

WILFUL OR KNOWING VIOLATION

If you find that the defendant's actions were unfair or deceptive, then you are to go on to decide a second question: did the defendant commit those unfair or deceptive actions wilfully or knowingly?

Please understand that by instructing you about that second question, I am not suggesting how you should answer either question. The answers to either or both questions are your responsibility, and I have no opinion as to what your answers ought to be. I am only instructing you on the law that governs this area, in the event that you reach this second question.

If representations are involved. **An unfair or deceptive statement is "wilful" if the speaker represents a fact to be true without knowing whether it is true or not, and with reckless disregard for whether it is true or not. An unfair or deceptive statement is "knowing" if the speaker represents a fact to be true while knowing that it is not true.**

If representations are not involved. **An unfair or deceptive act is “wilful” if the person intends to commit an unfair or deceptive act. An unfair or deceptive act is “knowing” if the person, whatever his (her) intent, knows that by doing so he or she is committing an unfair or deceptive act.**