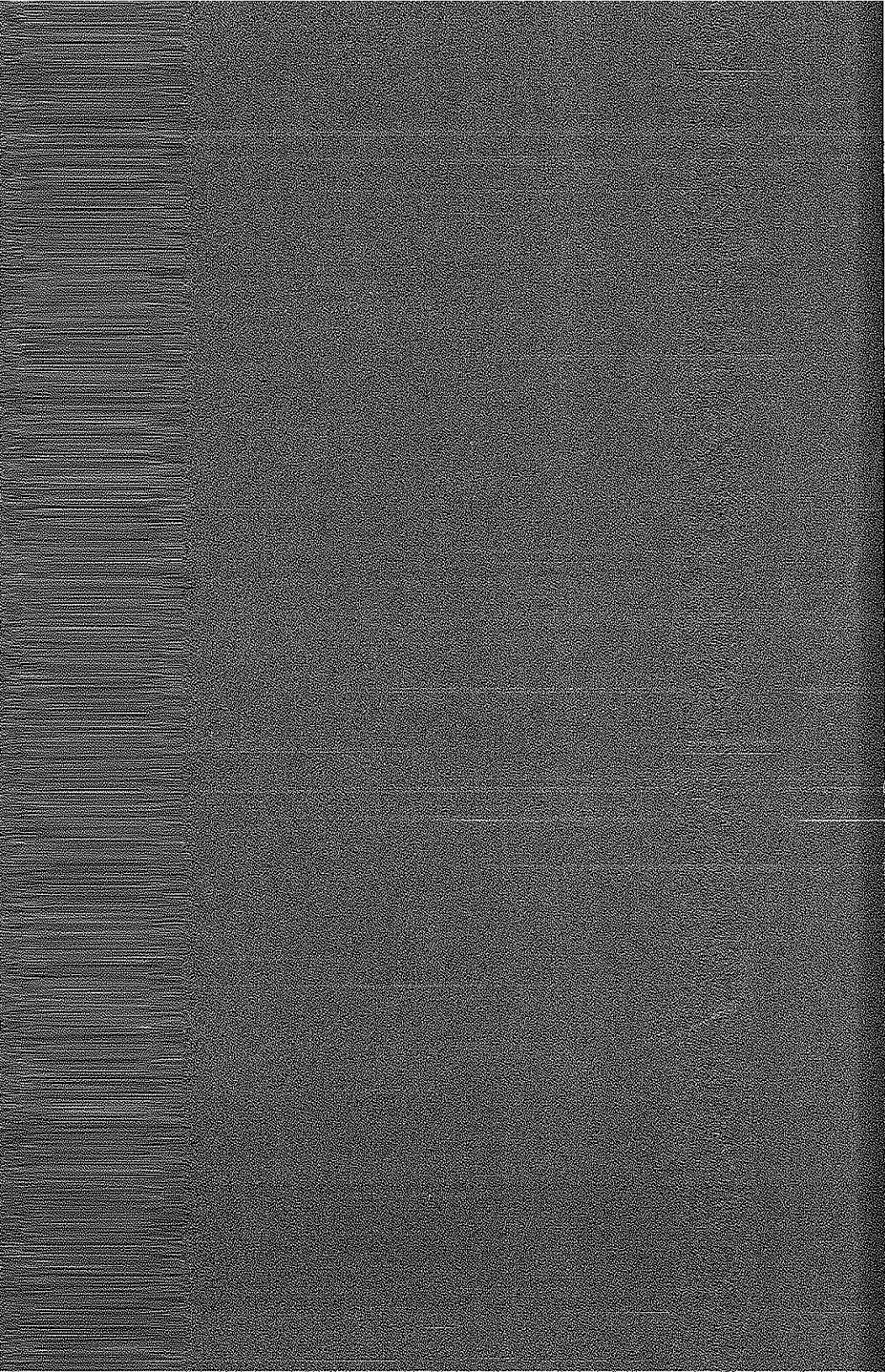


A REPORT BY
THE NEW JERSEY STATE
COMMISSION OF INVESTIGATION



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September, 1974

TO: *The Governor and the Members of the Senate and
General Assembly of the State of New Jersey*

The New Jersey State Commission of Investigation is pleased to submit its final report and recommendations on the investigation of pseudo-charitable companies pursuant to Section 10 of P. L. 1968, Chapter 266 (N. J. S. A. 52:9M-10), the Act establishing the Commission.

Respectfully submitted,

Joseph H. Rodriguez
Charles L. Bertini
Thomas R. Farley
David G. Lucas

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THE BACKGROUND OF THE INVESTIGATION

ON THE NATURE OF CHARITY

Among the more noble qualities of mankind is the charitable instinct. This is a fine basic instinct of human beings to help others, especially the lame, the halt and the blind. Indeed, the importance of charity to the human spirit and condition is stated succinctly in the well known words from the Epistle I Corinthians: "Though I have all faith so that I could move mountains, and have not charity, I am nothing . . . And now abideth faith, hope and charity, but the greatest of these is charity."

In order that truly charitable works may flourish in this country, bona fide philanthropic organizations are permitted to incorporate as non-profit organizations. In this way the substantial burden of normal taxation is lifted, and the public is assured that the donated dollars are inuring to the benefit of the charitable cause and not to the personal profit of an individual or group of individuals.

Most citizens are individuals of moderate means who are hard pressed to make ends meet, especially in these times of runaway inflation. Yet, despite financial pressures, almost all citizens attempt to earmark some money to fulfill what they consider to be their philanthropic duty.

Amelioration of the plight of seriously handicapped individuals has long been the object of a number of non-profit, truly charitable organizations whose trained, expert staffs conduct rehabilitation programs which enhance the abilities and confidence of many of the handicapped to a point when they can take their place in the normal employment market. It is this image of effective rehabilitation programs by accredited, non-profit organizations that is firmly implanted in the public's mind when they are asked to aid financially causes benefiting handicapped individuals.

ENTER THE LESS THAN SCRUPULOUS

Unfortunately in recent years, less than scrupulous entrepreneurs have found it profitable to prey on people's charitable instincts toward the handicapped. They have established a proliferating number of profit-making organizations which make

telephonic sales of household products, principally light bulbs, in the name of the allegedly handicapped.

These money-making profit-oriented commercial organizations, all employing names and/or trademarks, logos, emblems or other insignia which conjure up an image of seriously handicapped individuals, vary in size and in some specifics of their operations. They all, however, have the same basic *modus operandi*: That is to trade on people's charitable instincts in varying degrees, from outright misrepresentations to subtle, sophisticated forms of deception designed to convey an impression that such organizations are charitably oriented toward the handicapped or have a charitable purpose, when absolutely no charity, no beneficence and no commitment to rehabilitation of handicapped individuals are present whatsoever.

THE OUTRAGED COMPLAIN

In the past two years, a growing number of consumers have become so outraged at finding out that they had paid high prices to profit-making companies because they had been deceived into thinking the organizations were charities that they complained about these organizations to the State Division of Consumer Affairs. That Division has received more than 250 complaints about these profit-making companies soliciting by phone in the name of the allegedly handicapped. Some eighty complaints have been received in writing, with in excess of 170 additional complaints having been made by telephone. Besides the most common complaint of having been duped or misled into believing the soliciting organizations were charitable, other complaints received by the Division about these organizations include collection agency dunning practices felt to amount to harassment, excessively high prices, employment of persons questionably handicapped, exploitation of the handicapped, and receipt of unordered merchandise.

This veritable cloudburst of complaints prompted the Division of Consumer Affairs to have its Charitable Registrations Section investigate these organizations to determine if there had been any violations of state law, particularly the Division's Charitable Fund Raising Act of 1971, N. J. S. A. 45:17A-1. The investigation determined, however, that these organizations did not fall under the purview of the Division's statutory powers, since it was found that the organizations were incorporated as profit-making entities under Title 14, the New Jersey Business Corporation Act.

That determination frustrated the Division's investigation which had hoped to force full financial disclosure by these organizations under the laws governing charities. The S.C.I., however, with its broader statutory purview was, after consultation with the Division, able to end that frustration by investigating further and proceeding to public hearings on June 10, 11 and 12, 1974, in the State Senate Chamber in Trenton.

THE HEART OF THE DECEIT

The heart of the varying degrees of deceit practiced by these organizations is in sales presentations made over the phone by individuals who in some instances have physical defects obviously amounting to a handicap but in frequent instances do not have any ostensible handicap or are not actually handicapped in any way. In all the sales presentations, some of which will be dealt with in subsequent pages of this report, the use of references to "handicaps" or "the handicapped" are employed in such a way that the potential customer on the other end of the phone is given the illusion he is dealing with a charity and, therefore, is willing to pay excessively high prices, marked up 500 to 700 per cent above cost to as much as 1,100 per cent in some instances, for such ordinary products as electric light bulbs, ironing board covers, tooth brushes, aprons, combs, stockings and some other household items. This betrayal of the charitable instincts of the consuming public is factually established in the 80 written complaints by individuals, a cross-section of whom testified at the public hearings, and by the Commission's experience in talking with individuals who felt they had been deceived by these organizations. All such individuals who could be contacted and interviewed by the S.C.I. staff stated unequivocally that the only reason they purchased ordinary products at such high prices was that an illusion of contributing to a charity for the handicapped had been created by the phone solicitations.

COMPELLING REASONS FOR CORRECTIVE STEPS

The basic unfairness and injustice to the consuming public from these deceitful practices are obvious, and the Commission makes recommendations in this report for strengthening the State's consumer protection remedies to end abuses in this area. Those recommendations logically appear after a review of the facts as aired at the public hearings.

It should be noted here, however, that this investigation found two other compelling reasons in addition to the deception of the public for the State to place a priority on more effectively circumscribing the operations of profit-making organizations which solicit by phone in the name of the allegedly handicapped in ways creating a false impression of charity or beneficence. They are:

Testimony from witnesses that these profit-making organizations harm true charities or non-profit philanthropic organizations by siphoning off millions of dollars annually which otherwise would go to truly charitable works and by creating a growing number of deceived citizens who are leary of all philanthropic appeals.

Testimony from witnesses expert in accredited rehabilitation work that the requiring of handicapped individuals to emphasize their handicaps to effect repeated sales of high priced products is harmful to the handicapped individual in that it is demoralizing and works against the rehabilitation goal of getting the handicapped not to rely on their handicaps and enter the normal labor market.

In addition to developing a factual basis for making meaningful recommendations, another principal goal of this investigation was to bring the full facts about these types of profit-making organizations to the consuming public so that informed decisions could be made about purchasing the products offered for sale. Joseph H. Rodriguez, Chairman of the S.C.I., stressed this point in closing his statement* at the opening of the public hearings:

The Commission urges that members of the consuming public, after listening to the testimony and other evidence presented at these hearings, make their own determinations as to whether moneys they might spend, under the illusion of aiding a charitable cause, are, in fact being funnelled into the coffers of money-making corporations, with large windfalls benefiting certain individuals. Let me emphasize that in a free-enterprise economy such as ours, the making of money—lots of money—does not in itself amount to an im-

* The full text of Mr. Rodriguez's opening statement is presented on pages 104 to 106 of this report.

propriety. However, when many of the dollars are amassed from persons who are induced to believe they are aiding a charity, when, in fact, that is not true, there then is considerable cause to air such facts and search for tighter controls in this area.

In keeping with the policies of the Commission and the provisions of the State Code of Fair Procedure, the Commission issues a reminder that any person who feels material contained in this report tends to defame him or otherwise adversely affect his reputation has a right either to appear before the Commission and testify as to matters relevant to the testimony or other evidence complained of, or in the alternative, at the option of the Commission, to file a statement of facts under oath relating solely to matters relevant to the testimony or other evidence complained of.

THE CLOUDBURST OF COMPLAINTS

As previously noted, the receipt by the State Division of Consumer Affairs of more than 250 written and telephoned complaints touched off an investigation of profit-making organizations soliciting by phone in the name of the allegedly handicapped. Mr. James C. Amico, Coordinator of Charitable Organizations for that Division, brought with him as the first witness at the public hearings some 80 written complaints which were marked as an exhibit after Mr. Amico had properly identified their nature in his testimony.

Mr. Amico explained that the Division officially records and acts on only written complaints. However, in a statement* commencing his testimony, Mr. Amico observed that the telephoned complaints were similar in nature to the written ones.

THE MOST COMMON THREAD

While taking note of collection agency dunning notices and other previously mentioned types of complaints, Mr. Amico stated the most common thread in the written and telephoned complaints is the feeling by the complaining individuals that they were duped or misled into thinking that the soliciting organizations were charitable through emphasis by the solicitors on the organizations' employing handicapped workers or in some way aiding the handicapped:

"The complaints tell us time and time again that the solicitations were directed at and appealed to charitable instincts and thereby stimulated the complainants to purchase some of the goods offered for sale," Mr. Amico said.

Mr. Amico testified that it was clear from the complaints that the only reason so many people are willing to buy extremely high priced goods from these organizations is because of the mistaken belief they are dealing with charitable entities aiding the handicapped:

Still another contention of these organizations is that the quality of the merchandise offered, backed up by what the organizations call a "five-year guarantee" and the convenience of mail-order delivery, is

* The full text of Mr. Amico's statement appears on pages 107 to 110 of the report.

their strongest selling point. First of all, if that were a supportable statement, there would be no need to make endless appeals in the name of the allegedly handicapped. Secondly, the many complaints received indicate it was not the quality or "guarantee" that induced the complainants to buy goods, but rather misleading inferences that made them feel they were dealing with a charity.

LABORING AT MINIMAL WAGES

In his statement, Mr. Amico testified that it may be seriously questioned whether any benefit whatsoever is going to the allegedly handicapped workers of these organizations, since phone solicitors are paid prevalently a basic wage which is the minimum wage allowed by state and federal laws. These allegedly handicapped phone solicitors labor at minimal wages in furtherance of money-making by private enterprises incorporated for profit, Mr. Amico stated. He testified further:

It should be stressed that many business companies throughout the nation employ thousands of persons who appear to have an ailment or a physical defect but are capable of performing the assignments given them. These business corporations do not attempt to trade on their employment of persons with defects. They do not attempt to profit on people's misfortunes or ask people to constantly emphasize their misfortunes in order to induce sales at excessively high prices.

One example that I know of personally which underscores this point is a woman, double amputee, both legs, who works in a corporation in Carlstadt, New Jersey, as a secretary. She is not asked to trade on her misfortune nor is she discriminated against in any way. And one other impressive example, the Bendix Corporation in New Jersey, employs several hundred persons with physical defects. They do not trade on that in any way, and they do not discriminate among employees in any way. They employ personnel for their ability to perform a given task. They do not attempt to profit on people's misfortunes or ask people to constantly emphasize their misfortunes in order to induce sales at excessively high prices.

Further, it should be stressed that these profit-making organizations appealing in the name of the allegedly handicapped do so by phone, leaving the prospective purchaser with no way to verify visually any alleged disabilities of the solicitors. For example, the printed sales pitch for light bulbs for one of these organizations has the solicitor state the organization employs handicapped people and then add, "That's why I'm on the telephone, because it's the only way a handicapped person like myself can reach customers." Now, that statement obviously is intended to create in the mind of the listener the impression of an impairment so serious that the solicitor could not make face-to-face sales. Yet, we know from observation that most of the solicitors are ambulatory. They are not all wheelchair or crutch cases.

SOME COMPLAINANTS TESTIFY

In addition to entering the written complaints on the public record and having Mr. Amico testify as to those complaints and the similar complaints received by telephone, the Commission presented five of those who had complained to the Division as witnesses at the public hearing. The witnesses—a registered nurse, a housewife, an attorney, a restaurateur and a municipal engineer—were a representative sample of the intelligent, aroused citizens who had complained to their state government about the various tactics of profit-making organizations selling high priced goods in the name of the allegedly handicapped. The witnesses were poised and articulate and were living refutations of the callous, unjustified and unfair statement by an owner of one of these organizations that an individual had to be a nitwit to be deceived and aggrieved by the organizations' tactics.

A CALL FROM THE "HANDY-CAP"

Mrs. Catherine L. McQuade, a registered nurse who lives in Piscataway, N. J., received a telephone call from the Handy-Cap Organization, Inc., a business venture incorporated for profit and having offices in Dunellen, N. J., on June 30, 1973. She testified about that call:

Q. I realize you may not be able to recall the exact contents of that telephone call, or the exact words used by the sales person, but did you receive an impression from the sales pitch as to what kind of an organization was asking you to buy this particular product?

A. I was under the assumption that I was ordering from a charitable organization.

Q. Was it the sales pitch of the telephone solicitor that gave you that impression?

A. The sales pitch and the name of the organization.

Q. How did you assume that that name was spelled when it was told that this was the Handy-Cap Organization?

A. At that time I simply didn't assume. Just the regular spelling, that's all.

Q. Did you assume that it would be spelled H-a-n-d-y dash C-a-p?

A. No.

Q. Was it your understanding that, when you placed your order with the Handy-Cap Organization, you were dealing with a charitable organization?

A. Yes.

Q. Did you, in fact, buy anything?

A. I did.

Q. What did you buy?

A. I bought four three-way light bulbs with a five-year guarantee.

* * * * *

Q. Did you receive a price over the phone for four three-way light bulbs?

A. After I placed the order I did question how much it would be and she said, nine-forty.

Q. Did you think that that was a fair price at that time?

A. No, I didn't.

Q. Did you feel that the excess over what would be a fair price you would consider to be a charitable donation?

A. Yes.

Mrs. McQuade became suspicious of the legitimacy of the Handy-Cap Organization when she received a bill for the ordered light bulbs before the merchandise was delivered and that bill was for \$10.69, \$1.29 more than the price quoted to her on the phone. Her suspicions led her to make checks with the Better Business Bureau which informed her that the organization was not registered with the Bureau. She made further inquiries after the ordered light bulbs finally were delivered by messenger to her home and after she found the markings on the bulbs were identical to some others she had purchased through normal retail store channels.

One of her inquiries was to the Norelco Company which supplied the bulbs to the Handy-Cap Organization. She learned the bulbs which were billed at \$10.69 to Mrs. McQuade normally sold at retail at 90 cents each and, because of bulk purchase discounts, were sold to the Handy-Cap Organization by Norelco for only 14 cents each.

As a result of her suspicions and inquiries, Mrs. McQuade refused to pay the bill submitted by Handy-Cap despite collection attempts by that organization and finally on August 3, 1974 filed a written complaint about Handy-Cap with the State Division of Consumer Affairs. The wording of the bill notice sent to Mrs. McQuade by Handy-Cap was the subject of testimony by her:

Q. Mrs. McQuade, were any words used that would induce you to believe that this was a charitable organization that you were dealing with?

A. Well, first of all, the title of the organization. I do remember at the bottom of the first billing there was something sort of mentioned that the money was urgently needed for good work, something of that sort.

Q. Was a word like "donation"?

A. I believe the word "donation" was used, but I cannot recall accurately.

Q. "The money is needed so badly that we have to ask you to send your payment upon receiving your items." Was that the language?

A. That's what I was referring to.

Because she did not pay the bill, Mrs. McQuade had several phone conversations with Handy-Cap personnel, including that

company's President, Harry Stricker. In these conversations, representations were made to her about the employment of handicapped workers. When she pressed Mr. Stricker for details about the alleged handicaps in one of these conversations, she was greeted with a vague response:

Q. Was there any representation as to whether this organization employed handicapped people?

A. Yes. When I made the first phone call to the agency to cancel my bill, the young man I spoke with made reference to the organization hiring handicapped, and the first conversation I had with Mr. Stricker in which he called me, he told me that the majority of their employees were handicapped.

Q. Did you try to ascertain what the nature of their disabilities were?

A. I did. I told him that I was very familiar with a variety of handicaps, and could he be more explicit. I questioned him whether he had a high percentage of paraplegics or hemiplegics or stroke victims, and he was very vague about it, very vague, and said, "Well, our employees are handicapped of one sort or another."

Q. Now, what is your total reaction to this business transaction? What do you feel as a person that they were doing?

A. I feel the whole organization, the way they carry out and the way they solicit over the phone is grossly dishonest.

A MAMMOTH MARKUP IS CONFIRMED

Mrs. McQuade's testimony as to the Handy-Cap Organization's grossly marking up the price of light bulbs was confirmed by the testimony of Stanley Godt, Vice President for Finance and Administration for the North American Philips Lighting Corp., which markets light bulbs under the Norelco name. Mr. Godt stated that from June to December in 1973 Norelco sold some 3,000 bulbs to Handy-Cap. Norelco, Mr. Godt said, ceased doing business with Handy-Cap in December of that year because of non-payment of bills by Handy-Cap. Mr. Godt was able to calculate in his testimony that Handy-Cap marked up the price of bulbs as much

as 1,100 per cent above the cost of purchasing them at a bulk discount rate from Norelco:

Q. Mr. Godt, are you familiar with the prices of the light bulbs, wholesale and suggested retail, which were sold by Norelco to Handy-Cap Organization?

A. Yes, I am.

Q. Now, directing your attention for the moment to a three-way bulb, what would be the suggested retail price of a three-way bulb?

A. In 1973 the suggested price was ninety-one cents.

Q. Now, you say, suggested retail price. Would that be the price at which Norelco sells to Handy-Cap?

A. No, that would be, as the name implies, a price that the consumer might pay at a retail counter.

Q. All right. But an individual such as a distributor or a corporation would get a discount off that price, wouldn't they?

A. Yes, they will.

* * * * *

Q. Do you have specific knowledge as to the discount received by Handy-Cap Organization?

A. Yes, Handy-Cap was invoiced at the suggested retail price less a discount of 59%.

Q. Have you worked that out as to what it comes out to, the price, actually, price to Handy-Cap with that discount, ninety-one cents on a three-way bulb? What would that final price be?

A. Approximately thirty-seven cents.

Q. I direct your attention, now, to a 60-watt bulb. What would the, first, suggested retail price be?

A. I assume you mean soft light, so I'll answer to that.

Q. Okay.

A. The retail price, again in June, '73, was thirty-five cents and the discount price to Handy-Cap Organization was a little more than fourteen cents.

Q. The discount was fourteen cents or the final price?

A. The final price.

Q. Final price was fourteen cents. Now, we heard testimony this morning that the first bulb that we discussed, that is the three-way and larger bulb, would go for \$2.57 from Handy-Cap Organization. That is a markup of close to 600%, if my math is correct. Would that jibe with your figures, if you have any?

A. That's approximately correct.

Q. And on the 60-watt soft light, if the price is fourteen cents and Mr. Stricker testified that it was sold for \$1.59, that would be somewhere in the area of 1100% markup?

A. That sounds correct.

Q. Did H.C.O., Handy-Cap Organization, ever approach Norelco concerning any guarantee which they wanted to provide to their customers on the Norelco bulb?

A. Not that I know of.

Q. Are you aware that they have a five-year guarantee printed on their package, or did at one time?

A. I am aware of some letter where they indicate there is a five-year guarantee. I don't recall seeing their package.

Q. Is there any manufacturer's guarantee from Norelco of any customer, a five-year guarantee on the life of the bulb?

A. Not on these household bulbs.

Walter E. Maloney of Short Hills, N. J., an attorney practicing in New York City, was another individual who received a call from the Handy-Cap Organization, Inc., which at the time was using the name H.C.O., Inc. in its sales processes but whose official corporate name on file with the state remained the Handy-Cap Organization, Inc. Mr. Maloney was induced to buy some light bulbs by the sales presentation which stressed aid to the handicapped. He testified about that presentation:

Q. And in what manner did you do business with them, sir?

A. I was at home one evening and answered the telephone, and the calling party asked for Mr. Maloney, and when I identified myself, she—I'll say "she," it sounded like a young girl, I'd say fourteen or fifteen years old—told me that they were selling electric light bulbs to help the handicapped and would I help the cause, something to that effect.

Q. Did she at any time mention that her organization was a charitable organization?

A. No, she did not.

Q. Did she say it was a profit-making organization?

A. No.

Q. She said only that they were selling bulbs to help the handicapped?

A. Yes.

Mr. Maloney became wary about H.C.O., Inc. when the three ordered light bulbs arrived in a package with a label showing no relationship to a charity and with an accompanying bill for \$6.09, about a dollar more than the price quoted to Mr. Maloney on the phone. He checked with the Better Business Bureau which suggested he contact the State Division of Consumer Affairs. He did so, and when informed H.C.O. was being probed as a profit-making organization, he refused to pay the H.C.O. bill. Mr. Maloney was emphatic in stating that he would have never ordered the bulbs had he known he was being solicited by a business entity incorporated for profit:

Q. Did you return the bulbs?

A. Yes.

Q. Did you hear from H.C.O. afterwards?

A. No.

Q. Mr. Maloney, I have just one final question. Is there any question in your mind that you would or would not have made the purchase if you knew that this was a profit-making organization?

A. I would definitely not have made the purchase.

THE "HANDICAPPED WORKERS" CALL

Mrs. Frances Postman, a housewife who lives in Somerset, N. J., received a phone call in December, 1973 from Handicapped Workers, a corporation registered as a profit-making entity to do business in New Jersey but having corporate headquarters in Philadelphia.

Mrs. Postman was serving her husband dinner at the time of the soliciting phone call by an individual Mrs. Postman characterized as persistent. She testified how she finally ordered four dishcloths from the organization at more than a dollar per dishcloth:

Q. Did she at any time mention that the organization was a charitable organization?

A. Not specifically, but she definitely gave the impression that it was a charitable endeavor and that I was helping the handicapped workers when I bought something from that organization.

Q. Can you remember exactly what in her presentation made you think that was a charitable organization rather than a profit-making organization?

A. Well, her emphasis upon the fact that this is the way they were helping handicapped workers make a living.

Q. And that made you think it was a charitable organization?

A. Oh, yes.

Q. How many dishcloths were involved in the sale to you, Mrs. Postman?

A. No amount was mentioned during the telephone conversation, but I eventually received four dishcloths which were rather sleazy.

Q. Do you remember the price of the dishcloths?

A. Yes. They sent me a bill for five forty-nine for four dishcloths. Seventy-five cents of that was for postage, for which they actually used only twenty-four cents, and twenty-five cents they indicated was for tax.

* * * * *

Q. I see. Have you ever had occasion to buy comparable dishcloths in a normal store in your area?

A. Yes.

Q. And what did they cost?

A. A number of months before that incident I had bought some for about thirty or thirty-five cents apiece, that I think were better than these.

Q. You feel that the quality was better than the ones you received from Handicapped Workers?

A. Yes. As a matter of fact, I checked in some stores on East State Street today to see if the price had gone up, and in McCrory's, McCrory's I discovered that they sold similar. Now, I'm not certain if they're identical, but they were very similar in size and in quality, and the price was three for a dollar nineteen. And the sales woman indicated to me that in December they were less, they were about twenty or twenty-five cents less; the price had gone up.

Q. Thank you, Mrs. Postman.

Mrs. Postman, would you have bought the dishcloths if you knew that the organization from whom you were buying was a profit-making organization?

A. No.

Q. You then felt that what you were doing was making a charitable contribution in addition to buying dishcloths?

A. Yes, exactly.

Because of the high price and low quality of the merchandise, Mrs. Postman made inquiries which led her to have a conversation with Mr. Amico of the State Consumer Affairs Division. When he informed her that Handicapped Workers was being checked on by the Division as a profit-making organization, Mrs. Postman returned the dishcloths to Handicapped Workers and forwarded the bill sent to her by that company to Mr. Amico.

FOREWARNED IS FOREARMED

Three months after her experience with the Handicapped Workers Corp., Mrs. Postman received a phone call from another organization soliciting with emphasis on handicapped workers—Torch Products Corp., whose corporate name had been The Organization to Conquer Handicaps until an official name change dur-

ing 1973. Mrs. Postman testified how, because of previous experience with a phone solicitation of this type, she managed to stall the phone caller and communicate with Mr. Amico at the State Consumers Affairs Division. When he informed her that Torch, too, was being checked on as a profit-making organization, she did not call Torch back as she had stated she would do. In the following testimonial excerpts, the first "he" refers to the Torch solicitor who later is identified as a Mr. Beekman:

Q. And did he ask you to order any goods from Torch?

A. Yes. He enumerated a list of household products and I told him that since I had had a previous experience I was a little reluctant to give a direct order, but I asked him if I could call him back.

Q. And what did he say?

A. He gave me a telephone number, but said I probably could not reach him there because it was a phone number that was used for telephone solicitation only. And I called Mr. Amico the following Monday and told him about the incident. He told me that organization also was being checked into, and so I didn't call back.

Q. Did Mr. Beekman at any time mention that Torch was a profit-making entity?

A. When I asked him, he did.

Q. Did he mention that?

A. But he did not offer the information.

Q. He didn't volunteer it?

A. No.

Q. Did he volunteer that it was a charitable organization, on the other hand?

A. Well, in his initial conversation he definitely stressed the fact that this is the way he, as a handicapped worker, and other handicapped workers were making a living.

Q. Aside from your contact with Mr. Amico, would that have again raised the question in your mind that this again was a charitable organization, do you think?

A. Yes, it would have if I hadn't had that previous experience with the Handicapped Workers.

* * * * *

Q. I see. Mrs. Postman, I only have one final question for you. What has been the effect on you by these telephone calls from these organizations holding themselves out to be organizations which are charitable?

A. Well, I'm much more skeptical now and I doubt whether I would buy anything further on the basis of a telephone solicitation.

Q. Do you feel that even if a true charitable organization were to call you, that you would check into their background before purchasing anything?

A. Oh, yes.

A CALL FROM TORCH

Sidney Cohen, a restaurant operator from Bricktown, N. J., was one of a number of complainants lured into purchasing high priced light bulbs because the phone solicitation by the previously mentioned Torch Products Corp. led him to believe he was aiding a charity. Mr. Cohen testified at the public hearing about the nature of the phone call by a feminine caller and the results emanating therefrom:

Q. And she gave you the name of Torch in her initial presentation?

A. At one point in the presentation she gave the name. I don't know just when it was.

Q. Did she ever say that the Torch was a charitable organization?

A. I don't believe so.

Q. Did she not say that Torch was a charitable organization?

A. No, she definitely did not indicate that it was not.

Q. Did she tell you, however, that she represented handicapped workers in her sales?

A. I'm not positive if she said that she represented handicapped workers, but she indicated that the or-

ganization was run for the benefit of handicapped workers.

Q. Via her presentation, was the impression created in your mind that she was representing a charitable organization?

A. Well, yes, no question about that.

Q. Do you remember what kinds of goods she was offering for sale?

A. She was offering light bulbs.

Q. Did she tell you the price over the phone when she spoke to you?

A. She probably—yes, she did.

Q. Do you remember what that price was?

A. It was around four and a half, or \$5.

Q. For how many bulbs?

A. For two bulbs.

Q. Approximately \$2.50 per bulb?

A. Yes.

Q. Mr. Cohen, what is your employment, sir?

A. I'm self-employed.

Q. You have your own business?

A. Yes, I run a restaurant.

Q. Do you feel that you would have bought two bulbs for \$5 if the impression was not created in your mind that this was a charitable venture?

A. No. In the first place, right now we probably have 4 to 500 bulbs in the restaurant. We buy them by the case in wholesale lots, so there's absolutely no reason for me to go out buying bulbs individually two at a time.

* * * * *

Q. Once again, Mr. Cohen, would a merchant who receives his bulbs for his restaurant at eighteen cents a piece buy bulbs priced at \$2.50 a bulb if he didn't believe that the organization from which he was buying them was a charitable organization?

A. No, no.

Q. I have no further questions.

A. It was a charity as far as I was concerned.

The mistaken belief, induced by the sales presentation, that Torch was a charity was held by Mr. Cohen until he received a commercial type sales catalogue from Torch and noticed that the bill for the bulbs included sales tax, a levy for which bona fide, non-profit charities are not liable. Shortly thereafter, Mr. Cohen shipped the bulbs back to Torch.

THE DUNNING WAY

As previously noted, a number of the complaints against profit-making organizations soliciting in the name of the allegedly handicapped involved collection agency dunning practices felt to amount to harassment and receipt of unordered merchandise. Before presenting the testimony of a sample complainant in this area, the Commission called as a witness Conrad J. LaMaita, President of National Consumer Reporting Service, Inc., with offices in Bloomfield, N. J., to establish the nature and mode of operation of a collection agency used by one of the profit-making companies.

Mr. LaMaita for 33 years prior to 1972 was solely an insurance broker. Among his clients was Salvatore M. Caravetta of Essex Fells, N. J., Chairman of the Board and Chief Executive Officer of the previously mentioned Torch Products Corp., which operates in 14 states but has corporate headquarters in West Orange, N. J. Mr. LaMaita testified he became longtime friends of Mr. Caravetta and his wife, Rose Marie.

During 1972 Mr. LaMaita at Mr. Caravetta's suggestion entered into an agreement to purchase for \$80,000 National Consumer Reporting Service, Inc. (NCRS) whose sole stockholder at the time was Mrs. Caravetta as custodian for the Caravetta children. As part of the purchase agreement, Mr. LaMaita obligated himself to make time payments of \$3,000 per quarter to be paid out of the proceeds of NCRS collections of unpaid bills referred to the collection agency by Torch.

The substantial identity of interest of the principals of Torch and NCRS was brought out through Mr. LaMaita's testimony. He established that NCRS was virtually a "house" collection agency for Torch by stating that of the total of \$428,259 in unpaid bills referred to NCRS in 1973, 96 per cent or \$402,371 were from Torch. Mr. LaMaita testified that during the same year he collected \$120,718 in unpaid bills for Torch and that under his arrangement with that company, he kept half of that amount and

turned the other half over to Torch. It was also established that John Callery, Controller of Torch, was at one time prior to Mr. LaMaita's purchase of NCRS, holding simultaneously the position of NCRS President. Mr. Callery continued to be bookkeeper for NCRS.

The unpaid Torch bills, which averaged in the area of \$8 to \$12, were referred to NCRS when Torch had been unsuccessful in collecting them for a 120-day period. NCRS would then proceed to send out a series of dunning type communications, each successive notice worded so as to apply more pressure for payment. Mr. LaMaita testified about those communications and the idleness of the threatening tones in them:

Q. Is this what you usually send out?

A. Yes, sir.

Q. I notice, also, that on the front page of this it says, "Notice: The unsuccessful appeal to collect the above amount by Torch has made it necessary for them to forward the account to us for collection." Is that correct?

A. Right, sir.

Q. Would you read the second line underneath that of this notice to the delinquent payer?

A. "Please do not make it necessary for us to take further action on behalf of the handicapped workers of Torch. We will expect your remittance to be sent now."

Q. What does that mean, "on behalf of the handicapped workers of Torch"?

A. Well, I don't know. The only thing I know with this particular line here, we're just making another plea for them to pay off whatever moneys is owed to Torch.

* * * * *

Q. Would you read into the record the statements on the second or yellow copy that is sent to the delinquent customer?

A. In its entirety?

Q. Please.

A. "We cannot understand why you continue to ignore the claim which has been placed with this office

for collection. We have had no word from you indicating what you can or will do to settle this matter. It is not our desire to cause you additional trouble and expense in this matter, but unless a check or money order is received by return mail you may leave no other recourse. The matter is now in your hands. We cannot wait any longer. Please do not make it necessary for us to commence proceedings."

Q. Would you turn to the third or pink copy? Is that the final notice that a delinquent payer gets?

A. No, there's one more after this that's an envelope.

Q. All right. Would you read the pink notice?

A. "The matter indicated above will now be referred for the proper action since you have refused to honor your obligation with voluntary payment. The additional expenses incurred with this type of collection will be added."

Q. I show you what is part of a series of documents marked Exhibit C-13, which is an envelope. Is this the final notice that a delinquent customer receives from National Consumer Reporting Service?

A. Yes.

Q. What does that say on the envelope?

A. Well, it has above "Credit to Torch the account," which would be the number and the amount. "Your balance due Torch is still unpaid. If you do not intend to send your remittance, call this number: Area Code 201 743-1600, and have your"—in heavier print, "This bill must be paid. Further embarrassment may be avoided by sending your remittance to National Consumers Reporting Service, Inc., without fail."

Q. What is the meaning of the words on the second notice that a delinquent customer receives that "unless a check or money order is received by return mail you may leave no other recourse," referring to additional trouble and expense? What does that mean?

A. In essence, it doesn't mean anything too much,

Mr. Sapienza, other than another way of trying to collect these monies.

Q. What do you mean when you tell the delinquent payer in the pink or third notice that "The matter indicated above will now be referred for proper action"? Who do you refer it to?

A. No one.

THE NAME IS A MISNOMER

As many citizens are keenly aware, there are nationwide credit rating companies which can be used by credit-offering businesses to check on an individual's credit stance. An adverse report by one of these rating agencies can effectively ruin an individual's ability to establish normal lines or credit.

Mr. LaMaita's testimony established that his company, National Consumer Reporting Service, was not truly national and performed no credit reporting service as the corporate name implied:

Q. Going to the name National Consumer Reporting Service, Incorporated, do you know who chose that particular name for this business?

A. I have no idea.

Q. Is the business national in any sense of the word?

A. Well, only in this respect: that naturally there are some people that we do have to send out letters to outside of the State of New Jersey.

* * * * *

Q. Do you report delinquent accounts to any consumer reporting service?

A. None whatsoever.

Q. None whatsoever. So, then, this particular name, "National Consumer Reporting Service," has no meaning according to what anyone would expect of those words?

A. None that I know of. We're just a collection agency.

* * * * *

Q. In your final letter, Mr. LaMaita, you talk about

embarrassment to the person who holds the bill and how it might be avoided. What is the nature of the embarrassment to make you make this allusion?

A. None whatsoever. It's just probably another word to use to try to help collect this money.

Q. Nothing further is said as to the nature of the embarrassment which might be caused?

A. None at all. In fact, with the last letter, if no money is received, from what I understand, it's pulled out of our file and sent back to Torch and it's disposed of by Torch.

Q. You don't list those people with other——

A. No, sir.

Q. ——agencies——

A. No, sir.

Q. ——as being poor credit risks?

A. No, sir. That card is pulled out of our file and sent back to Torch and they dispose of it.

Q. So that other than to cause some concern, emotional or psychological or whatever, in the person who receives the letter, you're telling this Commission the phrase "embarrassment" has no significance whatsoever?

A. None, not as far as I'm concerned, sir.

A SIMILAR TECHNIQUE

In addition to National Consumers Reporting Service, the Commission's investigation dealt with a similar company established as the collection agency for Guaranteed Home Products Inc., Bloomfield, N. J., another profit-making business corporation soliciting by phone the sale of light bulbs and other household products in the name of the allegedly handicapped.

Guaranteed Home Products (GHP) was founded in June, 1973 by Louis A. Ruina, brother-in-law of the previously mentioned Salvatore M. Caravetta, principal of Torch Products Corp., and Frank Carvelli. Prior to that time, Mr. Ruina held a number of positions for eight years with Torch, some of them in an executive capacity.

Mr. Ruina testified at the public hearings that his then year-old company was grossing about \$600,000 per year in sales. The company's sales presentation, like that of Torch, alleged that the company employed handicapped individuals and that the caller had a handicap.

Mr. Ruina testified that a company named Interstate Credit Association Inc. was established as the collection agency for GHP, having offices in the same building and having Mr. Carvelli as its principal. Mr. Ruina's testimony established that Interstate's ominous appearance as a national credit reporting service was, like that of NCRS, unfounded:

Q. Does Interstate Credit Association share the same space with you?

A. Yes.

Q. And you say they have an office where else?

A. In Houston, Texas.

Q. Houston, Texas. I notice on top here it's stamped "Agencies in several cities and towns throughout U.S.A." Is that a true statement?

A. No.

Q. In bold print here, it says, "A credit reporting and collection agency." Does Interstate Credit Association make credit reports to any central consumer banks?

A. To my knowledge, no. I'd have to check with Mr. Carvelli.

* * * * *

Q. Will you read the representations that are made along the right side of this letter from Interstate?

A. The figures?

Q. No. Would you read the representations, the words along the left side? I'm sorry.

A. Oh, "Credit reports, individual credit reports available to leading credit rating institutions. Recognized reporting and collection agency for various businesses. Reports available to banks, finance companies, insurance companies, department stores, jewelry stores, garages, service stations, restaurants, et cetera."

Q. Thank you, sir. Is any of that true?

A. Sir, I didn't set up that form, and, to my knowledge, it's not true. They don't make any reports to any other agencies. It's used as a means to make collections.

UNORDERED GOODS AND DUNNING NOTICES

Mr. Ronald Jack of Chappaqua, N.Y., Municipal Engineer for the Town of Mt. Pleasant, N.Y., received in August, 1973 a package containing two light bulbs and a bill for \$4.37 from Torch Products Corp. Mr. Jack was puzzled by the arrival of the package but did not give it much thought, since he knew he had not ordered the bulbs and checks with his wife and daughter determined they had not ordered the bulbs. Mr. Jack subsequently began receiving collection notices once a week for six weeks from Torch requesting payment of the bill. Again, since the merchandise had not been ordered, Mr. Jack, although annoyed by the notices, did not pay much heed to the first five of them. Some of those five, however, aroused at least fleeting charitable sympathies by references to handicapped workers:

Q. I see. Mr. Jack, I show you what's been marked C-5 for identification, which purports to be a demand notice marked "Fifth Notice," from Torch Products Corporation, 177 Main Street, Orange, New Jersey, and it has a notation on the back of it. Would you read that for the Commissioners, please?

A. Capital letters up at the very top, "IT HURTS." Underneath, "Your overdue debt hurts us more than it hurts you. Even so, we recognize that unusual circumstances do sometimes arise, so we are still open to reason. But please realize that the expense of collecting this overdue bill out of all proportion to the small amount involved, yet we must be paid in full to pay our handicapped employees in full. Help us keep faith with those who count so heavily on us. Spare us all further difficulty by paying your bill. We will be very grateful if you will send it right now," and that's underlined, and "Thank you."

Q. Thank you, Mr. Jack. Did this notice create any impression in your mind, by the way, Mr. Jack?

A. Well, it drew on my sympathies. But I was—I had been very annoyed by the dunning notices so far and I just ignored it.

Q. *You simply ignored it?*

A. Simply ignored.

Q. *When you say it whetted your sympathies, what do you mean by that?*

A. Well, they're using the handicapped people and playing as heavily as they can on that phase of their operation.

* * * * *

Q. *Did you feel that Torch was a profit-making entity when you had your dealings with them?*

A. Well, there was no question in my mind when I saw two light bulbs for a price of \$4.37, which was the amount of my bill. I was sure that the light bulbs hadn't cost that much.

Q. *Well, let's rephrase that. Was it clear in your mind that any profit which was made between the manufacturing cost of the light bulbs and the cost to you, was there any question in your mind where that money was going? Did you think it was going to charitable purposes or did you think it was going for a profit-making organization?*

A. No, the implication to me and the way I took it was that it was for charity to help out the handicapped people.

The sixth and final notice from Torch was the one which aroused Mr. Jack's apprehension and ire and led to his determination to take counter measures. The notice talked about possible "embarrassment" through referral of the unpaid bill to National Consumer Reporting Service (NCRS) for collection. The name of the collection agency immediately implied to Mr. Jack a credit-rating organization:

Q. *Now, you say you ignored the fifth notice. Sometime later did you receive in the mail what has been marked Exhibit C-6, which purports to be a final notice from Torch Products?*

A. Yes, I did.

Q. Now, will you read what is in the box at the top and then continue on and read the entire notice?

A. All right. "Notice: After seven days your account must be referred to the National Consumers Reporting Service," and that's underlined, "for collection because you have given us no alternative."

Then it goes on below that, "But it's still not too late. Even though you have either overlooked or ignored six notices that your account with Torch is now seriously delinquent, we are not in business to cause trouble. We truly don't want to embarrass you, but our handicapped employee did complete a legitimate sale with you months ago. Surely, then, it's not unreasonable to put a seven-day deadline on this final demand for payment. After seven days it will be out of our hands. Neither of us wants that to happen, so please pay up. The enclosed envelope is for your check or money order. Please now. Sincerely, R. Ward," and this collection department.

Q. Mr. Jack, what did you assume that the National Consumers Reporting Service was, if anything?

A. Some kind of a credit-rating organization.

Q. Did you feel that the fact that "Reporting" was used meant anything, "Reporting" in the name National Consumers Reporting Service?

A. No question that it was a credit-rating organization.

Q. Did you feel that your credit rating was going to be affected by this referral in seven days?

A. Without question.

Mr. Jack wrote a letter to Torch stating that unless Torch could prove he had ordered the bulbs, he was going "to take matters further" and try to put Torch out of business. He got a reply apologizing for this "misunderstanding" and stating his bill had been cleared from the records.

The experience with Torch, however, had left Mr. Jack with an impression the company might be a quite questionable operation. This prompted him to write to state officials in New York and New Jersey outlining the facts of his encounter with Torch. His point was that if something was "rotten," "let's find out about it."

VARIATIONS ON A THEME OF DECEPTION

The sale of exorbitantly high priced household products by telephone by profit-oriented, commercial enterprises did not prosper as an industry until the element of appealing in the name of the allegedly handicapped was introduced. Subsequently, the number of these types of organizations has proliferated.

As has been the history of other types of businesses, individuals who have acquired knowledge and experience with an established enterprise have spun off and started their own companies. One example is the previously mentioned Louis Ruina, principal of Guaranteed Home Products Inc., who before starting that company in 1973 was employed by Torch Products Co. and its predecessor companies.

Another example is the previously mentioned Harry Stricker, President of the Handy-Cap Organization Inc. (H.C.O.) who worked as Manager of the New Brunswick office of Torch before founding his own company in 1973.

THE COMPETITION IS FANTASTIC

Mr. Stricker, appearing as a witness at the public hearings, testified how his new company and others were outgrowths of the experience of individuals at Torch and how competition in the industry has become intense:

Q. Now, when you worked for Torch, is it or is it not true that an emphasis was placed on the word "handicap"?

A. Yes, sir.

Q. Pardon?

A. Yes, sir.

Q. Did you find as a result of the use of that term that the term itself accentuated or built up sales or response to the solicitation?

A. Yes, sir.

Q. Is there any question in your mind about that?

A. No, sir.

Q. So when you formed your own organization you took that aspect of phone sales solicitation with you, did you not?

A. Yes, sir.

Q. And that because it had proved to be, in your experience, a profitable aspect of sales solicitation?

A. In my limited experience, yes, sir.

Q. All right. And isn't it a fact that you geared your sales solicitation technique after that which you had experienced and learned from Torch?

A. Yes, sir.

* * * * *

Q. Would it be fair for this Commission to infer, Mr. Stricker, that your organization, specializing as it does in sales solicitation, is a direct outgrowth of your prior learning experience with Torch?

A. Yes, sir.

Q. Do you know of any other such organizations which might be an outgrowth of prior experiences of employees of Torch?

A. I don't know the specific names, but I know there's about six or seven organizations that are an outgrowth of Torch, yes, sir.

* * * * *

Q. How competitive is this business today?

A. Fantastically competitive.

Q. Yes. It's a lot more competitive than it was five years ago, right?

A. That's because there are many individuals doing it on their own today.

Q. Isn't it a fact that the success of one organization tends to spawn other organizations?

A. Yes, sir.

Q. And isn't it a fact that your organization really developed out of your background with Torch?

A. Yes, sir.

Given this setting of intense competition among a proliferating number of companies, there is obvious pressure to push claims in

the sales presentations about handicaps and product performance to unsupportable outer limits. This section of this report now turns to the various degrees and subtleties of deception involved in the operations of three companies which were investigated.

GROSS MISREPRESENTATION

From the complaints registered by individuals against these companies and previously reviewed testimony of some of the complainants, it has been established that phone solicitors working for Mr. Stricker's Handy-Cap company stressed in their calls that the organization benefited the handicapped in some way and that Mr. Stricker alleged at one point to a complainant that his company employed handicapped individuals. The S.C.I. investigation demonstrated conclusively that the statements by the phone solicitors and the allegations by Mr. Stricker amounted to a degree of deception equal to gross misrepresentation.

The facts are that healthy young individuals, mostly teen-agers from a local school, were employed as phone solicitors by Handy-Cap and were told in effect by the Manager, Lawrence Howard, of the company's dingy office in Dunellen that they could say anything they wanted if it would make a sale. It is clear from the testimony, already presented, of some of the complainants and from the testimony, to be reviewed shortly, of two former teen-age employees of Handy-Cap that the company's official, written sales presentation, which stated the company was not a charity and contained no reference to the handicapped being benefited, was largely ignored in favor of free-form presentations stressing benefit to the handicapped.

TEEN-AGERS TESTIFY

Pamela Bowen and Joan Dixon, two healthy teen-agers who were pupils at Dunellen High School, appeared as witnesses at the public hearings to describe their employment during September-October of 1973 at the Handy-Cap office in Dunellen. To obtain employment, they were interviewed briefly by the previously mentioned Office Manager, Mr. Howard, who made no inquiry as to whether they were handicapped and who hired them at \$1.75 per hour, then the state's minimum wage. Miss Bowen, whose testimony was corroborated by that of Miss Dixon, described the working conditions in the room where she and five other telephone solicitors worked for Handy-Cap:

Q. Would you describe the working conditions of the Handy-Cap Organization in Dunellen, New Jersey?

A. Well, the room was fairly small and it was—there were no windows to be opened. It was always stuffy, and the desks were sticky and it was uncomfortable. The bathroom was very small, cramped. There was no light. I felt the lighting in the office itself was inadequate for working, and it was uncomfortable.

The two teen-agers were given the company's official written sales presentation, but Miss Bowen told how instructions from Mr. Howard encouraged free-form presentations emphasizing aid to the handicapped:

Q. Was the emphasis on making the sale?

A. Yes.

Q. Was it clear from the explanation you received and from your actual practice that you could say whatever you had to to make that sale?

A. Yes.

* * * * *

Q. Did you ever tell your employer about the thought that you thought you were helping the handicapped when you started, but now you have learned differently?

A. Yes.

Miss Dixon testified that the presentations made over the phone left many with the illusion they were dealing with a charity which aided the handicapped:

Q. Now, let me reiterate a question that Commissioner Lucas just asked. Why do you feel that the public that you reached by the phone had the feeling that they were dealing with some form of charitable organization?

A. Well, a lot of times people say, "Well, I buy from every charity, so I'll buy from you, too."

Q. And do you feel that the presentation and the

use of the word "handicap" generated this feeling on the recipient of the call?

A. Yes, I do.

Both girls testified that during their employment at Handy-Cap they never saw one handicapped employee in the office. Yet, Miss Dixon told of an instance of one of the healthy employees representing on the phone that he was handicapped:

Q. Were any of the persons in the room at any time when you were making calls representing themselves to be handicapped?

A. One time I worked when a boy by the name of Peter Carubbi said he was handicapped.

* * * * *

Q. At the time that there was a deviation from the script, was Mr. Howard present?

A. Yes, he was.

Q. Did you hear Mr. Howard discipline or correct the person being called?

A. No.

The two teen-agers testified that many of those whom they solicited by phone would ask questions about what handicapped were being aided and whether Handy-Cap was a charity. The following excerpts from Miss Bowen's testimony illustrate how she and other employees were under instructions to hang up the phone on those who got too inquisitive:

Q. While you were handling the phones, did you get any inquiries from the persons you were soliciting as to the nature of the organization that you were representing?

A. Yes.

Q. And what did you do with those complaints or those comments as they came back to you on the telephone?

A. I just told them that I didn't know anything about it; if they wanted to know anything, they should call the main office in Metuchen.

Q. What happened if the people persisted in asking you questions either about what you were selling

or the nature of the organization that you represented; what did you do about that?

A. I followed my orders and I hung up.

Q. *You hung up on them?*

A. Yes, sir.

Mr. Sapienza: *You followed your orders in doing that; is that right?*

Miss Bowen: (Nodding affirmatively.)

Q. *Whose order?*

A. Larry Howard's.

Q. *Did you make known to Howard at the time this would occur that someone had asked questions and that you had hung up?*

A. Yes.

Q. *What, if anything, was his response to this occurrence?*

A. He just usually laughed at it.

Q. *At the time that this occurred did he tell you to change what you were doing in any way?*

A. No.

* * * * *

Q. *Were the other telephone solicitors at the time either school or classmates of yours?*

A. Yes.

Q. *To your knowledge, did they follow the same kind of practice that you have just discussed?*

A. Yes.

Q. *And they handled such inquiries by the public in the same fashion?*

A. Yes.

Miss Bowen and Miss Dixon eventually came to realize that they were participating in a less than honest operation. Becoming thoroughly disgusted and disillusioned, they quit Handy-Cap after about a month's employment.

WORKING PAPERS BY THE SCORE

The extent to which Handy-Cap employed healthy young teenagers from the Dunellen High School to further sales of excessively high priced light bulbs and other household products was brought out through the testimony of Mrs. Janet Mokus, Secretary of the Guidance Department of the School. Mrs. Mokus' responsibilities included the issuance of working papers for pupils who wanted to work for various companies.

The working papers are issued once a promise of employment has been established and a doctor certifies that the prospective young employees are in good health. Mrs. Mokus told of the number of working papers issued relative to Handy-Cap during a period in 1973-74:

Q. Now, Mrs. Mokus, I show you what's been marked C-32 for identification purposes which purports to be a list of working papers issued for Handy-Cap Organization, and it lists twenty-nine names of students at the school and the date on which working papers were issued?

A. Right.

Q. From 9-19-1973 through 2-15-74?

A. Right.

Q. And it also lists, does it not, at the right the age of the individuals involved?

A. Right.

Q. By the way, Mrs. Mokus, if you will look down that list, what is the range of ages?

A. Fourteen and fifteen, sixteen, and, I think, two seventeens.

Q. As a matter of fact, there are a total of twenty-nine names there, and does it appear that nine of those are fourteen?

A. Yes.

Mrs. Mokus described how the youngsters who had left Handy-Cap's employ were disgusted by their experience there:

Q. Have you ever had occasion to talk to any of the employees of the Handy-Cap Organization after they worked for Handy-Cap Organization?

A. Yes.

Q. Other than hearing the testimony of the girls today?

A. Yes, I have.

Q. And what is the gist of those conversations?

A. Totally disgusted. For one reason—I'm sorry. I shall not add unless you ask me. Shall I add more to it?

Q. Certainly, go ahead.

A. Some of the reasons were that they were not paid on time and they were discouraged with the comments of people to whom they talked, and being very young people they tried it as a lark and made a couple of bucks and that was all they were interested in.

Q. Realizing that you are not a guidance expert, I ask you this question, really, as a member of society. Do you feel that the work experience at Handy-Cap Organization can have any effect on the developmental processes of a normal teen-age boy or girl?

A. I don't think it did them any good.

* * * * *

Q. Do you feel in any sense that these youngsters were being exploited?

A. Oh, yes, yes, definitely. They are. They were all young, and I think most of them were interested in making a few dollars, and there aren't too many opportunities for the young people to make some money, and I don't know how long the students worked for this outfit because the employer by right is supposed to send the white slip back to me when the employee is discharged, but Handy-Cap Organization never did, and all during from September to December the promise of employment was always filled out by Mr. Howard and it always said, "Handy-Cap Organization." It was not until January that it changed to H.C.O.

THE HEALTHY SAY THEY ARE HANDICAPPED

The previously mentioned Handicapped Workers Inc. is headquartered in Philadelphia but maintains sales offices in New

Jersey. The Commission had hoped to question the principals of this profit-making enterprise appealing in the name of the handicapped, as it did the principals of Handy-Cap, Guaranteed Home Products, and Toreh. However, the jurisdiction of the Commission's subpoena power does not extend beyond the borders of New Jersey, and the principals failed to respond to a communication from the Commission, sent to the company's attorney, requesting that they appear voluntarily and assist in the development of the facts relative to their company's operations.

Fortunately, the Commission was able to shed some light on the degree of deception practiced by this company through the testimony of former employees who lived in New Jersey and who had worked at the company's office in Fort Lee, N. J. One of those employees, Miss Susan Kalbhenn of West New York, N. J. was hired in April, 1973 as a phone solicitor in that office. She testified she was not asked if she was handicapped by her employers, and she observed no handicaps of her fellow workers who manned phones with her in two rather barren, small rooms in the Fort Lee office. Her wage was \$1.75 per hour, again the then state minimum wage.

The official written sales presentation of Handy-Cap Workers states that "we're conducting a drive in your area," that the goods offered for sale are made by the handicapped, and that "we're simply trying to help the handicapped workers earn their own livelihood." Miss Kalbhenn, however, testified that a Mr. Stratmore of the company instructed her to say she was a handicapped worker and that she and other perfectly healthy employees did so in the telephone sales presentations:

Q. Did you ever have a conversation about a week after beginning your employment there with a Mr. Stratmore?

A. Yes.

Q. About the presentation?

A. Yes, I did.

Q. What was the substance of that conversation? What did you say to him and what did he say to you?

A. Well, I couldn't understand why I'm supposed to say I'm a handicapped worker and I'm not handicapped, and he said, well, you know, it sounds better.

And, actually, he said I was a handicapped worker because I'm working for or with the handicapped.

Q. He said that you were handicapped because you were working for the handicapped?

A. No, he didn't say that I was handicapped, but I was a handicapped worker.

Q. Oh, I see.

A. I didn't understand it.

Q. Did you make the statement on the phone that you yourself were a handicapped worker?

A. Yes, I did.

Q. But the way the emphasis of Mr. Stratmore put on it was that you were a handicapped worker?

A. Yes.

Q. And is that the way you put it to people on the phone?

A. Yes, unless they asked me otherwise.

Q. How do you think the people on the phone interpreted that?

A. That I was myself—I was handicapped.

Q. Did everybody else use the same type of sales pitch?

A. Usually, yes.

Q. Did they say that they were, in fact, handicapped?

A. Yes.

Q. You have already testified that none of them were, to the best of your knowledge; is that right?

A. Right.

A claim put forth by Handicapped Workers was that employees who made or packaged the household products offered for sale were handicapped workers. William Shlala, who supervised the company's Fort Lee office for a two-month period, testified he had reason to doubt that claim. He testified about that belief and about his reasons for leaving the employ of the company:

Q. Why did you leave?

A. Quite honestly, I told Mr. Hoffman that I did

not need the hassle of what was going on. When I took the job, I didn't realize that there was a certain amount of dubious nature to the whole thing or the state would be walking in every other day, or people from the county or what-have-you, and I didn't need a part of that.

Q. Well, did it come to your knowledge that there were a great deal of complaints being made to various state and county officials and that's why they were there?

A. When I came down to Trenton the first time.

Q. Do you feel that there is a dubious quality to this particular type of business?

A. Yes and no, and I have to put it this way: I still have never been to Philadelphia. I have people who have told me that there are no handicapped workers, or that if there are handicapped workers, there are no special facilities that they are working in to compensate for the physical disabilities those people have or to indicate why the prices should be as exorbitant as they are.

Q. Well, what I would like to know, you say as rotten as things were. What do you mean by "rotten," and how do you know they were rotten?

A. In terms—well, I worked in the office. There was no sense from Philadelphia, from Mr. Hoffman particularly, that people who worked there should be treated as human beings. They were there to man that phone. They were there to be on that phone four hours a day and to call, call, call and get sales, and he didn't want to know anything if the sales weren't in. And I don't know that you treat people like that who are working for you.

THE LANGUAGE HAS AN IMPACT

One of the oldest and largest of the profit-making entities telephonically selling light bulbs and other household products in the name of the allegedly handicapped is the previously mentioned Torch Products Corp., which has headquarters in West Orange, N.J. and operates in 14 states. Torch's gross sales in 1973 were

\$4.8 million. Salvatore M. Caravetta, the previously mentioned Chairman and Chief Executive Officer of Torch and its controlling stockholder, was called as a witness at the public hearings to develop the facts as to Torch and its predecessor companies whose history will be traced in more detail in a subsequent section of this report.

Mr. Caravetta, prior to being examined by S.C.I. Counsel and the Commissioners, was permitted to read a statement* which, among other things, set forth Torch's basic contention that it is nothing more than a business enterprise specializing in telephone sales made by employees who are authentically handicapped. The S.C.I. examined the facts relative to this contention in two areas: The sales presentation policies and the validity of the claim of employing only truly handicapped individuals to solicit sales by telephone.

In the area of sales presentations, Torch and some of its predecessor companies have for the last eight years† been using presentations which make references to the handicapped. The official, written Torch sales presentation for light bulbs at the time of the S.C.I. investigation, a presentation which Mr. Caravetta testified served as a guide but did not limit the solicitors from making further statements in line with the gist of the written matter, states in part, "Only handicapped people are in its (Torch) sales department and that's why I'm on the phone, because it's the only way a handicapped person like myself can reach customers."

Mr. Amico of the State Consumer Affairs Division, as reviewed previously, testified that the latter part of that presentation obviously conjurs up handicaps so serious as to prevent the phone caller from being ambulatory. Mr. Caravetta was questioned at length at the public hearings about the possible charitable inferences of the presentation:

* The full text of Mr. Caravetta's statement appears on pages 111 to 116 of this report. The Commission notes that it accorded Mr. Caravetta more than his State Code of Fair Procedure rights by permitting him to make a statement prior to the close of his testimony and by not subjecting the statement to the relevancy requirement of the Code. The Commission believes the full facts, as set forth in the public hearing record which is reviewed in this public report, are the best guide for determining to what degree the statement is relative and supportable.

† Mr. Caravetta testified that Torch was experimenting with some success with a presentation not emphasizing references to the handicapped. He did not offer the Commission the text of that presentation. The Commission noted that the sales figures Mr. Caravetta offered for that experimental program did not indicate how many of the sales were made to repeat customers who had been dealt with in the past under the image of the handicapped workers.

Q. *I'm asking you head on, don't you think that there is a tremendous sales impact in that language?*

A. I don't know. We tell our people to tell the truth. If they are handicapped, we tell them to tell the truth.

Q. *Do you think that that language appeals to a benevolent instinct?*

A. It might.

* * * * *

Q. *Mr. Caravetta, would you agree with me that the language you used in your sales pitch, to wit, "only handicapped people in its sales department, that's why I'm on the telephone, because it's the only way a handicapped person like myself can reach a customer," would you agree with me that that would give rise to an inference that a charitable organization was being benefitted?*

A. Not necessarily, sir.

Q. *Would you agree with me that the language is subject or susceptible to a consumer drawing such an inference?*

A. Not necessarily.

Q. *Are you saying, Mr. Caravetta, that the language is not susceptible of such an inference?*

A. I am not saying that. I don't know to what degree it might be.

* * * * *

Q. *Now, if my reading this brings to my mind the conclusion that I am in some way dealing with a charity, do you think that's susceptible to a reasonable conclusion from these words?*

A. If you as an individual do that, I can't help you reach, you know, avoid; can't help you reaching that conclusion.

Q. *Now, view the plain words that we now have gone over. Do you think it would be a reasonable conclusion that someone can draw?*

A. I don't know, sir.

Q. If I were to draw that conclusion from these plain words, would I be the deaf, illiterate nitwit that you referred to in your opening statement?

A. Say that again, sir, please?

Q. If I concluded—

A. Yes.

Q. —from hearing this presentation on the phone with nothing more than I was dealing with a charity, would I be the deaf, illiterate nitwit that you referred to in your opening statement?

A. Only after you made the purchase and made no effort to find out what you bought.

Q. Then you're placing the burden on me to go one step further after I receive the product?

A. You haven't paid for it yet, sir. You have a right to examine the product.

Q. From the words, Mr. Caravetta, would it be a reasonable conclusion?

A. (No response.)

AN ASSERTION IS EXAMINED

A principal assertion by Torch, one that Mr. Caravetta reiterated at the public hearings, is that Torch employs only authentically handicapped individuals in its telephonic sales offices. This policy, according to Torch, supposedly justifies the references to handicaps and the handicapped in its sales presentations. The assertion, however, is open to question as the public hearings demonstrated.

By way of background, Mr. Caravetta states that the policy of hiring only handicapped individuals for telephonic sales work is carried out by the company's various office managers in job application interviews either by observing what they consider to be a handicap or, in the absence of discernible impairment, by directing the applicant to get a letter from a doctor certifying that what the applicant claims is a handicap is one. Importantly, however, the applicants without any visible handicaps are immediately employed as telephone solicitors, and, according to Mr. Caravetta's testimony, are given up to five weeks to obtain letters from doctors.

Keeping this immediate hiring policy in mind, we turn to Mr. Caravetta's testimony that Torch must hire about ten new employees per week, or 520 per year, to maintain its telephone sales

staff at 55 persons in its New Jersey offices. Additionally, Mr. Caravetta testified that the majority of newly hired telephone sales employees last from one or two days to several weeks. Thus, many of the new employees who are in Torch's employ in that short span of time and have no discernible handicaps hold themselves out over the phone as handicapped without any medical certification of their being truly afflicted in some manner.

It should be noted that Torch, as established by Mr. Caravetta's testimony, had no medical certification program of any sort prior to 1973, a period during which it sold under the company's prior name of TORCH, The Organization to Conquer Handicaps.

During the course of this investigation, the Commission on May 9, 1974, asked for and received assurance from Torch that it would provide expeditiously to the S.C.I. personnel files, including medical certifications, for each New Jersey telephone sales employee of the company. The Commission did so after it was assured by Mr. Caravetta that the requested documents were readily available from Torch's files. Almost a month elapsed before Torch finally delivered to the Commission copies of 55 personnel forms for the New Jersey employees with a statement that the documents represented the status of the telephonic sales force as of February, 1974. No explanation was given why documents reflecting a more contemporary picture of the work force were not supplied and without the delay.

The various afflictions or ailments listed did have a few instances of recognized serious handicaps such as paraplegia. They listed also, however, some ailments—diabetes, hay fever, hernia operation, dislocated shoulder, and others—which do not prevent many thousands of individuals, once properly treated, from holding normal jobs with companies throughout the nation. (It is Mr. Caravetta's contention that Torch employees are handicapped in ways which prevent employment in the normal labor market.)

Commission Counsel Charles Sapienza questioned Mr. Caravetta about three of the Torch personnel forms which were among those having communications from doctors attached to them:

Q. Well, working with this document marked C-15 for identification, apparently this woman applied for sales employment on May 17th, 1973; is that correct?

A. Yes, sir.

Q. We'll both have to work with this. It's the only copy I have.

Apparently her handicap was not apparent to the person that interviewed her; is that also correct?

A. Yes, sir.

Q. All right. And for that reason, although she stated the nature of her handicap to be an arthritic ankle, she was required to produce a doctor's certificate; is that correct?

A. Yes, sir.

Q. I show you what is attached to be the doctor's certificate for this particular woman, dated October 5th, 1973; is that correct? Can you read that doctor's certificate?

A. Yes.

Q. Without stating the name of the individual, can you read what that doctor's certificate says into the record?

A. "The above person has been under our care and was seen on 9/15/73 and should return to us in four weeks. "Diagnosis:"

Q. "Iron."

A. "Iron deficiency anemia."

Q. Does that doctor's certificate tell you that particular person cannot enter the normal work force because she is handicapped?

A. I can't answer that.

Q. Is there any reason why this doctor's certificate was not submitted until some five months after the application, if you know?

(Whereupon, the witness confers with an associate.)

A. I can't answer that, sir.

Q. All right.

* * * * *

Q. Do you have a copy of this document in front of you, Mr. Caravetta?

A. Yes, sir.

Q. Apparently this was a person that applied for employment on September 15th, 1971, with the then

TORCH, The Organization to Conquer Handicaps, Incorporated, and apparently her handicap was not visible to the person that interviewed her; is that correct?

A. Yes, sir.

Q. I believe that she told the interviewer, as you can see from the information, that she was a diabetic, nervous and had gout, and also there is under "Other Explanations: Glandular, overweight." Is that correct?

A. Yes, sir.

Q. Would you read the doctor's certificate into the record?

A. Yes, sir. This doctor's certificate comes from the St. Michael's Medical Center, Department of Psychiatry, Frances Schervew Hall in Newark, New Jersey.

"To Whom It May Concern: Miss Lillian Keshen is under my medical care and is disabled. Thank you."

Q. What's the date of that doctor's certificate, sir?

A. June 6th, 1973.

* * * * *

Q. I show you what has been marked Exhibit C-17. Again I ask you if you have a copy of this particular application in front of you, sir.

A. You don't want me to mention the name?

Q. No.

Mr. Lans: Yes.

The Witness: He doesn't want me to mention the name.

Q. This indicates that this application was made on January 29th, 1974; is that correct?

A. Yes, sir.

Q. Apparently a medical certificate was required because I see one attached; is that correct?

A. Yes, sir.

Q. Would you read the medical certificate into the

record? You needn't read the doctor's name unless you wish to.

A. This is from Charles Aria, M.D., of Jersey City, New Jersey.

"To Whom It May Concern: Mr. Blank has been examined and he suffers from an anxiety neurosis."

Q. I believe that he indicated to the interviewer, as this form indicates, that he had nervous tension?

A. Yes.

Q. Is there any—

A. He has other things in here. Other alienation he listed as other physical defects.

Q. Alienation?

A. "Other: Turn in the right eye. He has been made fun of his ailment."

Q. What is alienation?

A. He suffers from an anxiety neurosis, sir. I'm not a doctor.

Q. All right, I'll accept that. But is there anything in this doctor's report that indicates to you that this man cannot enter the normal labor market?

A. Other judgments obviously are made, and throughout this period we have invited this Commission or any investigators, or the State Consumers Division, including Mrs. Millicent Fenwick, to send any representative to certify or to examine any of our employees. We have written letters to these people. We have never received any answer because nobody seems quite interested other than the publicity involved, because our offices are always open.

The Chairman: Mr. Caravetta. Mr. Caravetta, I would appreciate it if you would answer the question and refrain from making speeches, because, if I understand the thrust of your statement now, completely, it would indicate that we were not interested in the makeup of your sales force when you know that we have been for several weeks attempting to get you to submit to us the medical authorizations which formed the basis of your determinations. So, I

would appreciate it if you would just answer the question.

The Witness: Yes, sir.

The 55 copies of the personnel forms submitted by Torch were entered on the hearing record as an exhibit, as was a document, offered by Mr. Caravetta, which he said contained additional information about the handicaps of Torch employees, a document never shown to the S.C.I. prior to the hearings.

FEW HANDICAPS OBSERVED

Mr. Amico of the State Consumer Affairs Division cast doubt on Torch's handicapped workers claims when he testified about visits he and some of his associates made, incognito, to Torch's offices:

Q. During those visits that you made did you make any observations of those persons present on the premises who might have been, quote, visibly handicapped, unquote?

A. On my first visit I did see one girl that had a brace on her leg and, in my opinion, this person could be employed in any organization. But on other trips I've made there I did not see any person with a physical disability that would prevent them from being employed in any organization, any private enterprise whatsoever. They were completely capable of performing their duties, including the shipping, packing, working the desk, working the telephones, typing, et cetera.

Commissioner Lucas: I have no other questions.

A PRACTICE IS CALLED FRAUDULENT

Mrs. Millicent Fenwick, who was Director of the State Consumer Affairs Division during the time that agency initiated its probe of profit-making organizations appealing in the name of the allegedly handicapped, testified about the operations of these organizations and their impact on the public and legitimate charities, as well as making recommendations for improved consumer protection in this area. More of her testimony in these areas

will be presented in a subsequent section of this report. For the purposes of this section dealing with deceptions, a brief segment of her testimony about an instance which occurred during the Division's probe is presented. Mrs. Fenwick, also a former member of the General Assembly of the State of New Jersey and who resigned the Division Directorship in 1974 to run for Congress, testified:

A. They are not getting money, Mr. Sapienza, because they're a profit-making business. They're getting money from the public because they are appealing to one of the most fine, basic instincts in human beings, which is to help other people.

Now, we made investigations. We sent out investigators. We found that one business, as far as we could see, had no handicapped people in it at all, upon which the gentleman who was running this business said, "Nonsense," to our investigator. "Look at my secretary. She weighs 180 pounds and has a bad complexion. She's handicapped."

Now, I consider that nonsense and I consider an appeal to the benevolent instincts of our people on that ground absolutely fraudulent and no other word can be used for it.

THE LONG-LIFE LIGHT BULB PLOY

A recent trend for profit-making companies appealing in the name of the allegedly handicapped has been to stress in their telephonic solicitations the long life of the light bulbs offered for sale. While so stressing, the sales presentations conveniently leave out a scientific fact well known to those knowledgeable about the electric lighting industry, namely that the life of the bulb of any given wattage may be lengthened by reducing the lumens or amount of light emitted by the bulb.

To establish that fact and the fact that brighter, shorter life bulbs are more economical and suitable for home use, the Commission called as an expert witness Mr. Herbert A. Anderson, Vice President for Duro-Test Corp., a light bulb manufacturing company with offices in North Bergen, N. J. Mr. Anderson, a graduate of Newark College of Engineering, is a Licensed Professional Engineer in New Jersey and New York, a Fellow in the Illuminat-

ing Engineering Society and the Institute of Electrical Engineers, a member of the American National Standards Institute, and the author of technical papers and journals in his field.

Before Mr. Anderson testified, Mr. Caravetta of Torch Products had presented his analysis of his comparison of the 3,500-hour Torch bulb versus a 100-watt, 750-hour General Electric bulb. More will be said later about that analysis and Mr. Anderson's critique of it. It is mentioned here so the reference to the analysis and a reference to the Torch bulb may be understood in these first excerpts of Mr. Anderson's testimony. He testified:

Q. Before I ask you to comment on Mr. Caravetta's analysis, would you tell me whether there is a recognized difference in the manufacture of lamps for home use as opposed to the manufacture of incandescent lamps for commercial use?

A. Yes, sir. Light bulbs for home use are generally of shorter-life design, the majority being 750 to 1,000 hours. There are some types 1500 to 2500 hours.

Q. Would the 2500-hour ones be considered long-life bulbs?

A. Yes, sir.

Q. I'm sorry I interrupted you. Go ahead.

A. And for commercial and industrial lighting purposes, generally longer-life bulbs are used, 3500 hours up to as high as 8,000 hours for traffic signal light bulbs, and these lamps are generally of sturdier construction to withstand shock and vibration found in commercial and industrial usage.

Q. Is there also a difference in the amount of lumens that commercial lighting will give off as opposed to home lighting?

A. Yes, sir, the shorter-life bulbs for home use would have higher light output as expressed in lumens, and the longer-life bulbs for commercial and industrial use would have lower initial light output, also expressed in lumens.

Q. Now, is it generally considered in the trade that a higher amount of light emission is necessary for home use?

A. Yes, generally home lighting lamps are of so-called higher light efficiency because most reading applications for table lamps and floor lamps, lights are bought for lighting primarily and for lowest overall cost. A shorter-life bulb that provides high light output is generally most economical.

Q. It's a matter of what is economical, then?

A. Well, by economical would be the lowest overall cost considering the cost of electricity and the cost of the light bulbs.

* * * * *

Q. So, then, one of the factors or one of the things about this bulb that Torch sells is that it produces about 25% less light, although over a longer period of time, than the normal bulb that's sold by General Electric or anyone else; is that right?

A. That is right; that is right.

Q. What about the cost; does it cost less, excluding any labor costs and, of course, that is never computed in home fixtures and putting in your own home bulb; does it cost less to use this Torch bulb over 3,500 hours? And we have already heard that it produces less light, but does it cost less to use that Torch bulb than it would to use several General Electric bulbs over this period of time?

A. It would be actually cheaper to use several ordinary light bulbs over that period of time considering all the factors involved; the cost of the bulb, the cost of the electricity. The only thing you have to do is change the bulbs more frequently. But the cost of light would be less using the shorter-life bulb. You would get more light for your money.

Q. You're getting more light for your money?

A. Yes, sir.

Q. And probably more light for your eyes?

A. Yes, sir.

THE FLAWED ANALYSIS

During the course of this investigation Mr. Caravetta offered to the Commission a document presenting his analysis of his comparison of the 3,500-hour Torch bulb versus the most popular General Electric 100-watt, 750-hour bulb. The aim of the document was obviously to attempt to convince the Commission that the Torch bulb was about as economically equal in value as the General Electric bulb and, perhaps, more valuable if Torch's guarantee to replace its bulbs free of charge for five years was considered.

The Commission was skeptical of the analysis because of the huge markup of Torch bulbs above their cost to the company. Through Mr. Caravetta's testimony, it was established that the 3,500-hour Torch bulb offered for sale by Torch at \$1.85 each was purchased by that company for 18½ cents each from Beta Illuminating Co., a company owned 80 per cent by Mr. Caravetta.

Mr. Caravetta contended in his testimony that his analysis of the two bulbs followed scrupulously the National Bureau of Standards formula for determining the values of the bulbs in terms of their cost to the user in dollars per lumen hours. Mr. Caravetta testified that in not deviating from that formula in any way, he had plugged into it the appropriate factors for each of the two bulbs and arrived at this result: The total cost to the user over a 3,500-hour period would be \$12.85 for the Torch bulb and \$12.75 for the General Electric bulb.

Because the Commission was skeptical, it asked Mr. Anderson to review Mr. Caravetta's analysis. Mr. Anderson quickly discovered that Mr. Caravetta's cost figure for the General Electric bulb had been grossly inflated by his using a life factor for that bulb in the National Bureau of Standards formula, as called for by that formula, but then incorrectly and unfairly using the factor again in further calculations by Mr. Caravetta. Mr. Anderson testified:

Q. All right. Well, that's what we're interested in. We received testimony from Mr. Caravetta indicating that his light bulb is the best economical buy for the consumer as opposed to a standard GE bulb, I show you what has been marked Exhibit C-22, which is a document prepared by Mr. Caravetta to substantiate his claim as to the quality of the Torch product.

This document he compiled as a result of reading certain materials, one of which was a report from the National Bureau of Standards, and on the front page of this document he has a formula. Do you recognize that formula?

A. Yes, I do. It is what is called the million lumen hour formula, which is accepted in the lighting industry as the most economical method for determining—well, the most economical lamp to use for any particular application or for comparing light bulbs.

Q. All right. In other words, that formula is generally accepted in the trade as being accurate and is generally used?

A. Yes, it is.

* * * * *

Q. All right. But let me then go right to how he uses this formula. He uses this formula and comes up with a figure that it is a cost of operating the Torch bulb of \$12.85. Do you see that figure on the third page—

A. Yes, I do.

Q. —of the presentation?

A. Yes.

Q. Is that an accurate figure?

A. Yes, the arithmetic seems to be accurate.

Q. Just below that he comes up with a cost for using the General Electric bulb of \$2.73. Is that an accurate figure?

A. Yes, it is.

Q. So the formula has worked in both of these situations?

A. Yes, sir.

Q. On the next page he attempts to make a comparison, or he does make a comparison, between the General Electric bulb and the Torch bulb by multiplying the cost of the General Electric bulb, which is \$2.73, by a factor of 4.67. Is that a fair, mathematically valid way of arriving at his result?

A. No, it is not, because the life and light output factors have already been used once in the formula to determine the cost of light, so it would be wrong to use the factors again in another ratio after the formula answer has been worked out. In other words, the factors of life and light output have already been plugged into the formula. You cannot use life factor twice.

Q. So, in effect, then, he's adding something, multiplying something that's already been included in the original formula; is that right?

A. Well, it is incorrect to do so.

PROFIT OR PERISH; POSSIBLE HARM TO THE HANDICAPPED

The Commission's investigation found that the only commitment the profit-oriented companies have toward any handicapped workers they may employ is to pay them the statutory minimum wage, now \$2 per hour at both the federal and New Jersey levels but up until recently \$1.75 per hour in New Jersey. Any concern about the long-term welfare and rehabilitation of the handicapped worker is completely lacking. The workers are there to sell enough light bulbs and other household products to produce a profit for the owners or they are dismissed.

A minority of the workers sell enough items or "units" each week to qualify for the incentive bonuses which can raise their pay above the minimum wage. The majority, however, toil at the minimum wage to create the cash flows which can be turned into profit windfalls for the owners of the business.

The testimony of the owners themselves is the best proof of the profit-or-perish policy toward any handicapped workers who might be employed. Mr. Caravetta of Torch Products Corp., it may be remembered, testified that in order to maintain a New Jersey telephonic sales force of 55, some 520 individuals had to be hired each year. This led to his being questioned at the public hearings as to why so many supposedly handicapped individuals had to be hired and then summarily dismissed:

The Chairman: And this turnover that we're talking about, or the 520 people that you say you have in the course of a year in employment status, they're handicapped?

The Witness: These are handicapped applicants.

The Chairman: Handicapped applicants that meet some of your standards?

The Witness: Yes.

The Chairman: And one of the policies that permeates that hiring is that if they don't match up and sell, that they will leave?

The Witness: That if they don't match up?

The Chairman: If they don't produce, they go?

The Witness: Yes. At some point, yes.

The Chairman: And they understand that?

The Witness: Absolutely.

The Chairman: So, then, in other words, they have to make their sales, which, in turn, produce a profit, or they leave at some point?

The Witness: Yes. They are offered a job in a commercial profit-making company.

The Chairman: And if they don't produce, and if they don't produce and are required to go, at that point what consideration are you giving to the fact that they are handicapped?

The Witness: No more than any other company that produces a handicapped person that cannot work at his job. What do they do?

The Chairman: Was it any different when it was owned by the church?

The Witness: No, sir.

* * * * *

Q. Mr. Caravetta, will you answer my question? You have no hesitation in benefiting from the handicaps of these people when they come to be your sales employees on the telephone?

A. I have no hesitation to employ handicapped people.

Q. All right. And on the same token, the minute they don't produce, there is no reciprocal consideration on your part back to them, but they're let go?

A. We are not subsidized by anyone. It's a profit-making organization.

Q. That policy that exists, then, with someone that comes into your organization with an anxiety neurosis, does that in any way help him in his disability to know he's working under that type of a strain?

A. It might, because we have many cases where people who have neuroses or anxiety neurosis have found a way to communicate with the public which they could never do on a face-to-face basis, and they find by speaking to people over the telephone slowly

they have secured some of their problems, and we have letters from doctors who tell us that it has had therapeutic effects, although we never claimed that our jobs will perform those effects.

Q. One final question, Mr. Caravetta. The fact that this solicitation suggests that they indicate that they're handicapped and they know that unless they produce they must go, do you think that in any way stimulates them to prey upon their own disabilities in order to make continued sales?

A. I don't believe so. I think the thing they're proud mostly of the fact they're taking home money, 40, 60, 80, a hundred, \$120 a week, which they were never able to do before, most of them. That's what they——

Q. If they're successful in selling their disability, do you think it will stimulate them to continue selling their disability and maybe exaggerate it sometimes in order to continue making sales?

A. I can't help but admit that there might be some exaggeration, sir, but we try to control it in every way possible.

Harry Stricker, President of the Handy-Cap Organization, readily agreed that the workers either produce or are dismissed:

Q. The basic test was, was it not, if you can't sell, you can't pass?

A. That's true. That's right. If you can't sell, you can't stay.

Q. Right.

A. Absolutely.

Q. Or, as was described in the private hearing, I believe, in your presence, you produce or you perish; is that so?

A. I didn't hear.

Q. Or as was said in a private hearing, I think, at which you were present, you either produce or perish?

A. Produce or you get—you're let go.

DEGRADING, DEMORALIZING AND DEHUMANIZING

The callous, profit-or-perish policies of the profit-making companies toward any handicapped workers they might employ is in sharp contrast to the rehabilitative effort and commitment of non-profit charities conducting state-certified programs aimed at restoring as many handicapped individuals as possible to the normal competitive labor market. George Mango of Toms River, N. J., Director of the Raritan Valley Workshop, a sheltered workshop funded by the Easter Seal Societies, was called as a witness at the public hearings to describe the policies and programs of the sheltered workshops. Additionally, as President of the New Jersey Association of Rehabilitation Facilities, he presented the Association's highly critical views of profit-making companies which use handicap claims to sell products.

Mr. Mango, a college-trained rehabilitation professional, first related how a sheltered workshop goes about receiving handicapped individuals and training them:

Q. Perhaps you again could quickly review the application process and the experiences the individual is put through once he reaches the workshop.

A. All right. The individual in coming to the workshop is seen in an intake interview by a trained counselor, in our case our director of counseling services, intake interview. Prior to the intake interview, the counselor has received referring data from the referring agency, data such as psychological information, medical information, neurological specialty examinations, social history, if necessary. Along with this data, the individual—the data is reviewed. The individual is seen both individually, if he has parents he's seen with his parents, and a decision is made at that time for him to begin in the program.

Now, a decision for him is based on the concept of can this individual withstand a structured work setting, and is he, if he is, for example, a former drug addict or former alcoholic, is he in a joint therapy program along with the recommendations for workshop.

Q. And then is he given any type of training or experience while he—

A. The individual, when he begins, is placed into an evaluation period where a battery of psychological tests are given, work samples and direct observation in terms of actual work experience. The training that's involved work adjustment training, which can include counseling on an individual basis, group counseling. There is socialization-recreational programming, behavioral modification programming that go along with the work atmosphere, and the concept of placement and goal direction is given from the moment the client begins his program till the time he leaves.

Q. By the way, what is the stated goal of a sheltered workshop, Mr. Mango?

A. Well, the goal of a rehabilitation workshop or sheltered workshop is, as the certificate of Department of Labor has established it, to provide a transitional setting for a handicapped person who is capable at some point in his life of perhaps working through the training, or it can be sheltered employment, expanded employment over a longer period of time where that individual is incapable of functioning competitively in employment.

Q. In a sense, you would evaluate the individual and see if he can return to the labor force, and, if not, give him a place to work?

A. That's correct.

Q. By the way, is the sheltered workshop a profit-making entity?

A. No, sir, it's nonprofit.

Q. What percentage of the people that you take into the workshop initially return to the labor market, would you say?

A. Correctly, I'm going to again give you my own figures as I know them. Approximately forty per cent of the people that come into the program are placed into the competitive labor market. The remaining people are either extended, maintained within the workshop setting or referred to further treatment centers, and a small percentage do fail the program and are returned to the home setting.

Mr. Mango stated that the profit-making companies' employment of handicapped (referred to as "employment of that nature" in the first question posed in the testimonial excerpt below) works at cross purposes with true rehabilitation goals:

Q. Do you have any feeling on employment of that nature for people coming out of your sheltered workshop?

A. Well, my own personal feeling is that I don't—I feel that it is degrading for a person to have to use his handicap in order to sell his product, so to speak, or sell someone's product for profit. That is a personal decision.

Q. Would you feel that that's working at cross purposes with what the sheltered workshop is trying to do?

A. Very definitely. The concept of rehabilitation is to improve the self-worth of an individual and to improve his dignity, and it's not to lower that esteem, which he may be doing by putting himself in the light of being a handicapped person by selling the product because of his handicap.

On behalf of the New Jersey Association of Rehabilitation Facilities, Mr. Mango read into the hearing record the following statement relative to profit-making commercial enterprises which use handicapped individuals in telephone solicitations to sell products in competition with regular merchandising programs:

1. The Association is definitely opposed to the presentation wherein the telephone solicitor identifies himself as a handicapped person after which he attempts to interest the potential customer in purchasing of products offered for sale. It is our feeling that this technique is degrading to the handicapped employee since it is an attempt to invoke the sympathy of the potential customer in order to promote the sale of the product rather than to sell the product on its own merits. This is contrary to all the positive aspects of the philosophy of vocational rehabilitation, which is the basis of legitimate rehabilitation programs. In such programs the emphasis is on building of a positive self-image and the reinforcement of the

client's self worth, self confidence and personal dignity.

2. The Workshop Association does not agree with the contention that such sales organizations are the last resort for handicapped people to obtain training or employment. In New Jersey, in addition to the two state agencies serving the physically and mentally handicapped, there are over thirty-five private rehabilitation facilities which provide diagnostic evaluation, work evaluation, work training and placement services to all categories of disabled people. These facilities are staffed with professionally-trained counselors, evaluators and supervisory personnel and are located in all parts of the state. Furthermore, these facilities are certified as to their quality and content of program by the appropriate agencies of both the federal and state governments.

3. It is the personal feeling of many of the Association members who have received such solicitations in their homes that such sales organizations have not truly represented themselves as profit-making organizations, which they claim to have done. It is not our intent to make a judgment on the quality or merits of the products offered for sale. We wish solely to register our opposition to the sales techniques used since we feel they are degrading, demoralizing, dehumanizing to the handicapped individual thus employed and, also, they are detrimental to the field of rehabilitation in general.

Arthur J. Sinclair, Jr., Director of the New Jersey State Division of Vocational Rehabilitation Services, had a similar view to that of Mr. Mango and his Association relative to the way profit-making companies employ handicapped individuals to sell by phone household products. Before testifying to that point, Mr. Sinclair told of the rehabilitation services of the Division and results stemming therefrom:

Q. What is the role or function of the division regarding vocational rehabilitation?

A. Well, the Division of Vocational Rehabilitation Services provides vocational rehabilitation services to physically and mentally handicapped citizens, and,

to make it brief, it leads to employment. We provide many services—diagnosis, physical restoration services, training—and all of this leads to employment.

* * * * *

Q. Could you give us, or give to the Commission, a general statement of your division's goals with regard to handicapped or disabled individuals in this state?

A. Well, our goals basically are to get as many of them employed as possible. We don't always reach that, but we do the best that we can.

Q. What percentage of people that receive your services are able to take their place in the normal job market of today?

A. Well, in fiscal 1973 we rehabilitated 10,070 people, in excess of 10,000, and between 85 and 87% of these were in competitive employment. The remainder, the bulk of the remainder, were in as homemakers.

Q. So that would be roughly about 85%?

A. About 85%.

Mr. Sinclair testified as follows about the employment by profit-making companies of handicapped individuals to foster sales of household products:

Q. Are you aware of the existence of profit-making organizations that employ allegedly handicapped individuals to make sales solicitations over the phone?

A. Yes, I'm aware of them.

Q. Is that the kind of outside employment that you would encourage people that you have jurisdiction over to enter?

A. No.

Q. Participate in. Why not?

A. Well, in most cases we feel that it would be degrading. My own personal opinion is that, and, as I understand it, this is the opinion of most of the people on our staff. The thing that we get from the handicapped, and this is working with them for

many years, is that they do not like to refer to their disability; they would rather feel that they can compete with an abled-bodied individual.

* * * * *

Examination by the Chairman:

Q. Mr. Sinclair, just one. Do you feel, then, that in making a handicapped person dwell on his disability or refer to it in order to sustain employment is degrading to that person?

A. Yes, I'm certain that it is. I would like to say that I spent ten years as a counselor in the field working with the handicapped, and this is one of the things that I think came out of just about everything that we would do. They do not like to refer to the handicap. They would rather feel that they are just as well off as the able-bodied.

THE MAKING OF MONEY

While minimally compensated employees labor in a profit-or-perish atmosphere to sell exorbitantly high priced products by emphasizing handicaps, whether they be serious or not, it is possible for the owners of these companies to make enormous sums of money for themselves in the process. The Commission believed it important to present at the public hearings details as to money making in order to inform the public that besides no charity whatsoever being involved in these profit-oriented businesses, a considerable part of the price paid for the products sold in the name of the handicapped can go to the personal gain of an individual or group of individuals, none of whom are handicapped in any way.

Accordingly, the Commission, working from a base established by the State Division of Consumer Affairs, investigated the corporate involvement and the fiscal affairs of the previously mentioned Torch Products Corp., one of the more established and proposerous enterprises in the industry.*

THE ORIGINS OF TORCH

In February, 1965 a company named Eterna 5 of New Jersey was officially incorporated as a profit-making business under Title 14 of the laws of New Jersey to engage in the sale of household products. Although not listed on the incorporation papers as an incorporator, Salvatore M. Caravetta, then in the employ of another corporation, was an investor in Eterna 5. Louis Ruina, brother-in-law of Mr. Caravetta and an employee of Eterna 5 and successor companies, testified Mr. Caravetta had 60 per cent ownership of the corporation.

* The Commission's accountants also investigated the books and records of the previously mentioned Handy-Cap Organization Inc. but found those documents in such a state of chaos and inadequacy as to prevent any meaningful analysis. As previously discussed, the principals of Handicapped Workers Inc., Philadelphia, who along with their books and records were beyond the Commission's subpoena jurisdiction, did not cooperate with this investigation. The Commission notes, however, that an official of this firm described the corporation as a million dollar business in an interview with a Philadelphia Inquirer reporter.

During 1966, Mr. Caravetta purchased the rest of the stock of the company and changed its name to American Homelight Corp.*, still a profit-making organization soliciting telephonically the sale of household products, principally light bulbs. It was at this stage in time, according to Mr. Caravetta, that the company began hiring whot it considered to be handicapped workers for the phone solicitations and to appeal in the name of the handicapped.

With the change to American Homelight, Mr. Caravetta became President of the corporation and his wife, Rose Marie, became Secretary. Because of a conflict with a name being used by another corporation, Mr. Caravetta changed the name of his company once more in 1966 to Brighter Homes Corp., still incorporated for profit to sell household products by phone and still with Mr. Caravetta as owner and President. Franchised operations were established by Brighter Homes in five states in addition to New Jersey.

A TAX SHELTER IS FOUND

Prior to the Federal Tax Reform Act of 1969, it was permissible under federal income tax law for profit-making corporations to "sell" their businesses to non-profit religious organizations which are not subject to federal corporate income taxes. The pattern that emerged as many businesses headed for this tax shelter was for a small down payment to be made by the religious organization for the purchase of the profit-making business. The business then became a division of the religious organization, although it remained in its same plant and offices with no change in the management. The managers simply became the salaried managers of the division.

To accomplish the "purchase" of the stock of the profit-making companies, the religious organizations entered into agreements that a large percentage of the earnings of the new divisions would not go to the organization but rather would be used to pay over a number of years the full purchase price, often set in the millions of dollars. Thus, as will be seen relative to Mr. Caravetta's company, earnings of the profit-making companies, now divisions of the religious organizations, would continue to flow back to the stockholders of the profit-making corporations because of the

* Charts numbered One through Four on pages 65 to 68 of this report graphically outline the evolvment of Torch and its predecessor companies and should be referred to in connection with this section of this report.

CHART ONE

AMERICAN HOMELIGHT CORP.

Incorporated : June 21, 1965 Title 14



American Homelight Corp.
Change of Name Amendment

BRIGHTER HOMES CORPORATION

Oct. 25, 1966

Officers : S.M. Caravetta, (Pres.)
H. Sant 'Ambrogio, (Sec'y)



Articles of MERGER April 26, 1968

American Brighter Homes, Inc.	(Mich. Corp)
Brighter Homes of America	(Ill. Corp.)
Brighter Homes of America	(N.Y. Corp.)
Brighter Homes of Florida	(Fla. Corp.)
Brighter Homes Products	(Penna. Corp.)
Brighter Homes of Penna.	(Penna Corp.)

into **BRIGHTER HOMES CORPORATION**

(SURVIVOR)

Officers : S.M. Caravetta, (Pres.)
Rose Marie Caravetta, (Sec'y)



BRIGHTER HOMES CORPORATION

Corporation Charter Amended to Allow
Additional Shares for the Stockholders
May 31, 1968

CHART TWO

Articles of MERGER June 17, 1968
Brighter Homes Company (N.Y. Corp.)
Brighter Homes of Ohio (Del. Corp.)

INTO
BRIGHTER HOMES CORPORATION (of N.J.)
(SURVIVOR)

STRATFORD RETREAT HOUSE

Incorporated July 13, 1964

Religious Corp. (N.Y.)

Incorporators:

John Crew Tyler
Maurice Cudmore
Fred L. Stuart
Alice M. Stuart
Paul Morris

BRIGHTER HOMES CORP. / STRATFORD RETREAT HOUSE

Agreement for Sale: June 10, 1968

Effective: July 1968

Buyer: Stratford Retreat House

Sellers: Brighter Homes Corporation

S. Caravetta

R. Caravetta

J. Callery

M. Gabriel

H. Sant'Ambrogio

J. Schechter

D. Robinson

W. Dashem

D. Hedberg

CHART THREE

TORCH REHABILITATION ORGANIZATION, INC.

306 South State St., Dover, Delaware

Incorporated : Sept. 21, 1970 (Del.) Non Profit

Incorporators : Asher Lans, Cohen & Lipton Esq.

Trustees : Irving Allen
Rev. Maurice Cudmore
Asher Lans
Donald Tannenbaum
S.M. Caravetta

Officers: Harold Russell, Pres. . . Asher Lans, Sec'y

SUBSIDIARY

TORCH - THE ORGANIZATION TO CONQUER HANDICAPS, INC.

Incorporated : Sept. 23, 1970 Title 14 (N.J.)

Board of Directors : S.M. Caravetta
Michael Gabriel
John J. Callery

Registered Agent : John J. Callery

Licensing
Agreement
September
30, 1970

Sale of
TORCH
Division
Assets

STRATFORD RETREAT HOUSE . .

A CHARITABLE ORGANIZATION

On Sept. 30, 1970 Brighter Homes Corp. and Stratford
Retreat House modified the 1968 agreement of sale.

CHART FOUR

TORCH - THE ORGANIZATION TO CONQUER HANDICAPS, INC.

Incorporated : Sept. 23, 1970 Title 14 (N.J.)

Board of Directors : S. M. Caravetta
Michael Gabriel
John J. Callery

Registered Agent : John J. Callery



TORCH - The Organization to Conquer Handicaps, Inc.

Change of Name Amendment : **TORCH PRODUCTS CORP.**

Dec. 15, 1972 - 177 Main St., West Orange, N.J.

Officers : Harold Russell, President
Michael Gabriel, Vice President
John J. Callery, Secretary

Registered Agent : John J. Callery

NATIONAL CONSUMERS REPORTING SERVICE, INC.

393 Pompton Ave., Cedar Grove, N.J.

Former Officers :

John J. Callery, President and Treasurer
Rose Marie Caravetta, Secretary

NOTE: This organization is a collection agency
for **TORCH**

November 1972
Sale of N.C.R.S. stock

Seller: R.M. Caravetta
Buyer: Conrad La Maita

NATIONAL CONSUMERS REPORTING SERVICE, INC.

547 Bloomfield Ave., Bloomfield, N. J.

President: Conrad La Maita

agreements to purchase. Most importantly, the earnings of the business were no longer subject to the federal income tax.

By 1968, Mr. Caravetta moved his Brighter Homes Corp. into a position where it could be offered for sale to a religious organization. All the Brighter Homes units were merged into a parent corporation of the same name, which corporation issued additional shares of stock. Mr. Caravetta remained the controlling stockholder, keeping 50-plus-a-fraction per cent of the shares. Among the other stockholders were Mr. Caravetta's wife and two executives of Brighter Homes, John J. Callery and Michael Gabriel, as well as five other investors.

The merged and restructured Brighter Homes, with Mr. Caravetta as President, proceeded to shop around for a religious organization which would agree to a handsome purchase price and provide a tax shelter. The "purchaser" ultimately found was the Stratford Retreat House, a non-profit New York corporation which was a part of the Stratford Full Gospel Church of White Plains, N. Y. Among the incorporators of the non-profit corporation were the Reverends John Crew Tyler and Maurice Cudmore.

The purchase agreement "obligated" Stratford to purchase most of the stock of Brighter Homes for \$5 million. Terms of the agreement were for Stratford to make a \$150,000 initial payment and then pay the balance of the \$5 million over a period of no more than 15 years by paying 70 per cent of the earnings generated by the new division to the stockholders of Brighter Homes.*

Thus, Mr. Caravetta as owner of 50-plus-a-fraction per cent of Brighter Homes stock, stood to receive more than \$2 million from the agreement, if payment was made in full over the years. The agreement, then, can be viewed as nothing more than a method of making Stratford a tax-free conduit for passing along most of Brighter Homes earnings to the personal gain of the former owners of that corporation. Additionally, the cost basis to Mr. Caravetta of his stock in Brighter Homes was only \$150,000.

Mr. Caravetta testified to that point and to the tax shelter reason for selling the business to a church-related organization:

Q. Would it be fair to say that the prime reason why you sold this ongoing, profit-making, taxpaying

* Stratford's "obligation" under the agreement was not a stringent one. If the earnings of the new division were insufficient to generate \$5 million, Stratford would not be required to make any payments. Thus, the agreement gave the corollary benefit of no risk to Stratford.

company to the church was because you wished to receive the benefit of the church's tax-free umbrella?

A. As all other companies who sold to churches.

Q. *Well, is that a true statement?*

A. Yes, it is, the same as all the other companies that sold to churches.

* * * * *

Q. *Well, do I understand you to say that the reason, one of the reasons why you sold to the Stratford Retreat House was because you felt that this would assist the handicapped?*

A. Not the initial reason, no. I explained the initial reason.

Q. *Well, was it one of the reasons?*

A. It was one of the reasons, yes.

Q. *Was the primary reason the fact that you wanted this tax-free shelter?*

A. Yes, unless it was illegal and which was not according to the Supreme Court of the United States of America. We broke no law.

Q. *All right. Did you——*

The Chairman: Mr. Caravetta, I don't believe anyone is quarreling with you or disputing the fact that if the law were such, that you could take advantage of it. We're not being critical, we're just asking you to answer the questions.

The Witness: Yes, sir.

Q. *What was the cost basis of the fifty-some-odd per cent of shares of stock that you sold to Stratford Retreat House?*

A. You're talking about my cost basis?

Q. *Your cost basis of the stock that you owned in Brighter Homes just prior to the sale.*

A. My best estimate is somewhere around \$150,000.

Q. *And for that \$150,000 on this particular transaction you stood to receive approximately two and a half million dollars; is that correct?*

A. If the company earned it, I stood to receive it, yes.

THE CHARITABLE UMBRELLA

Another decided advantage for Brighter Homes to operate as a division of a non-profit religious organization was that it could state that fact in its sales solicitations and, thereby, stimulate even further the charitable instincts of the prospective purchasers of light bulbs and other household products. Additionally, the division was given the name of Torch, The Organization to Conquer Handicaps, an obviously misleading name in the absence of any rehabilitation program for conquering handicaps.

With the new non-profit umbrella and a name emphasizing the handicapped, business increased. As profit-making Brighter Homes, the sales level was at \$2.8 million a year. That level reached the \$4 million mark and continued upward after the switch to the Torch Division of Stratford. Mr. Caravetta testified about the use of the new umbrella:

Q. Was there any change whatsoever in the method of operation between Brighter Homes of New Jersey or the Brighter Homes Corporation and the Torch Division of the Stratford Retreat House?

A. Yes, we made the public know immediately that this Stratford, that the Torch Division of the Stratford Retreat House was an integral division of the Stratford Retreat House and it was a nonprofit church that owned this business.

Q. Did you make the public know that it was a charitable enterprise?

A. We stated that the business was owned by the Stratford Retreat House, an interdenominational nonprofit church.

Q. Well, was the Stratford Retreat House a charitable organization incorporated under the laws of New York?

(Whereupon, the witness confers with counsel.)

A. As far as we know, it was incorporated under the religious incorporation laws of New York, and if they—I'm sure they had every right to perform any charities that they wanted to.

Q. Well, you changed over and you became the Torch Division of Stratford Retreat House, did you

let the public of New Jersey, the people that you were dealing with, your customers, know that you were now a charity or, at least, you operated as a charity?

(Whereupon, the witness confers with counsel.)

A. We let everybody know that we were owned by a church, a nonprofit interdenominational church called the Stratford Retreat House.

* * * * *

Q. Did you indicate to them that their purchases were, the purchases of the bulbs that they made, were being made from a nonprofit organization or a religious foundation?

A. Repeat that again. You said something about the words "the bulbs made."

Q. What representations did you make to your customers, the people that were buying your bulbs, when you began to operate as the Torch Division of Stratford Retreat House?

A. We told the truth. We told them Torch was a division of the Stratford Retreat House, a nonprofit organization. We put this in the literature and we tried to advise the customers of all the true facts.

Q. You advised them in your telephone sales solicitations?

A. Some in the telephone, and we made sure it was clearly described in the literature that every customer received.

Q. How was business? How was your business?

A. It continued on and it continued to grow.

Q. Was it good?

A. Yes.

Salaries of executives of the business also increased as they continued in their same managerial roles in the same Brighter Homes offices in New Jersey. Mr. Caravetta's salary was \$50,000 per year at the time of the start of the Torch Division. Two years later it was \$100,000, the same salary he receives now as Chairman and Chief Executive Officer of Torch Products Corp.

TAX REFORM RESHAPES THE CONDUIT

By the latter part of 1969, the Federal Tax Reform Act had become effective. Among the loopholes it closed was the "sale" of profit-making businesses to churches under agreements funneling corporate-income-tax-free earnings back to the owners of the business. It did so by making churches subject to paying income tax on businesses which were not church related.

During 1970 Mr. Caravetta took steps to cope with the new tax law situation but still have earnings of the Torch enterprise funnelled back to the Brighter Homes stockholders. In September, 1970, a nonprofit corporation called Torch Rehabilitation Organization, Inc., was formed under the laws of Delaware, with Mr. Caravetta and the Rev. Cudmore among the trustees. That same month a subsidiary corporation of the Delaware corporation was established under Title 14 of the laws of New Jersey as a profit-making corporation. The enterprise was given the name Torch, The Organization to Conquer Handicaps, Inc., the same name as the Torch Division.

As of September, 1970, \$1.1 million had been paid to the stockholders of Brighter Homes under the agreement by Stratford to "purchase" most of the stock of that corporation for \$5 million. That left Stratford in the position of still "owing" \$3.9 million to those stockholders.

Mr. Caravetta testified agreement was reached to lower that amount to \$2.8 million because of "the state of the business." Then Stratford "sold" for \$2.8 million the assets of its Torch Division to the newly incorporated New Jersey company, Torch, The Organization to Conquer Handicaps Inc. whose Chairman and Chief Executive Officer was Mr. Caravetta and whose top executives for the most part were the same individuals who managed Brighter Homes and the Torch Division. The agreement left Stratford "obligated" to pay the \$2.8 million to the Brighter Homes stockholders, and provision was made for those stockholders to be paid 6½ per cent interest per year on the unpaid balance of this "obligation."

Additionally under the agreement, the new profit-making Torch Corp. was to pay "royalties" to Stratford for use of trade names and goodwill, principally the unregistered trademark of Torch. The "royalties" were to be 5 per cent of adjusted sales of the profit-making corporation. Most of the "royalties" technically

paid to Stratford were to be looked on as money due to the stockholders of Brighter Homes for the \$2.8 million "obligation" and the 6½ per cent interest attendant thereon.

Thus, Stratford was to be no more than a conduit for the continued enrichment of the stockholders of Brighter Homes, with Mr. Caravetta as the principal stockholder.

RAKING IN MORE THAN A MILLION DOLLARS

Mr. Caravetta testified that from 1968 to the present he has received as a Brighter Homes stockholder under the conduit arrangements involving Stratford a total of \$1.1 million with the other stockholders getting their proportionate amounts of money.

Information supplied by Mr. Caravetta's accountant to the S.C.I. after issuance of a subpoena showed that in the four-year period 1970 through 1973 alone, Mr. Caravetta received \$954,000 in "interest and royalty" payments as a stockholder of Brighter Homes. Since he received a salary of \$100,000 per year in each of those years as Chairman and Chief Executive Officer of Torch, his total pre-tax take from the Torch business during those four years can be put at \$1.4 million. While none of the Commissioners has any objection whatsoever to the principle of businessmen profiting from their enterprises, Mr. Caravetta's extensive profiting should be viewed in light of minimal wages paid to supposedly handicapped workers who are used to sell high priced products by creating an illusion of charitable works.

THE CAPITAL GAINS WAY

Because the "sale" of a business or of assets was involved in the various agreements with Stratford, Mr. Caravetta has listed the money accruing to him as a Brighter Homes stockholder as capital gains which are subject to a substantially lower rate of income taxation than ordinary income. This practice by him is the subject of an Internal Revenue Service action now before the United States Tax Court, a matter which was not resolved at the time this report went to press.

The Commission observes, however, that the Tax Court in a case involving another "sale" of a business to a church sustained the Internal Revenue Service's contention that money received from what the Court said was a sham sale should be treated as

ordinary income. In this case (Kraut v. Commissioner, 62 TC No. 48, June 17, 1974), two Brooklyn men purportedly sold their business to Ohio Evangelist Rex T. Humbard's Cathedral of Tomorrow, a tax-exempt church. The business had almost no assets, merely a five-year lease on a plastics extruder. As payment, the men were to get 75 per cent of its earnings for the next 10 years, up to a maximum of \$3.5 million.

The Cathedral assumed no other liability. The men were paid to stay on and run the business. In all, they collected \$1.5 million before the business petered out, and they claimed \$1.2 million as a capital gain. In disallowing that claim and ruling the money should be taxed as ordinary income, the Tax Court said, "nothing of substance has shifted other than a portion of the business profits to Cathedral for a limited period." The Court added that that portion was "merely the price they (the taxpayers) paid for the opportunity of claiming capital gains treatment" on future profits.

"This was quite plainly an agreement to pay Cathedral a fee in return for lending its (tax) exemption," the Court declared.

THE MONEY MAY NEVER HAVE REACHED STRATFORD

The sham aspect of the "interest and royalties" agreement between Stratford and the Torch Corporation was emphasized by a clear indication that the "royalty" payments were never actually sent to Stratford by Torch but rather were distributed directly to the Brighter Homes stockholders from two bank accounts in New Jersey, both under the control of Mr. Caravetta. Julius M. Cayson, C.P.A., the S.C.I.'s Chief Accountant, was called as a witness at the public hearings to testify how the accounting staff's investigation found data indicating direct distribution and about the refusal of the officials of Stratford to cooperate in confirming that indication. In questioning Mr. Cayson, Counsel Sapienza refers to Mr. Caravetta's testimony that Stratford received the royalty payments. The chart referred to by Mr. Cayson later in his testimony appears on page 78 of this report. Mr. Cayson testified:

Q. We heard testimony yesterday that Stratford did receive this money. Although there was some testimony indicating there was a setoff, the testimony very clearly was that Stratford received it. Now,

what was the accounting method that Torch Products Company or TORCH, The Organization to Conquer Handicaps, used when they allegedly paid this money to Stratford?

A. There were two accounts on the book, one was a special account and one was a savings account, and to these particular two accounts I was able to trace \$1,046,184. We served subpoenas on the banks in which these accounts were located, and it was there indicated that in one account the signature, or the authorized signatures on the signature card, were a Mr. S. M. Caravetta and Mr. J. J. Callery. In a savings account, the sole person who was authorized to withdraw funds from the savings account was Mr. Caravetta.

I might add that I'm a certified public accountant, and Torch's accountant is certified, also, and I don't know how he could have left the latter account, I mean referring to the savings account, off the books for the year 9/30/73. Be that as it may, the account was in the bank in the name of Torch.

Q. Did this amount of money, that according to the other witnesses represented the payments to Stratford, ever actually get into New York and get in the hands of Stratford, the Rev. Cudmore, the Rev. Tyler, anybody associated with Stratford?

A. Mr. Sapienza, I can only say, on the basis of the books and records it would appear that it did not. We made an attempt to verify that, but we were unsuccessful.

Q. That attempt is important. Did we make an attempt to review the records of Stratford, the other end of this transaction?

A. Yes, we did.

Q. What attempt did we make? What did we do?

A. I called the Rev. Mr. Cudmore at his residence in Glen Cove, Long Island, and I identified myself. I told him what the purpose of my call was. I indicated to him that I would like to review certain of the financial records that he may or may not have had in his possession as related to Torch. I indicated to him

that under our statute we had no subpoena power and I was appealing to his good offices to aid this Commission in ascertaining the facts in this particular relationship.

Q. Did we also write Mr. Cudmore a letter, certified letter?

A. We did, sir, yes.

* * * * *

Q. Mr. Cayson, I show you what has been marked Exhibit 33, which is a letter sent to the Rev. Maurice Cudmore, President, Stratford Full Gospel Church, 17 Broadfield Plaza, Glen Cove, New York, by Counsel Michael Delaney of the Commission, asking that we be allowed to receive these records. That is part of the exhibits of this hearing.

A. Mr. Chairman, we received a reply from the Stratford Full Gospel Church, from the Rev. Maurice Cudmore, "Dear Mr. Delaney," or "Dear Sir:" As president of the Stratford Full Gospel Church, I acknowledge receipt of your letter of May 21, 1974.

"After reflection and discussion with my associates, I see no reason why this church should furnish any documents to your Commission and no reason why we should appear before you to furnish you with information or give testimony.

"Very truly yours, Maurice Cudmore."

Q. Moving along, Mr. Cayson, how much did the Brighter Homes stockholder group receive and what, if anything, did a finder get in this particular transaction?

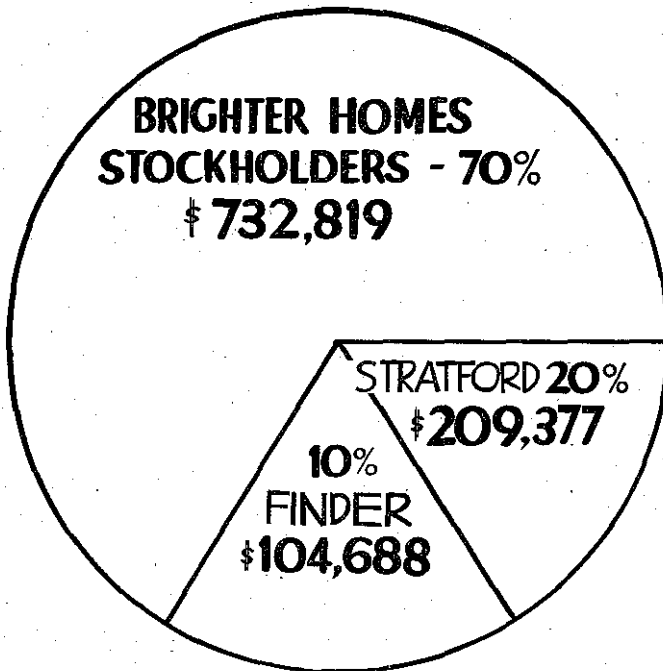
A. Well, we have a chart, Mr. Sapienza, and that chart is to your left, my right. It indicates that we were able to trace \$1,046,884 from the respective accounts that I have testified to previously.

On the basis of information from Torch officials, they indicated to me that the funds were disbursed as follows: The Brighter Homes stockholders 70% or \$732,819; Stratford, 20% or \$209,377 and the finder, \$104,688. That is the total disbursements from this pool of funds.

CHART FIVE

Distribution of "INTEREST" and "ROYALTY" Payments: Allegedly Payable to STRATFORD RETREAT HOUSE

Total Payments	1971	\$ 476,566.
" "	1972	290,000.
" "	1973	280,318.
Grand Totals		<u>\$ 1,046,884</u>



SOURCE: TORCH ACCOUNTING FIRM

ON CUSHIONING TAX BURDENS

Mr. Cayson concluded his testimony on the subject of the effect of the Torch Corporation's deducting the royalty and interest payments from its tax returns:

Q. Did Torch deduct these interest and royalty payments totaling 1.2 million on their tax returns for fiscal years 1971, 1972 and 1973?

A. Yes, they did.

Q. What factually is the principal tax result of any or all of the steps outlined in your testimony?

A. It is clear to the Commission's accounting staff that the royalty and interest distribution to the various groups, that is the Brighter Homes stockholders, the finder and Stratford, it is clear to us that the 9/30/70, or September 30, '70 royalty agreement and the purchase money mortgage carried a six-and-a-half per cent interest on a 2.8 mortgage were transactions designed to cushion what could have been the more stringent effects of the relevant provisions of the Tax Reform Act of 1969.

Q. Do New Jersey corporations organized under Title 14 pay taxes?

A. Yes, they do.

Q. On what?

A. They pay taxes on their—well, on their net worth or their income, whichever is the greater.

Q. Did the steps taken in this particular transaction have an effect upon the New Jersey income taxes, the corporate business tax returns?

A. Yes, it did, yes.

Q. What was the effect?

A. It reduced the taxable profit for franchise tax purposes.

THE LAST NAME CHANGE

The Torch Corporation in December, 1972 changed its official name to Torch Products Corp., eliminating the previous reference to conquering handicaps. It did so at a point in time which came

after the State Division of Consumer Affairs told Torch officials that the reference was misleading and ought to be eliminated. Mr. Caravetta, however, testified that name was changed for reasons other than the Division's investigation. Mr. Amico of the Division in his testimony stated the name change appeared to be a move by Torch to add to what Mr. Amico called Torch's veneer of legitimacy.

THE ADVERSE IMPACT ON LEGITIMATE CHARITIES

As was observed in the introductory section of this report, many citizens of average means earmark certain amounts of money for charitable donations. Most would like to give more but cannot as they endeavor to meet their obligations in inflationary times. Thus, it may be stated there is a certain pool of dollars available for donations to charities. If for some reason that pool is drained partially by non-charitable enterprises, there will be less dollars available for charities. Additionally, those who find out they have been deceived into believing a profit-making organization is a charity become more wary about giving to all charitable appeals.

These two avenues of harm to the sources of funds for the good works of charitable organizations were explored at the public hearings through the testimony of a number of witnesses. One was Sidney Cohen, the restaurant man from Bricktown whose testimony about his complaint against Torch Products Corp. was reviewed earlier in this report. Mr. Cohen noted that he has only a certain amount of money available for charity. He also testified to an experience had by many other individuals, namely that the ranks are legion of those who have bought exorbitantly high priced light bulbs from profit-oriented businesses under the illusion of dealing with a charitable organization:

Q. Since this experience, Mr. Cohen, have you become more wary of solicitations by alleged charities?

A. Yes. And you asked a question to the lady that was here ahead of me, and I think I get the gist of it. We do have X number of dollars that we can spend on charities, and if this \$5 or \$8, or whatever it is, goes to the wrong charity, there's \$5 or less that's going to a legitimate charity, if that was the gist of your—

Q. Exactly.

A. Yes. So, I think it is very important to stop this.

Q. And if you multiply that by thousands of sales—

A. Well, we can go a step further. Since I appeared here I have talked to many, many friends about this

situation without going too far into the details, but asking them if they have ever gotten bulbs through the mail and so on, and it was absolutely remarkable to me the number of people said, oh, sure, we buy them, and I asked them if they knew that it was a non-charitable organization and no one—everyone took it for granted that this was charity.

* * * * *

Q. Mr. Cohen, just to clarify a point, these people that you have talked to, you say there were quite a few that have dealt with this organization?

A. Yes. As a matter of fact, a couple of them remembered, they remembered New Brunswick for some reason.

Q. All right. Regardless of what type of presentation was made to them, they all indicated to you that they still thought they were dealing with a charity?

A. Yes. It was, you know, a question, yeah, we've contributed, too, just as you have.

Q. And as I understand your testimony, the reason you paid some markup of eighteen cents that you normally pay in your business for light bulbs, and I think you indicated you purchase quite a few in the course of a year?

A. Light bulbs?

Q. Yes.

A. We use an awful lot of them, yes.

Q. From eighteen cents to \$2.50, is that when you finished with this contact on the telephone you still were under the impression that you were dealing with a charity?

A. Yes, and it would be deductible on that basis; be paid by check and be deductible.

THAT'S NOT FAIR

The previously mentioned Mrs. Millicent Fenwick, the former State Assemblywomen who was Director of the State Division of Consumer Affairs from January, 1973 to April, 1974 and under whose auspices the Division's probe of the profit-making com-

panies was undertaken, was a most eloquent and forceful witness in testifying about harm done by these companies to the consuming public and to the sources of funds for legitimate charities. She testified how her communications with many complainants who felt victimized by the deceptive appeals of the profit-making companies left her convinced that those companies drain away dollars that might otherwise go to legitimate charities:

A. I received many complaints. They started when I was in the Legislature and, of course, increased because they came from all over the state when I was in the State Division of Consumer Affairs; letters, telephone calls, many questions and even more, perhaps, complaints.

Q. Do these complaints indicate to you that there is a real problem to consumers and for those people who honestly wish to do whatever they can to aid legitimate charities and aid the handicapped as best they can?

A. There really is, Mr. Sapienza. The basic problem, as I see it, it is that the people from whom these monies are requested are under the impression that this is a charity. Over and over again I used to receive letters or telephone calls saying, "I don't think I give enough to charity, so I took this way of contributing to charity." They are not apparently fully informed as to the nature of the business which is doing the telephoning, and usually, in fact every complaint I received was about a telephone bill.

* * * * *

Q. We have received testimony that in the opinion of some witnesses there exists a certain pool of money among the citizens and among the community that will be donated for charitable purposes. We have also received testimony that profit-making organizations, who by their telephone solicitations tap this pool of money, draw from it. Is that your experience?

A. That's just what I was referring to. That's exactly the point I was trying to make; that people who would otherwise be contributing to worthwhile things are buying from profit-making organizations under the impression, the illusion, that this is completing their charitable duty.

And I think these organizations, for instance, should not be allowed to use a symbol that suggests a philanthropic purpose. For example, let's say a wheelchair or something.

The thing that the consumer is going to be up against until the state really takes a stand here is that they cannot get clear information about what's going on, and that is the essential. Is this a profit-making business that is selling and has every right to sell something that may be costing fourteen cents wholesale and sell it for two dollars and a half if they can do it? But the consumer ought to know what they're doing.

I got a call from a woman who bought a ten-dollar ironing board cover and she said, "I knew perfectly well I could buy it for two thirty-nine at Sears." But she said, "I don't think I give enough money to charity, so I bought it because I do want to help the handicapped."

Now, this is not fair. That's all I'm saying. It's not fair to that woman. It's not fair to the organizations that do, in fact, divert the money they receive entirely to benevolent purposes. This is not proper and the state should move to correct this situation and protect the consumers and the bona fide religious and other philanthropic groups, and it's our duty to do so.

MRS. FENWICK'S RECOMMENDATIONS

Besides her suggested ban on the use of philanthropic insignia by profit-making companies, Mrs. Fenwick recommended other legislative actions to prevent the use of misleading corporate names by Title 14 companies implying philanthropy and to require any profitmaking company appealing to philanthropic instincts to register with the Charitable Organizations Unit of the State Division of Consumer Affairs and make full public-record financial disclosures to that unit. She testified:

Q. What recommendations can you make which we might be able to implement to correct the abuses which afflict many of our citizens in this particular area?

A. In the first place, I'd like to see a more stringent application of the section of the law, I think it's 14A:2, which specifically provides that you cannot have a title for your corporation which suggests a purpose other than that for which a corporation was formed.

I brought this to the attention of the Secretary of State and the Attorney General over a period of some time.

Second, I think that if any appeal is going to be made on any basis of philanthropy, in other words, if any part of the appeal, whether by telephone or letter, is going to be based on an appeal to the philanthropic or benevolent instincts of human beings, you've got to tell the person from whom you're requesting funds, and the State, also, what proportion of your money is going into philanthropic purposes, what winds up, in other words, in the hands of the handicapped.

If, for example, these businesses were required to register their personnel with the Rehabilitation Commission and the Rehabilitation Commission was able to prove, to certify that, yes, a certain proportion of the personnel were handicapped and that, yes, this proportion of the funds raised went to the handicapped, then you would have a clear situation as to what's going on.

But what's happening now is that a great many churches, and synagogues, and old folks' homes and children's societies and aid for children that are conducted by bona fide charities are suffering because the money is being siphoned off into profit-making organizations which do not tell us what their profits are, which do not tell us how much they're benefiting anybody, and are listed with the Secretary of State as profit-making organizations.

I'm in favor of profit. I'm in favor of businesses listing with the Secretary of State and making money. But they should make money on a clear basis and not on an appeal to a philanthropic and benevolent intent, which merely takes money away from those organizations which really are doing good.

THE SIPHONING OF MANY MILLIONS OF DOLLARS

James C. Amico, Coordinator of Charities for the State Division of Consumer Affairs, testified he had many interviews with those complaining about the profit-making organizations appealing in the name of the handicapped, interviews in which the complainants consistently stated that until they recognized the real nature of those companies, they had turned down appeals by legitimate charities on the grounds they had contributed to charity by purchasing light bulbs or other household products from the companies.

Mr. Amico, on the basis of the Division's investigation and of checks with state consumer protection authorities in other states, was able to estimate that the profit-making companies appealing to charitable instincts siphoned from the pool of funds available to legitimate charities some \$4 to \$5 million per year in New Jersey and as much as \$50 million per year nationwide.

John J. McAuliffe, Executive Director of the United Way of Essex and West Hudson, which assures the delivery of human care services to the people of that area of Northern New Jersey by fund-raising and other programs, testified that the profit-making companies appealing in the name of the handicapped are not consistent with the principles of his organization and obviously detract from the fund-raising capabilities of legitimate charities:

Q. Do you feel that this type of business is consistent with the principles of your organization and the principles of those organizations that are concerned with rehabilitation of handicapped individuals?

A. It's way out of line. It is not consistent with the principles of our organization nor the agencies which get funds from us.

Q. Would you refer handicapped individuals to these types of agencies to find employment?

A. I would not, no.

Q. And have you had occasion to submit questionnaires to the Torch organization or any similar organizations regarding their treatment or their purposes of hiring handicapped individuals?

A. We get no answer. Once we begin to press;

that's the end of the conversation. I assume the connection was broken on the other end of the telephone.

Q. Do they hang up on you?

A. Yes.

* * * * *

Q. It's not an easy job. Do you have an opinion as to whether or not organizations such as those that have been called to testify in the past three days and have been the subject of our investigation detract from or diminish your ability to raise funds within the community?

A. They detract from it very definitely, and they probably diminish the return, although I couldn't tell you in dollars. They detract because I think they shake the confidence of the public once they begin to read, as an example, the news that's coming out as a result of your current investigation. This will make people much more leary, and a very bona fide worthwhile charitable organization will suffer accordingly, so that's the way it will detract.

A RECOMMENDATION FOR DISCLOSURES

State Senator Alexander J. Menza, who represents District 20 in Union County, is the sponsor of a bill in the New Jersey Legislature to force certain disclosures by individuals who solicit sales by telephone. Senator Menza's bill is presented and discussed in detail in the "Final Recommendations" section of this report. Suffice it to state here that the bill, which has been passed in the Senate and is in the Assembly's Committee on Industry and Professions, would make it, on pain of criminal penalty, the affirmative duty of the telephone solicitor to provide the prospective purchaser with information about the soliciting organization, including how the money collected is allocated and disposed of, exactly what charities, if any, are going to benefit, and whether or not the organization has a tax exemption as a nonprofit organization.

Because of Senator Menza's interest in curbing abuses by profit-making companies appealing in the name of the allegedly handicapped, the Commission worked with him in formulating proposed amendments (presented in the "Final Recommendations" section) to improve the bill and invited him to be a witness at the public

hearings. Senator Menza, an attorney at law and a former State Assemblyman, testified as to the intent and prospective impact of his bill:

Q. Would you tell us what this bill is intended to do?

A. The intent of the bill is basically to keep these pseudo-charities, or those organizations that purport to be charities, honest.

I personally had some experiences. We buy light bulbs in my house on the telephone and have been paying for them approximately four or five years, now. We bought light bulbs from Torch, Eterna and some other ones. I asked my wife today what the approach is, and the approach is, we're selling for the handicapped and the proceeds go to the handicapped.

* * * * *

Q. Do you contemplate that this bill might restrict legitimate businesses or legitimate organizations, or that charitable organizations would suffer as a result of this bill or of these hearings, as a matter of fact?

A. No, I doubt it very much. I think that charitable organizations will benefit a great deal. I think they will avoid the competition of the pseudo-charitable organizations, hopefully.

You see, what happens at the present time is that many of us get so many phone calls on the pseudo-or phony, if you call it, charitable organizations that we get a real one, and if it's not a neighbor selling for cancer, we just ignore it, so, therefore, I think they will benefit a great deal.

The intent of the bill is, as I say, to not only protect the consumers being exploited, but to help the charities in the fashion I just mentioned, and, in addition to that, to avoid exploitation of the handicapped because they are, in fact, exploited whether they're working at these organizations or not.

THE COMMISSION'S FINAL RECOMMENDATIONS

PREAMBLE

The Commission herewith presents its final recommendations based on its investigation of profit-oriented commercial companies which induce the sale of exorbitantly high priced products by appealing in the name of the handicapped. The recommendations were fashioned after due research and deliberation and are focused on the goal of halting the various shades of deceptions involved in the telephonic sales presentations and other practices of these businesses incorporated for profit and claiming, either falsely or only truthfully in part, to employ authentically handicapped workers.

The investigation and resultant public hearings established beyond doubt that the telephonic sales presentations stressing handicaps and handicapped workers create in the prospective customer's mind an illusion of charity. Nor can there be any doubt that this illusion stimulates the benevolent instinct and, thereby, prompts purchases of light bulbs and other ordinary household products marked up as much as 1,100 per cent above cost to the company. The handicapped workers, whether they be real or imagined, are used by the owners as nothing more than minimally compensated ploys to further the making of money by those owners.

If the deceptions involved are not fraudulent, they border on being so. Because they are in any event blatantly unfair and unjust to the consuming public and because they detract from the pool of money available to further the good works of legitimate charities, the Commission respectfully submits that the carrying out of the recommendations presented below will circumscribe deception and force public disclosures and, thereby, afford a greater measure of deserved protection for the consuming public.

A. CONTROL OVER THE USE AND REGISTRATION OF MIS-LEADING CORPORATE NAMES AND TRADEMARKS:

1) Testimony

The use of the word "handicapped" in the corporate name of domestic and foreign corporations in New Jersey has been subject to abuse. Such a term, which generally connotes to the general public a charitable, non-profit organization employing mentally or physically deficient persons, is being used by profit-making businesses to deceive the public as to the actual nature of their dealings.

The Commission heard testimony from Millicent Fenwick, former Director of the Consumer Affairs Division, recommending an addition to N.J.S.A. 14A:2-2. Mrs. Fenwick suggested that 14A:2-2 include a specific provision prohibiting the use of names that suggest a philanthropic purpose when a profit-making enterprise is involved.

It also has been demonstrated that profit-making corporations employ insignias and symbols in their commercial practice which infer that the organizations behind these symbols are benevolent in nature.

2) Background

Other states have restricted the use of the word "handicapped" in a corporate name. The New York General Corporation Law § 9, L. 1963, c. 861 § 1, eff. April 26, 1963 states:

"No corporation shall be hereafter organized under the laws of this state nor shall any foreign corporation be authorized to do business in this state with the word . . . , nor with the word "blind" or "handicapped" as part of its name unless the approval of the state board of social welfare is attached to the certificate of incorporation, or application for authority or amendment thereof, contains the word "blind" or "handicapped". Such approval shall be granted by the state board of social welfare, if in its opinion the word "blind" or "handicapped" as used in the corporate name proposed will not tend to mislead or confuse the public into believing that the corporation is organized for charitable or non-profit purposes related to the blind or the handicapped".

At the present time, N.J.S.A. 14A:2-2 does not place any restriction upon the use of the word "handicapped" in the corporate name of a domestic or foreign corporation authorized to transact business in New Jersey.

3) S.C.I. Recommendations

- a) N.J.S.A. 14A:2-2 should be supplemented with the following provision:

No corporation should be hereafter organized under the laws of the State of New Jersey nor shall any foreign corporation be authorized to do business in New Jersey if the words "blind" or "handicapped" are part of its name unless the approval of the Commission for the Blind and Visually Impaired or the New Jersey Rehabilitation Commission, or both, as the case may be, is attached to the certificate of incorporation, or application for authority for amendment thereof, and such approval contains the words "blind" or "handicapped" as used in the corporate name proposed will not tend to mislead or confuse the public into believing that the corporation is organized for charitable or non-profit purposes relating to the blind or handicapped. Any corporation presently organized under the laws of this State or any foreign corporation presently authorized to do business in this State that presently employs the words "blind" or "handicapped" in its corporate name shall seek approval of the Commission for the Blind and Visually Impaired or the New Jersey Rehabilitation Commission, or both, as the case may be, within ninety (90) days after the effective date of this act, if it wishes to continue the use of its present name containing the words "blind" or "handicapped".

- b) The use of any label, trade mark, term, design, or other insignia should be restricted in the following manner:

No person doing business in the State of New Jersey shall use any label, trade mark, term, design, or other insignia which would lead any person to reasonably believe that the person employing the aforementioned is conducting any activity organized for charitable or non-profit purposes unless approval for that label, trade mark, term, design, or other insignia is obtained from the New Jersey Rehabilitation Commission or the Commis-

sion for the Blind and Visually Impaired, or both, as the case may be. Such approval shall be granted if in the opinion of the appropriate aforementioned commission (s) such label, trade mark, term, design, or other insignia will not tend to mislead or confuse the public into believing that the person employing the aforementioned is organized for charitable or non-profit purposes. Any person presently employing the use of any type of label, trade mark, term, design, or other insignia shall seek the approval of the Commission for the Blind and Visually Impaired or the New Jersey Rehabilitation Commission, or both, as the case may be, if such person desires to continue such use.

- c) Two final recommendations are necessary if the previous proposals are to be implemented as suggested.

First, the "Vocational Rehabilitation Act of 1955" (N.J.S.A. 34:16-20 et seq.) should be supplemented as follows:

The New Jersey Rehabilitation Commission is hereby empowered to approve the use of the word "handicapped" in the name of any corporation organized to do business under the laws of this State or any foreign corporation authorized to do business in this State that wishes to employ the word "handicapped" in its corporate name or that is, upon the effective date of this Act, employing the word "handicapped" in its corporate name.

The New Jersey Rehabilitation Commission shall also be empowered to approve the existing or future use of any trademark suggesting that the person employing such trademark, term, design or other insignia is organized for charitable or non-profit purposes.

Secondly, it would be necessary to enact a similar supplement to "An Act to promote and regulate the sale and distribution of goods and articles made by blind persons" (N.J.S.A. 30:6-16 et seq.) as follows:

The Commission for the Blind and Visually Impaired is hereby empowered to approve the use of the word "blind" in the name of any corporation organized to do business under the laws of this State or any foreign corporation authorized to do business in this State that wishes to employ the word "blind" in its corporate name

or that is, upon the effective date of this Act, employing the word "blind" in its corporate name.

The Commission for the Blind and Visually Impaired shall also be empowered to approve the existing or future use of any trademark, term, design (etc. *supra*) suggesting that the person employing such trademark is organized for charitable or non-profit purposes.

4) Commentary

These recommendations are designed to curb the abuses spurred by profit-making corporations who use misleading names or trademarks in their business practices. At the present time, any advertising employed by these organizations that would act as a misrepresentation or a deception is an unlawful practice under N.J.S.A. 56:8-2.

B. PUBLIC DISCLOSURE OF FINANCIAL STATUS

1) Testimony

It has been brought to the Commission's attention that numerous Chapter 14 profit-making companies purport in their telephone solicitations to employ and aid the handicapped. Our inquiry firmly established the fact that the primary, overriding motive of these organizations is to make money for the personal gain of the owners and chief operators, with no philanthropic benefit whatsoever going to handicapped individuals. The overwhelming majority of these allegedly handicapped workers get no more than minimum wage. For that stipend, they must trade upon their mental or physical incapacity and produce enough profitable sales or be dismissed under the profit-or-perish policies of these organizations. There is no rehabilitation program whatsoever. It is business as usual in a sordid and unscrupulous industry.

The testimony of several witnesses at the Commission's public hearings emphasized that the more these types of organizations proliferate and prosper, the more they drain off funds that otherwise would be available for worthy charitable endeavors and the more they create a body of consumers who are suspicious of all telephonic appeals, even those by legitimate charities. Bona fide charities suffer because once the public feels that it has been misled, there is a general reluctance to contribute to any further charitable solicitation.

Mr. James Amico, Coordinator of Charities Registration Division of Consumer Affairs, testified that his office was unable either to control the registration of these corporations or to audit the financial reports of these companies simply because these firms were incorporated for profit. Mr. Amico states that this dearth of regulation was particularly frustrating in light of mounting consumer complaints against these companies. Millicent Fenwick, the former Consumer Affairs Division Director, stressed the need to force profit-making companies soliciting in the name of the handicapped to make full public disclosure of their receipt and disbursement of moneys.

2) Background

The Charitable Fund Raising Act of 1971, N.J.S.A. 45:17A-1 et seq., provides for the registration and regulation of all charitable organizations soliciting contributions from persons residing within the State of New Jersey. As defined in section 3 of the Act a charitable organization is as follows:

“Charitable Organization” Any benevolent, philanthropic, patriotic, or eleemosynary person¹ or one purporting to be such.

By definition a profit-making corporation does not fall within this classification and is therefore not subject to the act, notwithstanding the pretenses upon which it may operate when dealing with the public.

3) S.C.I. Recommendations

It is recommended that the legislature enact an amendment to the Charitable Fund Raising Act of 1971 which would broaden the definition of a charitable organization as it is presently defined under the statute and would read as follows:

“Charitable Organization.” Any benevolent, philanthropic, patriotic, or eleemosynary person or one purporting to be such in any manner employing a charitable or philanthropic appeal as the basis of any solicitation or which could be reasonably interpreted to suggest that there is a charitable or philanthropic purpose to any such solicitation.

¹ As defined in N.J.S.A. 45:17A-3 (e), a “person” is “any individual, organization, group, association, partnership, corporation, or any combination of them.”

4) Commentary

Pursuant to the proposed amendment, profit-making corporations which employ tactics appealing to the charitable instincts of the consumer will be required to register under the Charitable Fund Raising Act of 1971 and be subject to the provisions thereof. Pursuant to Section 6 of this Act, these organizations would be required to make mandatory financial disclosures to the Director of Consumer Affairs. Registration and disclosure would provide a valuable regulatory tool which would enable the Director to better protect the interests of the consuming public.

C. IDENTIFICATION OF GOODS PRODUCED BY HANDICAPPED PERSONS

1) Testimony

Testimony from Mr. William Shalala, former manager of the Handicapped Workers, Inc. office located in Fort Lee, New Jersey, and Miss Susan Kalbhenn, a teenage telephone solicitor in the same Fort Lee office indicated that most of their employees were under the impression that the goods they were selling were produced by handicapped persons employed in the corporation's Philadelphia headquarters.

While the hearings established that it was not the practice of those companies subject to scrutiny by this Commission to offer for sale to the public goods produced by the handicapped, it was evident from the testimony of the majority of the consumers who appeared before the Commission that they purchased the goods under the impression that they were buying products of handicapped labor.

Mr. Joseph Kohn, the Executive Director of the State Commission for the Blind and Visually Impaired testified as to the overseer role that his organization takes on in governing the sale of blind-made products in this state. Mr. Kohn related how that Commission under N.J.S.A. 30:6-17 et seq. was responsible for insuring that products which purport to be blind-made are authenticated as such by means of inspection, issuance of permit, the regulation of distribution, and the labeling of such goods.

2) Background

After having studied the aforementioned statute which governs the sale of blind-made products, N.J.S.A. 30:6-16 to 30:6-22, we recommend similar legislation be enacted to deal with handicapped persons and the products they produce. As stated by Mr. Kohn, the Commission for the Blind and Visually Impaired has found the present law to be satisfactory in dealing with the identification and authentication of goods to have been produced by blind persons.

3) S.C.I. Recommendations

To insure to the citizens of New Jersey that the products they are purchasing are in actuality the products of a handicapped person's labor, the following remedial legislation is strongly recommended by the Commission:

a. Policy of State

It is the policy of the State to assist handicapped persons and organizations established to aid handicapped persons, in the sale of goods or articles which are the product of handicapped workers' labor by providing a means of authenticating the source of such goods and articles and by preventing misrepresentation as to items offered for sale as the product of handicapped persons.

b. Definitions

As used in this act:

(1) "Handicapped person" means, for the purpose of this statute any individual who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of a long-continued and indefinite duration.

(2) "Direct labor" means all work required for the preparation, processing and assembling goods or articles including the packaging and packing thereof, but not including time spent in the supervision, administration, inspection, and shipping of such operations, or in the production of component materials by other than handicapped persons.

c. Identification of goods; registration; fees

To facilitate ready and authoritative identification of goods or articles made by handicapped persons, any handicapped person and any public or private institution or agency, firm, association or corporation engaged in the manufacture or distribution of goods or articles made by a handicapped person or persons shall apply to the New Jersey Rehabilitation Commission for registration and authorization to use an official imprint, stamp, symbol or label, designed or approved by the Commission, to identify goods and articles as made by the handicapped persons. Nothing in this act shall authorize the identification of goods or articles as made by handicapped persons when the direct labor performed by handicapped persons in connection therewith shall consist solely of the packaging or packing thereof as distinguished from the preparation, processing or assembling of such goods or articles. The Commission shall investigate each application, under rules and regulations it shall adopt for the administration of this act, to assure that such person or organization is actually engaged in the manufacture or distribution of handicapped goods or articles. The Commission may in its discretion, but is not required to register, without investigation nonresident individuals and out-of-state agencies, firms, associations or corporations upon proof that they are recognized and approved by the State of their residence or organization pursuant to a law of such State imposing requirements substantially similar to those prescribed pursuant to the act.

No fee shall be charged for registration of an individual handicapped person who manufactures and sells products of his own labor. A fee of \$25.00 shall be charged and collected for registration of any other person, firm, or corporation. All registrations shall be valid for 1 year from date of issue.

d. Necessity for Identification; prerequisites

No goods or articles made in this or any other State may be displayed, advertised, solicited for sale by telephone, mail or otherwise, offered for sale or sold in this State upon a representation that such goods or articles are made by handicapped persons unless the same are identified as such by label, imprint, stamp, symbol, and no

such goods or articles may be so identified unless at least 75% of the total hours of direct labor of producing such goods or articles shall have been performed by a handicapped person or persons.

e. Labeling

Any handicapped person, or any public or private institution or agency, who (a) shall use or employ an imprint, stamp, or symbol or label issued or approved by the New Jersey Rehabilitation Commission or an imitation thereof without having registered with the Commission, or (b) who shall directly or indirectly by any means indicate or tend to indicate or represent that the goods or articles were made by a handicapped person or persons when in fact such goods or articles were not so made is a disorderly person and punishable by a fine of not more than \$500.00 or imprisonment for not more than one year or both such fine or imprisonment.

4) Commentary

These proposals provide for the identification and authentication of goods produced or solicited for sale by handicapped persons. Since current New Jersey laws fail to provide this type of assurance to the public at large, adoption of these measures would help to solve this aspect of the problem at hand.

D. PROTECTING THE CONSUMER

1) Testimony

As was previously noted, Mr. James Amico, co-ordinator of Charities Registration, Division of Consumer Affairs, informed the Commission of his office's inability to deal with the numerous consumer complaints received over the past two years because the firms complained of were incorporated for profit and thus outside the jurisdiction of the Charities Registration Section.

Millicent Fenwick, former director of the Division of Consumer Affairs also testified as to the jurisdictional problems encountered in attempting to resolve those problems brought to the attention of the Consumer Affairs office by members of the public.

Testimony from those consumers who appeared before the Commission had a common bond: all had purchased products be-

cause they believed that the soliciting companies employed and/or aided the handicapped—that is, they considered the exorbitant prices to be a contribution rather than a mere purchase.

2) Background

Under the present New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., the Attorney General is empowered with a number of weapons to cope with violations of the Act. Among the most powerful of these is the cease and desist order which may be issued following a hearing on the alleged unlawful practice. As the statute is now written, it does not specifically prohibit the type practices utilized by companies such as those under scrutiny by this Commission, in soliciting sales of their products.

Because of the problem of limited jurisdiction and due to the frustrations encountered by the Consumer Affairs Office in attempting to effectively handle consumer complaints of the nature above mentioned, the Commission is of the opinion that a supplement to the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., is necessary.

3) S.C.I. Recommendations

The Commission strongly recommends that the following be enacted as a supplement to N.J.S.A. 56:8-1 et seq., "An Act concerning consumer fraud, its prevention and providing penalties thereof":

It shall be an unlawful practice and violation of the act to which this act is a supplement for any person to solicit funds or a contribution of any kind, or to sell or offer for sale any goods, wares, merchandise or services, by telephone or otherwise, where it has been falsely represented by such person or where the consumer has been falsely led to believe that such person is soliciting by or on behalf of any charitable or non-profit organization.

4) Commentary

This investigation sought to make use of the broad civil jurisdiction of the Commission to deal with a problem which affects the people of New Jersey, a problem which has so far not shown itself susceptible to relief by prosecutorial agencies or by the Division of Consumer Affairs of the Department of Law and Public Safety. It was brought out in testimony that many of the firms in this

industry operate by guile and deceit to one degree or another and although they may not be engaged in conduct that is demonstrably fraudulent or illegal under present state statutes, nonetheless it is patent exploitation of the consumers of this state.

It is for these reasons that the S.C.I. recommends the above supplement to the Consumer Fraud Act with the hopes of rectifying the present situation and precluding future misrepresentations.

E. RESTRICTIONS ON TELEPHONE SOLICITATIONS

1) Testimony

During the Commission's public hearing some 80 written complaints about these organizations and their dunning type collection agencies were entered into the record. An additional 170 complaints of similar nature were received by telephone at the Division of Consumer Affairs. Numerous complainants, testifying about their experiences with the money-making profit oriented organizations proliferating in this industry, established that they as consumers were mislead into thinking these organizations were charitable in nature because the sales presentations stressed employment of handicapped. In every one of these cases the solicitations were by telephone so that recipients of such solicitations were unable to corroborate the facts of the handicap as relayed by telephone.

2) Commission's Recommendations

At the present time the New Jersey Assembly's Committee on Law, Public Safety and Defense has before it Senate Bill No. 921, introduced by Senators Alexander J. Menza, Thomas G. Dunn, and John M. Skevin. This bill is an Act supplementing chapter 170 of Title 2A of the New Jersey Statutes. We endorse this legislation and recommend the following amendments. (Amendments in italics.)

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1) Any person who solicits funds or a contribution of any kind, or who sells or offers for sale any goods, wares, merchandise or services, by telephone, shall clearly, affirmatively and expressly disclose at the time said person initially contacts the prospective contributor or buyer, the following:

a. In the case of solicitation, sale or offer for sale for charitable purposes, *or any solicitation, sale or offer which may be interpreted by a reasonably prudent consumer to be for charitable purposes.*

(1) The name and address of each organization or fund on behalf of which all or any part of the money collected will be utilized for charitable purposes;

(2) If there is no organization or fund, the manner in which the money collected will be utilized for charitable purposes;

(3) The amount, stated as a percentage of the total purchase price, that will be given to the organization or fund;

(4) If there is no organization or fund, the amount, stated as a percentage of the total purchase price, that will be used for charitable purposes;

(5) The nontax-exempt status of the organization or fund, if the organization or fund for which the money or funds are being solicited does not have a charitable tax exemption under both Federal and State law;

(6) The percentage of the total purchase price which may be deducted as a charitable contribution under Federal law.

b. In the case of any other solicitation, sale or offer for sale:

(1) The identity of the person making the solicitation;

(2) The trade name of the person represented by the person making the solicitation;

(3) The kind of goods or services being offered for sale.

2) Any person who violates this act *or any person who causes another to violate this act* is a disorderly person.

3) This act shall take effect immediately.

3 Commentary

This bill is designed to require disclosure of pertinent facts to the consumer by any person employing telephonic solicitations.

The theory that a well informed public is more capable of making sound decisions as to what type of organization deserves their contributions is a sound one and that policy is reflected in this legislation.

Under the amended act a profit-making organization employing a philanthropic basis for their solicitations would be required to make a greater degree of disclosure to the consumer. Any prospective customer will therefore be readily aware of the nature of the organization making the solicitation.

In view of the fact that many of these misleading telephonic solicitations are made at the behest of corporate directors, the amended bill will hold a principal responsible if proper disclosure is not made by an agent.

APPENDIX

**STATEMENT BY JOSEPH H. RODRIGUEZ, CHAIRMAN,
NEW JERSEY STATE COMMISSION OF INVESTIGA-
TION, AT THE OPENING OF PUBLIC HEAR-
INGS, JUNE 10, 1974, IN THE STATE
SENATE CHAMBER, TRENTON, N. J.**

The hearings we commence today have their roots in a series of complaints received by the State Division of Consumer Affairs about private enterprise organizations, incorporated for profit, which solicit by telephone the sale of high priced goods in the name of the allegedly handicapped. Mr. James Amico, Coordinator of Charitable Organizations for the Division, and his Special Investigator, Mr. Joseph Demarest, will discuss those complaints and the general scheme of operations of the complained-of organizations as the first two witnesses.

Accordingly, my remarks in those areas will be brief. The Division of Consumer Affairs found in its probe that these organizations were operating under the law governing profit-making corporations and, therefore, did not come under the purview of the Division's statutory authority. It was agreed between the Division and this Commission that the S.C.I.'s broad statutory powers could be used to investigate fully and bring the facts to the attention of the public.

The initial inquiries by the S.C.I.'s staff determined that the modus operandi of these privately owned, money making organizations traded on people's charitable instincts in varying degrees, from outright misrepresentations that they are charities, to subtle sophisticated forms of deceptions designed to convey an impression that such organizations are charitably oriented or have a charitable purpose.

Mr. Amico and subsequent witnesses will discuss this aspect more fully. Let me just state here that it is clear to this Commission that the reason many consumers have been willing to pay such high prices, marked up from cost usually by 500 to 700 per cent, and by 1,100 per cent in some instances, is that their charitable instincts and sympathies have been preyed upon, when no charity or beneficence whatsoever is present.

The organizations to be covered by these hearings range from a large, sophisticated operation generating cash flows in the millions of dollars per year to the small loft-type operation, where inadequate bookkeeping indicates a gross under \$100,000 per year.

Do not be fooled by size and sophistication, with all the legalistic and public relations trappings attendant thereon. When all the trappings are pushed aside, the same basic deception is there—that is to arouse charitable sympathy in the name of the allegedly handicapped.

The deception is not eliminated by recent removals of words like "handicapped" from names of certain organizations. It is not eliminated by the employment of a part-time figurehead president who is, in fact, authentically handicapped. It is not eliminated by requirements that sales employees sign themselves up as "handicapped" in some way. It is not eliminated by offering replacement type guarantees.

The Commission believes the public, for its protection, is entitled to know fully about the money-making, the excessively marked-up high prices, and the luring of consumers down a charitable path that doesn't exist. Two newspapers serving parts of New Jersey have published some of the facts about some of these organizations, with the New Brunswick Home-News doing a particularly meritorious job in placing a reporter who wasn't handicapped in one of these organizations. The full growth and scope of some of these organizations, however, has yet to be presented to the public. That is a principal goal of these hearings, as is the establishment of a factual base for development of recommendations for possible corrective actions.

In closing this brief opening statement, the Commission urges that the members of the consuming public, after listening to the testimony and other evidence presented at these hearings, make their own determinations as to whether monies they might spend, under the illusion of aiding a charitable cause, are, in fact, being funnelled into the coffers of money-making corporations, with large windfalls benefiting certain individuals. Let me emphasize that in a free-enterprise economy, such as ours, the making of money—lots of money—does not in itself amount to an impropriety. However, when many of the dollars amassed are from persons who are induced to believe they are aiding a charity, when, in fact, that is not the case, then there is considerable cause to air such facts and search for tighter laws and controls in this area.

Before proceeding with the first witness, I would like to take note once more that the Bi-Partisan Forsythe Committee which in 1968 recommended the creation of this Commission stressed a desire that the Commission be not just a "crime" commission but have broad civil jurisdiction to probe and fact-find on matters not necessarily involving criminal consideration. These hearings are another instance of making productive use of the Commission's valuable breadth of jurisdiction.

As has been the practice since the inception of the Commission at its public hearings, I will at this point issue a reminder that the Commission is bound and abides by the State Code of Fair Procedure (N.J.S.A. 52:13E-1 to 52:13E-10). Section six of that Code provides that any person whose name is mentioned or who is specifically identified and who believes that testimony or other evidence given at a public hearing tends to defame him or otherwise adversely affect his reputation shall have the right either to appear and testify before the Commission on his own behalf as to matters relevant to the complained-of testimony or other evidence or in the alternative, at the option of the Commission, to file a statement of facts under oath relating solely to matters relevant to the complained-of testimony or other evidence, which statement shall be incorporated in the record of these proceedings. The Commission announces it will receive written Fair Procedure Code statements at the close of these hearings June 12. If any person desires to appear personally before the Commission and testify, he should so notify the Commission prior to the close of these public hearings.

STATEMENT OF JAMES AMICO, COORDINATOR FOR CHARITABLE ORGANIZATIONS, NEW JERSEY STATE DIVISION OF CONSUMER AFFAIRS

In the last two years the State Division of Consumer Affairs has received more than 250 complaints from individuals who have had dealings with private enterprise organizations, incorporated as profit-making entities, who solicit sales of goods by phone in the name of the allegedly handicapped.

Some 80 complaints have been received in writing, which gave the Division a basis for making inquiries of the complained about organizations. More than 170 complaints have been telephoned to the Division which does not officially record or act on telephonic complaints. We continue to receive complaints about this type of solicitation by profit-making organizations in the name of the allegedly handicapped.

The most common thread in the written and telephoned complaints is the feeling by the complaining individuals that they were duped or misled into thinking the soliciting organizations were charitable through emphasis by solicitors on their allegedly being handicapped and on the organization's allegedly employing handicapped persons. Many complainants stated they never would have paid such exorbitantly high prices for such ordinary products as electric light bulbs, ironing board covers, aprons, tooth brushes, combs, stockings and some other household items if they had known the private enterprise, profit-making nature of these organizations.

Besides complaints as to misleading inferences, other complaints received by the Division about this type of phone solicitation organization include receipt of unordered merchandise, collection agency dunning practices which are felt to amount to harassment, excessively high prices, employment of persons who are questionably handicapped, exploitation of the handicapped, and an adverse effect on solicitations by legitimate charities.

Because of the complaints being received by the Division, I was in March, 1972 assigned by my superiors to make inquiries about certain telephone solicitation operations to determine if

there had been violations of state law, including the Charitable Fund Raising Act of 1971, N.J.S.A. 45:17A:1. Our investigation determined, however, that these organizations did not fall under the scope of the Charitable Fund Raising Act, since we found that they were operating under Title 14, the New Jersey Business Corporation Act, which provides for establishment of profit-making corporations.

Most of the organizations about which the Division has received complaints have used or are using in their corporate names the words "Handicapped" or "Handicap" or something phonetically similar like "Handy-Cap." Through the use of such names and references to the solicitors' being handicapped and employment of the handicapped, these organizations infer charity, when, in fact, the opposite is true. The complainants tell us time and time again that the solicitations were directed at and appealed to charitable instincts and, thereby, stimulated the complainants to purchase some of the goods offered for sale.

Certainly, the public is entitled to know the true facts about these organizations. For that reason, the Division is grateful that the State Commission of Investigation found it in order to carry forward this investigation in greater depth and to hold these public hearings.

A leading contention advanced by these profit-making organizations which solicit in the name of the allegedly handicapped is that they do provide a service to the handicapped by employing them as solicitors. Some of the organizations list the alleged handicaps of their solicitors and go so far as to have the solicitors officially state in writing they are handicapped in some shape of form, even if it is only back strain or old age. In our visitations to these organizations we observed employees completely able to carry out the work assigned, which was to dial telephones and solicit orders. They performed their duties zealously without any ostensible handicaps, except for a few of obvious wheelchair cases.

It should be stressed that many business companies throughout the nation employ thousands of persons who appear to have an ailment or a physical defect but are capable of performing the assignments given them. These business corporations do not attempt to trade on their employment of persons with defects. They do not attempt to profit on people's misfortunes or ask

people to constantly emphasize their misfortunes in order to induce sales at excessively high prices.

One example that I know of personally which underscores this point is a woman double amputee, both legs, who works in a corporation in Carlstadt, New Jersey, as a secretary. She is not asked to trade on her misfortune nor is she discriminated against in any way. And one other impressive example, the Bendix Corporation in New Jersey, employs several hundred persons with physical defects. They do not trade on that in any way, and even do not list the defects in the personnel files.

Further, it should be stressed that these profit-making organizations appealing in the name of the allegedly handicapped do so by phone, leaving the prospective purchaser with no way to verify visually any alleged disabilities of the solicitors. For example, the printed sales pitch for light bulbs for one of these organizations has the solicitor state the organization employs handicapped people and then add, "That's why I'm on the telephone because it's the only way a handicapped person like myself can reach customers." Now, that statement obviously is intended to create in the mind of the listener the impression of an impairment so serious that the solicitor could not make face-to-face sales. Yet, we know from observation that most of the solicitors are ambulatory. They are not all wheelchair or crutch cases.

Additionally it may be seriously questioned whether any benefit is going to the sales employees of these organizations, since the most prevalent basic wage is \$1.75 per hour, the New Jersey minimum wage, with the highest basic wage in any one instance being \$2 per hour, the new federal minimum wage. These allegedly handicapped phone solicitors labor at minimal wages in furtherance of money-making by private enterprises incorporated for profit.

Another contention of these profit-making organizations appealing in the name of the allegedly handicapped is that they specifically instruct employees not to say the organizations for whom they are calling are charitable and to concede readily that they are commercial enterprises. First, let me say that these legally advised organizations obviously would have official, printed policies against fraudulently masquerading as charitable organizations. Secondly, the complaints against these organizations indicate much stress in phone solicitations on the "handicapped," with many phrases and sentences often implying charity.

Still another contention of these organizations is that the quality of the merchandise offered, backed up by what the organizations call a "five-year guarantee" and the convenience of mail order delivery, is their strongest selling point. First of all, if that were a supportable statement, there would be no need to make endless appeals in the name of the allegedly handicapped. Secondly, the many complaints received indicate it was not the quality or "guarantee" that induced the complainants to buy goods but rather misleading inferences that made them feel they were dealing with a charity.

As subsequent testimony by my Chief Investigator, Joseph Demarest, will delineate in some detail, there has been a proliferation in recent years of these profit-making organizations which make appeals in the name of the allegedly handicapped. A number of companies appear to be offshoots, through former employees or relatives of the principal owner, of one organization which was the subject of considerable investigation by us—TORCH which, until a name change in 1972 to TORCH Products Corporation, stood for The Organization to Conquer Handicaps, Inc. Apparently in an attempt to add to its veneer of legitimacy, this organization has now dropped "Handicaps" from its official name, although it continues to solicit in the name of the allegedly handicapped and continues to use the TORCH emblem long associated with the "Handicaps" title.

Former managers for TORCH and relatives of the principal owner have started organizations of their own using similar phone solicitation techniques and collection agency dunning methods. Mr. Demarest will explain our complex investigation of the corporate structure and history of some of these companies, including a move by TORCH at one time to operate as a Division of a religious organization not subject to federal income tax.

Mr. Chairman and Commissioners, I believe strongly the time has come to attempt to afford better protection to the consuming public against what appears to be a growing trend to effect sales of excessively high priced products for profit-making organizations by inducing the prospective purchasers to think they will charitably benefit the handicapped. Since the Commission wishes to deal with possible corrective steps at the close of the hearings, I will end my remarks here at this point. Thank you very much for the opportunity to make this statement. I will attempt to answer to the best of my ability any questions you may have.

STATEMENT BY SALVATORE M. CARAVETTA, CHAIRMAN AND CHIEF EXECUTIVE OFFICER OF TORCH PRODUCTS CORPORATION

Gentlemen: I am in sympathy with your objective to protect the public against abuses in the telephone sales industry.

Long before it was fashionable, I pioneered consumer protection policies in my own enterprises. Nearly a decade ago I developed a code of ethics for the telephone sales industry and tried, unsuccessfully, to establish a self-regulating trade association. We have already endorsed pending legislation in this state. Torch Products Corporation has a consumer protection division second to none.

I do have a very serious quarrel, however, with the staff of this committee, whose fact-finding efforts—as far as Torch is concerned—have yielded a harvest of distortions, exaggerations and misrepresentations without regard to our corporate integrity or our personal honesty.

Insofar as Torch is concerned, you have perpetuated an illusion of evil not remotely justified by the few facts your staff did manage to get straight. In short, Torch and its employment policies have been grievously wronged. We are victims of a holier-than-thou public relations promotion to dramatize these hearings at all costs.

Through guilt by association and by reckless references to deception and exploitation you have created an impression that Torch is charitably oriented or has a charitable purpose. You are wrong.

Repeated distortions have been ventured by high-priced merchandise and higher profits. They are wrong.

You have accused us of trying to arouse sympathy in the name of the handicapped. You are wrong.

At the same time you have cast the meanest kind of doubt on the very real disability of our handicapped employees that is both cruel and unjust. And you are wrong.

You have permitted this forum to be used as a platform for slanders and libel against Torch by witnesses and by the press.

Your questions and innuendo have literally encouraged abuse of your privilege. Truth has been battered here beyond recognition.

Highest references to individual rights under the State Code of Fair Procedures cannot begin to undo the terrible wrongs inflicted before I reached this table.

Even so, my faith in our tradition of fairness is such that I still retain some confidence you will allow me to set the record straight, so we all know that in trying to catch up with the facts we can never fully retrieve the truth, as far as the public is concerned.

Let us first examine the falsehood that Torch profits from deception of the public by creating, as you say, a charitable orientation.

This preconception in Torch's case is valid only if you are prepared to argue that the whole public is deaf, illiterate or composed of nitwits. All our sales personnel are taught from the outset of their employment that Torch is a commercial profit-making business. The literature accompanying all our merchandise spells out this fact unmistakably in clear and simple language, and no customer is under any obligation to pay a dime for any merchandise he or she has ordered until he actually receives it, examines it and looks at the literature mailed with it. There is, in short, nothing faked or phony about our sales approach or the written explanations that follows. And our customer protection service, as I have said, is second to none in satisfying our customers.

Next, the cost. Your nonexperts talk glibly here about the alleged high cost of Torch light bulbs compared to ordinary bulbs. But Torch bulbs are not ordinary bulbs. Our absolute no-questions-asked guarantee insures that buying bulbs from Torch is demonstrably cheaper than buying light from any other source over the same span of time.

The 3,500-hour Torch light bulb cannot fairly be compared in price and quality to the short-life GE and Westinghouse bulbs. They can be fairly compared to the 3,500-hour lamps produced in New Jersey by Duro-Test and by North American Philips Lighting Corporation. The three-way Duro-Lite manufactured by Duro-Test, for example, sells at retail at \$2.49 with a one-year guarantee, and the bulb must be returned at the customer's expense for a free replacement. Our equivalent bulb sells for the same price of \$2.49 with the five-year guarantee and no return required. Their

60 and 100-watt long-life light bulbs sell for ninety-nine cents with a one-year guarantee. For \$1.89 we sell an equivalent bulb with a five-year guarantee.

For those eager to pooh-poo the economic value of our guarantee, I would remind you that well over 400,000 bulbs a year are mailed out as free replacements to Torch customers.

These are some of the facts which could have been developed by your staff instead of the misstatements we have heard about the high cost of Torch bulbs.

And while I'm on the subject of prices and profitability, let the record show that before taxes, treating all purchase money payments to prior owners as earnings, Torch's profit margin is less than seven per cent of sales. By contrast, GE's equivalent profit on light bulb division sales is over twenty per cent after taxes in recent years.

We come now to the heart of your prejudice, namely that we are somehow exploiting public sympathy by employing handicapped sales people and permitting them to identify themselves as handicapped.

The Trade Practices Department of the Council of Better Business Bureaus in Washington has long since agreed that, to quote them, "It is acceptable for a handicapped employee to make a statement of fact about his or her condition." The Council does frown on carrying this further as a sympathy appeal, and so do we. But the Council also adds, and again I quote, "In all fairness, it should be remembered that the more reliable commercial organizations and nonprofit groups offer seriously handicapped people their only opportunity for employment as their disabilities prevent them from competing for outside jobs."

Right there you have the Catch 22 in this whole business: "Their disabilities prevent them from competing for outside jobs."

All the tributes paid to big business and big industry for hiring the handicapped overlook the simple fact that no one wants to hire the sales people Torch hires.

They come from the bottom of the economic ladder, from the bottom of the educational ladder, from the bottom of the social ladder. Many have been public welfare charges though few are ever referred to us by agencies of the state. Most lack any real confidence in their ability to earn a living, at first. They have

rarely if ever had a sustained chance to prove their own worth to themselves. They come out of nowhere, attracted by our newspaper ads offering job opportunities for the most oppressed minority of all, the unwanted disabled.

They earn from \$2 to \$4 an hour. Some earn more. None earn less than the federal minimum wage. All are salaried and all are handicapped and so are many of the employees on our home office staff. By contrast, handicapped persons employed in sheltered workshops may make as much as fifty cents an hour, if they're lucky.

This is not said to designate sheltered workshops which serve a useful purpose, too, especially for the severely handicapped. But we are persuaded that given a choice between a job and a Rorschach task, most handicapped persons will opt for jobs in the real world even though work disciplines may be a new experience for many of them.

Many Torch employees have never before had a steady job and few are able to put in a full work week. Aside from disabilities, their work is repetitive and even dull. The average work week at Torch adds up to twenty-two hours on the average. Yet, our successful employees thrive on their jobs. Some derive measurable therapeutic value from working, which we can document with medical statements. The gradual growth of this confidence and self esteem gives the lie to those who would have you believe such work is somehow degrading.

But we have never made any claims, publicly or otherwise, that working for Torch is anything but a business, a job, in which the telephone is their equalizer in the marketplace.

To charge that our gross annual sales of four and a half million deprive—this is a national sales, not New Jersey sales—of four and a half million deprive the so-called nonprofit charities of needed dollars is silly. Such a charge is based on an unprovable assumption. It ignores our annual sales payroll of a million and a half dollars paid out to handicapped personnel. It is based on a prejudice that the charities are the good guys and we are the bad guys. It overlooks the high cost of major health charities, which, according to the National Health Council, spend anywhere from nineteen to forty-eight cents of every dollar they raise on administrative and fund-raising costs. It is heedless of other disclosures now being made in Washington by Senator Mondale's in-

investigating subcommittee about the high overhead of some of our most cherished nonprofit enterprises, such as the sale of Girl Scout cookies. Who is fooling whom on the relative purity of telephone sales versus high-cost nonprofit charities?

And do not think it is easy to find commercial firms that will give jobs for the handicapped at legal minimum wages to previously unemployed persons.

In the time of the Torch Division of Stratford Retreat House, when this business was owned by a church, \$25,000 was spent on a project for training handicapped people as keypunch operators. The project had to be junked, abandoned. Why? Because despite extensive solicitation most employers were willing to hire graduates of the course only at substandard wages because the employees were handicapped, and, may I add, although we gave keypunch service, most of the same businessmen wanted to pay lower prices than some other keypunch competitive companies even though we guaranteed absolute and correct performance.

You commissioners and the press may sneer that not every Torch employee is in a wheelchair, as though that were the only measure of disability. But the fact remains that we now have some six hundred handicapped people working for Torch at the same wage scale required by law of the rest of the labor market.

Finally, I do welcome your Chairman's statement yesterday that "In a free enterprise economy, such as ours, the making of money, lots of money, does not itself constitute an impropriety." I welcome this statement because as a businessman in our free enterprise economy I have made a lot of money. Hopefully, at least some of the distinguished members of this panel have done likewise.

I have no apologies to make for my business success. But I will spare you the hearts and flowers to make only one more point.

A nagging thought persists that I have been put on public display here because I have been generously rewarded for my efforts. If so, whether deliberately or otherwise, I am being crucified for my success. I ask you whether you really mean to condemn me for building an enterprise which over the last six years has provided over \$8,000,000 in wages to the handicapped. Would you prefer that our sales force be replaced by nonhandicapped people? Or that legislation be enacted to rule out any reference whatsoever to the handicapped by our sales force to diminish whatever may

be the sales impact? I hope, if so, you will share your views with us. We have been making some experiments on that score that might be of considerable interest.

This is the end of my prepared statement. Thank you.

**STATEMENT BY JOSEPH H. RODRIGUEZ, CHAIRMAN,
NEW JERSEY STATE COMMISSION OF INVESTI-
GATION, AT THE CLOSE OF PUBLIC HEARINGS
JUNE 12, 1974 IN THE STATE SENATE
CHAMBER, TRENTON, N. J.**

The Commission has now completed three days of public hearings which have presented the testimony of 24 witnesses, accompanied by the marking of some 30 exhibits, an extensive public record which accomplishes one of the major goals of these hearings. That is, to inform the consuming public of the facts about the true nature and operations of profit-making organizations soliciting by phone in the name of the allegedly handicapped, to the end that consumers can make informed decisions about doing business with these organizations.

What are some of the facts firmly established publicly at these hearings? First and foremost, is the fact that telephonic appeals in the name of allegedly handicapped workers do indeed arouse the charitable instincts of those solicited, with that arousal the prime factor in inducing consumers to make purchases. These phone appeals are obviously aimed at benevolent instincts and create the illusion of philanthropy, when absolutely none whatsoever exists. That is not fair. That is not above board, and the consumer deserves a better break.

These facts were firmly established at these hearings by entering on the record some 80 written complaints about these organizations and their dunning-type collection agencies and having Mr. James Amico, Coordinator for Charitable Organizations for the State Division of Consumer Affairs, testify as to those complaints and the more than 170 additional complaints of a similar nature received by phone by the Division.

This veritable cloudburst of complaints, it should be remembered, prompted a probe by the Division, a probe that was frustrated due to lack of sufficient statutory purview in the Division's existing laws. This Commission, with its broader statutory scope, was able to end that frustration by investigating further and bringing the facts to the consuming public.

The same facts alluded to above also were firmly established at these hearings by a sample of the complainants testifying about their experiences with these types of money-making organizations. Who were these witnesses? They were concerned citizens—a nurse, an engineer, a lawyer, a businessman and a housewife. They established in their testimony that they as consumers were duped and misled into thinking these organizations were charitable because the sales pitches stressed employment of allegedly handicapped workers.

The many citizens who complained about these organizations are intelligent, aroused individuals worthy of praise for having the courage to come forward and ask their government to take action to protect them and their fellow consumers. To equate these people with being illiterates or nitwits is not only unfair but also unkind.

The uncontrovertable fact is that all complaining consumers who could be contacted and interviewed in this investigation stated that these telephonic appeals induced them to buy goods at high prices because the illusion of philanthropy had been created by the phone appeals. There is no way that these millions of sales can be consummated annually at the prices charged unless charitable sympathy is aroused. Indeed, the Commission takes particular note of testimony at these hearings that these phone-solicitation, profit-making businesses did not fare well until they started making their sales pitches in the name of the allegedly handicapped.

Another set of facts established firmly by these hearings is that the primary, overriding motive of these organizations is to make money for the personal gain of the owners and chief operators, with no philanthropic benefit whatsoever going to handicapped individuals. The overwhelming majority of these allegedly handicapped workers get no more than the minimum wage. For that stipend, they must produce enough profitable sales or be dismissed under the profit-or-perish policies of these organizations. If you don't produce enough to create windfalls for the owners, you are turned out. There is no commitment made to the handicapped other than a minimum wage. There is no rehabilitation program whatsoever. Small wonder, then, that we heard testimony that more than 500 persons a year had to be hired to maintain a sales force of some 55 persons.

Additionally, we heard testimony from those in responsible positions in programs for valid rehabilitation of the handicapped

in New Jersey that the task required of the allegedly handicapped by these organizations—to emphasize their handicaps repeatedly to effect sales—is degrading to the individual and works against the rehabilitation goal of getting the handicapped not to rely on their defects and enter the normal labor market.

The numerous complaints received by the Division of Consumer Affairs indicate that the number of profit-making corporations making telephonic sales pitches in the name of the allegedly handicapped is proliferating, making the field more competitive. This was confirmed by the testimony of a witness, an owner of one of these organizations, who stated that the competition had become “fantastic.” This trend adds increased pressure to push claims in the various sales pitches about handicaps and product performance to unsupportable outer limits. This point is emphasized by testimony from healthy teen-agers who were instructed by one of these organizations to say anything to make the sale and about the wholly unsupported claim of one of these organizations for a 5,000-hour light bulb, a claim ridiculous on its surface in the face of expert testimony about light bulbs and their life given at these hearings.

The testimony of several witnesses at these hearings emphasized that the more these types of organizations proliferate and prosper, the more they drain off funds that otherwise would be available for worthy charitable endeavors and the more they create a body of consumers who are suspicious of all telephonic appeals, even those by legitimate charities.

The entire factual record as established at these hearings and summarized in part in this closing statement does, in the opinion of this Commission, indicate that corrective steps at the state governmental level are in order. The Commission, as it has done in the past, will exercise due deliberation and analysis in formulating its final detailed recommendations for corrective steps. However, some recommendations have been advanced by witnesses at these hearings. Those ideas, plus some preliminary research by the S.C.I. staff, indicate a number of areas which should be studied in formulating final recommendations. They are:

- 1) The strengthening of state statutes to provide controls over the use of corporate names, insignia, and sales presentations implying charity. One proposal in this area is that any corporation authorized to do business in New Jersey shall not be permitted to use words like “handicapped” or “blind” in its corporate title

or to use trade marks, other insignia and sales presentations signifying words of that nature unless it has the approval to do so by an appropriately empowered state agency. Such approval would be granted by the agency only if, in its opinion, the use of the words "blind" or "handicapped" or the insignia and sales presentations will not tend to mislead or confuse the public into believing the corporation is charitable or non-profit, when that is not true.

2) A statute making it unlawful for any person to solicit sales by telephone, as well as by mail and in person, where it has been falsely represented by such person or where the person is falsely led to believe, that such person is soliciting by or on behalf of a charitable or non-profit organization. A statute of this nature might reduce the instances of deceptive sales pitches which lure consumers down a charitable path that does not exist.

3) Amendment of existing statute to require of profit-making organizations who solicit the consuming public to make the same kind of public disclosure as is now required of truly charitable organizations, to the end that the full fiscal and operational picture of these money-making organizations will be open readily to full public scrutiny. The requirement might include the registering by these organizations with the Attorney General's Office, the filing of annual reports containing a detailed financial statement on how much money was taken in and how and to whom it was dispensed. In this way, the consuming public could easily determine how much if any of the dollars spent on goods offered by these organizations goes to handicapped workers and how much into the coffers of the owners and executives. There is nothing wrong with making money, but when the consuming public's interests are at stake, that public should be informed about the full picture.

4) A state statute requiring any person soliciting funds or offering goods for sale by telephone, whether it be on behalf of a true charity or a profit making organization, to make certain disclosures at the time of initial contact with the prospective donor or purchaser. Areas of possible required disclosure could include the name and address of the soliciting organization, what, if any, part of the money collected will be utilized for charitable purposes, the percentage, if any, of the purchase price which will be used for charitable purposes, and the nontax-exempt status of the organization if it does not have a charitable tax exemption under federal and state laws. The Commission notes that Senator

Menza's bill, if amended to cover profit-making organizations as well as charities, would fulfill the requirements of this recommendation area.

These are the areas of concentration which we will be guided by in achieving the other principal goal of these hearings, namely, to develop final and detailed recommendations for corrective steps which will better enlighten the consuming public and protect it from being preyed upon and duped for the personal gain of the operators of profit-making organizations appealing in the name of the allegedly handicapped.

