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S. HRG. 105–695

MARKETING SCAMS

HEARING

BEFORE A

SUBCOMMITTEE OF THE

COMMITTEE ON APPROPRIATIONS

UNITED STATES SENATE

ONE HUNDRED FIFTH CONGRESS

SECOND SESSION

SPECIAL HEARING

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MARKETING SCAMS

THURSDAY, FEBRUARY 5, 1998

U.S. SENATE,
SUBCOMMITTEE ON COMMERCE, JUSTICE, AND STATE,
THE JUDICIARY, AND RELATED AGENCIES,
COMMITTEE ON APPROPRIATIONS,
Washington, DC.

The subcommittee met at 10 a.m., in room SD–192, Dirksen Senate Office Building, Hon. Judd Gregg (chairman) presiding.

Present: Senators Gregg, Stevens, and Hollings.

NONDEPARTMENTAL WITNESSES

STATEMENT OF WALTER L. MARONEY, SENIOR ASSISTANT ATTORNEY GENERAL, STATE OF NEW HAMPSHIRE

Senator GREGG. We will start this hearing dealing with telemarketing and fraudulent market schemes generally as they affect people. It is a pleasure today to have a number of witnesses joining us, and we especially appreciate them taking the time from their busy schedules to be here.

We have Walter Maroney, who is from the New Hampshire Attorney General's Office. We have Harold Phillips, from South Carolina and the sheriff's department in Charleston, and Helen Boosalis, who is the head of the American Association of Retired Persons [AARP]. These are individuals who have major impact and involvement in the issue of scams that are being run against especially senior citizens. This committee is very concerned about what we see as proliferation of the activity of using the Internet and the telephone in developing programs that take advantage of people.

These telemarketing schemes, unfortunately, are very hard to track and hard to convict, but there are things that we can do to try to address them, and the same is true of the Internet. As we have seen the explosion of technology in this country, the law enforcement side has to keep abreast of ways that they can address making our citizens aware of the uses of this technology. So, that is what this hearing is about, and I especially appreciate our ranking member joining us and will yield to him for any comment.

Senator HOLLINGS. Well, I thank you very much, Mr. Chairman, for your persistence on this particular score and your leadership. As you know, we passed in 1991 the Telemarketing Act title in the Automated Consumer Act, and we authorized the attorneys general to go into the Federal courts to deal with this kind of fraud and we gave further powers to the Federal Trade Commission, the lead

agency on this particular kind of fraud. So I thank you for the hearing, and I am delighted to hear the witnesses now.

Senator GREGG. We will also be hearing from Chairman Pitofsky, who has joined us, after this panel. So why don't we begin right off with the witnesses. We will start with Walter Maroney.

Mr. MARONEY. Thank you, Senator Gregg. Senators, my name is Walter Maroney. I am a senior assistant attorney general, and I am the chief of the Consumer Protection Bureau in the New Hampshire Attorney General's Office. I am particularly grateful for the opportunity to speak to you today. I am actually quite honored to have an opportunity to speak before you on these issues, Senator Gregg, because you actually appointed me to the job I hold today.

Senator GREGG. A good decision. One of my few, but when I do it right, I do it well.

Mr. MARONEY. Appointing an assistant attorney general may not have been the most memorable highlight of your tenure as Governor of the State of New Hampshire, but it certainly was one of the most memorable moments in my public career, because I really love the job that you have appointed me to. And I love this job because it gives me the opportunity to use the powers of government to do something to help, assist, and make lives somewhat better for people who are victims of any number of unfair or deceptive trade practices, including the real tragedy of telemarketing crimes on the elderly of this country, and I appreciate the opportunity to speak to you and to Senator Hollings and to the committee today about this particular issue. Thank you very much.

I am here to talk to you today about telecommunications fraud and the abuse and the victimization of elderly citizens in New Hampshire and around the Nation. Now, these remarks are going to be delivered from the perspective of a small attorney general's office in one of our smaller States. Our consumer protection office is really a two-lawyer, three- or four-paralegal operation, and in conjunction with the other attorneys general, with the Federal Trade Commission [FTC] and the Department of Justice and other law enforcement agencies and local law enforcement agencies in the State of New Hampshire, we have got our hands full dealing with the issue of telemarketing fraud.

My remarks are intended both as a confession of some weakness and an admission of some significant successes in the ongoing battles by my office and by 49 other State attorneys general's offices, by countless law enforcement offices and Federal agencies into telemarketing fraud, sweepstakes, and the concomitant abuse of our elders.

Now, in discussing the issues of telemarketing fraud and the abuse of the elderly, I think it is important to place these issues in a proper and human context. And I would suggest to the members of the committee that one important context in which to place the issue of telemarketing fraud on the elderly is the context of domestic abuse.

No; fraud on the telephone does not involve violence. It does not involve the emotional horror inflicted on victims of abusive domestic situations. And, no, telemarketing fraud does not take away people's lives in the tragic ways that too often result from violence in the home. But at the same time, telemarketing fraud, sweep-

stakes, and other abuses directed at the elderly in our society do result in terrible and irremediable losses to victims of money, of dignity, and of security.

Telemarketing abuse also shares with domestic abuse four disturbing characteristics that make it in some cases hard to enforce against. First, the abuse occurs in the privacy of one's home where, in a more perfect world, our elders ought to have the right to feel safe and secure, and it takes away that feeling of safety and of security.

Second, the principal victims of this form of abuse in New Hampshire and around the country—possibly as many as 50 percent of victims of some forms of telemarketing fraud, according to AARP data, are among our most vulnerable citizens—our older citizens. These are our parents and our grandparents, whom we are absolutely and morally obligated to protect and defend. Because they are older, victims of telemarketing fraud and sweepstakes abuse, they are often afraid to come forward and admit that they have been victimized, possibly because of embarrassment of the fear that admitting to having been victimized is tantamount to admitting to a diminishment of capacity.

And, finally, our law enforcement structures are not in all cases adequate to neatly or effectively redress or prevent the injuries caused to victims of telemarketing or other forms of fraud. Nor do law enforcement agencies such as mine possess an immediate ability to address the broader social needs for assistance and services that are often critical elements in assisting elderly victims of this form of abuse.

Now, to illustrate these points, let me talk briefly to you about a few New Hampshire citizens whom I know have been victims of telemarketing abuse. Let me talk to you, Senator, about a woman named Edna, who is an unmarried woman in her late 70's who lives alone in a small community in New Hampshire. When Edna presented herself to the attorney general's office—this was in early 1996—she was asking us for one thing and that was to make the phone stop ringing.

When we investigated, when we went to her house, we found out that she had been regularly responding to a wide, wide—an infinite variety of telemarketing calls—and she had spent between $10,000 and $20,000 in such responses over about a 2-year period. This was nearly all the money she had in the world. Her house was filled to overflowing with useless, worthless prizes—knick-knacks, pen sets, letters of congratulations for participating in some mythical war on drugs. And her phone was ringing over and over and over and over again, virtually all day.

You see, Edna's name had made it on to what the industry refers to as a sucker list. She was somebody who responds, and responds positively, and gives away her money and that means that her name and that list had been sold and transferred and transferred and sold again from telemarketer to telemarketer to telemarketer, some of them legitimate, many of them not.

Now, imagine, if you will, the fear that this elderly woman had. This is an elderly woman of clearly diminishing capacity. She knows at some level that she may be, or is being taken advantage of every time that phone rings in her home. And imagine again

that phone ringing time after time after time, day after day after day after day.

Or Louise, an elderly woman who came to our attention through the good auspices of a clerk at a Western Union office in Laconia, NH, who noticed that Louise was appearing regularly in that office to wire transfer hundreds of dollars to a person named—and I am putting this in quotes—"Juan Garcia," in San Antonio, TX. That is the moral equivalent of "John Smith."

Upon intervention by our office, we determined that Louise had spent in excess of $8,000 to a voice at the other end of a telephone line which had befriended her. In this case, he had started by pretending to sell her magazines and had moved up, befriending her, befriending her, befriending her, telling her a story about a mythical life that he led. In the end, she was sending him money so he could finish, she thought, his final year in college. Good luck.

Alf, an elderly man who appeared in our office this past year, who was widowed a couple of years ago, in the past 2 years, Alf has spent between $20,000 and $40,000 of his lifetime savings of slightly over $50,000 on sweepstakes promotions. Notwithstanding the fact that Alf has received several hundreds of promotions declaring him by name to be a winner, he has yet to win that $1 million prize that he has been promised over and over again. He is, however, absolutely convinced, and he is convinced today that he has won any number of prizes. He contacted the Consumer Protection Bureau in New Hampshire, not because he thought he was being scammed, but for help in collecting his winnings.

Joan is an elderly woman of significant means, but also of diminishing capacities. After a few bounced check incidents, her adult son, who lives over in New York, visited her. He reviewed her bank accounts and he learned, to his utter horror, that she had contributed in excess of $200,000 over a 6-month period to a fringe political group which, just like the Juan Garcia story, had contacted her over the telephone, and again, using that technique of befriending, befriending, befriending, had talked her into an enormous and continuing set of contributions.

I choose to tell you these stories about these people today, Senators, because they are real. These folks live in New Hampshire today. Each of these older citizens has been victimized in exactly the way I am describing to you. I am not making anything up on this. Also, they illustrate, I think, the breadth of the problem, that the victims of telemarketing or sweepstakes abuse can be men or women maintaining or suffering varying levels of capacity or incapacity. They can live either on the knife edge of poverty or they can be people of means. They can be people of tremendous attainment during their younger lives.

As I was getting up this morning and looking over this speech, I noticed, for example, several news stories about the fact that President Reagan is about to reach his 87th birthday tomorrow and is suffering from Alzheimer's disease, and, therefore, a diminishment of capacity. If President Reagan were picking up his own phone today, a telemarketer would think of him as having the word "victim" written all over his head.

Each of these people, so different in lifestyle and background, are similar. They are similar because they have all been robbed of their

money and their dignity, and their lives have been profoundly damaged at a time in their lives when that should not and must not be tolerated. Now, what are we doing about that in law enforcement? What are we doing about that kind of victimization? The easy and simple answer is we are not doing enough.

The easy and simple answer is we are not doing enough at this point in terms of law enforcement and in terms of helping our elderly citizens. But a somewhat more complex and I think a somewhat truer answer is that, however imperfect our efforts are today and whatever the limitations we are suffering under, our efforts today are much, much more coherent and much more effective than they were 2 and 3 and 4 years ago, and they are, in part, because of the actions of the Senate in approving the Telecommunications Act in 1994 and 1995, and in large part because of actions that have happened under the aegis of the FTC, the Department of Justice, the National Association of Attorneys General, in the years following the passage of that act to coordinate and make coherent law enforcement efforts.

This point is perhaps illustrated by talking about a law enforcement effort engaged in my office approximately 3 years ago involving a particularly nasty form of telemarketing fraud known as the reload or the recovery room. In summary, this one involves criminals who get money from people in the first place through traditional telemarketing fraud, through sweepstakes fraud, through charities fraud, through calling up and befriending, through getting their money in one way or another, and then—well, let me tell you this particular group had engaged in that kind of activity. They had engaged in active telemarketing fraud up in Maine. I think they were in Wells, ME, which is not far across the New Hampshire border. And they had been closed down in a civil action, with a limited asset seizure accomplished by the Maine attorney general.

Immediately after that setback—immediately, within a matter of weeks or months—these guys moved across the border to Portsmouth, NH. Physically, they moved 5 miles, and they started calling the same people that they had called before, only this time they were pretending to be a government or quasigovernmental agency which was dedicated to getting money back from people who had already lost money to telemarketing scamsters. They would do that service for a mere $475 or $490 additional payment, payable in cash or money order, but not necessarily by credit card.

The New Hampshire Attorney General's Office, like the Maine Attorney General's Office, moved quickly, upon learning of this operation, to secure a civil court order closing down the operation and attempting to seize any cash or assets which could be located in New Hampshire, and we closed that operation. However, the money generated by that operation was no longer in New Hampshire and the individuals themselves who ran the operation—because we did not seize them criminally and get their bodies, they disappeared. They disappeared from the State of New Hampshire immediately after our lawsuit began, and they have not, to my knowledge, been heard from again.

I look back on this case as being a partial failure by my office, and I raise it to illustrate three points which I think characterize

law enforcement efforts against telemarketers back in the early 1990's. One was that there was a failure of effective communication between the New Hampshire and the Maine Attorney General's Office with respect to this incident. The second was that neither Maine nor New Hampshire chose back in 1993 or 1994 to invoke our criminal jurisdiction to arrest and incarcerate the people who were stealing from our citizens this way. I don't think we had been educated in the way that AARP is educating law enforcers around the country and individual citizens to look on telemarketing fraud as the crime that it is. And, three, the ability of these particular perpetrators to fade away from two jurisdictions, two State jurisdictions in which they had been discovered, presumably to export this stuff off to another jurisdiction and start doing it all over again. It provides to my mind a very stark illustration of how desperately we needed and still need continued Federal and State coordination in the prosecution of telemarketing fraud.

As a result of this lack of coordination between State and Federal authorities back, we are talking 3 or 4 years ago now, the crooks who operated this scam got away with it in two States. They got away with an undetermined amount of money from citizens from our and from other States, and they may still be in business. But let me emphasize that that occurred in what I still think of as the infancy of our efforts and the efforts by other State attorneys general and of Federal law enforcement agencies to really focus on telemarketing fraud.

Over the last 3 years, the issue of telemarketing fraud, sweepstakes, and other forms of abuse of the elderly have become an extremely high priority in the offices of attorneys general throughout the States in local law enforcement offices, with the National Association of Attorneys General, with the FTC, the Department of Justice, the U.S. Postal Service and other Federal law enforcement agencies, and there has been a marked shifting emphasis from civil to what I believe is more appropriately criminal enforcement against telemarketing scam artists.

I am sure Chairman Pitofsky will talk at length about the excellent history of coordinated efforts that have resulted in hundreds of civil and criminal actions, spear-headed by FTC and the Department of Justice, against individual and corporate defendants throughout the United States and Canada over the last couple of years. I will mention only a few: Operation Senior Sentinel, which targeted telemarketing and elder fraud; Operation Pay-Back, targeting credit repair fraud; Projection Loan Shark, targeting advance fee loan scams; Operation Copy Cat, targeting a highly lucrative but not often noticed process by which people try to do fraudulent sales of office and cleaning supplies; Project Jackpot, targeting fraudulent prize promotions.

Each of these was a highly publicized, coordinated series of actions brought and announced on or about the same day—actions and consumer education efforts brought on or about the same day, spear-headed by Federal agencies with significant participation by State attorneys general and local law enforcement agencies throughout the United States. They were and are intended to send a powerful signal to the people who inflict telemarketing fraud on our citizens that we aren't working alone anymore and the days of

uncoordinated activity are coming to an end. You can run from one State, but you can't hide in another.

In addition, the FTC has taken the lead in establishing a coordinated data base of telemarketing complaints available to Federal and State law enforcers within the United States, to which New Hampshire has itself just signed up to be a contributor. That data base and other services, and Internet service under the name of Consumer Sentinel, is now being broadened to include information regarding telemarketers and other fraudulent enterprises emanating out of Canada. That is a huge and important step forward, and I will defer to Chairman Pitofsky to tell you more about that really, really positive step in law enforcement.

Similarly, NAAG, FTC, and DOJ have been instrumental in establishing linkages among law enforcement agencies through the identification of agency contacts, through State and Federal conferences on telemarketing fraud and enforcement, including two regional conferences on cross-border fraud and two criminal law training conferences sponsored by NAAG under a DOJ grant of funds which are scheduled to take place this spring. The bottom line is that we are very much, on a State and Federal level, getting our act together to coordinate and bring consolidated actions, learn where the criminals are, and not be constrained either by civil law or by State borders in finding and prosecuting the people who do this kind of activity.

The last few years has also been marked by an emerging public-private partnership designed to promote public awareness of the issue of telemarketing and sweepstakes abuse of the elderly. The National Fraud Information Center of the National Consumers League is a publicly available data base of criminal complaints available to anyone who wants to use the Internet.

AARP has been enormously, enormously helpful in establishing, through research and advertisement—research first—a comprehensive and meaningful profile of the scope of the problem and the kinds of people who can be victimized by this problem. And, in addition, their advertising program designed to tell people that telemarketing fraud is a crime and you can put down that phone is also a major, major step in the right direction.

The National Association of Attorneys General has sponsored such activities as reverse boiler rooms, in which the attorneys general of various States, using sucker lists, call up people on those sucker lists and tell them how their name has come to the attention of law enforcers, and again providing them with information and warnings about the problems that may exist at the other end of a phone.

The telecommunications acts of 1994 and 1995, the FTC's telemarketing sales rule—they include enhanced penalties for people who prey on the elderly and that is very, very important. They do give—as Senator Hollings said originally—they do give the State attorneys general the ability to go into Federal court and use the jurisdictional reach of the Federal courts to bring actions against fraudulent telemarketing activities that occur far from a home State.

In addition, the proposed Telemarketing Fraud Prevention Act of 1997, of which I understand Senator Jon Kyl of Arizona is a prin-

cipal sponsor in the Senate, contains provisions which would enhance penalties for telemarketing crimes committed across national borders. In view of some of the things that I am going to tell you about cross-border fraud, I strongly suggest to the committee that you may want to look favorably on provisions that address that issue of cross-border telemarketing fraud.

In my small office, this culture of cooperation among State and Federal agencies can, I think, be most clearly seen by comparing the results of two of the cases that I talked about at the beginning. In the case of Louise, the woman who was victimized by the man who called himself Juan Garcia, our office lost valuable time—this was 2½ years ago—our office lost valuable time in trying to find and establish working relationships with local law enforcement and/or the FBI in San Antonio, TX.

We did establish those relationships. With the help of the Federal Bureau of Investigation branch office down in San Antonio, we were able to establish a surveillance of the Western Union office in San Antonio, to which the wire transfers had been made. But by the time this effort was put into place—it took, actually, a good couple of weeks—Juan Garcia had disappeared—no surprise—so had the victim's money.

By contrast, in the present environment, my office was able to take significant steps quickly, using the kinds of contacts that have been created between State and local law enforcement agencies and Federal law enforcement agencies, to assist Joan, the woman who had contributed the $200,000, at least, to a political organization via phone contacts. We were able quickly to determine that the organization in question was already under investigation by the Federal Bureau of Investigation and a U.S. attorney's office in another jurisdiction, immediately referred that matter to authorities conducting that ongoing investigation, assisted them in the conduct of the investigation, at least as respects this particular claimant.

We have been informed of a projected settlement of that investigation which is going to result in a return of money to this victim, as well as others. In fact, upon further investigation, it turns out that this particular victim may have spent as much as $500,000 or $600,000 in contributions, and it appears today that she and her family are going to see much of that money returned.

Finally, it is important to emphasize that for all the progress that has been made over the past several years, there is one major problem of effective law enforcement response to telemarketing fraud that remains. The issue of cross-border telemarketing fraud is now becoming a serious and vexing problem for law enforcers in the United States and in the various States.

The most recent publicly available statistics from the National Fraud Information Center, for example, indicate that the Province of Quebec now ranks third, after only Florida and California, as sources of origin for fraudulent telemarketing calls into the United States. British Columbia is No. 8; Nova Scotia may be No. 11. In our own anecdotal experience in New Hampshire, it indicates that this trend is particularly true in border States such as New Hampshire, Maine, Vermont, and New York.

I believe this development has occurred for two reasons. One is that the enhanced penalties and jurisdictional reach provided to

this office by the Telecommunications Act of 1994 may well have prompted an exodus of criminal telemarketers outside of the formal jurisdictional reach of the United States. The second is that these guys aren't dumb. They know very well that the processes for investigation, arrest, detention, extradition, and the seizure of assets in either a civil or criminal venue are way more difficult when you are doing it across national borders than when you are doing it between Maine and New Hampshire.

Now, as with the development of State and Federal cooperation, the process for establishing protocols for international cooperation in combating telemarketing fraud is already underway. In 1997, the FTC, the Department of Justice, NAAG, and the Canadian Government issued a report which identified a number of the problems and began putting into place solutions to the complex enforcement issues posed by cross-border telemarketing fraud. Among the recommendations of that report was to explore the use of remote testimony in criminal proceedings in either the United States or Canada by videoconferencing or other means which would both reduce the cost of telemarketing prosecutions—and that is a real issue—and to reduce the obstacles to elderly victims in testifying in such prosecutions, which is another major issue in actually putting together and prosecuting these cases as a practical matter; to examine the regulation of telephone services in the United States and Canada and to explore options for denying telephone services to known or convicted telemarketing offenders; to consider expanding the scope—and this is crucially important, Senators—of existing mutual legal assistance arrangements and treaties to more effectively deal with telemarketing fraud cases; and what is already going on, to coordinate strategies to control telemarketing fraud at all enforcement levels.

The working group is continuing to do its work and is likely to provide further recommendations to you, Senators. I would suggest that to the extent that they make recommendations to the President or to the U.S. Senate which require modification of existing extradition or mutual cooperation treaties to streamline or expedite the processes for extradition, and in particular for the freezing or seizing of assets across national borders, that you take a good, hard look at that. Let me just explain that briefly.

In order to seize assets in a noncriminal case where there isn't a crime going on in Canada, it is necessary essentially even for an attorney general's office to go in, seek Canadian counsel, do what is called a—I think it is a Mareva petition, but I may not get that right—but do a petition for seizure of assets across national borders under international protocols. Generally, under Canadian law, you have to post a bond to do that, and the States have to post a bond just like anybody else.

Depending on how large a set of assets you are looking for, we may be asked to post a bond in the $25,000 or $50,000 level. That is a huge chunk of the whole litigation budget for an office of my size and makes bringing that kind of an action enormously difficult, somewhat risky, and possibly prohibitive to an office like mine. If and to the extent the working group is able to identify ways in which, consistent with the rights of the citizens of each nation, that process may be streamlined or may be made easier for

law enforcers in the United States and Canada, support it, support it, support it, please.

But let me just tell you that this effort, like the efforts of law enforcement offices to coordinate efforts within the United States, is, I would like to emphasize, beginning to really pay off, too. In the past several months, there have been at least three large-scale actions against Canadian telemarketers conducted through the concerted efforts of State attorneys general and Canadian Federal or provincial authorities.

These have involved an action by Washington Attorney General Gregoire and the British Columbia Ministry of Attorney General against two Vancouver-based foreign lottery telemarketers. Illinois Attorney General Jim Ryan indicted a telemarketer based in Toronto and that person was arrested by Canadian officials on the basis of the United States indictment. Ohio Attorney General Betty Montgomery and Canadian authorities cooperated to break up a ring of a Toronto-based telemarketer and 20 confederates——

Senator GREGG. Walter, we are unfortunately going to have to move along.

Mr. MARONEY. I will be happy to shut up in one second. Let me just say that all of those things mean one real thing and that is that the level of cooperation is really starting to pay off at this point among Federal, State, and now Canadian governments. We aren't winning this battle at this point, but we are fighting this battle very, very hard.

Let me just say two things. One is that we were able to get some money back for that woman named Edna and that was a good thing, partial help. But there is that man, Alf, out there and he doesn't know today that he isn't going to win. And I would ask you to keep that in mind as you consider this whole issue because there are a lot of men and women like him out there, and they are in desperate need of support, of education, and protection. They are personifications of the fact that we have still got a lot of work to do.

I would like to thank you very, very much for the opportunity to speak to you about these issues. I will be happy to answer any questions you have got.

PREPARED STATEMENT

Senator GREGG. Thank you very much. I appreciate that in-depth review. It was very useful and very informative.

[The statement follows:]

PREPARED STATEMENT OF WALTER L. MARONEY

INTRODUCTION

I am here today to speak about telecommunications fraud and the abuse and victimization of elderly citizens in New Hampshire and around the nation. These remarks are delivered from the perspective of a small Attorney General's Office in one of our smaller states and is intended both as a confession of some weakness and of some significant successes in the ongoing battles by my office and 49 other state Attorney Generals Offices, and by countless local law enforcement offices, and federal agencies, including the Department of Justice, the Federal Trade Commission and the Federal Bureau of Investigation, into telemarketing fraud, sweepstakes, and the concomitant abuse of our elders.

TELEMARKETING FRAUD ON THE ELDERLY AS A FORM OF DOMESTIC ABUSE

In discussing the issues of telemarketing fraud and abuse of the elderly, it is important to place the issues of telemarketing fraud and abuse of the elderly in a proper and human context. And I would suggest to the members of this subcommittee that one important context in which to understand these issues is that of domestic abuse. No, fraud on the telephone does not involve violence or the emotional horror inflicted on victims of abusive domestic situations; and no, telemarketing fraud does not take away people's lives in the tragic ways that too often result from violence in the home. And yet, telemarketing fraud, sweepstakes and other forms of fraud on the elderly do result in terrible and irremediable losses to victims—of money, of dignity, of security. And telemarketing abuse shares with domestic abuse four disturbing characteristics:

—The abuse occurs in the privacy of one's home where in a more perfect world our elders should have a right to feel safe and secure;

—The principal victims of this form of abuse—possibly more than 50 percent of victims according to AARP data—are among our most vulnerable citizens: our older citizens, our parents and grandparents, whom we are absolutely and morally obligated to protect and defend;

—Victims of telemarketing fraud and sweepstakes abuse are often afraid to come forward because of embarrassment or the fear that admitting to having been victimized is tantamount to admitting to a diminishment of capacity; and

—Our law enforcement structures are not in all cases adequate to neatly or effectively redress or prevent the injuries caused to victims of telemarketing or other forms of fraud. Nor do law enforcement agencies, such as mine, possess an immediate ability to address the broader social needs for assistance and services which may be critical elements in assisting elderly victims of this form of abuse.

ILLUSTRATIVE STORIES

To illustrate this point, let me talk briefly about four individuals with whom my office has been involved during the past two years:

Edna.—Edna is an unmarried woman in her late 70's, who lives alone. When Edna presented herself to the Consumer Protection Bureau of the New Hampshire Attorney General's Office in early 1996, her reason for contacting us was to ask that we make the phone stop ringing. In fact, on investigation, which included a visit to her home, we found that Edna had been regularly responding to a wide variety of telemarketing calls and had spent between $10,000 and $20,000 in such responses over a prior two year period.

Her house was filled to overflowing with useless and worthless prizes—pen sets, knickknacks, letters of congratulations for participating in a mythical war against drugs. And her phone was ringing. Over and over and over again, virtually all day. You see, Edna's name had made it onto what the industry refers to a "sucker list" and that name and those lists had been sold and transferred from telemarketer to telemarketer to telemarketer, some legitimate, many not. Now, imagine if you will the fear of an elderly woman of diminishing capacity who knows at some level that she is being or may be taken advantage of every time the phone rings in her home. And imagine again that phone ringing time after time after time, day after day, after day, after day.

Louise.—Louise is an elderly woman who came to our attention through the good auspices of a clerk at a Western Union office in Laconia, NH who noticed that Louise was appearing regularly in that office to wire transfer hundreds of dollars to a person named "Juan Garcia" in San Antonio, Texas. Upon intervention by our office we determined that Louise had sent in excess of $8,000 to a voice at the other end of her telephone line which had befriended her.

Alf.—Alf is an elderly man in his early 80's who was widowed two years ago. Since then, Alf has spent between $20,000 and $40,000 of his lifetime savings of slightly over $50,000 on sweepstakes promotions. Notwithstanding the fact that Alf has received several hundreds of promotions declaring him by name a winner, Alf has yet to win the million dollar prize that he has been promised over and over and over again. He is, however, convinced that he has won any number of prizes. He contacted Consumer Protection in New Hampshire for help in collecting his "winnings."

Joan.—Joan is an elderly woman of significant means but diminishing capacities. After a few bounced check incidents, her adult son, who lives in New York, visited her, reviewed her bank accounts and learned that she had contributed more than $200,000 over a six-month period to a fringe political group which had contacted her over the telephone, and again, using the technique of befriending, had talked her into enormous and continuing contributions.

I choose to tell you these stories became these people are real. They live in New Hampshire today. Each of these older citizens has been victimized in exactly the way that I am describing over the past few years from a variety of sources. Also, they illustrate the breadth of the problem: that the victims of telemarketing and sweepstakes abuse can be men or women, maintaining or suffering varying levels of capacity or incapacity, can live either on the knife edge of poverty or be people of means. Yet in all cases these people, so different in lifestyle and background, are similar. They are similar in that they have been robbed of their money and their dignity and their lives have been profoundly damaged at a time in their lives when that should not and must not be tolerated.

LAW ENFORCEMENT

Now what are we in law enforcement doing about this kind of victimization? The simple answer is, not enough. A more complex and true answer is that our efforts today, while imperfect, are far more coherent and effective than they may have been only two and three and four years ago.

The move toward coordinated, criminal enforcement strategies

This point is illustrated by a law enforcement effort engaged in by my office approximately three years ago involving a peculiarly nasty form of telemarketing fraud known as the "reload" or "recovery" room. In summary, this involves criminals who manage to steal from their victims once, usually by telephone, using standard telemarketing fraud techniques—sweepstakes claims, false charity claims, etc. This particular group had been engaged in active telemarketing fraud in Maine, and had been closed down with a limited asset seizure in a civil case initiated by the Maine Attorney General.

Immediately after that set-back, they moved across the border to Portsmouth, New Hampshire—about a five minute drive from their previous base of operation—and started calling the same people that they had called before holding themselves out as a law enforcement agency, dedicated to recovery of money stolen from people by telemarketing scam artists, a service which they would provide for an additional payment of $490.

The New Hampshire Attorney General's Office, like the Maine Attorney General's Office, moved quickly upon learning of this operation to secure a civil court order closing down the operation and attempting to seize any cash or assets which could be located in New Hampshire. We closed the operation. However, the money was not in New Hampshire. We don't know where it went. The individuals themselves who ran the operation disappeared from the State of New Hampshire immediately after our law suit was begun and have not, to my knowledge, been heard from again.

I believe this case was a partial failure by our office and I raise it to illustrate three points which I believe characterized law enforcement efforts against telemarketers in the early 1990's:

—The failure of effective communication between the New Hampshire and the Maine Attorney General's Office with respect to this incident;

—The fact that neither Maine nor New Hampshire chose, three years ago, to invoke our criminal jurisdiction to arrest and incarcerate the people who were stealing from our citizens in this way; and

—The ability of the perpetrators of this particular scam to fade away from two jurisdictions in which they had been discovered presumably to export their activities to other states, provides a stark illustration of the need of federal and state coordination in the prosecution of telemarketing and other forms of elderly fraud.

As a result of this lack of coordination among enforcers, the crooks who operated this scam got away with it in two states, got away with an undetermined amount of money from the citizens of our and other states, and may still be in business.

But I emphasize that that situation occurred during what I think of as the infancy of the efforts by my office and many other offices to address telemarketing crimes. Over the last three years, the issue of telemarketing fraud, sweepstakes fraud and other forms of abuse of the elderly have become a high priority in Attorney General's offices throughout the United States, with the National Association of Attorneys General, with the FTC, and with the Department of Justice, the U.S. Postal Service and other federal law enforcement agencies. There has been a marked shift in emphasis from civil to, more appropriately, criminal enforcement against telemarketing scam artists.

In 1996 and 1997, state and federal law enforcers have conducted several coordinated enforcement efforts, resulting in hundreds of civil and criminal actions against individual and corporate defendants throughout the United States and Can-

ada. These included Operation Senior Sentinel (Dec. 1995) targeting telemarketing and elder fraud, Operation Pay-Back (April 11, 1996) targeting credit repair fraud; Project Loan Shark (June 10, 1996) targeting advance fee loan scams; Operation Copy Cat (July 9, 1996) targeting fraudulent sales of office and cleaning supplies; and Project Jackpot (July 25, 1996) targeting fraudulent prize promotions. These actions have sent a powerful signal to the purveyors of telemarketing and sweepstakes fraud that the days of individual and uncoordinated actions by states are over.

Similarly, NAAG, FTC, and DOJ have been instrumental in establishing linkages between state and federal agencies involved in enforcement of telemarketing laws, by identification of agency contacts, through state and federal conferences on telemarketing fraud and enforcement, including two regional conferences on cross-border fraud, and two criminal law training conferences sponsored by NAAG under a DOJ grant of funds, scheduled to take place this Spring.

In addition, the FTC has taken the lead in establishing a coordinated data base of telemarketing complaints available to federal and state law enforcers within the United States, a data base to which New Hampshire will shortly be a contributor. That data base, under the name "Consumer Sentinel," is now being broadened to include information regarding telemarketers and other fraudulent enterprises emanating out of Canada. This development is responsive to the recent upsurge in Canadian telemarketing fraud which is discussed below.

Public Awareness

The last few years have also been marked by an emerging public-private partnership designed to promote public awareness of the issue of telemarketing and sweepstakes abuse of the elderly.

The work of the National Fraud Information Center of the National Consumers League in establishing a publicly available data base and resource center to alert consumers about the dangers of telemarketing fraud is an important step forward. The AARP's extensive research projects have provided enforcers and the public with a clearer understanding of the profile of persons who have been or are likely to be victimized by telemarketing fraud. Similarly, the advertising campaign sponsored by AARP which is designed to hammer home the concept that telemarketing fraud is a crime and that our elderly citizens can and should simply hang up that phone is also an enormous stride toward increasing public awareness of the breadth and moral horror of this issue.

The National Association of Attorneys General has sponsored such activities as "reverse boiler rooms" in which the Attorneys General of many states have placed calls directly to persons whose names appear on seized "sucker lists" to warn them about the danger of telemarketing fraud.

At the same time, the FTC has entered into several partnerships with such private groups and organizations as the Association of Chamber of Commerce Executives, Readers Digest, American Express, the Direct Marketing Association and others to find innovative ways to communicate with consumers about the ongoing dangers of telemarketing fraud.

Enhanced Penalties

The Telecommunication Act of 1995 and the FTC's telemarketing sales rule included enhanced penalties for persons who prey on the elderly by telephone and granted state Attorneys General the ability to bring actions directly in federal courts against distant companies who prey on our citizens over the telephone wires. Similarly, the Telemarketing Fraud Prevention Act of 1997 (Sen. Jon Kyl, AZ) (H.R. 1847) contains provisions which would enhance penalties for telemarketing crimes committed across national borders. I urge the Committee to consider and adopt such measures.

Practical Effects

In my office, the results of this culture of cooperation among state and federal agencies can be most clearly seen by comparing the results of two of the cases that I spoke to you about before. In the case of Louise, the woman victimized by the man who called himself "Juan Garcia," our office lost valuable time in locating contacts and establishing a working relationship with local law enforcement authorities in San Antonio, Texas. Ultimately, we were able to establish a relationship with the Federal Bureau of Investigation branch office in San Antonio, which resulted in a surveillance of the Western Union Office in San Antonio to which the wire transfers had been made. However, by the time this effort was put into place, "Juan Garcia" had disappeared. So had the victim's money.

By contrast, in the present environment, my office was able to take significant steps to assist Joan, the woman who had contributed at least $200,000 to a political organization due to phone contacts. Using the web of telemarketing contacts in all

50 states and agencies of the Federal government established under the aegis of NAAG, the DOJ and the FTC, our office was quickly able to determine that the organization in question was already under investigation by the Federal Bureau of Investigation and a U.S. Attorney's Office in another jurisdiction, and immediately referred that matter to authorities conducting that ongoing investigation.

We have been informed of a projected settlement of that investigation which will result in a return of moneys to this victim as well as others. In fact, upon further investigation, it turned out that this particular victim may have spent as much as $600,000 in contributions. It appears today that she and her family will see much of that money returned.

CANADA AND CROSS BORDER ISSUES

Finally, it is important to emphasize that, for all the progress that has been made over the past several years in interstate and state-federal cooperation, problems of effective law enforcement response to telemarketing fraud remain serious and ongoing. In particular, the issue of cross-border telemarketing fraud is one that faces us now and in the future.

The most recent publicly available statistics from the National Fraud Information Center indicate that the Province of Quebec may now rank third, after only Florida and California, as a place of origin of telemarketing fraud calls into the United States. British Columbia is number eight and Nova Scotia number eleven. Our own anecdotal experience indicates that this trend is particularly true in states such as New Hampshire, which border on one or more Canadian provinces.

I believe this development has occurred for two reasons. First, the enhanced penalties and jurisdictional reach provided to the Offices of Attorneys General by the Telecommunications Act of 1995 may well have prompted an exodus of criminal telemarketers outside the formal jurisdiction of the United States. In addition, these criminals know that the processes for investigation, arrest, detention, extradition, and the seizure of assets in either a civil or criminal venue are markedly more complicated across national borders—even the relatively open borders of the United States and Canada—than across borders of states within the United States.

As with the development of state and federal cooperation, the process for establishing protocols for international cooperation in combating telemarketing fraud is already under way. In 1997, the United States-Canada Working Group on Cross-Border Telemarketing Enforcement, which consisted of representatives of the Federal Trade Commission, the Department of Justice, NAAG and the Canadian Government, issued a report which identified a number of the problems and began the process of putting into place solutions to the complex enforcement issues posed by cross-border telemarketer fraud. Among the recommendations of the working group report were: to explore the use of remote testimony in criminal proceedings by video conferencing or similar to reduce the cost of telemarketing prosecutions and to reduce the obstacles to elderly victims testifying in such prosecutions; to examine the regulation of telephone services in the United States and Canada and to explore options for denying telephone services to telemarketing offenders; to consider expanding the scope of existing mutual legal assistance arrangements to more effectively deal with telemarketing fraud cases; and to coordinate strategies to control telemarketing fraud at all enforcement levels.

The working group is continuing its efforts and is likely to provide further recommendations to the respective Canadian and American governments. I would strongly urge the Committee to give active consideration to any proposals made by or on behalf of the working group which may require some measure of modification of existing extradition or mutual cooperation treaties to streamline or expedite the processes of extradition and, in particular, the freezing or seizure of assets across national borders.

This effort—like the efforts of law enforcement authorities to coordinate efforts within the United States—is paying off. In the past several months, there have been three large scale actions against Canadian telemarketers by concerted efforts of state Attorneys General and Canadian federal or provincial authorities.

—Washington Attorney General Christine Gregoire has announced a joint action between her office and the British Columbia Ministry of Attorney General against two Vancouver based foreign lottery telemarketers. In connection with that action, a Canadian court has issued an order freezing the corporate and individual assets and ordered them to cease and desist from violating Canadian law, while a Washington court simultaneously issued a temporary restraining order precluding the defendants from selling false or fraudulent lottery tickets within the United States and terminating their toll-free phone service into the United States.

—Illinois Attorney General Jim Ryan indicted a Toronto-based telemarketer for allegedly defrauding an 84 year old woman out of $980,000 by telling her she had won $13,000,000 in a Canadian lottery but would have to pay close to a million dollars to cover taxes and fees on her winnings. The individual indicted in Illinois was arrested by Canadian officials.

—Ohio Attorney General Betty Montgomery and Canadian authorities cooperated to arrest a Toronto-based telemarketer and 20 confederates in connection with a "guaranteed loan" scheme involving at least 163 victims, 30 of whom resided in Ohio.

These actions should be read as an effective declaration of war against telemarketers who hope to use national borders as a shield against law enforcement.

CONCLUSION

In conclusion, I am not here to say that the Attorney General of New Hampshire or any Attorney General is winning this fight, but to say that we are fighting very hard against the abuse of our elders through the phone or through sweepstakes and other forms of fraudulent promotions. Our successes, and they have been significant, have come over the past several years in direct proportion to our ability to work together as state and federal law enforcers and increasingly to work with our counterparts in Canada and its Provinces to ensure that criminals who prey on our citizens may not hide behind national borders.

Telemarketing, sweepstakes and other forms of abuse on our elderly citizens are strange crimes. They occur in silence and secrecy across great distances, across state borders, and increasingly across international borders. We face a significant challenge in the years ahead to insure that our efforts as law enforcers and on a more personal level as the sons and daughters and grandchildren of our elderly citizens continue to keep pace with the efforts with those who would hurt them and that we continue our efforts to warn our elders of the dangers that may lie on the far end of a phone.

In that connection, I would note, in closing, the resolution of the remaining two cases I discussed at the beginning of my remarks. Through our office's intervention and the work of the Direct Marketing Association, which monitors no-call lists for its members, Edna's phone number was changed and she is no longer subject to around the clock phone calls. We were able to recover some, but not all, of her money.

Alf, on the other hand, still believes he is going to win a prize someday that will make everything better. Our office has made referrals of his case to appropriate state service agencies, but he remains in desperate need of support and education. He is still a victim and he is, in the end, the personification of the fact that we all have further work to do.

I wish to thank the Committee for this opportunity to speak to you.

STATEMENT OF HAROLD PHILLIPS, DETECTIVE, SHERIFF'S DEPARTMENT, CHARLESTON COUNTY, SC

Senator GREGG. Mr. Phillips.

Mr. PHILLIPS. Yes, sir. Thank you for inviting me to speak to you this morning. My name is Harold Phillips. I am a detective with the Charleston County Sheriff's Office. The population of the county where I work is approximately 280,000 people, and I am the only white collar crime investigator in my office. I would just like to give a perspective from where I sit and the things that I have to deal with and the hurdles that I face.

The attorney general has made mention of these very high-profile cases where there are large amounts of money that are lost. In many cases that I see or that are brought before me, we are looking at between $3,000 and $5,000, which in the big scheme of things does not seem like much, but to older Americans especially, that could be their life savings. Once that is gone, that is more devastating than a lot of things that could happen to them.

One of the biggest hurdles we have is, as the attorney general alluded to, these now become more prevalent with out-of-State suspects. They are communities from out of State, and it is very hard

for us to have the manpower and resources to say, ''Sergeant, I have to go to New York and beat the bushes with a fellow detective and see what we can find out about this particular case,'' and the loss is between $3,000 and $5,000. It is just not going to happen.

And beyond that, even getting to that point, for instance, if you are lucky enough to get a phone number from a caller I.D. and you find out a number, if it is an out-of-State phone company, lots of times they won't recognize our subpoenas or search warrants, or if they do, it takes them several weeks, if not months, to give us back the information, which hinders our investigation.

Even if you come to a point where you are lucky enough to put out an arrest warrant for somebody and they are caught in that State—for instance, Florida, New York, or California where a lot of these are now taking place—local prosecutors do not have the resources to extradite that person, especially when you are looking at a loss of maybe $3,000 to $5,000, and so the chance of that person ever being brought to justice in our jurisdiction is not very good.

I think in the big picture of things, I feel like white collar crime—there are a lot of crimes that fall under that umbrella and this is one of them, and being that the telemarketing scams have become more prevalent as our population has grown older, it is very hard for local law enforcement people to keep up with that. We are doing the best we can to keep our head above water as it is, and this is a small part of what my job is. So between the manpower and resources, these are just major hurdles that we have to bring people to justice in these types of crimes.

I think if you look at the amount of people that are being scammed or are having losses, it would be pretty substantial if you put that all together. If I could—I won't speak very much longer—I would just like to give you a real quick case that we recently in the last 3 or 4 weeks have had some problems with. This is by no means a new scam, but one that has hit our area. My department, as well as others in my jurisdiction, have come across cases such as this.

On January 14, 1998, at approximately 1 a.m., a 54-year-old Charleston woman received a collect call from an individual who identified himself as a law enforcement officer with the Myrtle Beach Sheriff's Office. The caller stated that he had two subjects in custody who had used the victim's credit card number. He further stated that numerous charges had been made and asked if she had recently lost any credit cards. The victim stated she may have, since she mistakenly left her purse at a church function earlier that same evening.

The caller then asked which was the closest sheriff's office to her and arranged to meet her at 10 o'clock the following morning at that sheriff's office. The caller then stated the first thing that needed to be done was to immediately contact the credit card company to have the account frozen. The subject then offered to contact the company for her, to which she agreed. The victim was placed on hold briefly and after being reconnected was told that she was involved in a three-way call with the credit card company. The third person identified himself as a representative of Visa and told the victim that there was approximately 1,000 dollars' worth of charges

on her credit card and the only way to freeze the account was to immediately wire $655 to a New York address.

She was told that this money would act as a deductible for the loss. The victim told the caller that she did not have that kind of money, at which time the caller asked how much money she could come up with. The victim advised that she may be able to obtain $250. The victim was again placed on hold for several minutes and both subjects came back on the line and stated that the minimum the credit card company could accept in order to freeze the account was $275. The victim stated that she needed to use an ATM machine to get the money, and they suggested a local Western Union office location for her to wire the money.

At this time, the victim's husband became suspicious and his wife gave him the telephone. The subject who was presenting himself as a Visa employee then told the victim's husband in a very excited voice exactly how important this transaction was if they wanted to freeze their account. When the husband asked if this could be handled during normal business hours, the subject stated that if it made the victim feel more comfortable, he would send a Charleston police officer to the victim's house for verification. He also stated while the police officer was en route to the residence, his wife needed to be on her way to wire the $275.

The husband hung up the phone and his wife immediately called the Charleston County Sheriff's Office and informed us of the situation. The Charleston County deputy sheriff contacted the Myrtle Beach Police Department in an attempt to confirm the situation. He spoke with a Myrtle Beach police officer who stated that they had several calls with reference to people identifying themselves as Officer David Johnson of the Myrtle Beach Police Department. He further stated that they did not have an officer named David Johnson, nor was anyone in custody for credit card fraud.

While our deputy was obtaining that information, the victim contacted Visa using a telephone number from one of her previous bills. The actual Visa representative stated that there was no charge to cancel or freeze her credit card and that he would be able to place a freeze on her account. Amazingly, the Visa representative made no mention to the victim that the incident sounded like a scam and did not make any attempt to pursue details of the alleged scam.

Immediately after that call, our officer informed her that he had contacted the Myrtle Beach Police Department and learned that this was a scam. He told her not to send money to anyone. Because of concerns about her purse being misplaced in the church and the attempted phone scam, the victim contacted the Charleston Police Department, whereupon an officer responded to the victim's house. Upon the officer's arrival at approximately 3 a.m., the victim's phone rang once again. At this time, the officer answered the telephone and acted as if he was the victim's husband.

Again, a subject presenting himself as the Visa employee asked if the money had been wired, to which the officer stated no. The subject then asked where his wife was and the officer responded she had gone to bed. The call was then terminated by the alleged Visa representative. The caller I.D. indicated that the originating phone number was in New York City. Through further investiga-

tion, the Charleston County Sheriff's Office learned that the South Carolina State Law Enforcement Division, SLED, was investigating similar scams throughout South Carolina. The information on this case was turned over to SLED, as well as the FBI.

The Charleston County Sheriff's Office publicized this incident through the local media and learned from other agencies of similar cases in their jurisdictions. For example, the Mount Pleasant Police Department has received eight such cases recently. We believe the publicity educated citizens in the Charleston area and probably kept potential victims from falling prey.

Unfortunately, many times the victims in these cases will not come forward due to embarrassment of being flim-flammed, or the victim may feel the incident is not important enough to report. Obviously, the work of this subcommittee and my presence here attests to the importance and seriousness of crimes of this nature.

Although it may in this setting sound unbelievable that somebody would fall for this, I would like to tell you that in this particular situation, if it wasn't for her husband taking the time and calling the sheriff's office to confirm what was going on, she was on her way out the door to get that money and send it to them. These particular people are calling in the middle of the night or real early in the morning, and when you listen to how they are presenting themselves, although it is a collect call, which should send up red flags immediately, they sound pretty legitimate.

Although this is not a very complicated scheme, it is not very complicated as some of these other cases that have been told here today, but it is something that is happening, and happening at a large rate. This is something very easy for somebody to do, and if somebody hangs up on them, they just go to the next call. At this time, I can't tell you how they were able to get this number, and it just so happened the victim happened to leave her purse at the church that night. But I believe this is an example that could be pretty standard across the country.

Thank you for having me here today. If I can answer any questions, I will be happy to.

Senator GREGG. Well, thank you. That was an excellent example and we appreciate it.

Ms. Boosalis.

STATEMENT OF HELEN BOOSALIS, CHAIR, BOARD OF DIRECTORS, AMERICAN ASSOCIATION OF RETIRED PERSONS

Ms. BOOSALIS. Good morning. Thank you. My name is Helen Boosalis and I chair the Board of Directors of the American Association of Retired Persons [AARP]. On behalf of AARP, I thank you, Mr. Chairman, for inviting us to discuss the impact of telemarketing fraud on older Americans and the importance of continued Federal support for law enforcement's efforts to deter these fraudulent practices throughout the country.

Telemarketing fraud is a major concern for AARP because of the severe effect it has on our members, who are victimized in disproportionate numbers. We have launched a campaign against telemarketing fraud that involves research examining older victims and their behavior, formed partnerships with enforcement and consumer protection agencies and repeated delivery of a consistent re-

search-based message, and that is fraudulent telemarketers are criminals, don't fall for a telephone line.

In 1993, an extensive undercover FBI operation found that older consumers were the largest single group of individuals specifically targeted by fraudulent telemarketers. Two years later, AARP sponsored the first large-scale survey of telemarketing fraud victims. The purpose of the survey was to learn more about how the crime affects older Americans. We found that older people are victimized much more frequently than young people are. More than one-half of the victims of telemarketing fraud are over age 50, although only 36 percent of the population is in that age group. While only 7 percent of the population are age 75 or older, 14 percent of victims are in that age group.

AARP's survey found that victims typically are not, as you heard, socially isolated, ill-informed, confused people described anecdotally. Victims are just as likely to be relatively affluent, well-educated, and informed. They are active in their communities and express many of the same attitudes toward telemarketers as do nonvictims.

We found that older Americans, men as well as women, who fall for telemarketing schemes seem to believe the story the telemarketer is pitching. They find it hard to tell a legitimate sales pitch from a fraudulent one and often lack the skills to end the call when they feel pressure from the person on the other end of the line.

Additional AARP qualitative research revealed that although older consumers knew telemarketing fraud was wrong, they found it hard to believe it was a crime. Our research suggests that older consumers must be convinced that fraudulent telemarketers are criminals before they will exercise greater caution. AARP used this knowledge to shape its message, "Fraudulent telemarketers are criminals, don't fall for a telephone line," and AARP has repeated this warning to consumers through public service announcements, educational workshops, and program activities for 18 months.

In December 1996, AARP, in partnership with the FBI, the National Association of Attorneys General, the U.S. Postal Inspection Service, and others, launched a unique activity to advise consumers that they might be targeted by illegal telemarketers. AARP and its partners turned the criminals' own tactics against them and created the Nation's first reverse boiler room, called Operation Unload.

This activity was a joint effort with attorneys general from 30 States where volunteers called more than 2,000 people nationwide advising them that their names had been found on the mooch lists you heard Attorney General Maroney talk about seized from the fraudulent telemarketers. Ninety-four percent of the potential victims we reached stayed on the line to listen as the volunteers shared information informing them about telemarketing fraud, and almost 60 percent of the people we spoke with asked us to send followup information.

Based on the positive response to Operation Unload, AARP created a reverse boiler room replication manual. The manual is a step-by-step guide to planning and executing a reverse boiler room, with a sample script, answers to frequently asked questions, a re-

search summary, and more. The association has distributed more than 400 copies of this manual to law enforcement agencies, including the FBI, attorneys general, and aging and consumer protection agencies. The manual has been well received and widely used by AARP volunteers and partners, like the attorneys general and local law enforcement. Since December 1996, AARP and other volunteers have organized a dozen reverse boiler rooms nationwide and delivered warnings to more than 8,600 potential victims.

In November 1997, the United States-Canada Working Group on Cross-Border Telemarketing Fraud issued a report to President Clinton and Canadian Prime Minister Jean Chretien. The report states that victims are chosen for certain characteristics, especially age. The working group noted that persons who have already been victimized are at the greatest risk of being victimized again. Offenders reuse and sell victim information, as you heard, and target a victim repeatedly until all of his or her assets are gone. The report details the financial, psychological, and physical effects of telemarketing fraud on older victims and their families, and provides concrete recommendations for further action by Government and the private sector. AARP was gratified to find that the working group identified reverse boiler rooms as one of two success stories in the fight against telemarketing fraud.

In the coming year, we plan to continue our efforts with our partners, the Department of Justice, the FBI, the attorneys general, the U.S. Postal Inspection Service, law enforcement agencies at the local level, and the Administration on Aging and State units on aging, to create and implement consumer education programs and fortify our message that telemarketing fraud is a crime, with suggestions on how to plan ahead to respond to fraudulent calls and spread that message through public service announcements and editorial coverage.

We plan to implement the recommendations of the United States-Canada Working Group on Telemarketing Fraud and to assist the National Association of Attorneys General with a Department of Justice-funded training initiative focusing on prosecution and investigation of telemarketing fraud aimed at older consumers. We will continue to support volunteers working for legislation and regulations that align with acceptable telemarketing standards, will support litigation related to telemarketing fraud, and finally we will educate volunteers to present fraud-fighter training in their communities.

Mr. Chairman, AARP encourages this committee to consider the importance of the other success story cited by the working group—telephone hotlines. Presently, Government and privately funded hotlines answer consumer questions and provide critical information to those who have been harmed by telemarketing scams. At the same time, they gather complaints to be used in investigations and enforcement. Educators can use the voluntary information gathered by hotlines to refine materials and program activities.

Hotlines are the best source of information on emerging new scams and telemarketing pitches, and provide an enormous service to both individual consumers and to the fraud-fighting agencies that help them. We believe an even greater benefit would be realized by increasing the funding for 1–800 hotlines. Additional re-

sources could be used to provide an enhanced training, expand staff, and provide needed computer equipment for law enforcement agencies who lack access to complaint data bases.

A well-funded centralized hotline for complaint handling and data gathering offers consumers a rapid, one-call response to questions and complaints. It would also permit States with limited consumer protection funds to concentrate spending on enforcement and coordination with other States, and would facilitate more efficient prosecutions. Fraudulent telemarketers by nature are mobile and chameleon-like. A well-organized complaint response and data collection center would be a powerful tool for consumers and enforcement alike.

AARP also recommends adequate funding to achieve a greater saturation of consumer education materials and programs in geographically and ethnically diverse communities. This can be accomplished through partnerships with Government aging organizations and consumer advocacy groups. A number of agencies have worked hard on this issue and received extensive press coverage over the last 2 years. However, there is a continuing need for a consistent, large-scale education campaign to warn potential victims about this crime.

Early last year, AARP conducted a second annual survey of persons aged 50 and above to investigate their perceptions and responses to fraudulent telemarketing. The survey involving over 900 respondents found several important changes from the preceding year in some areas and uncovered a number of positive trends. For example, those surveyed reported that they received significantly fewer telemarketing calls in 1997 than the year before. Also, in 1997, significantly more people aged 50 and older reported that they don't buy anything over the phone. This survey will be repeated later this year.

Mr. Chairman, AARP is encouraged by the positive trends in consumer understanding and behavior indicated in our research. We also applaud the attention telemarketing fraud is receiving at various levels of government and are pleased to see the detailed recommendations of the United States-Canada Working Group.

PREPARED STATEMENT

On behalf of AARP, I thank you for the opportunity to provide the committee with background and recommendations on this critical issue that impacts so many Americans, particularly older Americans, so severely. We look forward to continuing our partnerships on consumer education and advocacy and cross-border fraud and other emergency issues for years to come, and appreciate your committee's continued support of this very important endeavor.

I look forward to responding to your questions.

Senator GREGG. Thank you.

[The statement follows:]

PREPARED STATEMENT OF HELEN BOOSALIS

Mr. Chairman and Members of the Committee: My name is Helen Boosalis, and I Chair the Board of Directors of the American Association of Retired Persons (AARP). On behalf of AARP, I thank you for inviting us to discuss the impact of telemarketing fraud on older Americans and the importance of continued federal

support for law enforcement's efforts to deter these fraudulent practices throughout the country.

Telemarketing fraud is a major concern for AARP because of the severe effects it has on our members, who are victimized in disproportionate numbers. We have launched a campaign against telemarketing fraud that involves research examining older victims and their behavior, partnerships with enforcement and consumer protection agencies, and repeated delivery of a consistent research-based message. That is: "Fraudulent telemarketers are criminals. Don't fall for a telephone line."

In 1993, an extensive undercover FBI operation found that older consumers were the single largest group of individuals specifically targeted by fraudulent telemarketers. Two years later, AARP sponsored the first large scale survey of telemarketing fraud victims. The purpose of the survey was to learn more about how this crime affects older Americans. We found that older people are victimized much more frequently than young people are. More than half of the victims of telemarketing fraud are over age 50, although only 36 percent of the population is in this age group. While only 7 percent of the population are age 75 or older, 14 percent of victims are in that age bracket.

AARP's survey found that victims typically are not the socially isolated, ill-informed, confused people described anecdotally. In fact, victims are just as likely to be relatively affluent, well-educated and informed. They are active in their communities and express many of the same attitudes towards telemarketers as do non-victims.

We found that older Americans, men as well as women, who fall for telemarketing schemes seem to believe the story the telemarketer is pitching. They find it hard to tell a legitimate sales pitch from a fraudulent one and often lack the skills to end the call when they feel pressure from the person on the other end of the line.

Additional AARP qualitative research revealed that though older consumers knew telemarketing fraud was wrong, they found it hard to believe that it was a crime. Our research suggests that older consumers must be convinced that fraudulent telemarketers are criminals before they will exercise greater caution. AARP used this knowledge to shape its message: "Fraudulent telemarketers are criminals. Don't fall for a telephone line." AARP has repeated this warning to consumers through public service announcements, educational workshops and program activities for eighteen months.

In December 1996, AARP in partnership with the FBI, National Association of Attorneys General (NAAG), U.S. Postal Inspection Service and others launched a unique activity to advise consumers that they might be targeted by illegal telemarketers. AARP and its partners turned the criminals' own tactics against them, and created the nation's first reverse boiler room, called "Operation Unload."

This activity was a joint effort with attorneys general from 30 states where volunteers called more than 2,000 people nationwide, advising them that their names had been found on "mooch" lists seized from fraudulent telemarketers.

Ninety-four percent of the potential victims we reached stayed on the line to listen as a volunteer shared information informing them about telemarketing fraud, and almost sixty percent (58 percent) of the people we spoke with asked us to send follow-up information.

Based on the positive response to "Operation Unload," AARP created a reverse boiler room replication manual. The manual is a step-by-step guide to planning and executing a reverse boiler room, with a sample script, answers to frequently asked questions, a research summary and more. The association has distributed more than 400 copies of this manual to law enforcement agencies including the FBI, Attorneys General, and aging and consumer protection agencies. The manual has been well-received, and widely used by AARP volunteers and partners like the attorneys general and local law enforcement.

Since December 1996, AARP and other volunteers have organized a dozen reverse boiler rooms nationwide and delivered warnings to more than 8,600 potential victims.

In November 1997, the U.S.-Canada Working Group on cross-border telemarketing fraud issued a report to President Clinton and Canadian Prime Minister Jean Chretien. The report states that "victims are chosen for certain characteristics, especially age." The working group noted that persons who have already been victimized are at the greatest risk of being victimized again. Offenders re-use and sell victim information, and target a victim repeatedly until all his or her assets are gone.

The report details the financial, psychological and physical effects of telemarketing fraud on older victims and their families, and provides concrete recommendations for further action by government and the private sector.

AARP was gratified to find that the working group identified reverse boiler rooms as one of two "success stories" in the fight against telemarketing fraud.

In the coming year we plan to:

—Continue our efforts with our partners, the Department of Justice, the FBI, the Attorneys General, the U.S. Postal Inspection Service, local law enforcement and the Administration on Aging and state units on aging to create and implement consumer education programs;

—Fortify our message that telemarketing fraud is a crime, with suggestions on how to plan ahead to respond to fraudulent calls, and spread that message through public service announcements and editorial coverage;

—Implement the recommendations of the U.S.-Canada Working Group on telemarketing fraud;

—Assist the National Association of Attorneys General (NAAG) with a Department of Justice-funded training initiative focusing on prosecution and investigation of telemarketing fraud aimed at older consumers;

—Support volunteers working for legislation and regulations that align with acceptable telemarketing standards;

—Support litigation related to telemarketing fraud; and

—Finally, we will educate volunteers to present fraud fighter training in their communities.

Mr. Chairman, AARP encourages this committee to consider the importance of the other "success story" cited by the working group—telephone hotlines. Presently, government and privately-funded hotlines answer consumer questions and provide critical information to those who have been harmed by telemarketing scams. At the same time, they gather complaints to be used in investigations and enforcement. Educators can use the voluntary information gathered by hotlines to refine materials and program activities.

Hotlines are the best source of information on emerging new scams and telemarketing pitches and provide an enormous service to both individual consumers and to the fraud-fighting agencies that help them.

We believe an even-greater benefit would be realized by increasing the funding for 1–800 Hotlines. Additional resources could be used to provide and enhance training, expand staff, and provide needed computer equipment for law-enforcement agencies who lack access to complaint databases. A well-funded, centralized hotline for complaint handling and data-gathering offers consumers a rapid, one-call response to questions and complaints. It would also permit states with limited consumer protection funds to concentrate spending on enforcement and coordination with other states, and would facilitate more efficient prosecutions. Fraudulent telemarketers by nature are mobile and chameleon-like. A well-organized complaint response and data collection center would be a powerful tool for consumers and enforcement alike.

AARP also recommends adequate funding to achieve a greater saturation of consumer education materials and programs into geographically and ethnically diverse communities. This can be accomplished through partnerships with government aging organizations and consumer advocacy groups.

A number of agencies have worked hard on this issue and received extensive press coverage over the last two years. However, there is a continuing need for a consistent, large-scale education campaign to warn potential victims about this crime.

Early last year, AARP conducted its second annual survey of persons age 50 and above to investigate their perceptions and responses to fraudulent telemarketing. The survey, involving over 900 respondents, found several important changes from the preceding year in some areas, and uncovered a number of positive trends.

For example, those surveyed reported that they received significantly fewer telemarketing calls in 1997 than the year before. This survey will be repeated later this year.

Mr. Chairman, AARP is encouraged by the positive trends in consumer understanding and behavior indicated in our research. We also applaud the attention telemarketing fraud is receiving at various levels of government, and are pleased to see the detailed recommendations of the U.S.-Canada Working Group.

On behalf of AARP, I thank you for the opportunity to provide the committee with background and recommendations on this critical issue that impacts so many Americans—particular older Americans—so severely.

We look forward to continuing our partnerships on consumer education and advocacy, cross-border fraud, and other emerging issues for years to come, and appreciate your Committee's continued support of this important endeavor.

I look forward to responding to your questions.

Senator GREGG. I have a question for you, Mr. Maroney. One of the big issues here is how we deal with this interstate, intracountry issue, and we have got the Canadian attempt going forward. What specifically should the Congress do in this area? Is there any specific legislation the Congress needs to pursue?

Mr. MARONEY. I don't think I am prepared to suggest specific legislation to you at the moment, except to sort of reiterate my prior comments that the toughest issue out there is the seizure of assets across a border. If there is no crime, for example, taking place in Canada and if the telemarketer is not at the same time preying on Canadian citizens, but is only using Quebec City or Montreal, in New Hampshire's experience, as a locus to call in, then we may need some assistance, possibly not in the form of legislation itself, but in the form of negotiation of treaty protocols and passage of those treaty protocols by the Senate to permit us an easier and more efficient access to the civil seizure process or the criminal seizure process in a foreign jurisdiction.

In addition, one of the recommendations of the cross-border working group is to look at the issue of whether and to what extent persons actually convicted of some form of telemarketing fraud may be denied access to the use of international instrumentalities such as either telephone or to some extent international wire transfer. That is a tall order and which I suspect requires a heck of lot more thought and analysis at the operational level before we could make that recommendation in terms of legislation. But those are areas that I think need to be looked at very hard.

Let me just take my hat off for a moment to local law enforcement, too, which is that quite apart from legislation at the Senate level, a lot of the cross-border stuff that we see in our border States can be dealt with through cooperation with local law enforcement as well. That money goes to drop boxes in the first instance. It is not necessarily being sent to Canada and it is not necessarily being wired to Canada.

Checks and cash are being sent to drop boxes in Manchester, in Plattsburgh, NY, and in the northeast kingdom in Vermont. Partnerships with local law enforcement—this is something that we need to do at the State and local level to identify the drop box places and do just plain old-fashioned good police work to close those down. That is also a major part of this process.

Senator GREGG. Ms. Boosalis, on the 1–800 number issue, does the AARP have an 800 number in this area?

Ms. BOOSALIS. Not in this area.

Senator GREGG. Is there one? I know the FTC has some structure, and we can hear this from Mr. Pitofsky, but I was wondering, is there an 800 number that addresses this issue?

Ms. BOOSALIS. Yes; the National Consumer Fraud Center in Washington, as I understand it, has an 800 number that people can call. And then, of course, all the attorneys general, as you heard, have their own numbers at the State level that people can call. People are encouraged, but so often they aren't sure where it is they should call. So if there is one national 800 number with enough funding to support it that they can call, it will not only help the individual, but help us accumulate the kind of information we need to be able to fight this effectively.

Senator GREGG. Senator Hollings.

Senator HOLLINGS. Ms. Boosalis, let me commend you. I heard about the problem from the attorney general in the first testimony. It seems you have given the best solution, and that is trying to educate, trying to inform—''don't fall for a telephone line,'' recommending additional funding for the 1–800 hotlines and everything else like that.

The reason I say this is because certainly at this particular point here in the Congress, the big complaint we get is that you folks are just up there politicking; you are federalizing every State crime in the world. We have judges coming out of our ears. The budget, Chairman Gregg and I know, has gone up in 10 years on Justice Department from $4 billion to $19 billion. Everyone wants to cut the size of Government, but we are enlarging it in this particular area every day.

And we just can't catch up with the old admonition of P.T. Barnum that a fool is born every minute, and yet it is a serious problem. So I think that, as with drugs, in my opinion, you can't build enough jails to hold all the drug offenders. You have got to educate them. No one is smoking in here today. When I started 30 years ago, everybody up at the rostrum here would have an ashtray, putting out a cigarette. Education is going to have to be a big part of the solution, so I commend the AARP for their efforts to educate. I have to defend the AARP on the floor of the Senate from time to time, and this will give me a good case where you are just not asking for more money for senior citizens or Social Security, but actually really making a wonderful contribution to society.

Detective Phillips, thank you very much. I am impressed with your testimony. Let me ask, is this just a singular case in the Charleston area, in my own hometown, or are there multiple cases of this kind that come to your attention?

Mr. PHILLIPS. Sir, at this time, multiple cases have recently occurred here in the last 3 or 4 weeks. These type of scams occur periodically and they will hit for a month, month-and-a-half's time, where they use up their victims and they go on to another State or another part of the State.

Senator HOLLINGS. And as you indicate, you can't get the information from the distant telephone company or data base, or they won't honor the subpoena or otherwise are rather tardy in getting you the information and everything else. So it is very difficult to prosecute, is that right?

Mr. PHILLIPS. Yes, sir; it certainly is.

Senator HOLLINGS. Talking about education, what about education in our own backyard, South Carolina? Is the AARP down there cooperating, or other consumer groups? What is the situation from your experience?

Mr. PHILLIPS. I know that from time to time—and it seems to be very infrequent, in my opinion, though it is mostly around Christmas—you will see commercials on TV from the Governor's office talking about being alert for scams and different telephone marketing crimes. But I honestly do not see the effort being put forth through the media, or definitely at least through promotional campaigns to let the community know.

I know, on our part, what we try to do, especially as in this case—and we think it prevented more victims—was as soon as we found out about it, we let the media know about it, and the newspaper, and the local news channels did let the community know.

Senator HOLLINGS. They did put it on?

Mr. PHILLIPS. Yes, sir.

Senator HOLLINGS. I know I have seen it myself back home on the weekends, and so forth. Well, I really commend you. I think that perhaps we are going to have to get a more severe penalty.

You mentioned, General Maroney—and I do agree that you are the best appointment Governor Gregg ever made.

Mr. MARONEY. There are many in New Hampshire who would dispute you on that one.

Senator HOLLINGS. But right to the point, in your testimony you have summed up the entire case. Now, what would you do? Suppose you were a Senator. What would you do about it?

Mr. MARONEY. I think I would unquestionably support the imposition of enhanced penalties for persons who prey on the elderly and for persons who prey on the elderly from outside of the country. I think that is a short and easy fix for some of the problems, and ultimately you can't be putting people in jail as a way to make them stop and as a potential deterrent.

Any piece of legislation, I suppose, has a certain—there is a certain law of unintended consequences, and I suspect that the enhanced penalties of the Telecommunications Act of 1994 and 1995 probably did have the unintended consequence of sending a lot of these folks up to Canada just to escape those enhanced penalties in the first place. I think there is some real virtue to sending a signal to those people that that tactic in and of itself isn't going to work and that those enhanced penalties are going to follow them.

Senator HOLLINGS. Well, I would agree with you. I heard you say Senator Kyl, and it could be that we haven't been able to find a bill introduced by Senator Kyl on the computer system, but we have a bill of Congressman Goodlatte, who put it in and revised it upwards with even increased penalties as of November this past year. I am going to contact him and coordinate with him and coordinate with our chairman here to put in a similar bill here on the Senate side, particularly with the Canadian problem, because you folks live with that right up there.

Mr. MARONEY. That is a real issue. I appreciate your attention to it.

Senator HOLLINGS. We have not provided for that particular problem and we have got to get together with the Canadian authorities and work more closely on it. We have got to do something to get around this $50,000 bond. Like you said, it would take your budget to handle one case, and they will run you out of office if you take on one case with your entire budget just on fraud, because the general public attitude is the expression I used of Barnum. Wait a minute, we have got drugs, we have got serious crime, we have got this, we have got that, and if people can't pick up the telephone and have sense and give away their money, we have got serious crime in this country. And that is the public attitude, and we are not going to provide for the attorney general or the detectives or law enforcement. The public realize they contribute to the hotlines

and the AARP because that is the valid, very economical way to get at this particular problem. I think they will do that. But you won't see too much more money to chase after telephone crime and fraud. They will put more money to get the drugs and serious crime and everything else. That has been my experience.

Thank you very much, Mr. Chairman.

Mr. MARONEY. I will just say that with the money that folks have got so far, the Federal agencies and NAAG have created a pretty effective partnership at this point.

Senator HOLLINGS. Is that databank that the Federal Trade Commission has good now?

Mr. MARONEY. Consumer Sentinel is really just up in the last month or two.

Senator HOLLINGS. Just up in the last month?

Mr. MARONEY. As an Internet site. I mean, they have had an existing law enforcement data base available to law enforcement officers for several years now. But Consumer Sentinel is just up and it is, (*a*) beautiful; (*b*) relatively easy to use; (*c*) it is easy Internet access to a host of information about—a data base on criminals and victims, and it is good.

Senator HOLLINGS. We should enhance it. I mean, that is economical. We can afford that.

Mr. MARONEY. Yes; and that kind of centralized stuff is enormously useful.

Senator HOLLINGS. Ms. Boosalis.

Ms. BOOSALIS. I just want to say that just mentioning Internet, when you consider the potential that is there for fraud—it is already there, but the future potential for fraud on that, it is even more important to recognize the value of educating people of how to protect themselves against that kind of fraud before it gets to that point.

Senator HOLLINGS. We have had two cases of ongoing fraud on the Internet already with Dallas and the Wall Street Journal here in the last 48 hours.

Thank you, Mr. Chairman.

Senator GREGG. Well, I think we have gotten some excellent information from this panel, and basically the need for public education is critical. This issue of teaching people to just hang up their phone when they get a request which seems a little out of sorts is absolutely essential, and the need to address stiffer penalties for people who are committing these crimes outside the United States and making sure that we have the adequate protocols to work with our neighboring States and other countries is something we want to follow up on.

I am sure that our next speaker is very happy to hear your assessment of their efforts, and so we will turn to the next panel here, and we thank this panel for their time and for especially coming up from South Carolina and down from New Hampshire and out from Nebraska.

Ms. BOOSALIS. Yes, Lincoln, NE.

Senator GREGG. All right. Well, thank you very much.

Mr. MARONEY. Thank you very much, Senators.

Senator HOLLINGS. Thank you.

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FEDERAL TRADE COMMISSION

STATEMENT OF HON. ROBERT PITOFSKY, CHAIRMAN

ACCOMPANIED BY HUGHES STEVENSON, DIVISION OF MARKETING PRACTICES

Senator GREGG. Our next witness—and I appreciate his willingness to participate—is Chairman Pitofsky of the Federal Trade Commission [FTC]. I was going to say it is tough to have to sit for an hour or so, but in this case you got great praise, so it could have passed rather easily. Obviously, the FTC is the lead agency on this whole issue of consumer crime, but specifically on telemarketing issues that are really the focus of this hearing, and how it affects especially the elderly. So we look forward to hearing your comments, Mr. Chairman.

Mr. PITOFSKY. Thank you, Mr. Chairman. I am delighted to be here. I want to compliment you, Senator Hollings, and other members of the committee for holding hearings on this important subject which sometimes doesn't get as much attention as it should, and that is marketing fraud, and particularly marketing fraud as it applies to the elderly.

PREPARED STATEMENT

With your permission, what I would like to do is submit the Commission's testimony for the record and summarize it briefly.

Senator GREGG. Of course.

[The statement follows:]

PREPARED STATEMENT OF ROBERT PITOFSKY

I am Robert Pitofsky, Chairman of the Federal Trade Commission. I am pleased to appear before you today to present information about the Commission's activities with regard to fraudulent marketing practices, especially those that affect the elderly.[1] The Federal Trade Commission is the primary federal consumer protection agency, with wide-ranging responsibilities over nearly all segments of the economy. In pursuing its mandate of protecting consumers, the Commission enforces the Federal Trade Commission Act,[2] which broadly prohibits unfair or deceptive acts and practices, as well as more than twenty other consumer protection statutes[3] and thirty regulations[4] that address such matters as consumer credit, telemarketing,

[1] The views expressed in this statement represent the views of the Commission. However, my oral testimony and responses to questions are my own and do not necessarily reflect the Commission's views or the views of any other Commissioner.

[2] 15 U.S.C. §§ 41 *et seq.*

[3] *E.g.* the Truth in Lending Act, 15 U.S.C. §§ 1601 *et seq.*, which mandates disclosures of credit terms; the Fair Credit Billing Act, 15 U.S.C. §§ 1666 *et seq.*, which provides for the correction of billing errors on credit accounts; the Fair Credit Reporting Act, 15 U.S.C. §§ 1681 *et seq.*, which establishes rights with respect to consumer credit reports; and the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301 *et seq.*, which provides disclosure standards for consumer product warranties; and the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. §§ 6101–08, which authorizes the Commission to promulgate rules defining and prohibiting deceptive telemarketing practices and other abusive telemarketing practices.

[4] *E.g.* the Telemarketing Sales Rule, 16 C.F.R. Part 310, which defines and prohibits deceptive telemarketing practices and other abusive telemarketing practices; the Care Labeling Rule, 16

Continued

and the sale of funeral goods and services. Combating fraud has been a top priority in fulfilling that mandate for over a decade. In particular, the Commission has committed significant resources to the war against telemarketing fraud—a type of fraud that frequently victimizes the elderly.

Fraudulent marketing schemes change over time, but they share one thing in common: they all involve the use of deceptive or unfair practices to separate consumers from their money. Many fraudulent operations use the telephone as the primary means of communicating with their victims. Estimates of losses specifically caused by fraudulent telemarketers range from at least $3 billion to as much as $40 billion annually. The Commission's law enforcement experience shows that telemarketing fraud victimizes consumers of all ages, levels of income, and backgrounds. The elderly, however, are disproportionately represented among victims of telemarketing fraud, and in some scams, 80 percent or more of the victims are 65 or older. The elderly often are the deliberate targets of fraudulent telemarketers who take advantage of the fact that many older people have cash reserves or other assets to spend on seemingly attractive offers. Older Americans seem especially susceptible to fraudulent offers for prize promotions and lottery clubs, charitable solicitations, and investment offers.[5]

Sections 5 and 13(b) of the Federal Trade Commission Act[6] provide the Commission with several important tools to combat various types of marketing fraud. These provisions authorize the Commission to file civil actions by its own attorneys in federal district court and to seek an immediate halt to illegal activity. The Commission also seeks to obtain restitution for injured consumers, if possible; if not, disgorgement to the U.S. Treasury of defendants' ill-gotten monies. Typically, the Commission seeks an ex parte temporary restraining order, asset freeze and the appointment of a receiver to halt ongoing fraudulent activities and preserve assets for consumer redress. This extraordinary relief is appropriate to immediately halt fraudulent telemarketing or other fraudulent schemes. Every year the Commission uses these law enforcement activities to prevent hundreds of millions of dollars in fraud losses, and in the past five years, has collected over $37 million on judgments for consumer redress or disgorgement to the Treasury.

In 1994, Congress passed the Telemarketing and Consumer Fraud and Abuse Prevention Act (the "Telemarketing Act"), giving the Commission additional authority specifically to attack telemarketing fraud. At Congress' direction, the Commission promulgated the Telemarketing Sales Rule, which became effective on December 31, 1995. The Rule defines and prohibits deceptive telemarketing practices and prohibits other abusive telemarketing practices.

One very important feature of the Telemarketing Act is that it permits a joint federal-state telemarketing enforcement strategy by enabling state Attorneys General to go into federal court to enforce the Telemarketing Sales Rule, to halt fraudulent schemes through nationwide injunctions against companies or individuals that violate the Rule, and to obtain restitution for injury caused to the residents of their states by the Rule violations. This grant of authority to the states has provided the Commission with an enormous opportunity to coordinate and leverage federal law enforcement resources with the states for maximum effect.

The Commission, working with its counterparts on the state level and its sister federal agencies, has developed a strategy of law enforcement "sweeps," in which multiple, simultaneous actions are filed all across the country against companies and individuals engaged in a particular type of fraud. Concentrating federal and state resources on a particular type of fraud in this way to bring dozens of law enforcement actions at one time not only sends an emphatic warning to others engaged in the same fraud, it also captures the attention of the media, and provides

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C.F.R. Part 423, which requires the provision of care instructions for wearing apparel; the Franchise Rule, 16 C.F.R. Part 436, which requires the provision of information to prospective franchisees; the Mail and Telephone Order Merchandise Rule, 16 C.F.R. Part 435, which gives consumers certain rights when ordering products through the mail; and the Funeral Rule, 16 C.F.R. Part 453, which regulates certain pricing and sales practices by funeral providers.

[5] Recent survey research conducted on behalf of the American Association of Retired Persons ("AARP") shows that there is no ready answer explaining why a disproportionate number of telemarketing fraud victims are elderly. The research rebuts the notion that the elderly are vulnerable because they are socially isolated, ill-informed, or confused. The survey shows, however, that older people who fall for telemarketing scams tend to believe the pitches they hear—that they have a good chance of actually winning the grand prize, and that the products touted are worth the price charged for them. Ninety percent of respondents report awareness of consumer fraud; yet two-thirds said it is hard to spot fraud when it is happening. The survey also shows that elderly victims find it difficult to terminate telephone conversations, even when they say they are not interested in continuing a conversation. They are also reluctant to seek advice or assistance from others about financial matters in general.

[6] 15 U.S.C. §§ 53(b) and 57b.

a springboard to raise dramatically consumer awareness of that particular type of fraud.

Since 1996, just after the Telemarketing Sales Rule went into effect, the Commission has led twenty cooperative law enforcement efforts focused upon the most prevalent types of fraud, including fraud that targets older consumers. These sweeps comprised a total of over 730 federal and state actions, including 112 cases brought by the Commission. I will describe some of these sweeps more specifically, as I discuss common varieties of marketing fraud.

DECEPTIVE PRIZE PROMOTIONS AND LOTTERY CLUBS

One type of telemarketing fraud in which the victims are disproportionately elderly is the deceptive prize promotion. Typically, the consumer receives a call or mail solicitation enthusiastically congratulating him or her on having been selected to receive a valuable award—often described as thousands in cash, a car, a vacation, or jewelry. However, there is a "catch" that requires the consumer to send payment, often by an overnight courier service, in order to receive the prize. Then, although the consumer sends the payment as instructed, he or she does not receive the promised valuable prize. If the consumer receives any award at all, it is generally an item of little or no value, such as inexpensive costume jewelry or a travel certificate that requires huge outlays of cash to redeem. Losses per consumer for telemarketed prize promotions generally range from a few hundred dollars to thousands of dollars. In some instances, consumers have lost their entire life savings to such scams. While prize promotion telemarketers often ask for only a small amount initially, in a process referred to as "reloading," phone crooks request ever increasing amounts from consumers, promising ever more valuable awards. Once marked as receptive to this type of scam, a consumer often is bombarded nonstop with similar fraudulent offers from a host of scam artists.

Prize and sweepstakes promotions generate more consumer complaints in the Commission's complaint database than any other type of telemarketing. Accordingly, fraudulent prize promotions have been a frequent target of Commission enforcement efforts. The largest such effort, named "Project Jackpot," was carried out in July 1996. This Commission-led joint federal and state law enforcement sweep included 56 enforcement actions against 79 defendants in 17 states, all aimed against alleged fraudulent prize promotions.[7]

Prize promotions are not conducted exclusively through the telephone. In many cases, direct mail is used to capture the attention of the consumer. The Commission has taken action against several direct mail prize promoters, and recently joined other agencies in "Project Mailbox," announced in October 1997. Project Mailbox included all types of fraudulent direct mail solicitations, but many of the actions targeted prize promotions. Project Mailbox involved the combined efforts of the FTC, the U.S. Postal Service, and 25 state Attorneys General and local law enforcers, resulting in a total of 190 actions.

In an emerging fraud, which is essentially a variation on the prize promotion scheme, telemarketers call consumers offering to sell them memberships in lottery clubs. Telemarketers mislead consumers into believing that by "pooling their resources" through such a club, they will enhance their chances of winning big payouts from various government-run lotteries around the world. The Commission recently brought two actions targeting lottery schemes, both of which involved Canadian telemarketers, highlighting the growing problem of cross-border fraud, which I will subsequently discuss more fully.[8]

TELEFUNDERS OR BOGUS CHARITIES

Another type of telemarketing fraud, sometimes referred to as fraudulent "telefunding," targets consumers, often older citizens, willing to donate money to charitable causes.[9] Fraudulent telefunders, often employing prize promotions, either raise money for bogus charities, misrepresent the amount of donations that go to a bona-fide charity, or make other material misrepresentations about how the donor's money will be used. The Commission has brought several actions attacking alleged

[7] The eight cases the Commission brought in connection with Operation Jackpot have all concluded and have resulted in the defendants paying more than $550,000 in consumer redress or disgorgement to the U.S. Treasury.

[8] *FTC* v. *Woofter Investment Corp. et al.*, CV-S–97–00515–LDG(RLH) (D. Nev. filed April 24, 1997) and *FTC* v. *Pacific Rim Pools International*, C97–1748R (W.D. Wash. filed Nov. 7, 1997).

[9] The Commission examined demographic data on the victims of five telefunding operations the Commission sued in 1994 and found that out of 143 consumers interviewed, 85 percent were at least 65 years of age.

telefunding fraud.[10] "Operation False Alarm," a major law enforcement sweep launched in April 1997 and including five FTC cases and 52 state enforcement actions, targeted telemarketers who allegedly misrepresent that consumers' donations would be given to a police fund or other local civic organization. Agencies from all 50 states joined this effort, either by bringing actions or participating in a related public education initiative.

INVESTMENT FRAUD

Investment fraud is yet another category of telemarketing scam which often affects elderly consumers. Telemarketers promise consumers huge returns on a low-risk investment. Investment fraud involves high individual losses per consumer, generally ranging in the thousands to tens of thousands of dollars. Some elderly consumers may lose their entire life savings to a single telemarketer. The Commission has brought dozens of cases against investment fraud, covering many different types of purported investments, from gemstones to FCC licenses.

A recent wave in investment fraud centers around "high-tech" scams. In January 1996, the Commission together with the North American Securities Administrators Association ("NASAA") initiated "Operation Roadblock," a joint federal/state sweep against alleged investment scams involving 900-numbers, and paging licenses. The FTC joined 20 state agencies to bring a total of 85 actions. A subsequent sweep in July 1997, "Project Field of Schemes," also centered around alleged "high tech" investment schemes, many of which involved the Internet or were promoted on it. The alleged scams included purported investments in Internet "shopping malls," gambling cruise ships, stamps, Internet pyramid schemes, movie productions and gold, among other things. In Project Field of Schemes, the FTC joined with NASAA, securities regulators in 21 states, the Securities and Exchange Commission, and the Commodity Futures Trading Commission to bring 61 law enforcement actions.

BUSINESS OPPORTUNITY FRAUD

Many consumers—particularly recent retirees or workers who have lost their jobs through corporate downsizing—are attracted to advertisements touting opportunities for individuals to operate their own small businesses or to work from home. In many cases, these business opportunities involve distributing products or services through vending machines or retail display racks. Would-be entrepreneurs responding to these advertisements are connected to a telemarketer, who glowingly describes the opportunity and the amount of money that can be made by following the company's business plan. To clinch the sale, the telemarketer often provides the consumer with the names and telephone numbers of other people who have purportedly purchased the business opportunity and from whom the consumer can receive a supposedly objective opinion. In fact, these purported purchasers are "singers"—individuals who are paid by the telemarketer to lie about the success of the business venture. After the consumer pays anywhere from hundreds to tens of thousand of dollars to become a distributor or to receive the business plan, he or she learns that the revenue projections of the telemarketer were highly inflated and that the only people who make money through the business opportunity are the telemarketers themselves.

Every year, the Commission brings numerous cases against purveyors of fraudulent business opportunities. In fact, the Commission's first major coordinated law enforcement initiative against fraud, "Project Telesweep," targeted such operations. Project Telesweep, launched in July 1995, used the combined efforts of the FTC, the U.S. Department of Justice, and several states to bring nearly 100 actions against alleged fraudulent business opportunities. The project was so successful that it served as a template for future telemarketing sweeps. In a follow-up enforcement effort, "Operation Missed Fortune," which was made public in November 1996, the Commission joined 25 state agencies in bringing 75 actions in a broad-based attack against schemes involving allegedly fraudulent multi-level marketing, business opportunities, and work-at-home plans.[11]

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[10] *See FTC* v. *Leon Saja, d/b/a Southwest Publishing,* Civil Action No. CIV 97–0666 PHX sm (D. Ariz. filed March 31, 1997); *FTC* v. *The Baylis Co.*, Civil. No. 94–0017–S–LMB (D. Idaho filed Jan. 10, 1994); *FTC* v. *NCH, Inc.*, Civil No. CV–S–94–00138–LDG (LRL) (D. Nev. filed Feb. 14, 1994); *FTC* v. *International Charity Consultants,* Civil No. CV–S–94–00195–DWH (LRL) (D. Nev. filed Mar. 1, 1994); *FTC* v. *United Holdings Group, Inc.* (D. Nev. 1994); *FTC* v. *Voices for Freedom*, Civil No. 91–1542–A (E.D. Va. filed Oct. 21, 1991).

[11] A number of the Commission's cases sought injunctions against the defendants' failure to comply with the Commission's Franchise Rule, 16 C.F.R. Part 436, which reduces fraud by requiring sellers of franchises and business opportunities to provide prospective purchasers with

RECOVERY SCAMS

"Recovery" scams once plagued older consumers,[12] but this type of scam now appears almost to have vanished, due to aggressive enforcement efforts and tighter regulations.[13] Recovery scams were particularly egregious because they re-victimized consumers who had already fallen prey to one or more earlier scams. In a recovery scam pitch, the fraud operator offered to help the consumer obtain prizes promised in an earlier scam or to recover money lost in an earlier scam. After paying the fee for the recovery, the consumer never again heard from the recovery scammer—no refund, no prize, just the loss of more money. In some cases, the recovery scam operation was run by the very same individuals who previously defrauded the consumer. Losses per consumer victimized by recovery rooms ranged from a few hundred dollars to thousands of dollars.

Since the fall of 1994, the Commission has brought eight cases against fraudulent recovery scam artists.[14] These enforcement actions, combined with provisions in the Telemarketing Sales Rule tailored specifically to prevent this type of fraud, have led to a dramatic drop in the number of consumer complaints. The Commission's consumer complaint database shows that complaints about recovery scams plunged by 95 percent from their high point in 1995 to their current low level.

THE INTERNET

To date, most of the fraud affecting the elderly has been perpetrated through the telephone. As the elderly begin to use the Internet, fraud operators can be expected to find them through this new channel of communication and commerce. The Internet offers a novel and exciting means for all consumers to purchase both innovative and traditional goods and services faster and at lower prices, to communicate more effectively, and to tap into rich sources of information that were previously difficult to access and that now can be used to make better-informed purchasing decisions.

The Internet's promise of substantial consumer benefits is, however, coupled with the potential for fraud and deception. Fraud is opportunistic, and fraud operators are always among the first to appreciate the potential of a new technology. After buying a computer and modem, scam artists can erect and maintain a site on the World Wide Web for $30 a month or less, and solicit consumers anywhere on the globe. Most Internet fraud has clear antecedents in telemarketing fraud. What is different is the size of the potential market, and the relative ease, low cost, and speed with which a scam can be perpetrated.

The Commission believes it is important to address Internet fraud now, and in a manner that does not discourage legitimate commercial growth by undermining consumer confidence in the Internet as a safe mode of commerce. Toward that end, the Commission has filed more than 25 lawsuits against defendants whose alleged illegal practices used or involved the Internet. Most of the cases have involved alleged old-fashioned scams dressed up in high-tech garb.[15] Some scams, however, ex-

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disclosures covering 20 specified material topics, including the names and addresses of current and former owners of the franchise or business opportunity.

[12] In its investigation of one recovery room case, SCAT, Commission staff interviewed 43 consumers who were allegedly victimized or approached by SCAT telemarketers. Of these individuals, 81 percent were at least 65 years of age; 47 percent were at least 75; and 23 percent were at least 80. Similar percentages have been found in other recovery room cases.

[13] The Telemarketing Sales Rule expressly prohibits telemarketers from requesting or accepting payment for "recovery" services until 7 business days after the promised goods, services, or cash have been recovered and delivered to the consumer. 16 C.F.R. § 310.4(a)(3).

[14] *FTC* v. *Telecommunications Protection Agency, Inc.*, No. CIV–96–344–5 (E.D. Okla. filed July 24, 1996); *FTC* v. *Desert Financial Group, Inc.*, No. CV–S–95–0151–LDG (D. Nev. filed Dec. 5, 1995); *FTC* v. *Meridian Capital Corp.*, No. CV–S–96–00063–PMP (D. Nev., transferred to D. Nev. Jan. 23, 1996, originally filed in D.D.C Aug 17, 1995); *FTC* v. *USM Corp.*, No. CV–S–95–0668–LDG (D. Nev. filed July 12, 1995); *FTC* v. *PFR*, No. CV–S–95–000745–HDM (D. Nev. filed Jan. 25, 1995); *FTC* v. *Thadow, Inc.*, No. CV–S–95–00074–PMP (D. Nev. filed Jan. 25, 1995); *FTC* v. *United Consumer Services*, No. 1:94–CV–3164–CAM (N.D. Ga. filed Nov. 30, 1994); *FTC* v. *Richard Canicatti, d/b/a Refund Information Services*, CV–S–No. 94–859–HDM (D. Nev. filed Oct 11, 1994).

[15] *E.g.* Alleged pyramid scam: *FTC* v. *Nia Cano d/b/a Credit Development Int., et al.*, No. 97–7947 IH (AJWx) (C.D. Cal. filed Oct. 29, 1997). Alleged credit repair scams: *FTC* v. *Corzine*, No. CIV–S–94–1446 (E.D. Cal. filed Sept. 12, 1994); *FTC* v. *Consumer Credit Advocates*, No. 96 Civ. 1990 (S.D.N.Y. filed Mar. 19, 1996); *Martha Clark, d/b/a Simplex Services*, Docket No. C–3667 (consent order, June 10, 1996); *Bryan Coryat, d/b/a Enterprising Solution*, Docket No. C–3666 (consent order, June 10, 1996); *Lyle R. Larson, d/b/a Momentum*, Docket No. C–3672 (consent order, June 12, 1996); *Rick A. Rehem, d/b/a NBC Credit Resource Publishing*, Docket No. C–3671 (consent order, June 12, 1996). Alleged business opportunity scams: *FTC* v. *Intellicom Services, Inc.*, No. 97–4572 TJH (Mcx)(C.D. Cal. filed June 23, 1997); *FTC* v. *Chappie (Infinity*

Continued

ploit what can be done only on the Internet. For example, in *FTC* v. *Audiotex Connection, Inc.*, CV–97 0726 (DRH) (E.D.N.Y. filed Feb. 2, 1997), the Commission challenged a scheme that allegedly hijacked consumers' computer modems by surreptitiously disconnecting them from their local Internet service provider (such as AOL) and reconnecting them to the Internet through a high-priced international modem connection, purportedly going to Moldova but actually terminating in Canada. On various Internet sites, the defendants offered access to free computer images through a special "viewer" program. If a consumer downloaded and activated the viewer software, the alleged hijacking automatically ensued, and an international long-distance call (and the charges for it) continued until the consumer turned off the computer—even if he or she left defendants' sites and moved elsewhere on the Internet, or left the Internet entirely to use a different computer program.

Commission staff were first alerted to this scheme by security experts at AT&T. The United States Secret Service assisted staff in ascertaining how the viewer software worked, and AT&T lent further assistance in tracing the software back to specific web sites. With this help, the Commission's staff completed its investigation, filed a complaint, and obtained an ex parte temporary restraining order and asset freeze against the defendants within just 31 days of learning about the alleged scam. The lawsuit was recently resolved by entry of a stipulated permanent injunction against the main defendants named in the Commission's complaint and the issuance of a virtually identical administrative order against additional parties found to have played a role in the alleged scam. Under the two orders, the defendants and administrative respondents are barred from engaging in the alleged unlawful practices, and over 38,000 consumers should receive full redress worth an estimated $2.74 million.[16]

ADDITIONAL APPROACHES TO COMBATING FRAUD

Assisting Criminal Authorities

The Commission also combats telemarketing fraud by providing substantial resources to enforcement efforts coordinated by criminal authorities. Recently, the FTC contributed eight attorneys to the Chattanooga, Tennessee Telemarketing Fraud Task Force. Chattanooga had become a leading center of fraudulent telemarketing activity, particularly prize promotions. The overwhelming majority of the victims of the Chattanooga operations were elderly. The FTC attorneys were cross-designated as Special Assistant U.S. Attorneys and brought criminal actions against telemarketers operating in the area. By the end of 1996, the Chattanooga Task Force largely had completed its work. The Task Force obtained fifty convictions and combined prison sentences against fraudulent telemarketers totaling over 1,695 months and restitution orders in excess of $35 million.[17]

The FTC also contributed resources to Operation Senior Sentinel, announced in December 1995, which, with over 400 arrests in 14 states, was the largest criminal crackdown ever on telemarketing fraud. This enforcement effort was led by the U.S. Department of Justice and focused specifically on telemarketing scams targeting older Americans. Estimates indicate that nearly 80 percent of the victims in the underlying prize promotion and recovery room cases included in Senior Sentinel were older people. The FTC contributed valuable consumer complaint information to Senior Sentinel through the Telemarketing Complaint System,[18] and also filed five civil

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Multimedia), No. 96–6671–CIV–Gonzalez (S.D. Fla. filed June 24, 1996); *Timothy R. Bean, d/b/a D.C. Publishing Group*, Docket No. C–3665 (consent order, June 10, 1996); *Robert Surveys, d/b/a Excel Communications*, Docket No. C–3669 (consent order, June 12, 1996); *Sherman G. Smith, d/b/a Starr Communications*, Docket No. C–3668 (consent order, June 12, 1996). Alleged deceptive cash grant matching service: *Randolf D. Alberton, d/b/a Wolverine Capital*, Docket No. C–3670 (consent order, June 12, 1996). Alleged deceptive advertising of health product: *Global World Media Corp. and Sean Shayan*, Docket No. C–3772 (consent order, Oct. 9, 1997). Alleged misrepresentations about product characteristics: *Zygon International, Inc.*, Docket No. C–3686 (consent order, Sept. 24, 1996). Alleged non-delivery of ordered merchandise: *FTC* v. *Brandzel*, 96 C. 1440 (N.D. III. filed Mar. 13, 1996).

[16] The Commission would like to acknowledge the assistance of AT&T and MCI in administering the redress program. AT&T and MCI will distribute refunds to most consumers in the form of telephone credits on their long-distance telephone bills.

[17] In recognition of the FTC's contributions, the U.S. Department of Justice honored the FTC attorneys with its John Marshall Award for inter-agency cooperation in support of litigation in 1996.

[18] The Telemarketing Complaint System is a database of consumer complaint information that the FTC maintains in cooperation with the National Association of Attorneys General. The database is available to many law enforcement agencies and it a very valuable tool in identifying fraudulent telemarketing operations.

cases in federal district court—four against alleged fraudulent prize promotions and the fifth against an alleged recovery room.

Treasury Collection

In many cases involving fraud, the Commission receives judgments against the defendants and it attempts to collect on these judgments with the goal of returning money to injured consumers. Collection is often difficult because, in many cases, the defendants do not have identifiable assets subject to execution. The Commission recently began working with the U.S. Treasury for assistance in collecting judgments owed to the Commission. The Commission was the first agency to refer its uncollected judgments to Treasury's Financial Management Services Division, which will use its collection expertise to aggressively collect for consumers amounts owed by fraudulent telemarketers. In cases where Treasury is unable to collect after diligent effort, it will report to the Internal Revenue Service that the uncollected debt should be treated as income to the defendant, subject to taxation. The Treasury's collection program should assist the Commission in obtaining additional money to refund to consumers.

Improved Information Gathering and Sharing; Cross-Border Cooperation

The Commission is aware that telemarketing fraud is becoming a global problem. In particular, we have in particular seen a rise in Canadian-based telemarketers targeting U.S. victims, often elderly ones, and U.S. telemarketers targeting Canadians. The Commission has been tackling this problem on several fronts, in cooperation with other U.S. and Canadian law enforcement agencies. In 1996, the Commission co-sponsored two conferences on cross-border fraud and established a task force on cross-border fraud with Industry Canada, the Canadian government agency whose function is roughly analogous to that of the Commission. In 1996, the Commission also brought its first enforcement actions against Canadian telemarketers, one as part of an enforcement sweep against alleged advance fee loan scams [19] and another as part of an enforcement sweep against alleged fraudulent prize promotions.[20]

In 1997, we followed up with further enforcement actions involving cross-border activity.[21] We also continued our cooperative law enforcement efforts as part of the United States-Canada Working Group on Telemarketing Fraud. This Working Group, established at the direction of President Clinton and Canadian Prime Minister Chretien as a result of their April 1997 meetings, produced a report in November 1997 outlining the key elements of a bi-national strategy to fight cross-border fraud. We continue to work with our U.S. and Canadian law enforcement partners to act on this blueprint for addressing legal issues, consumer education, information sharing, and coordination.

Consumer Sentinel and the Consumer Response Center

The Commission has been particularly active on the information-sharing front. Last month, we announced to fellow law enforcers the launching of Consumer Sentinel, a database of consumer complaints and various other useful information now available to law enforcement personnel through a secure, password-protected site on the Internet. This is a joint project of the National Association of Attorneys General ("NAAG") and the Federal Trade Commission, in cooperation with the Canadian partners "Phonebusters" and "Canshare," [22] and builds on the existing NAAG–FTC Telemarketing Complaint System. The Commission has voted to expand this information-sharing project to include Canadian law enforcers as well. We are pleased that the Ontario Provincial Police has already signed up as the first Canadian member of this network.

We are also working hard to improve the job we do in using the valuable information that consumers give us about telemarketing and other frauds. Last year, we created the FTC Consumer Response Center to streamline our handling of consumer complaints and inquiries. As a result, we are able to respond more promptly and helpfully to consumer inquiries, whether by phone, mail, or e-mail. We have also redesigned our computer databases so we can capture and use more of the information consumers provide us about suspect telemarketers. With this system, which is

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[19] *FTC* v. *Ideal Credit Referral Services Ltd. et al.*, C96–0874R (W.D. Wash. 1996).

[20] *FTC* v. *9013–0980 Quebec Inc., d.b.a. Incentives Int'l*, 1:96 CV 1567 ID. Ohio 1996).

[21] *FTC* v. *Pacific Rim Pools International*, C97–1748R (W.D. Wash. 1997); *FTC* v. *The Tracker Corporation of America*, No. 97–CV–2654–JEC (N.D. Ga. 1997).

[22] "Phonebusters" is a national Canadian task force, supported by various governmental and private entities, that collects consumer complaint information through an 888 toll-free number. Its website is at "www.gov.on.ca/Phonebusters/index/htm." "Canshare" is a joint project of Industry Canada and the provincial governments to share consumer protection information.

completely integrated with the Consumer Sentinel database, we can better share and use telemarketing complaint information, both with our own staff and with other law enforcement agencies.

Cooperative Efforts with Older Consumers

The Commission and other law enforcement agencies have taken advantage of the fact that many older consumers are eager to help combat fraud. In an effort that began several years ago with the Federal Bureau of Investigation and several state Attorneys General, many older consumers, whose names had found their way onto lists used by fraudulent telemarketers, have agreed to tape record telemarketing calls they receive or to turn over their old telephone numbers so that undercover investigators can tape the telemarketers' pitches. When a law enforcement agency receives a tape of a telemarketer, the agency notes that a tape of the encounter is available and shares that information with other law enforcers through a program known as the National Tape Library. The Commission and other law enforcement agencies have used these tapes very effectively in law enforcement actions because they are often very incriminating and capture precisely the misrepresentations made by the telemarketer. Through the Commission's Consumer Sentinel database, the index of the National Tape Library is now accessible by means of the Internet to authorized law enforcement agencies, making it significantly easier for consumer protection agencies to learn of and share this incredibly valuable evidence.

In a similar effort to enlist older consumers in the fight against fraud, the Commission has joined with other law enforcers and AARP to form a public/private strike force to collect and review direct mail for future law enforcement purposes. Volunteers have agreed to send suspicious or fraudulent direct mail offers to AARP, where information about the offers will be entered into a database shared with law enforcement authorities.

CONSUMER EDUCATION

To leverage expertise and limited resources, the FTC has developed the Partnership for Consumer Education. The partnership is a cooperative umbrella effort among over 90 corporations, trade groups, consumer organizations, and federal agencies that have joined with us to help provide effective consumer education materials against fraud. With the assistance of our partners, the Commission has arranged for messages about fraud to appear in such diverse locations as sales catalogs, billing statements, classified advertising, and even on public transit buses.

Consumer education is important because a well-informed, alert consumer can avoid falling prey to many types of telemarketing con artists. It is important for older consumers to know their rights and to assert those rights when dealing with companies over the telephone. They should feel comfortable hanging up on any offer that sounds too good to be true.

The Commission's consumer education publications advise that it is an unlawful practice for a telemarketer to call a consumer who has indicated that he or she does not wish to receive calls from the selling organization. Our publications advise that if a consumer does not wish to receive subsequent calls from a particular company, the consumer should let those wishes be known by asking to be placed on the company's "do-not-call" list. The Commission's consumer education materials further inform that by law telemarketers that call consumers must disclose the seller's identity and that the purpose of the call is to sell goods or services. The materials state that consumers should be extremely wary whenever they receive a call from a telemarketer who does not promptly disclose this information.

One theme that is stressed in our consumer education materials is that consumers should hang up on any telemarketer who tells them that they need to send in payment to receive an award or to participate in a prize promotion. The Commission attempts to get the message to consumers that they do not have to pay to play. Another important theme is that consumers should never divulge their credit card numbers or checking account numbers over the phone unless they have agreed to make a purchase and they understand the terms of the purchase. The only reason a company ever needs a consumer's credit card or checking account number is to bill the consumer for the purchase. Also, the Commission's consumer education materials note that whenever possible, consumers may wish to make purchases by credit card so that they will have the protections afforded to such transactions by federal law. If the company fails to deliver goods or services paid for by credit card, the consumer is entitled to dispute the charge with the organization that issued his or her credit card, which is obligated to conduct an investigation of the consumer's complaint. Depending upon the result of that investigation, the consumer may be eligible for a credit or refund of the purchase price.

Another important point stressed in the Commission's consumer education materials is that consumers should be on the alert for high-pressure tactics or demands from a telemarketer for an immediate purchasing decision. Our materials also advise consumers to consider carefully any offer, to review any written materials, and to seek out advice from family or friends before making an expensive purchase.

If consumers are interested in reducing the number of solicitations they receive in the mail or by telephone, they may wish to contact the Direct Marketing Association ("DMA"), a private trade association that voluntarily maintains and supplies to its members lists of consumers who have indicated they do not wish to receive solicitations. Not all direct marketers use the DMA list to screen out consumers. Therefore, contacting DMA will not eliminate the receipt of mail and telephone solicitations, but it may help reduce the volume. The DMA's address is available via the Internet on the Commission's web site or through the Commission's Consumer Response Center.

The Federal Trade Commission or the state Attorneys General are the places consumers can contact if they lose money to a company engaged in fraud or even if they receive a solicitation which they believe is misleading or suspicious. While the Commission does not intervene in individual disputes, consumer complaints provide vital information that the Commission uses in developing its enforcement agenda and in determining whether a particular company is engaged in a pattern of deceptive practices or fraud, making it a suitable target for legal action.

CONCLUSION

The Commission's fraud program is of special interest and importance to this country's senior citizens, because the elderly often find themselves victimized by such operations. The Commission will remain alert to new schemes that target senior citizens and will continue its aggressive campaign against telemarketing fraud to prevent injury to all consumers, including the elderly.

Mr. PITOFSKY. As you know, the FTC is the primary agency at the Federal level authorized to challenge fraud and deception. We do so under section 5 of the Federal Trade Commission Act, and also we have been authorized by Congress to enforce about 20 other statutes mainly relating to credit practices, credit reporting, and other behavior that can affect consumers in the marketplace.

In recent years, we have paid special attention to various forms of marketing fraud, especially telemarketing, but also the new but growing trend toward fraud on the Internet. Victims of these frauds are of all ages, income levels, and background, but the elderly, perhaps because they have accumulated some money during a lifetime, perhaps for other reasons, are particular targets of this kind of fraud.

I have seen estimates that telemarketing fraud victimizes consumers to the tune of up to $40 billion a year. We are not talking about small potatoes here by any means. And I should say that the Federal Trade Commission was immensely aided in its enforcement efforts in 1994 when Congress enacted the Telemarketing and Consumer Fraud and Abuse Act and authorized the FTC to adopt a rule which defined and prohibited particular types of telemarketing fraud. An unusual and critically important element of that statute was the idea that the Commission would establish the rules, but then the Commission or State AG's could go into Federal court and enforce that rule. That has turned out to be an extraordinarily successful initiative and led to productive Federal-State partnerships in challenging telemarketing fraud.

Since 1996, we have brought over 100 cases attacking the most prevalent kinds of these frauds. We often do so in the form of sweeps. That is a strategy in which Federal and State authorities bring multiple simultaneous actions against particular kinds of fraud. In the last 2 years, there have been something like 20

sweeps and a total of 730 Federal and State enforcement actions. Among the sweeps that we have challenged most aggressively are prizes and sweepstakes promotions. Those seem to rise to the No. 1 spot in fraud year after year. Bogus charities, where the charity doesn't exist at all or the claim is the money is being contributed to some local charity, but the money never gets there. I must confess that I have been a victim of that particular kind of fraud more than once.

Investment and business opportunity frauds, the so-called get-rich-quick schemes, which I think target the elderly disproportionately, and recovery scams, which I think in some ways is the most pernicious of these kinds of frauds. What these people do is obtain a list of previous victims and then they call the victim up and say, "We are ready to bring a class action on your behalf to get the money back from your first fraud." And, of course, what they are doing is revictimizing the same people all over again.

Some of these frauds are astonishingly raw. There is one I heard about—we didn't bring the case because it was filed criminally—in which a group of telemarketers got hold of a list of people with early Alzheimer's problems and would call these folks up and say, "Where is the check? You forgot to send us a check." And they would collect money from these people. Now, that was prosecuted criminally, as it should have been.

For all the virtues of the Internet as the technology of the future, we also want to ensure that it doesn't become the hottest arena for garden-type frauds that I have just mentioned. We don't want people to get the idea that the intent is the unregulated frontier and anything goes there. So far, just in the last year or so, we have brought 25 cases involving fraud on the Internet, trying to nip these trends as early as possible, and mostly these are garden-variety frauds that have just migrated over to the Internet.

Let me mention briefly what we do when we decide to bring an action. It is usually in Federal court, and typically what we will try to do is obtain a temporary restraining order, get an asset freeze immediately, and induce the court to appoint a receiver. As far as the remedies are concerned, our principal remedy is to try to put these people out of business, to ban their activities, and we have been very successful on that score.

Another priority is to try to get the money back for the people who have been defrauded. We have had some success in that area. Over the last several years, we have managed to retrieve $37 million and restored it to consumers. But I must tell you, in all candor, most of the time, dealing with people like this, by the time we catch up with them, the money is gone and restitution is very difficult to achieve. I, therefore, believe that increasingly, in the more blatant types of these frauds, we should turn to criminal enforcement and that is what we have been doing. An outstanding example of that was a task force put together in Chattanooga about 1½ years ago in which we participated along with State and Federal criminal authorities, and that task force alone obtained 50 convictions.

Enforcement is not enough. I have heard several of the witnesses and you gentlemen say that in the long run, we have to think about consumer education, and I agree with that. I agree with that

not just because it restrains the growth of Government, but because in the long run consumers can protect their own interests, if they understand about these frauds, better than the Government can do coming along later on.

We have initiated a partnership for consumer education with something like 90 corporations, trade groups, consumer organizations, and other Federal agencies. I think we have reached some success in raising the sensitivity of people to the existence of these kinds of frauds, but we have a long way to go. It is also critical that consumers know that they have a place to complain. In that connection, we set up recently a Consumer Response Center at the agency and we now process something like 3,000 consumer complaints per week at the FTC.

Finally, there has been a reference to Consumer Sentinel. I think when these complaints come in, it is important that they go into a data base available to other enforcement authorities. The information is critical in identifying trends in fraud, targeting resources, knowing where we are and who the people are who are conducting these frauds. Just 1 month ago, the FTC, along with the National Association of State Attorneys General, set up something we call Consumer Sentinel. That is a data base which incorporates a great deal of the kind of information that I have described. And with your permission, Hughes Stevenson, who is an Assistant Director in our Division of Marketing Practices, is here and I would like to take a few minutes, if I can, to demonstrate this new Consumer Sentinel project.

Senator GREGG. Well, we would certainly like to see it. We have heard some good things about it.

Mr. STEVENSON. Thank you. Consumer Sentinel, which Mr. Maroney had also referred to in his testimony, is a multiagency project. This is something that was developed as part of the United States-Canada Working Group on Telemarketing and Cross-Border Fraud that was set up last year and that the earlier witnesses referred to.

The aim of this project and of the forerunner NAAG–FTC project is to build a law enforcement network infrastructure for law enforcers to share information about consumer fraud. The data for this network comes in from several sources in the United States, and now Canada, including the FTC's Consumer Response Center. The data goes out to law enforcers through a secure Internet web site.

[The information follows:]

CONSUMER SENTINEL BINATIONAL TELEMARKETING NETWORK

HOME

COOPERATIVE UNITED STATES-CANADA EFFORT

Consumer Sentinel is a joint project of the National Association of Attorneys General and the United States Federal Trade Commission, in cooperation with CanShare and PhoneBusters. The goal of this telemarketing enforcement initiative is to share consumer protection information among law enforcers throughout the United States and Canada.

Access to this secure website is restricted to law enforcement personnel whose agencies have executed a confidentiality agreement and who have registered for site access with the Federal Trade Commission.

The About page describes in greater detail the databases and features of Consumer Sentinel.

Talk to Us. Your questions and comments are welcome.

Complaints

Search for Complaints

COMPANY

Name: Millions 4 **Phone#:**

Address:

City:

State/Prov: **Country:**

Zip:

Rep Last Name:

CONSUMER

State/Prov: **Country:**

COMPLAINT

Product/ Service:

Contact Type:

Find Complaints | Clear Search

Enter as much or as little information as you want in the search fields. At least one character in one field must be entered before submitting a search. The percent '%' symbol can be used as a wild card. For example MILLION% returns "MILLIONARES CLUB", "MILLIONS4U". Using %MILL% returns those and "BE A MILLIONAIRE,INC". To add complaints to the database please Talk to Us.

Complaints

SIMULATED RESULTS

This confidential information is for law enforcement purposes only, and is disclosed subject to the terms of the confidentiality agreement signed by the user's agency.

Complaints

Company Name	Company St/Prov	Product/Service	Org Code	Entry Date	Consumer St/Prov
Millions 4 Nothing	CA	Prizes\Sweepstakes\Gifts	1144	01-JAN-98	NH
Millions 4 Nothing	CA	Prizes\Sweepstakes\Gifts	CL01	12-DEC-97	SC
Millions 4 Nothing	CA	Prizes\Sweepstakes\Gifts	CL01	11-NOV-97	SC
Millions 4 Something	NH	Prizes\Sweepstakes\Gifts	1144	01-DEC-97	MA
Millions 4 You	PQ	Inventions\Idea Promotions	PHNB	13-JAN-98	ON

Query Returned 5 Complaints

Complaints

SIMULATED RESULTS

This confidential information is for law enforcement purposes only, and is disclosed subject to the terms of the confidentiality agreement signed by the user's agency.

Complaint Details

Product/Service: Prizes\Sweepstakes\Gifts

Comments: Company notified consumer won $25k. Company asked for finders fee, which consumer sent. Consumer never received promotional prize.

Organization: Marketing Practices Division - (1144)

Entered By: JDOE **Entry Date:** 01-JAN-98

Companies

Name: Millions 4 Nothing

Addr Line 1: 1234 Steal It All Ave

Addr Line 2: Suite 101

City: MONEYVILLE **State/Prov:** CA **Zip:** 09876 **Country:**

Rep Name: SueMe Johnson

Consumers

Name: Dillard DeMillionair

Addr Line 1: 245 Happy Lane

City: Freeport **State/Prov:** NH **Zip:** 00854 **Country:**

Home Phone: (603) 555-1234 **Work Phone:** () -

Tapes

This confidential information is for law enforcement purposes only, and is disclosed subject to the terms of the confidentiality agreement signed by the user's agency.

National Tape Library Tapes

Enter query criteria for National Tape Library Tapes

Company Name: Millions 4 Nothing
Address:
City:
State Code:
Zip:
Phone:
Rep. First Name:
Rep. Last Name:
Date of Tape: to
Tape Number:

Find Complaints | Clear Search

Alerts & Orders

Alert Input Form

Enter your Alert here. Please do not include the names of any consumers in your alert. We plan to remove alerts which have been available on the system for more than six months. If you desire you can re-enter you alert at that point.

Full Name: John Doe

State/Province: NH (two characters)

Agency: New Hampshire Office of Attorney G

Date of Alert: 02/03/1998 (MM/DD/YYYY)

E-Mail Address: jdoe@somewhere.gov

Subject of Alert: Millions 4 Nothing

Please Enter Details Here:

Is anyone investigating the company Millions 4 Nothing?
Please contact me with any information, by phone
603-555-1234.

Submit Reset

To View Alerts

CONTACTS

List of Member Organizations that have executed a confidentiality agreement.
List of Individual Users.
List of agencies and personnel interested in pursuing cross-border fraud.
List of Video Conferencing Facilities.

PUBLICATIONS

FraudBusters, a newsletter by and for the users of the Consumer Sentinel.
NAAG Telemarketing Bulletin, a bi-monthly publication including items on state and federal telemarketing fraud laws, lore, news, initiatives, and trends.
FTC Consumerline, consumer publications on a variety of issues from the FTC Office of Consumer and Business Education.
U.S. Consumer Gateway, consumer information and links organized into categories covering food, health, product safety, your money, and transportation.
Cross-Border Fraud Report of the United States-Canada Working Group on Telemarketing Fraud.
We welcome your suggestions for additional publications. Talk to us.

Mr. STEVENSON. Now, this is what the web sites looks like. This is the home page of the web site. The real, live data is just now up on the Internet. It is password-protected, encrypted, and the access to it is limited to law enforcers. What this site provides is the ability to jump-start a telemarketing investigation and to coordinate that investigation with the many other cops on this particular enforcement beat.

Now, what in country terms can you do here? Let us imagine that you are investigating a company called Millions 4 Nothing and you are a New Hampshire AAG or FBI agent or postal inspector. The first thing you can do is search for consumer complaints. You

can search a data base of 100,000 consumer complaints. You can search by location, by subject matter, by various other criteria, and in our simulation here we are showing a search by the name of the company on the live site. The search would typically take 5, 10 seconds, and what it comes back with is a summary of the information that is available on the site. You click on the company name for each of those complaints and you get all the details that have been entered. What this gives investigators and attorneys is a road map, a list of potential witnesses, of potential victims. And then once you have got your witness list, you can go to the tapes functionality and you can search here an index of more than 11,000 undercover tape recordings. These are tapes when victims such as the ones that Mr. Maroney described have been repeatedly hit, forward their calls to law enforcers who pose as victims and tape the sales pitch. This can be devastating evidence—in fact, has been devastating evidence in a lot of criminal and civil injunction matters.

Then once you have got your tapes and your witness list, you can send out an alert to the other law enforcers online and say, for example, "I am investigating Millions 4 Nothing," or "I am investigating the sales reps involved," or any other information you want to share with the other people online. You can also search the other alerts that have been entered. Has anybody else expressed an interest in this company, in this kind of practice, or what have you?

Well, now let us suppose that Millions 4 Nothing is located in Edmonton, Alberta, and if you are an AAG, you don't have much cause to know the law enforcement in Edmonton, Alberta. Indeed, Mr. Maroney suggested the problems of making a quick contact with somebody in Texas. What you can do here is go to the contact lists and find helpful people where the company is located or where the drop box is located, and what have you, and the relevant law enforcement organizations and take that information so you have someone on the ground where the company is located.

Well, now let us further suppose that Millions 4 Nothing involves a kind of fraud you have never investigated before, never prosecuted before, you haven't dealt with. You can go to the publications page here and search a variety of newsletters and consumer bulletins and other material that describe the various kinds of fraud, describe the various steps that other people have taken. For example, you can look at FraudBusters, which is the Consumer Sentinel newsletter, and in that you find articles written by attorneys and investigators from a variety of law enforcement agencies and other organizations on the various trends in fraud and the kinds of steps, enforcement sweeps and that kind of thing, that people have taken to combat that.

So, basically, what you have gotten is you have got the makings of a case, the beginnings of a case. You have got a way to coordinate the investigation of that case and the prosecution of that case. And you have gotten that not in weeks and not after dozens of phone calls, but you have gotten that in hours, maybe even a matter of minutes. And what this means as a bottom line is that the con-artist's basic game plan of staying one step ahead of law enforcement just got harder.

Thank you.

Senator GREGG. Thank you. That is effective and up and running now?

Mr. STEVENSON. Yes, it is, and we are just in the process of getting the individual users hooked up. We have a predecessor NAAG–FTC system where we had it already hooked up, hundreds of users, and we are moving toward this system which is more data, more user friendly, and it is up and running now.

Senator GREGG. You say it is limited to passwords. Wouldn't the first thing that a really sophisticated telemarketing scam person would do is to break into the system?

Mr. STEVENSON. They might try to do that, and for that reason we took extra pains to develop not just a password-protected system, but an encryption-protected system. We are using encryption software that one has to obtain from us in order to access the system. So we have that double check to prevent just the kind of thing that you are talking about.

Senator GREGG. But, of course, to make it successful, you have to make it broadly available. So how do you adjust to those two competing interests?

Mr. STEVENSON. Well, with today's technology, it is possible to use this kind of software and deliver it to the people we have identified—for example, our existing users, the several hundred existing users—and get the instructions for getting the software to them, so that the process is not that elaborate and yet it is a firewall against the kind of intrusion that we have to worry about from telemarketers.

Senator GREGG. Now, Mr. Maroney has said this is a great boon to the effort. So do you need anything from this committee to make it even more successful?

Mr. PITOFSKY. I don't think so, Senator. It is not an expensive proposition. It is just imagination and good work by the staff here. It has only been up for 1 month. I think we ought to let it run. It is very promising and let us see how it works out.

Senator GREGG. We talked a little bit with Ms. Boosalis about the 800 number issue. You don't have an 800 number at FTC, do you?

Mr. PITOFSKY. We do not.

Senator GREGG. Do you have the capacity to handle an 800 number? Where should this 800 number—should you have one, should the consumer group have one, should AARP have one, or should there be one central——

Mr. PITOFSKY. Well, I certainly think it would be a useful thing. We have a Consumer Response Center and we are processing 3,000 calls a week, I believe it is, but I think it would be better if we had an 800 number. It is really a matter of budget. It is not in our appropriation.

Senator GREGG. What type of resources would you need to support such a number, and would you do it in conjunction with the AARP, for example?

Mr. PITOFSKY. Well, I would think we would do it in conjunction with other groups. I am not sure how we would work it out. I am told by the staff that in the first year, there would be some startup costs. It would probably run between $2 and $3 million to set up

an 800 number. I think it would be a good investment and in later years, it would be slightly less costly.

Senator GREGG. Well, it is basically people intensive, except that now they have all these answering services. But, still, at some point you have got to talk to a person because that is the whole concept behind this one especially, right?

Mr. PITOFSKY. Exactly.

Senator GREGG. Senator Hollings.

Senator HOLLINGS. Chairman Pitofsky, in addition to the 800 number and in addition to the increased penalties that you have attested to, is there anything else that we can do? What else would you have us on this committee do to help you?

Mr. PITOFSKY. I don't think there is more to be done with respect to legislation. I think Congress did what was necessary when it passed the Telemarketing Regulation Act 2 or 3 years ago. It is really a matter of our enforcing the law. I don't think another law is going to solve this problem. I do think aggressive enforcement, a high level of cooperation between the States and the Federal Government, which we have now, is essential. And I think, long term, we have to use our imagination and resources on consumer education.

One of the reasons we engage in these sweeps is because they get a higher level of publicity and the newspapers essentially carry our message that you have to worry about certain kinds of frauds. We ran a sweep quite recently—it really doesn't affect the elderly especially—but where the suggestion over the phone would be that there is scholarship money just waiting to be claimed by young, poorer people coming out of high school. Now, as a matter of fact, their list was obsolete. There was virtually no money there and, of course, they would ask you for a certain amount of money in order to obtain access to this list.

What we did is, first of all, we challenged the people who were engaging in this illegal behavior. We also got in touch with as many high school career advisers as we possibly could and let them know that this fraud was in the air. It is a particularly pernicious fraud because there is money out there; there is scholarship money out there and young people do need it. But you have got to deal with reputable people, and I think we were quite successful in alerting these high school advisers as to what the problem was.

Senator HOLLINGS. What has been the sentence of those convicted in your cases, and so forth? I am trying to get a grasp of this. You have caught me. Now, I get 1 year in jail, 10 years, or don't get a jail sentence or I get probation and a pat on the back, or what?

Mr. PITOFSKY. Well, first of all, let me be clear about this. We have no criminal enforcement authority, so we are limited to civil remedies. Criminal enforcement would require the Department of Justice, or I guess some States could engage in that.

Senator HOLLINGS. I should have asked the attorney general. Do you have any idea what the sentence is right now?

Mr. PITOFSKY. I don't. I think the sentences are getting more serious.

Senator HOLLINGS. General Maroney is gone, I guess.

Senator GREGG. No; I think he is sitting back there.

Mr. MARONEY. I don't have a really coherent answer to that across the board. I think the issue is going to depend a great deal on the amount of money taken in any given situation. You know, you are going in with a straight felony.

Senator HOLLINGS. Or the recidivist nature; in other words, running from Maine to New Hampshire to the next State and the next State.

Mr. MARONEY. And they will depend to some extent on whether it is being brought as a Federal crime under the Federal sentencing guidelines or whether they are being brought in State court. And, quite frankly, I suspect—although we have not brought a pure criminal action in New Hampshire—I suspect that some level of education is going to be necessary even at that level to convince our State court judges, who have greater discretion than some of the Federal court judges may in sentencing, that we are dealing with a serious crime even if we are walking in with, as the detective pointed out, a $3,000, one-time, seemingly small-potatoes penalty. You know, that may not even be a jail-time penalty at the State level the first time a court sees it. If you had some recidivism or that kind of thing, you may be able to jack yourself up into some jail time, but it is not guaranteed.

Senator HOLLINGS. Thank you, Mr. Chairman.

Senator GREGG. Thank you.

Mr. PITOFSKY. Senator Hollings, in the one joint effort on criminal enforcement, the Chattanooga task force, I am told by the staff that the average penalty—there were 50 convictions—the average was 3 to 4 years.

Senator HOLLINGS. Three to 4 years?

Mr. PITOFSKY. Yes.

Senator HOLLINGS. Make it longer by far. They don't mind.

Senator GREGG. Well, I thank you, Mr. Chairman. I certainly recognize that you folks are doing a good job in trying to address this issue, and we congratulate you for that and the purpose of this committee is to support you in that. So if you have ideas or additional initiatives that you want to pursue, please tell us about them. Our purpose here is to make it very clear that the Federal Government and the agencies which the Federal Government is able to bring to bear on the issue of telemarketing crime and Internet crime and other types of scams, especially those run against senior citizens, are going to be addressed aggressively, and we intend to do that. We have to do it through public relations efforts and obviously through messages like "just hang up." We have to do it also through making it clear to the perpetrators that they are at risk. Certainly, the FTC is aggressively pursuing that course.

We congratulate the State agencies which are playing such a vital and critical role on this, and certainly thank Mr. Maroney and Mr. Phillips for coming and testifying today and reflecting on some of the specific instances, but also some of the ways that we can try to work better with our neighbors in Canada and our neighbors in Massachusetts and Maine. In South Carolina's instance, it appears some problems are occurring in New York City. So this cross-jurisdictional issue is a major issue that we also need to focus on and will be focusing on.

But, again, congratulations for the effort the FTC is putting into this and the AARP is putting into this. Our purpose is to work with organizations like the AARP and the FTC and State attorney general offices to make sure that we are committing the resources necessary and doing the education necessary to bring people up to speed that there are folks out there who are abusing the use of the telephone and the use of the Internet. People have to be on their toes before they start sending anybody any money as the result of a telephone conversation or a communication over the Internet.

Thank you very much.

Mr. PITOFSKY. Thank you, Senator.

LETTER SUBMITTED FROM KEENE, NH, POLICE DEPARTMENT

Senator GREGG. The subcommittee received a letter from Officer John F. Stewart of the Keene Police Department which will be inserted in the record at this point.

[The information follows:]

LETTER FROM OFFICER JOHN F. STEWART, TRIAD COORDINATOR, KEENE POLICE DEPARTMENT

FEBRUARY 2, 1998.

Senator JUDD GREGG,
C/O Matthew Leahy,
Concord, NH.

DEAR MR. LEAHY: I am in receipt of your fax and have forwarded the information to the Captain of Operations. I will get back to you tomorrow with an answer as to whether or not I will be able to attend the hearing. I am enclosing some information that may be of some help to Senator Gregg. This is some of the information that I would have presented at the hearing.

As you know in May 1995, the Keene Police Department, in conjunction with the Cheshire County Sheriff's Department and the members of the Keene Senior Center, signed a TRIAD Agreement. It was implemented as an additional program to combat the victimization of the Senior Citizens here in Cheshire County. Within this TRIAD, there is a S.A.L.T. Council, which stands for Seniors and Law Enforcement Together. This S.A.L.T. Council consists of myself, a member of the Cheshire County Sheriff's Department, and members of the Keene Senior Center.

We have come a long way since the implementation of this program. We are now considered a non-profit organization under our parent organization, the Keene Senior Center. We have received numerous monetary contributions from local area businesses and private organizations which has allowed us to provide various services to the senior citizens of Cheshire County, which otherwise would not have been possible. For example: we recently purchased 2,500 File of Life, refrigerator cards which contain pertinent medical information about senior citizens. If ambulance or emergency personnel are to respond to a senior citizen's home and find that the individual is unable to provide medical information, they can now locate this information on the File of Life refrigerator card, thus saving valuable time.

We have given numerous informational seminars and lectures to various organizations that deal with elderly citizens and various senior citizen housing complexes within Cheshire County. These have all been very well received.

Some of the areas we have focused on are: What the TRIAD Program is all about, Scams and Frauds, Personal Safety, and Home Security to name a few.

I have received some very interesting responses from the senior citizens I have spoken to regarding their views on Scams and Frauds. Many of the Seniors are familiar with the more familiar scams such as the Fake Contest used to get their Credit Cards numbers, Bank Account number, or Social Security numbers, the Roofing Scams, or the City Inspector Scams, but many are not knowledgeable in the specifics of each kind and how many of each there actually are.

For example: In my lectures I use the example of the psychic hotlines that state they are giving free readings for "X" amount of time. Of course the seniors say they realize what those are and say they would never call them, others have called before.

I explain that you first need to call a 1–800 number and are then given a 1–900 number to call for the actual reading. Many don't realize they are now actually calling a 1–900 number and getting charged for the call. Now scam artists may realize this also and develop a way to get you to call their 1–900 number by masquerading their scam as a psychic hotline. They are amazed that this actually happens. Many do not realize that they get charged for the 1–900 number dialed because they originally dialed a 1–800 number.

I also inform them that at the time of the actual scam, this is probably not the first time they have ever been contacted by the scam artist. Scam artists usually try to get information about their potential victim prior to the actual scam taking place. This could be done through mailing lists, the internet and surveys. I explain that many of the surveys will ask general questions in the beginning of the survey, such as, "Do you own a home * * *." "Do you drive a car * * *." "How far do you drive to work." The scam artist will then get into specific questions like, "Do you have a checking account * * *." "Do you use an ATM machine often * * *." "Do you have a Mastercard or Visa * * ." "Which bank do you bank at * * *." The answers to these questions can tell a lot about a person and their habits. I always get one or two people that do not think it could happen to them, but I only ask one or two questions and I have all the information I need to start my scam on them.

I explain that the first 4 digits of a certain credit card number is specific to that credit card organization. The numbers 5424 is specific to Mastercard, 6011 is specific to a Discover Card etc. * * * I explain that if the scam artist has these 4 numbers they have a third of your credit card number. The question, "Where were you born and raised * * *" will tell the scam artist the first 3 digits of your social security card. The question, "When you were born * * *" will give them the necessary info to gather the rest of the number if they are persistent enough to look for it. I tell them that we now live in the information age, if someone wants to get your info, all they need is a small amount of information from you to begin the search.

Another example I use is the charitable scams. I explain that all a scam artist needs to do is read the obituaries. All the necessary information they need to have is located there. Who are the living relatives and where do they live? What the person died from. Where they lived prior to their death.

I explain that if a loved one recently died of cancer they may receive a call or a letter from a scam artist stating they are from the United States Cancer Association looking for contributions for their charitable organization. The victim, wishing they could have helped their loved one, feels that maybe by giving to the charity, they will have done some good. What they do not immediately realize is that the United States Cancer Association is a fraudulent organization, but sounds like the legitimate organization called the American Cancer Society. Many victims have fallen into this trap but never even realized they had been scammed.

This is a common concern amongst seniors. Many seniors do not know the fraudulent organizations from the legitimate ones. Many legitimate organizations mail out pamphlets and brochures telling them about the specifics of their organizations, but so do scam artists who create pamphlets and brochures to mimic these organizations. With the use of computers and software, scam artists can practically duplicate a pamphlet from a legitimate organization right from their own home. People who are not familiar with these will be taken.

One way to combat this type of victimization is to pass legislation that prohibits persons and or organizations to mimic or otherwise try to pass themselves off as other persons and or organizations, without first warning the person that they are not associated with any other organization. For example, The National Football League is a very well known organization. It would be illegal for an organization called the National Football Association to solicit money or items from a person or organization who believed that the National Football Association was related in some way to the National Football League.

The new legislation would state that "Any person and/or organization that tried to solicit funds or other items using a name similar to that of another person and/or organization, in that a reasonable person would be lead to believe that the said organization was actually another, would be illegal, unless said organization stated either verbally or in writing that it was not associated in any way to the organization it closely resembled."

Many law enforcement organizations make informational pamphlets and brochures that target these specific concerns, but because there are so many variations to each of these scams, it is impossible to write a brochure or pamphlet to document all of them.

To combat this problem the Keene TRIAD Program has turned to personal lectures and informational seminars on the subjects of Scams and Frauds. By utilizing

these types of lectures, seminars as well as informational pamphlets and brochures, it gives us the opportunity to answer specific questions from seniors and the ability to pass out general information at the same time.

We recently had a scam letter going around the Keene area from Nigeria asking for money to be sent to a specific organization. The victim needed to send money to this organization in order to receive a substantial amount of money in return. Realizing this was a scam, the TRIAD Program placed a copy of the actual letter in the newspaper. As a result of this, we received numerous phone calls regarding this letter. With this information, we were able to track the progress of the scam and the exact locations it was being sent to. I believe that the letter was unsuccessful in this area as we have not had any complaints regarding this letter for some time now.

However, there was a "copy cat" letter that was similar to the one sent from Nigeria that we receives several questions on regarding its legitimacy. Even though the letters were similar in style and intent, many people felt that since it was not from Nigeria, it may be a valid letter.

I realize that I am unable to provide you with all of the aspects of the Keene TRIAD Program and what we have to offer the senior citizens of Cheshire County in this letter. If you have any questions regarding the program please feel free to contact me at the Keene Police Department at 357–9815.

Thank you for your interest in this program and what it has to offer. It is interest such as yours that keeps programs like this alive and available to the citizens who need it most.

Sincerely,

OFFICER JOHN F. STEWART,
TRIAD Coordinator, Keene Police Department.

CONCLUSION OF HEARING

Senator GREGG. If there is nothing further, the subcommittee will stand in recess.

[Whereupon, at 11:35 a.m., Tuesday, February 5, the hearing was concluded, and the subcommittee was recessed, to reconvene subject to the call of the Chair.]

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