



Providing Services to Victims of Fraud: Resources for Victim/Witness Coordinators

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Victims of Fraud:**

**Resources for
Victim/Witness Coordinators**

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Foreword

As a nation, we can be proud of the thousands of victim assistance programs that have been established to assist the tens of millions of persons living in America who fall victim to criminal acts each year. Given the limited funding to hire staff to address the emotional, physical, and financial consequences of crime to all of its victims, it is understandable that the vast majority of program dollars have been dedicated primarily to assisting persons victimized by violent crime. However, each year, more than 24 million persons become victims of more than 38 million fraud crimes and attempted fraud crimes.¹ Victims suffer very real emotional trauma and financial devastation as a result of these acts. Therefore, the criminal justice system, and the federal criminal justice system in particular, can no longer ignore fraud victims' need for support and informational services.

Currently, victim assistance professionals have at their disposal little information about the emotional and financial needs of fraud victims and few practical resources to help them develop comprehensive assistance programs and services for fraud victims. Recognizing the need for the development of these critical resources, the U.S. Department of Justice, Office for Victims of Crime (OVC), and the Police Executive Research Forum (PERF) have worked collaboratively to produce a comprehensive resource package to enhance services to fraud victims in the federal criminal justice system.

The resource kit, titled *Providing Services to Victims of Fraud: Resources for Victim/Witness Coordinators*, consists of a brochure, handbook, video, and guidebook. We are confident that the kit will give federal personnel who work with victims of fraud the resources they need to build effective, sensitive, and fraud-specific victim assistance programs and services.

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¹ Ted R. Miller, Mark A. Cohen, and Brian Wiersema, *Victim Costs and Consequences: A New Look*, National Institute of Justice Research Report, U.S. Department of Justice, Office of Justice Programs, February 1996, p.7.

Contents of the Resource Kit

Providing Services to Victims of Fraud: Resources for Victim/Witness Coordinators contains a variety of informational materials for both the victims of fraud and federal personnel who assist them throughout the federal justice process. The resource kit has been developed primarily for victim/witness coordinators housed in U.S. Attorneys' offices. However, the resources are also suitable for use by other federal personnel mandated to provide services to victims of federal fraud crimes.

Two of the kit's resources are designed for distribution to the victims of fraud. The remaining two are designed to help all federal criminal justice personnel, especially victim/witness coordinators, understand of the emotional, financial, and informational needs of fraud victims.

Specifically, the resource kit includes the following:

- **For victims and witnesses, a pamphlet titled *Information for Victims and Witnesses Who Report Fraud Crimes*.** The pamphlet, designed for distribution by federal investigative agencies, provides victims with
 - general information about their right to receive information about the status of their case;
 - a description of common emotional responses experienced by fraud victims;
 - answers to questions most often asked at this stage of a complaint, including how to address credit problems and document financial losses; and
 - a list of agency referrals for additional assistance and support, including credit reporting agencies, counseling services, and hotlines for reporting fraudulent practices.
- **For victims and witnesses, a handbook titled *Rights, Roles and Responsibilities: A Handbook for Fraud Victims Participating in the Federal Criminal Justice System*.** The handbook expands on the information contained in the pamphlet, covering
 - victims' roles, rights, and responsibilities during the criminal prosecution of a case;
 - the federal justice process;
 - support services available to fraud victims in the federal justice system;
 - the emotional impact of fraud victimization;
 - frequently asked questions about the process;
 - national organizations and government agencies that provide services regarding fraud crime;

- suggestions on how to address credit problems;
 - a glossary of legal terms;
 - case contact information; and
 - guidelines for documenting financial losses.
- **For federal criminal justice personnel, an educational video titled *Victims of Fraud: Beyond the Financial Loss*.** The video focuses on the emotional and financial impact of fraud crimes and emphasizes fraud victims' need for access to the criminal justice system.
 - **For federal criminal justice personnel, a comprehensive guidebook titled *Providing Services to Victims of Fraud: Resources for Victim/Witness Coordinators*.** The guidebook contains a variety of effective program service strategies, suggestions to enhance services by federal personnel to victims of fraud, and referrals to outside agencies and programs that provide fraud victims with services or information. Many of the suggestions contained in the guidebook are already in practice in some U.S. Attorneys' offices; other suggested services will be new to victim/witness coordinators.

Both the pamphlet and the handbook are provided as master print copies in the resource kit. Any local printer or business copy center should be able to customize the documents with agency logos, contact information, or artwork.

Acknowledgments

This victim/witness coordinator's guide, *Providing Services to Victims of Fraud: Resources for Victim/Witness Coordinators*, became a reality through the dedication and hard work of one author and many contributors. Our deepest gratitude goes to **Ellen Alexander**, nationally recognized victims' advocate, who was willing to take on the responsibility of writing major portions of the guide and compiling all the information. For the identification and drafting of portions of earlier versions of the guide, special thanks go to PERF Research Specialists **Molly McConville** and **Ryan Turner**. Able editing and follow-up research were performed by **Peter Ohlhausen** of Ohlhausen Research, Inc.

We also want to thank several people who helped us locate relevant information so that the guide would be as comprehensive and inclusive as possible: **Debbie Deem**, currently victim/witness coordinator for the United States Attorney's Office in Los Angeles (and formerly in San Francisco); **Lisa Nerenberg** of the Goldstein Institute on Aging in San Francisco; **Hazel Heckers** of the Denver Victims Service Center; and **Jodi Bernstein** of the Federal Trade Commission.

Especially important sections of the guide address Department of Justice policy on the separate remedies of restitution and asset forfeiture. Federal restitution policy became a central issue for this project, and we are indebted to **Julie Breslow** and **Kristen Tolvstad** of the Executive Office for United States Attorneys for helping us set forth an accurate description of the policy in the clearest and simplest terms possible. Regarding forfeiture policy, we are grateful for the assistance provided by **Nancy Rider** and **Karen Vogel** of the Asset Forfeiture and Money Laundering Section, Department of Justice, and for the earlier assistance of **Larry Fann**, formerly with the FBI Asset Forfeiture Unit, in drafting sample remission forms for fraud victims.

A very central project activity was the review and oversight of materials by the Justice Department ad hoc working group. Members of the group who have participated in this project for the past two years include the following:

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We want to express our deep appreciation to these members of the working group, who reviewed the initial outline and plans for the guide and offered valuable suggestions for items that should be included and policy issues that needed to be addressed.

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I. Fraud Crime: Costs, Perpetrators, and Victims

Fraud is an insidious crime. Commonly defined, fraud is an act in which attempts are made to deceive with promises of goods, services, or financial benefits that do not exist, were never intended to be provided, or were misrepresented. And each year, tens of millions of people fall prey to fraudulent schemes and practices. It is estimated that as little as 15 percent of all fraud crimes are reported to law enforcement authorities.²

The financial cost of fraud crime, to both its victims and the American public, is astronomical. Losses for telemarketing and direct personal marketing fraud schemes alone are estimated to be more than \$40 billion annually. Check fraud accounts for additional yearly losses of at least \$815 million, more than 12 times the \$65 million taken in bank robberies annually—and these represent only two examples of common fraud schemes.³

A. Emotional Consequences of Fraud

The emotional ramifications of fraud crime can be even more costly. Fraud victims often suffer

- Self-blame,
- Shame,
- Guilt,
- Societal condemnation and indifference (the attitude that victims of fraud deserve what they get as a result of their own greed and stupidity), and
- Isolation (when victims suffer their losses in silence rather than risking alienation and blame from family members, friends, and colleagues).

B. Who Are the Victims of Fraud?

Not all fraud victims are greedy, risk-taking, self-deceptive individuals looking to make a quick dollar. Nor are all fraud victims naive, uneducated, or elderly. Victims of fraud come from a variety of racial, age, gender, religious, socioeconomic, and educational backgrounds. And smart perpetrators prey on those differences. For example fraudulent telemarketers often target the elderly as potential victims, not because they are greedy, but because they are more likely to

- Have money, property, savings, and investments;
- Be home to receive phone solicitations; and

² Ibid, p. 12.

³ Ibid, p. 13.

- Remain on the phone longer to hear fraudulent sales pitches (due to loneliness).

Younger, educated adults may be targeted because of a

- Lack of maturity and experience that would help them recognize fraudulent pitches,
- Desire to increase their standard of living quickly, and
- Lack of information about financial investments or purchases.

Other victims are targeted because of certain personality or character traits that may increase their risk for fraud victimization. These include

- Compassion,
- Respect for authority figures, and
- Unsuspicious natures.

C. Who Are the Perpetrators of Fraud?

Fraud perpetrators vary as much as the victims they target. Like their victims, fraud perpetrators come from every educational, geographical, racial, religious, gender, and socioeconomic background.

Contrary to popular belief, most fraud perpetrators are not slinky, shady characters who perpetrate their crimes under the cover of night. Today's fraud perpetrators are often trained professionals who are good at what they do—stealing money and assets from people. Fraud criminals often do their homework by

- Joining professional organizations,
- Participating in community events (to legitimize their schemes and develop trust with potential victims),
- Keeping abreast of current events (to appear knowledgeable about cutting-edge technologies, legitimate financial investments, and business practices), and
- Assuming an “affinity” with their victims (emphasizing their common age, culture, education, race, or financial or social status).

Their weapon of choice is not a gun or a knife, but slick publications, marketing materials, prospectuses, computer and communications technology, and well-rehearsed sales pitches. Many fraud perpetrators use their community and professional credibility and respectability to con, swindle, and deceive family members, friends, business colleagues, and other members of the community with whom they have formed a relationship.

D. Types of Fraud

Long struggles to repair damaged credit reports and repay staggering debts can begin with something as simple as a fraudulent phone call offering pre-approved credit cards, free merchandise, vacations, or credit for persons with less-than-perfect credit histories.

Crimes of fraud vary. Most of us are familiar with crimes involving bogus vacation opportunities or fly-by-night home repair companies. However, these highly publicized fraudulent acts represent only a small fraction of fraudulent practices. The creation of new fraud schemes is limited only by the creativity of perpetrators, and Internet access has exacerbated the proliferation of fraud schemes by expanding the potential fraud audience.

Not all fraud crimes involve the direct selling of goods to customers. The following are some examples of common fraudulent practices:

- Advance fee schemes
- Mail fraud
- Computer fraud
- Health care
- Insurance fraud
- Pension and trust fund fraud
- Credit card fraud
- Check fraud
- Charity fraud
- Home repair schemes
- Identity theft
- Land schemes
- Embezzlement
- Securities and investment fraud (including commodities fraud)
- Telemarketing fraud
- Reverse mortgage fraud

E. The Hidden Cost of Fraud

The ravages of fraud crimes are clearly documented. At best, fraud crimes and fraud perpetrators leave people distrustful of legitimate business opportunities and investments. At worst, fraud crimes destroy the financial and emotional lives of victims. But steps can be taken to reduce the risk of fraud victimization and to address the needs of fraud victims:

- Consumers can better educate themselves about responsible business practices, increasing their ability to make sound purchasing and investing decisions.
- The criminal and civil justice systems can levy harsh punishments and financial penalties against perpetrators, sending a clear message to other fraud perpetrators that these crimes will not be tolerated.
- Society can look more favorably on victims of fraud to reduce the shame and guilt victims often feel. Society can also provide responsive and supportive services as victims seek to retain or regain their financial stability.

II. The Critical Role of Victim/Witness Coordinators in Providing Criminal Justice-based Services to Fraud Victims

Victim/witness coordinators play a critical role in reducing the fear, stress, anxiety, and frustration that are often experienced by fraud victims whose cases are approved for prosecution. One effective method is to provide information about the justice system and offer case status updates. Another method is to provide fraud victims with referrals to governmental and community-based victim assistance programs that provide additional emotional support and, in some cases, financial assistance.

Some victims experience little anxiety about participating in the criminal justice system and do not suffer substantial financial loss or emotional trauma as a result of a fraud crime. Such victims may need only minimal services from the victim/witness coordinator. However, other fraud victims suffer such severe financial and emotional devastation that a full range of victim-related support and information services is required. This guidebook has been developed to provide victim/witness coordinators with suggestions and recommendations to better meet the needs of those victims. Therefore, where appropriate and allowed, victim/witness coordinators may wish to consider providing the following criminal justice-related support and informational services to fraud victims:

- Notification of case status (confidentiality permitting), including arrest; subsequent bail determination; dates, times, and locations of court proceedings; and information about the conviction, sentencing, imprisonment, and release of the offender
- Referrals to agencies or organizations that provide mental health, financial, or social services
- Referrals to address credit repair, including creditor/landlord intervention where appropriate
- Assistance in making appointments to speak with the Assistant U.S. Attorney handling the case, where necessary and practical
- Information about court appearances (including the process for testifying, who will have an opportunity to question the victim or witness, whether the defendant will be in the courtroom, the likelihood of numerous continuances, etc.)
- Courtroom tour, where practical
- Information about being placed “on call” for court attendance
- Court accompaniment, where practical
- Assistance in arranging travel to court for victims who live out-of-state or who, because of age or disability, require additional transportation assistance

- Assistance, where practical, in arranging child care or respite care (of a dependent adult) to enable victims to attend court
- Information on reimbursement for food, lodging, and travel-related expenses (if these costs are not paid directly by the government)
- Information about submitting written victim impact statements and, where permissible, orally addressing the court at sentencing
- Information about how to request and receive restitution, including determining eligible losses, submitting allowable losses to the court, amending restitution ordered by the court, and enforcing restitution orders
- Information about enrolling in the Bureau of Prisons Victim Notification Program, where appropriate

Additionally, fraud victims should receive information about the federal criminal justice system and victims' rights in the justice process, as found under 42 U.S.C. 10606. Specifically, victims of a federal crime have the right to

- Be treated with fairness and with respect for their dignity and privacy;
- Be reasonably protected from the accused;
- Be notified of court dates, unless there are material reasons why they should not be present;
- Be present at court hearings, unless their presence will materially affect proceedings;
- Speak with the government's attorney;
- Learn of the offender's conviction, sentence, imprisonment, and release; and
- Seek restitution.

III. Services for Fraud Victims

A. Emotional Support and Referrals

The tangible cost of fraud crime is easily translated into dollar amounts. Less easily measured, and perhaps the most exacting cost of all, is the severe emotional impact of fraud crime on many of its victims. Such emotional harm can be caused by the victim's loss of the following:

- Financial security
- Family home
- Business
- Inheritance
- Children's educational funds
- Professional or personal credibility

Crimes of fraud are personal violations and often evoke the following feelings or emotional reactions among their victims:

- Self-doubt
- Betrayal
- Shock
- Anger
- Embarrassment
- Disbelief
- Blame

Additionally, some victims experience such high degrees of shame, or fear about the loss of personal and professional respect and credibility, that they choose not to disclose their victimization to family members, friends, or professional colleagues. In some instances, an elderly or disabled victim's very independence is jeopardized, particularly if family members react to the loss by having the victim declared legally incompetent to handle his or her own financial affairs. Also, victims' family members and business associates may be financially exploited in a "domino effect" of fraudulent acts, resulting in increased feelings of guilt and blame for many fraud victims. Clearly, the impact of financial crimes goes deeper than the loss of just money.

1. Indicators of Emotional Trauma

Traditionally, victim service providers and mental health practitioners have focused on the devastating effects of violent crime. The long-term emotional trauma of fraud crimes is not as easily seen and measured as that of a physical injury, violent encounter, or continued fear for one's personal safety. However, some of the same physiological and emotional effects experienced by victims of violent crimes are also experienced by fraud victims. These are some of those long-term effects:⁴

- Feeling of terror or helplessness
- Rapid heart rate
- Hyperventilation
- Panic
- Inability to eat or sleep
- Loss of enjoyment of daily activities
- Depression

Short-term effects on victims include these:

- Preoccupation with the crime (thinking about it a great deal, talking about it constantly, replaying the crime, wondering what they could have done differently, etc.)
- Inability to concentrate or perform simple mental tasks
- Concern that other people will blame them for what has happened
- Increased strain on personal relationships (even to the extent of divorce or withdrawal of support)

In the extreme, fraud crimes have led some victims to attempt or succeed in committing suicide.

2. Services and Support That May Reduce Victims' Stress and Anxiety

The following services and support strategies are not intended for all victims, nor is it expected that victim/witness coordinators will be sufficiently trained or experienced to determine the appropriateness of, or to provide, direct counseling. Counseling should be provided only by mental health professionals. This information is provided, however, to alert victim/witness coordinators to some of the possible emotional service or referral needs of fraud victims.

These are some of the general, non-therapeutic services that victim/witness coordinators can provide to lessen or acknowledge the emotional distress of fraud victims:

- Expressing sorrow that the crime happened and asking how they can help

⁴ Kilpatrick, Veronen, and Resick, 1979; Kilpatrick, Resick, and Veronen, 1981; Norris and Kaniasty, 1994.

- Paying close attention to signs of psychological trauma, including words, statements, or physical descriptors that imply hopelessness or depression, and, where appropriate, providing referrals to mental health providers, spiritual counselors, other human service agencies, or support groups, especially those sensitive to the needs of fraud victims
- Determining victims' emergency housing, food, and financial needs and providing referrals to governmental agencies or community programs that can help
- Providing referrals (including agency brochures and resources) to service programs that can address the special communication needs of victims who have diminished hearing, sight, or mental capacity or who do not speak English
- Inquiring about any specific fears or concerns victims may have about participation in the justice process, paying special attention to victims who are especially fearful that criminal justice participation may result in the disclosure of the crime to family, friends, professional colleagues, clients, or employers
- Supplying information about credit counseling services, which help victims address credit problems and formulate repayment plans and strategies
- Providing information to reduce victims' chances of revictimization

3. *Identifying Appropriate Mental Health and Community Referrals*

Victim service professionals have long recognized the value of providing victims of violent crime with appropriate referrals for support and services outside the scope of criminal justice-based programs and services. Victims of violence realize numerous benefits from those referrals. Victim/witness coordinators must not overlook the value of similar referrals for victims of fraud.

Much of victim/witness coordinators' work to establish a comprehensive referral base for victims of fraud can be drawn from referral sources already identified for victims of other crimes. Established referral bases should include basic governmental and community-based programs, agencies, and other entities that provide general services and assistance to crime victims. Additionally, a comprehensive referral base should include contact information that provides the agency name, address, phone number, contact person, hours of operation, fees (if applicable), client eligibility, list of program services, etc. Categories of referrals include these:

- Mental health counseling services (especially on a free or reduced fee basis)
- Emergency financial assistance for food, shelter, medical attention, utilities, and other necessities
- Support groups

When seeking to identify appropriate mental health and financial assistance referrals, victim/witness coordinators should consider the following agencies:

- Governmental agencies, such as state or locally funded mental health clinics and health and housing agencies, that protect and serve aged or physically or mentally disabled persons,
- Area agencies on aging
- Nonprofit victim advocacy groups, legal clinics, or volunteer programs (such as those directed at the elderly)
- Nonprofit mental health agencies
- Churches, community food banks, etc.
- Utility companies (which may defer payments, consent to payment plans on delinquent accounts, or enroll qualified fraud victims in “utility-share” programs)

4. *Determining Appropriate Referrals*

Before referring fraud victims to a mental health agency or nonprofit support program, victim/witness coordinators may want to determine first that the agency

- Understands the emotional ramifications of fraud crimes (which may differ from the emotional ramifications of violent crime);
- Provides services to victims of financial crimes (many nonprofits limit their services to victims of violence); and
- Where possible, provides specialized programs that specifically address the needs of fraud victims (such as support groups).

Inappropriate referrals can significantly heighten fraud victims’ frustration and anxiety.

5. *Additional Referral Needs*

Some fraud victims have additional referral needs. For instance, some victims have limited access to transportation due to physical or financial restraints and will need transportation assistance to mental health or financial assistance appointments. Victim/witness coordinators will find it helpful to compile a list of volunteer agencies, cab companies, or community transportation services that provide door-to-door pickup for disabled victims or have reduced fees for indigent victims.

Victim/witness coordinators also play a vital role in the establishment of linkages between elderly victims and local governmental and nonprofit agency programs and services. The simple act of linking service to victim can do much to improve the emotional welfare of an elderly fraud victim and could reduce the chance for fraudulent revictimization in the future. Victim/witness coordinators might wish to establish links with the following types of agencies:

- Adult day centers
- Area agencies on aging

- Home nursing providers
- Volunteer programs that pair senior volunteers with senior clients
- Adult protective service agencies

6. Locating Appropriate Referrals

Additional sources for gathering victim-related referrals include these:

- Local **prosecutors' victim assistance units** (many will have already compiled an extensive referral directory)
- Victim assistance units of **state attorneys general** (some have funds that provide victims of certain fraud crimes with financial assistance; for example, Maryland's Office of the Attorney General has a fund for elderly victims of home repair schemes)
- Local, state, and national **victim assistance networks**
- Local, state, and national **volunteer agencies**, such as the American Association of Retired Persons or local senior volunteer centers
- **Interfaith administrative offices** (which often maintain a registry of local churches, synagogues, and other religious entities that maintain charitable funds to assist community residents)
- Local and state **professional licensing associations**, such as the state association of licensed therapists, physiologists, or psychiatrists, which may be able to name members who sometimes provide counseling services free or at a reduced cost
- **Hospital social workers**, who often maintain databases of both governmental and nonprofit agencies that provide housing, medical, and financial assistance to indigent or other qualified citizens
- State **victim compensation programs**
- Local and state **law enforcement agencies**
- **County, state, and federal governmental agencies**, such as the Social Security Administration and departments of social services, human resources, housing, and transportation, which maintain registries of programs and services (for example, the U.S. Department of Housing and Urban Development provides housing assistance to elderly victims of certain fraud crimes)
- **Local sheriffs and police chiefs**, who may be members of the TRIAD program, in which the local sheriff, police chief, and leaders of the older or retired community work together to reduce the criminal victimization of older people

In fraud cases involving numerous victims in different jurisdictions throughout the nation, victim/witness coordinators should consider contacting the prosecutor-based victim assistance programs in those jurisdictions to learn of local programs and services.

7. *Assessing and Updating Referrals*

The importance of gathering feedback on service referrals must not be overlooked. Victim/witness coordinators should learn which agencies are best able to meet fraud victims' needs. Some programs gather referral feedback by

- Telephoning victims and asking about their satisfaction with the referral,
- Disseminating written surveys to victims to learn about their satisfaction with the referral agency, or
- Disseminating written surveys to referral agencies to learn about their services, location, and service population.

8. *Establishing a Support Group/Counseling Program*

In the past few decades, support groups addressing societal problems (gambling and alcohol and substance abuse), health issues, and crime-related needs have proven to be invaluable for dispensing emotional support, sharing information, and seeking solutions to address various problems. In the victim arena, homicide, rape, child sexual abuse, and domestic violence support groups have provided family members and victims with a forum in which to share common experiences, fears, and concerns, helping to eliminate feelings of loneliness, shame, and fear.

Fraud strikes victims of all age groups and characteristics. Victims are often linked by common experiences and reactions based on their victimization. An effective strategy for addressing the special needs of fraud victims may be to establish a support group.

One way of reaching out to fraud victims is to increase opportunities that allow them to help themselves. Unfortunately, many victims are too embarrassed to acknowledge their victimization in a group setting. Victim/witness coordinators may find it helpful to talk with support groups such as Gamblers Anonymous and Alcoholics Anonymous to learn of their strategies.

Establishing a fraud victim support group does not have to be time-intensive for victim/witness coordinators, especially if they bring local mental health practitioners and prosecutor-based victim assistance providers together to set up the group. One reason for involving local prosecutor-based victim advocates is that many fraud crimes are prosecuted at the local level, and many local prosecutor-based programs provide services only to victims of violence. Support gleaned from participation in a support group may be the only assistance local fraud victims receive.

9. Expanding the Support Group to Include Family Members

Consideration should be given to including family members and friends of fraud victims in support groups, as they may have experienced emotional trauma at the victimization of a loved one. Additionally, their participation may increase

- Fraud victim participation,
- Their understanding of the emotional impact of fraud so they can better support the fraud victim, and
- Overall community awareness of fraud.

10. Conducting the Support Group

A trained counselor should facilitate support group discussions. Counselors should be familiar with local resources for assisting fraud victims. Issues which might be addressed in the session can range from preventing revictimization to discussing feelings such as self-blame and a loss of trust in others. In addition to counselors' experiences, supportive listening from other fraud victims can help heal victims' psychological wounds and rebuild confidence and self-esteem.

There are a number of practical issues to consider before establishing a fraud support group:

- Finding a meeting site (centrally located and easily accessible by public transportation)
- Determining transportation needs (especially of disabled or elderly victims)
- Naming the support group (for example, "Fight Against Fraud," to remove some of the stigma attached to support groups)
- Identifying discussion topics and appropriate speakers (for example, addressing credit problems, tax-related consequences of fraud, or participation in the criminal or civil justice process)
- Developing a media strategy to publicize the support group (airing meeting dates, times, and locations through local radio, television, and newspaper community calendars or other public venues, or mailing promotional flyers to local organizations, such as legal aid clinics, chambers of commerce, churches, or other community gathering places)

Additionally, victim/witness coordinators, law enforcement personnel who investigate fraud crimes, prosecutors, consumer protection agencies, nonprofit victim advocacy organizations, and other appropriate persons should be included in the support sessions to provide the following:

- Training for group leaders on victim participation in the criminal justice process and support services available from criminal justice personnel
- Information about the investigation and prosecution of fraud cases, including realistic expectations for restitution and other avenues of financial recovery and the difficulty of investigating and prosecuting mass victim cases

- Referral information for emergency financial and emotional support
- Consumer protection tips and suggestions to reduce the likelihood of revictimization

Consideration should also be given to including victims who have completed their participation in the criminal justice process. No one knows better the emotional and financial toll of fraud crimes than those who have been victims in the past; however, care should be given to the selection of appropriate victims who can serve in that capacity.

11. Locating Support Group Sponsorship

There are several avenues that victim/witness coordinators can take in developing fraud support groups. They may wish to work with agencies that already facilitate support groups. Agencies to consider include local mental health service agencies and nonprofit advocacy organizations.

Victim/witness coordinators may also want to solicit sponsorship of fraud support groups from sources not typically considered. These sources might include the following:

- Departments of psychology or schools of social work in universities or colleges, where graduate students may be willing to trade time for experience
- Volunteer programs that focus on certain populations of citizens (for example, senior citizen centers or action organizations)
- Consumer protection agencies, which may be willing to replicate the support group in cities where they have affiliate chapters or offices
- Professional associations and licensing and regulatory agencies, which may be willing to sponsor the support group to offset any reputation for fraud that their business or profession may have

Many of these agencies already produce valuable consumer protection training materials and fraud alerts and may be willing to make such resources available in mass quantities for inexpensive or free distribution to support group participants.

B. Restitution

The payment of restitution by perpetrators can mark the end of a financial nightmare for fraud victims. To most victims, and fraud victims in particular, restitution not only serves to right a wrong, it often allows victims to return to whatever level of financial security they enjoyed before the crime.

However, in reality, very few fraud perpetrators actually pay restitution. Many perpetrators will have spent the money and have no discernible resources with which to repay victims. In other cases, perpetrators will have placed assets in the names of others or hidden money in offshore accounts. Even if the court orders full restitution to victims, the collection and distribution of payments is often difficult, especially if perpetrators are sentenced to long periods of incarceration.

tion. Additionally, victims not included in formal indictments are ineligible to receive any restitution unless their repayment is part of a plea negotiation.

1. Provisions Under the Mandatory Victims' Restitution Act

Restitution is commonly defined as the court-ordered repayment of victims' financial losses by convicted defendants. The Mandatory Victims' Restitution Act (MVRA), enacted on April 24, 1996, as part of the Antiterrorism and Effective Death Penalty Act, reforms federal restitution and its enforcement. The Act's purpose is "to ensure that the offender realizes the damage caused by the offense and pays the debt owed to the victim as well as to society." Several provisions of the law represent significant changes affecting fraud victims.

In federal crimes, such as mail or wire fraud, committed after the Act's enactment, the court must order restitution to each victim in the full amount of each victim's losses, regardless of the defendant's ability to pay. The only exceptions to this requirement occur if

- The court makes a finding that the number of identifiable victims is too large, making restitution impracticable, or
- Determining complex issues of fact related to victims' losses would complicate or prolong the sentencing process to a degree that it outweighs the need to provide restitution.

2. Determining Restitution Awards

Most fraud cases meet the requirements for mandatory restitution. Moreover, under the MVRA, very little of a criminal defendant's property is exempt from seizure for restitution. However, the following types of property are exempted:

- Wearing apparel and school books
- Fuel, provisions, furniture, and personal effects up to \$1,650
- Books and tools of a trade, business, or profession up to \$1,100
- Unemployment benefits
- Undelivered mail
- Certain annuity and pension payments
- Workers' compensation
- Judgments for support of minor children
- Certain service-connected disability payments
- Stipends earned under the Federal Job Training Partnership Act

3. Determining Victims' Losses

Losses for which courts can order restitution ordinarily include these:

- Money lost directly in the fraudulent act
- Expenses for travel to and from court proceedings (except where expenses were reimbursed by the government)
- Child care
- Lost wages
- Payments for medical or mental health treatment for conditions caused by the crime

Victims of fraud crimes often incur additional expenses, outside of those listed above. However, the court is restricted in the types of losses it can include in restitution orders. Financial losses that usually cannot be included in the restitution order include these:

- State or federal taxes, including interest, penalties, or fines
- Unpaid or promised interest
- Expenses for private legal representation
- Fees for tax advisors, accountants, or other professionals

4. *Delaying Final Orders of Restitution*

In rare instances, an identified victim can request that the Assistant U.S. Attorney or U.S. Probation Office inform the court that all of his or her losses cannot be verified within 10 days of sentencing and request that the issuance of the final order of restitution be delayed. However, victim/witness coordinators should not provide victims with this option routinely, as its application can affect the appeals process and delay the start of the sentence. Victim/witness coordinators should consult, and receive approval from, the Assistant U.S. Attorney before they notify victims of this option. Victims should be advised that courts grants these delays only in the most extreme cases.

5. *Amending Orders of Restitution*

Some losses may become known well after sentencing. Identified victims can petition the court for an amended restitution order within 60 days of learning of additional, qualified financial losses. An amended restitution order may be granted **only** upon a showing of good cause for failing to include the losses in the victims' initial claim for restitution. Victims should be advised to contact an attorney, the probation officer, Assistant U.S. Attorney, or victim/witness coordinator to learn of the procedures necessary to file such a petition. Victim/witness coordinators should first contact the Financial Litigation Unit, EOUSA, or other appropriate agency before advising a victim about requesting an amendment. For example, in cases where provisions under newly enacted laws affect the standing restitution order, victim/witness coordinators should advise victims to seek private counsel before proceeding with a request for amendment.

6. *Collecting Information on Victims' Financial Losses*

Upon the request of a probation officer, but no later than 60 days from the date initially set for sentencing, attorneys for the government (most often Assistant U.S. Attorneys) provide probation officers with a list of victims' financial losses. These losses are included in probation officers' pre-sentence investigative reports, which are presented to the court for review prior to sentencing. A pre-sentence investigative report provides the court with information about a defendant's personal, educational, and criminal background, as well as specific information about the current crime, including the physical, emotional, and financial impact on the victim.

Before submitting pre-sentence investigative reports to the court, probation officers are required, to the extent practicable, to provide all identified victims with this information:

- Conviction of the offender, including charges
- Amounts subject to restitution, according to the U.S. Attorney
- Scheduled date, time, and place of the sentencing hearing
- Opportunity for the victim to submit information about his or her financial losses (through a victim impact statement)
- Availability of a lien in favor of the victim
- Opportunity to file, with the probation officer or the court, a separate affidavit relating to the amount of the victim's losses subject to restitution

7. Restitution Payment Plans and Options

After reviewing the pre-sentence report and victims' reported losses, the court determines the amount of restitution owed to each victim and establishes how restitution will be paid. The court considers the total amount of restitution, number of victims, and defendant's assets when determining how restitution should be paid.

Under the new MVRA, the court may order payment in these forms:

- Single, lump-sum payments
- Partial payments at specified intervals
- In-kind payments (return of property; replacement of property; or, with victims' approval, services rendered to the victims or another person or organization)
- Combinations of payments at specified intervals

The statute seems to prefer immediate payment. If the court finds that the interests of justice require other than immediate payment, the payment schedule shall be the shortest time in which full payment can reasonably be made.

8. Restitution Based on Victims' Financial Needs

If more than one victim sustains a loss requiring restitution by a defendant, the court may consider the economic circumstances of each victim when setting the order and method of payment. Victim/witness coordinators play a critical role in alerting probation officers and attorneys to the dire financial circumstances of a victim so the court can consider ordering payment to him or her first. If more than one defendant is convicted and contributed to victims' losses, the court may make each defendant liable for the full payment or may apportion liability to reflect each defendant's economic circumstances and level of contribution to the crime.

Additionally, the MVRA requires that direct victims of the fraud receive restitution before the government (where it is also a victim) or any source of collateral payment, such as insurance companies or reparation boards.

9. *Effects of Other Financial Recovery on Court-Ordered Restitution*

A restitution award must be reduced by any amount the victim later receives as compensation for the same loss in a federal or state civil proceeding.

10. *Changes in Defendants' Economic Circumstances*

After sentencing, if a material change in the defendant's economic circumstances affects his or her ability to meet restitution obligations, the court can modify the payment provisions of the restitution order. Changes in a defendant's economic circumstances can be brought to the court's attention in these ways:

- By the defendant, who is required to notify both the court and the U.S. Attorney's Office
- By the government
- By the victim

After the court has been notified of a defendant's changed economic circumstances, the Attorney General must notify victims of those changes. Therefore, victim/witness coordinators should advise victims to tell them of any address changes so the coordinators can notify the Financial Litigation Unit and the Clerk of Court. A defendant's liability to pay restitution lasts for 20 years from the date of the judgment or, if a defendant goes to jail, for 20 years after he or she is released. However, the liability also terminates on the death of the defendant. The government is responsible for monitoring and enforcing the restitution order until the defendant's liability terminates.

Victims should be advised that if they learn of any changes in defendants' economic circumstances, they should notify the U.S. Attorney's Office that handled the prosecution of the case.

11. *Distribution of Restitution*

For crimes occurring after April 24, 1996, the U.S. Clerk of Court is charged with the collection and distribution of restitution. It is important that victim/witness coordinators advise victims of their responsibility to notify the Clerk of Court or U.S. Attorney's Office, depending on local practice, of any change in their mailing address while restitution is still owed to them, pursuant to 18 U.S.C. § 3612 (b)(1)(6). Victim/witness coordinators should provide victims with the correct change-of-address forms or tell them how to request such forms.

12. Damage Awards Made to Prisoners

Victim/witness coordinators should be aware of a statute that may provide an additional avenue for the collection of court-ordered restitution for some victims. Specifically, the law states, "Any compensatory damages awarded to a prisoner in connection with a civil action brought against any Federal, State, or local jail, prison, or correctional facility or against any official or agent of such jail, prison, or correctional facility, shall be paid directly to satisfy any outstanding restitution orders pending against the prisoner. The remainder of any such award after full payment of all pending restitution orders shall be forwarded to the prisoner." Pub. L. 104-134, Title I, § 101, 110 Stat. 1321-77, codified as a *note* under 18 U.S.C. § 3626.

13. Nonpayment of Restitution

Several sanctions can be imposed if the defendant does not comply with the restitution order. It may comfort the victim to know that the court may take these steps:

- Revoke the defendant's probation or other supervised release.
- Modify the terms of the defendant's probation or supervised release.
- Re-sentence the defendant.
- Hold the defendant in contempt of court.
- Enter a restraining order or injunction.
- Order the sale of the defendant's property.
- Accept a performance bond.
- Adjust the defendant's payment schedule.

14. Suggested Victim Service Strategies

Victim/witness coordinators may wish to consider taking the following steps to help victims with restitution:

- Inform victims of the need to collect documents that substantiate their financial losses. These are some of the types of relevant documentation:
 - Receipts for cash, stocks, bonds, etc.
 - Bank and investment statements

- Insurance and mortgage premiums
 - Money orders
 - Cashier’s checks
 - Canceled checks
 - Travel-related bills for court appearances (if not paid by the government)
 - Statement of lost wages from employers
 - Bills for medical services and counseling
 - Other written correspondence from the defendant that would verify the scheme or loss
- Help victims complete restitution worksheets, where practical.
 - Consult with prosecutors and probation officers to ensure that all identified victims are listed in restitution paperwork and that the full amount of restitution is ordered.
 - In cases where a plea agreement will be accepted, work with prosecutors to ensure all identified victims (and where appropriate, unidentified victims) are listed in the agreement, along with provisions for the payment of full restitution to victims.
 - Work with prosecutors to develop protocols by which to identify victims who have the greatest financial need so defendants can be ordered to pay restitution to those victims first.
 - Provide victims with an impact statement, explain how it will be used and presented to the court, and inform victims of their right to attend and to request to speak at sentencing events.
 - Inform victims that all changes in address should be directed to the victim/witness coordinator, who will forward them to the Financial Litigation Unit and the Clerk of Court. Liens attached to the defendant’s property may be used to satisfy the restitution debt, and these liens are enforceable for 20 years from the time an offender is released from prison.
 - Provide victims with information about the procedures required to amend restitution orders in the event they discover financial losses after the determination of the original restitution order.

Promising Practices in Restitution Recovery and Perpetrator Asset Identification

The Office for Victims of Crime is currently funding a demonstration project, through a cooperative agreement with the Executive Office for United States Attorneys and the U.S. Attorney's Office, Northern District of California, to provide innovative services to victims of fraud crimes. This project is expected to enhance prosecutorial efforts in the early identification of defendants' assets and the return of these assets to victims. Enhanced services to victims of fraud include these:

- Hiring an asset investigative advocate to assist in the recovery of assets stolen by fraud defendants and to help with other forms of financial recovery
- Hiring a support advocate to help the victim/witness coordinator provide information and notification services on case status
- Developing an informational brochure for fraud victims that explains, in detail, the process of federal restitution, including the collection process, as well as victims' rights in the restitution process
- Developing a training manual for federal prosecutors regarding the identification, location, and preservation of defendants' assets on behalf of fraud victims
- Developing internal guidelines for providing comprehensive services for victims of financial fraud

The demonstration project was designed to allow for easy replication in both state and federal prosecutors' offices. Project-related resources will be made available by the Office for Victims of Crime. For additional information about the project or the projected date of resource distribution, please contact Laura Federline in the Federal Division, Office for Victims of Crime.

- Remind victims of their right to request that the Clerk of Court issue an abstract of judgment certifying that a judgment has been entered in favor of the victim in the amount specified in the restitution order. This abstract of judgment can be registered, recorded, docketed, or indexed according to the rules and requirements of the state where the district court is located. This abstract of judgment then becomes a lien on the defendant's property in the state where the district court is located to the same extent as a judgment of a state court in that state.

C. Asset Forfeiture

Federal forfeiture laws allow the government to forfeit property involved in certain federal crimes. In the case of fraud offenses, criminal forfeiture is governed by federal RICO and money-laundering statutes, and civil forfeiture is governed by money-laundering statutes. The

laws also permit the Attorney General, through a designated official, to pardon (forgive) the property after it is forfeited and direct it to victims. Victims of federal fraud crimes may have a legitimate claim to this pardoned property. Due to recent changes in Department of Justice forfeiture regulations, victims can petition the Attorney General, FBI, DEA, INS, or the agency initiating the seizure to recover some or all of their financial losses caused by the fraud. Criminal investigations often include efforts to identify and seize property for forfeiture.

The federal government attempts to notify victims of their right to petition for the forfeited property, but because of the nature of the crime, some victims cannot be identified and contacted. Victims who learn of the forfeiture through other sources, such as the media, can still petition for return of their loss. Because the petition must be filed prior to the disposal of the forfeited property, the victim should contact and submit a petition to the agency managing the forfeiture as soon as possible after receiving notice of the forfeiture.

By petitioning, the victim (or “petitioner”) is asking the government to return the money lost as a result of the fraud crime. Returning the full amount is called remission of the loss, while returning some is a mitigation of the loss. To remit, the government official must find that the petitioner did not contribute to, participate in, benefit from, or act in a willfully blind manner toward the commission of the fraud crime. Even petitioners not meeting these criteria will be considered for mitigation. Victims should be aware, however, that there is no absolute legal right to participate in the distribution of the forfeited assets. When the losses of victims are greater than the value of the forfeited property, the victims will receive a pro rata amount of the total.

A petition for remission or mitigation of forfeiture often includes the following items of information:

- Amount of money lost and copies of documentation to support the loss
- Details about the crime and how the petitioner was a victim of the crime
- Statement explaining that the petitioner played no part in the commission of the crime
- Statement that the petitioner does not have insurance or other means to recover the amount of the loss sought
- Precise description of the forfeited property

The petitioner should contact the federal seizing agency that investigated the violation or the U.S. Attorney prosecuting the case to obtain information about the forfeited property, such as when and where it was seized and the statute allowing the government to forfeit it. If the proceedings were held in court, the federal court and docket number should also be obtained. A sample petition form is included in Appendix B. Where appropriate, victim/witness coordinators should help victims fill out the form. References to forfeiture regulations that permit victims to file a petition are also included in Appendix B.

1. Case Studies

Although forfeiture can be a slow and frustrating experience for victims, it is working in a growing number of cases. Consider these two examples:

On December 20, 1990, Aaron Keith Lovett was convicted in the Western District of Oklahoma of interstate transportation of fraudulently obtained funds, money laundering, and monetary transactions in property derived from unlawful activity. Mr. Lovett took money from the bank accounts of Rubylea Hall, his nearly blind and sickly 82-year-old grandmother, by withdrawing money personally and by utilizing letters signed by Mrs. Hall directing the banks to close her accounts and release the money to Lovett. Mrs. Hall denies signing the documents allowing the transfer of funds. With these funds, Lovett purchased a house and several vehicles. Mrs. Hall filed a claim to the property bought with the fraudulently acquired funds. The court awarded Mrs. Hall \$76,031.89, which was forfeited from the bank account of Mr. Lovett; a 1990 GMC pickup truck valued at \$15,000; a GMC Suburban valued at \$17,000; and real property appraised at \$118,000.

On February 18, 1992, John G. Westine, Jr., was convicted in the Southern District of Ohio of wire fraud, mail fraud, money laundering, and interstate transportation of goods acquired by fraud. Mr. Westine, through a telemarketing scheme that sold shares of non-existent oil and gas interests, defrauded numerous individuals out of approximately \$3.2 million. He purchased several assets with the proceeds of his illegal activities, including a parcel of real estate in Malibu, California. These assets were seized in the criminal case, under criminal forfeiture provisions, and subsequently were forfeited. Approximately 90 victims of the fraud filed petitions in the ancillary forfeiture proceeding. The final order of forfeiture ordered a sale of the forfeited assets and pro rata distribution to the 90 claimants.

The following table summarizes other recent examples of successfully forfeited assets returned to fraud victims. These cases, retrieved from the files of the Department of Justice, may provide further insight into the amount of money victims can recover through forfeiture. In these examples, the mechanisms used to return funds to the victims varied, and included stipulations, plea agreements, and the petition for remission or mitigation process.

Examples of Forfeited Assets Returned to Fraud Victims		
Type of Scam	Number of Victims	Amount Recovered and Returned to Victims
money fraudulently withdrawn from bank accounts	one	\$226,031.89 in funds and property
“full coverage” insurance which coal miners did not receive	2,500	\$600,000 distributed in varying amounts
telemarketing scheme that sold shares of nonexistent oil and gas companies	90	\$3.2 million divided pro rata among the 90
sale of cars with rolled-back odometers	20	\$23,425 plus value of a house distributed in varying amounts
purported purchase of luxury automobiles, never delivered to customers	not available	in excess of \$2,790,000
office supply fraud	not available	\$3.5 million divided among victims
loans never received in fraudulent brokering services	440	\$250 returned to each (\$110,090 total)
consumer fraud scheme	1,300	\$745,034.74 divided among victims
bank fraud in 72 countries	thousands	\$600 million seized to date, to be distributed to victims in varying amounts
fraudulent billing practices in trucking companies	26	\$75,710.90 to be distributed in varying amounts

2. Suggested Victim Service Strategies

Victim/witness coordinators may wish to help victims gather information for inclusion on the petition for remission or mitigation of forfeiture. Needed information may be gathered from court

documents, especially information that may not be known to victims, such as details of the crime and information on the forfeited property. Victim/witness coordinators should provide assistance in the completion of the petition for remission or mitigation of forfeiture, where practical. A sample petition can be found in Appendix B.

D. Civil Actions⁵

Victim/witness coordinators, within the bounds of office or agency policy, are ideally suited to build bridges of information, knowledge, and understanding between crime victims and the justice process. By establishing rapport with victims, coordinators play a critical role in encouraging them to seek information about important criminal justice-related subjects, rights, and remedies. However, many jurisdictions, and prosecutors' offices in particular, prohibit victim/witness coordinators from providing victims with information about their right to pursue avenues of civil recovery.

Prosecutors' reluctance to incorporate civil recovery information in their victim assistance policy may come from a feeling that civil litigation is outside their expertise. That is understandable. However, simply providing information that in no way promises or implies a successful outcome, refers legal representation, offers legal advice, or judges the appropriateness of a case should not compromise the integrity of prosecutors' offices or victim assistance personnel.

While this section advocates sharing information on the civil justice process with appropriate victims, it does not suggest that victim/witness coordinators provide legal advice or act independently in determining the appropriateness of such a referral. Rather, victim/witness coordinators should act in tandem with Assistant U.S. Attorneys in determining if cases may in fact be appropriate for civil litigation, especially in cases where no criminal action will be taken.

Additionally, the information contained in this section is limited to civil actions initiated due to fraudulent acts. This information is not intended to be a comprehensive overview of the civil process; rather, it is intended to inform the reader of other options available to fraud victims in the recovery of financial losses.

1. Civil Recovery: An Important Tool in the Recovery of Financial Losses

Today, civil courts are more disposed than ever to extend favorable consideration to victims' remedies against perpetrators or against third parties whose negligence caused or exacerbated their victimization. Many of the legal issues involved in civil litigation remain somewhat a mystery, simply because the law tends to be technical and difficult for the average person to understand. As a result, while many victims have a general feeling that the legal system provides them with various rights and remedies, they may not understand those rights.

⁵ Portions of this chapter have been adapted from OVC's National Victim Assistance Training Academy Manual, developed by the Victims' Assistance Legal Organization, National Crime Victims Research and Treatment Center, Medical University of South Carolina, and California State University-Fresno, 1996.

Knowing of their options and rights to pursue civil recovery is critical for fraud victims for a number of reasons:

- In cases where victims will not be listed on criminal indictments, their ability to recover losses in the criminal justice process is limited at best. Civil recovery may be their only option for financial recovery. This is especially important in fraud crimes where hundreds or thousands of victims may be affected.
- In cases where the U.S. Attorney's Office declines the prosecution of a case, civil recovery may be the only legal avenue a victim has to pursue financial recovery.
- There is no certainty that all financial losses will be known at the time criminal cases are settled and restitution is ordered. Nor is it certain that judges will agree to amend standing restitution orders. Civil recovery may provide victims with an additional legal avenue to collect full financial losses.
- Under the Mandatory Victims' Restitution Act of 1996, only certain losses can be compensated. Civil recovery may provide victims an opportunity to collect losses not considered in criminal cases, such as interest; penalties; fines; or fees for tax advisors, accountants, or other professional services.
- Victims who have suffered great emotional trauma can seek additional financial remuneration through awards of punitive damages, which are not allowed in the criminal justice process.
- Because the investigation of fraud crimes can be complex and lengthy (especially in cases of mass victimization or where defendants have holdings offshore), victims who wish to pursue civil recovery may be excluded from doing so due to statutes of limitations. Armed with information about their option for civil recovery, victims can move to initiate civil actions in a timely manner or petition the court to toll or stop the statute of limitations.
- Victims can consult with civil attorneys to learn if they have legal standing to initiate civil actions against individuals or entities (third parties to a civil action) in addition to defendants (first parties) in an effort to pursue full or additional financial recovery.

2. Overview of the Civil Process

There are several basic differences between criminal and civil actions. One difference is that in criminal proceedings, the state is the plaintiff because criminal defendants violate state laws when they injure their victims. Private citizens do not prosecute criminal actions. However, in civil matters, victims are required to initiate the actions, and such actions must be filed within a specified time frame (statute of limitations). Civil actions do not result in the incarceration of defendants but are limited to assessing monetary damages.

Pre-trial Proceedings. To initiate a civil action, plaintiffs file a complaint in civil court alleging they were injured by the wrongful, unlawful conduct of the defendant. Defendants must respond to the allegations within a certain time or default judgments are entered against them. While the

complaint need not be formal or elaborate, it must set forth enough information about the allegations that defendants can properly prepare a defense.

Once a defendant has answered a complaint, the defendant may file a responsive pleading, asking the court to dismiss the case because of procedural deficiencies in plaintiffs' pleadings. A lack of jurisdiction, improper service of process, statutes of limitations, or substantive legal defenses would be examples of responsive pleadings. Other examples include pleadings that no duty was owed to plaintiffs or that the victims' losses are not the legal liability of the defendant.

Defendants can file other motions that may result in the dismissal of the case before trial. For example, the defendant could argue that even if plaintiffs' allegations are taken as true, the law is such that defendants cannot be held liable. These types of motions (called demurrers) ask the court to dismiss the charge through summary judgment. If the court grants such motions, the plaintiffs lose the opportunity to continue the case or to present evidence. Just as in criminal actions, the court's rulings are almost always appealable.

After the civil court has ruled on preliminary motions, and if the plaintiff's case has not been dismissed due to various legal motions, pretrial preparations begin. Those preparations include performing legal research, investigating the facts and circumstances of the case, interviewing witnesses, obtaining relevant documents, and taking depositions from all parties to the civil action, where appropriate.

Civil Trials. Once the case has been thoroughly researched, and if it has not been settled, it goes to trial before a judge or jury. At the trial, witnesses are called, and both the plaintiff and defendant introduce evidence. Often, evidence that is not admissible in criminal actions (such as illegally seized evidence) may be admitted in a civil action.

Another difference between criminal and civil actions is that in a civil action, a judge or jury is only required to find the defendant responsible "by a preponderance of evidence" or 51 percent of the evidence presented. In criminal actions, the judge or jury's burden of proof is "beyond a reasonable doubt."

If the defendant prevails, the matter is over unless the plaintiff appeals. If the plaintiff prevails, the judge or jury may award damages and the matter is over unless the defendant appeals. Judges and juries hearing civil actions have extremely far-ranging discretion in assessing damages and awards. As in a criminal action, the judge or jury can award compensatory damages to reimburse plaintiffs for their actual losses (akin to restitution). Unlike a criminal action, civil suits can go farther, as judges or juries can punish defendants by assessing punitive damages for the harm they have caused plaintiffs.

Civil Judgments. Judgments are the formal recordings of verdicts and awards in civil actions. They are usually enforceable in the courts of other states through the "full faith and credit" clause of the U.S. Constitution. (To ensure enforcement in other states, where allowed, victims are required to register abstracts of judgment in the counties in which they believe defendants have

real property or holdings.) Judgments for willful and malicious acts, like most judgments awarded to violent crime victims, cannot be discharged (or removed) through bankruptcy.⁶ However, this is a complex subject, and expert legal opinion should be sought if the issue arises.

3. Other Civil Recovery Options

Third-Party Civil Actions. In some cases, victims can file additional civil complaints against individuals or entities that may have legal culpability for the unlawful actions of the defendant. Such civil actions are commonly called third-party suits. Most often third-party suits originate when victims file a complaint that the third-party litigant is jointly or solely responsible for the defendant's ability to gain access to them through willful negligence or other conduct that assisted or facilitated the victimization. Examples of third-party litigants may include banks or mortgage and insurance companies.

Small-Claims Court. In cases where the amount of financial loss falls below a certain dollar amount, victims can file suit for remuneration in small-claims court. Because each state sets different limits on small claim actions, victims should seek legal counsel or contact the Clerk of Court in the jurisdiction in which the action will be filed to learn of actual dollar limits. Some jurisdictions set amounts as low as \$500, while others set limits as high as \$5,000. In many jurisdictions, plaintiffs need not be represented by legal counsel and can conduct the proceedings themselves. Lastly, in most small-claims courts, filing fees are waived if plaintiffs can show proof of indigence. Once again, victims should be advised to check with the Clerk of Court to determine specific requirements.

4. Sources for Collection of Civil Judgments

Winning the civil suit is only half the battle. The other half consists of collecting court-ordered judgments from defendants. The scope of sources for the collection of civil judgments is as broad as the ingenuity of those who are assisting the victim, most often attorneys specializing in civil actions. The following are some examples of sources of judgment collection; however, this is not an exhaustive list. Please note that many of these sources can also be pursued in collecting court-ordered restitution as well.

Income. Depending on individual state laws, victims and their attorneys can look at defendants' sources of income for possible collection of judgments. The following sources should be considered:

- Wages
- Benefits (pension payment, annuities)
- Unearned income (dividends, interest, gifts)
- Disbursals from trust funds

⁶ Carrington and Rapp, *Victims' Rights*, pp. 5-22.

- Tax refunds
- Government entitlements
- Payouts from life insurance policies

Property and Holdings. Victims and their attorneys will want to examine defendants' property and holdings when attempting to collect civil judgments. These assets may include the following:

- Personal property (cars, boats, jewelry, furnishings)
- Real property (home, land, rentals)
- Future interest in real and personal property through wills, trusts, etc.
- Interests in partnerships (especially doctors and lawyers)
- Bank accounts
- Financial holdings (stock, bonds, mortgages)
- All other debts owed the perpetrator

Windfall Assets. When attempting to collect civil judgments, victims and their attorneys should be mindful of unusual situations whereby defendants come into sums of money that no one could have anticipated. Examples of windfalls include these:

- Lottery, sweepstakes, or other winnings
- Sudden, unexpected inheritances
- Valuable inventions or patent royalties

Family Wealth. Some defendants, while not especially well off at the time of the litigation, may receive money in the future because they come from wealthy families. An example of future judgment collectibility might involve an established trust from which a defendant stands to benefit in the future.

Insured Defendants. A significant but often overlooked option for judgment collection involves insured defendants: persons who are covered by insurance policies that may, in certain instances, provide funds from defendants' insurance carriers with which to satisfy civil judgments. Insured defendants often include physicians, attorneys, investment bankers, registered security and commodity traders, real estate and land agents, financial advisors, accountants, insurance agents, etc. Three conditions must be met in order to collect from insurance carriers:

- Defendants must be insured.
- Their policies must provide coverage for whatever they did to the plaintiff/victim.
- The insured defendant must have been found to be liable to the plaintiff, or at least, the insurer must decide that settling the case will be in the company's best interest.

Insurance carriers have no desire to protect insured clients from their own willful, criminal behavior. Consequently, almost all policies contain exclusions for wrongs that are expected or intended by the insured. The insured's policy must be reviewed carefully by an attorney well versed in civil litigation of insured defendants.

E. Reparation Boards and Administrative Action Review Committees

In certain instances, victims (known as complainants) may be eligible to seek financial recovery by filing a complaint with governmental or state agencies that regulate the actions of licensed professionals. Consumer complaints for losses caused, in the opinion of the victim, by improper actions or conduct on the part of the licensed or regulated professional can be filed for consideration of financial remuneration. Consumer complaints or disputes may be reviewed, investigated, and resolved by a reparation board or through an administrative action review committee. The purpose of reparation boards and administrative action review committees is to resolve consumer complaints in an inexpensive, expeditious, fair, and impartial forum. Such complaints may result in the following:

- Findings of no responsibility on the part of the licensed professional
- Recovery of financial losses by the complaining consumer
- Revocation, suspension, or other sanctions against the professional's license

1. *Filing a Complaint or Claim for Reparation or Administrative Action*

The filing requirements for a complaint or claim vary for each regulatory agency. At a minimum, claims must normally show the following:

- The individual (known as the respondent) against whom the recovery is sought was registered with the regulatory agency at the time the alleged violation occurred.
- The complaint was filed within a specified period.
- Respondents are not in bankruptcy or receivership proceedings.
- Financial losses do not exceed the cap on reparations or administrative actions.
- The claim (or complaint) is not being considered in arbitration or a civil court.

2. *Legal Representation*

The need to hire an attorney varies with each case. Many reparation boards or administrative action review committees allow victims to represent their own interests throughout the entire process, especially if the financial loss is low and the facts of the claim are straightforward. In other cases, the reparation board or administrative action review committee will advise victims to hire legal representation. Many reparation boards and administrative action review committees provide legal counsel to explain complaint procedures and hearing proceedings.

3. *Costs Associated with Filing Complaints or Actions*

Once again, the fees and costs vary with each reparation board or administrative action review committee, but there is normally a nominal filing fee to initiate complaints or actions. This amount can be a set fee or can be pro-rated based on the amount of damages or financial recovery sought. Filing fees are normally awarded as costs if the outcome favors the victim. Sometimes awards include victims' legal costs and travel-related costs, but not normally.

4. *Reparation or Administrative Action Process*

The process of adjudicating complaints filed with reparation boards or administrative action review committees is similar to that of civil court proceedings, but it is often more informal. After a complaint is filed, it is sent to the respondent for an answer. Upon receipt of the respondent's answer, a screening committee reviews the claim to verify that all eligibility requirements are met. The case is then referred to either a judgment officer (who usually hears cases with small financial losses or undisputed claims) or an administrative law judge (who usually hears complicated cases or those that may result in large awards).

Each party is responsible for gathering evidence to support his or her own case and for responding to discovery requests. After discovery is completed, written facts are reviewed to determine if an oral hearing is warranted. If the complaint is straightforward or if the respondent fails to answer the complaint, the judgment officer may issue a summary judgment (in favor of either party), and the case is settled. In more complicated cases, a formal hearing (normally conducted as a public hearing) is set before an administrative law judge, and all facts surrounding the complaint are reviewed. At the conclusion of the presentation of evidence, both parties have an opportunity to file post-hearing comments and to reply to the other's comments. After review of these filings, the administrative law judge renders his or her decision in writing. Decisions of the administrative law judge are appealable if the complaint is heard in a formal hearing. Appeals can be heard within the reparation board or forwarded to the U.S. Court of Appeals.

5. *Length of Time for Resolution*

Just as in the criminal and civil justice system, the time from the filing of a complaint to formal disposition can vary. Cases are, however, normally disposed of sooner than those in the justice process.

6. *Distribution of Financial Awards*

If the findings of the reparation board or administrative action review committee go against the respondent and he or she is assessed monetary penalties, the respondent will have a specified time in which to pay the complainant, unless the finding is appealed. If the respondent has failed to pay the victim by the required settlement date, his or her license may be suspended until payment is made. Awards by reparation boards and administrative action review committees are enforceable as liens in the District Court where the respondent lives or has a principal place of business.

7. Counter-suits

Respondents are allowed to counter-sue consumers, but only based upon the facts of the complaint.

8. Identifying Reparation Boards and Administrative Action Review Committees

Victim/witness coordinators should consider making contact with state and federal regulatory agencies that oversee professional licensing and review to determine the existence of reparation or administrative action review committees, along with information about eligibility requirements and filing procedures. Victim/witness coordinators may wish to include agencies such as these:

- Federal securities and commodity trading commissions, such as the Commodity Futures Trading Commission, which has a reparation board for handling and resolving consumer complaints (Three Lafayette Centre, 1155 21st Street, N.W., Washington, DC, 20581; 202-418-5250)
- State agencies regulating the licenses of building contractors, insurance agents, real estate agents, accountants, tax advisors, investment bankers, financial planners, etc.
- The U.S. Attorney General's Division of Fraud and Consumer Protection, which has information on state recovery funds, such as the California Department of Real Estate Recovery Fund (919-227-9789)
- National and state Better Business Bureaus (National Council of Better Business Bureaus, Inc., 4200 Wilson Blvd., Suite 800, Arlington, VA 22203-1838; 703-276-0100)
- Federal Trade Commission

Victim/witness coordinators may also wish to call the Federal Government Information Center (800-688-9889) for assistance in obtaining appropriate government agency phone numbers.

Additionally, victim/witness coordinators may wish to share with each other the contact information they collect concerning reparation and administrative actions. This practice will help to ensure that victims who reside in one part of the country but have cases originating in other parts of the country are well served.

IV. Support Services to Address Credit Problems and Prevent Revictimization

As a direct result of fraud crimes, many victims face additional financial burdens as they struggle to pay not only their own debts, but debts incurred, indirectly or directly, by perpetrators of fraudulent acts. Thus, many victims experience credit problems and, consequently, damaged credit ratings. In some instances, fraud victims are forced to declare bankruptcy to relieve themselves of fraudulent debts.

Victim/witness coordinators play a pivotal role in relaying information to victims on a variety of victim-related support services. Victims' need to receive information about available options for addressing credit problems is perhaps the second most critically needed victim assistance service, and it is usually needed as soon as the crime has been detected. The need for emergency financial referrals was discussed in Section III of this guide. The present section focuses only on service strategies and support services that address credit problems arising from criminal victimizations. The following information will provide victim/witness coordinators with an overview of several options that can help victims begin to address credit problems.

Victim/witness coordinators should also be aware that VOCA funds now can be used to pay for the development of fraud victim support programs and services. In some cases, VOCA funds can be spent on emergency financial assistance relating to consumer credit counseling and on other forms of assistance on behalf of the victim with creditors and employers. (Please see Appendix A of this guidebook for additional information.)

A. Addressing Credit Problems—Strategies for Victim/Witness Coordinators

While victim/witness coordinators are not expected to perform credit repair tasks that are the responsibility of victims, coordinators can nonetheless give special assistance to victims in dire financial circumstances. Victim/witness coordinators may wish to assist victims by taking these steps:

- Providing them with information about credit repair options, including contact information for national credit reporting agencies and Consumer Credit Counseling Services (a free credit counseling service)
- Providing victims with a letter verifying they are innocent victims of a financial crime (for inclusion in the victim's credit file, where appropriate)
- Contacting employers to minimize the loss of pay or benefits due to victims' participation in criminal justice-related hearings and proceedings (see sample letter in Appendix B)

- Contacting creditors and landlords to verify that victims have in fact been criminally victimized and asking that creditors and landlords work with victims to defer or modify payments (see sample letter in Appendix B)
- Providing victims with sample letters for notifying creditors and credit bureaus of their victimization
- Establishing a contact at each of the three national credit bureaus—Experian, Equifax, and TransUnion—to learn of all available services for victims (knowing a specific person for the victim to contact at these agencies may make it easier to report cases of credit fraud and provide a smooth transition while the victim’s credit problems are being addressed)
- Providing victims with copies of certified restitution orders, liens, or judgments for inclusion in their credit files

B. Addressing Credit Problems—Strategies for Victims

Victims can take several steps to address their credit problems:

1. Contact Creditors Directly

In many instances, if victims contact creditors (and in some cases collection agencies) immediately upon learning of a change in their ability to pay debts, the result may be a reduction, modification, or deferral of credit card or loan payments.

2. Consult with a Credit Counseling Service

Services provided by credit counseling services typically include these:

- Negotiating with creditors to consolidate or reduce payments or interest, especially on unsecured debts such as credit cards and personal loans
- Developing payment plans based on victims’ ability to pay
- Providing advice about other options for repairing credit, such as documenting fraud victimizations in national and local credit reports

Some credit counseling services provide their services for free, while others may charge hefty fees. Consumer Credit Counseling Service (CCCS), the nation’s largest (and no-cost) non-profit credit counseling service, has branch offices located in most metropolitan areas. Victims should consult their local telephone directories for the nearest CCCS office or call the national toll-free number, (800) 388-CCCS, to learn the location of the nearest office.

Local Better Business Bureaus and local credit reporting agencies are also good sources for consumer counseling referrals.

3. Work with Credit Reporting Agencies

Being a victim of crime normally does not relieve a person of the obligation to pay both legitimate debts and the debts caused by fraudulent acts. Victims should obtain copies of their credit reports, from both national and local reporting agencies, for several reasons:

- *To learn whether negative ratings appear on credit reports.* If so, victims can file a written explanation of the crime, or payment difficulty, for inclusion in the report. While explanations will not result in the removal of negative credit ratings, they do provide creditors with information for future credit decisions. Victims should submit written statements to both local and national credit reporting agencies, as many do not share credit information.
- *To learn whether continuing debt is being incurred as a result of fraud.* It is not uncommon in credit card fraud for perpetrators to use victims' personal information to secure additional credit in victims' names over a long period, especially if they have not been identified or arrested. Nor is it uncommon for fraud perpetrators to sell victims' personal information to other criminals. By reviewing credit reports routinely, victims will be able to uncover additional fraudulent acts without long delays.

In cases where a perpetrator has been identified and convicted, victims should submit copies of restitution orders, liens, or other orders of judgment against the perpetrator for their credit files. Copies of these orders will add legitimacy to victims' written explanations of payment difficulties.

Victims should be warned of companies that claim the ability to remove negative ratings from credit reports. These companies normally charge high fees for their services, which basically amount to making a payment on the debt, with little or no impact on the credit rating. Nothing (except errors by creditors or credit bureaus) erases negative ratings from a credit report but the timely repayment of debt.

4. Assistance from Credit Card Fraud Units Housed in National Credit Reporting Agencies

Each of the three most frequently used national credit reporting agencies has a credit card fraud unit. Their contact information is as follows:

Equifax
P.O. Box 740256
Atlanta, GA 30374
Fraud Assistance Unit:
(800) 525-6285

Experian
P.O. Box 949
Allen, TX 75013
Consumer Fraud Assistance Unit:
(800) 682-7654

Trans Union Corporation
P.O. Box 6790
Fullerton, CA 92834
Fraud Assistance Unit:
(800) 680-7289

The most common service offered by these fraud units is placing a “block” on a victim’s credit files so that when new applications for credit cards are received, they are rejected until the victim is contacted to verify that he or she actually applied for the cards.

Requesting a block on one’s credit file is not restricted to credit reporting agencies. Victims of credit card theft, credit card fraud, or personal identity fraud should contact individual credit card companies where they have existing accounts and request that similar flags be placed on their account records.

In addition to blocking new credit applications, victims can request to be notified if charges to their credit cards exceed usual spending patterns. American Express does this as a matter of course. Other companies require a written request to provide such notification.

Victims should request the names of those individuals or companies that have asked for a copy of their credit report in the last six months to determine the legitimacy of the request. Victims should also ask credit reporting agencies how long a credit file block is left in place and what procedures must be followed to extend it.

Depending on the nature of the fraud, victims may not be held financially liable for the debts incurred as a result of the fraudulent act. Victims should contact fraud assistance units, credit card companies, lending institutions, or an attorney to determine if they are in fact exempt from the debt.

C. Strategies to Help Prevent Revictimization

Fraud criminals relentlessly target and re-target their most vulnerable victims, often selling “sucker” lists to other perpetrators. It may be difficult to understand how someone could repeatedly give money to con artists, but for some victims, responding to fraudulent offers or investments is a repetitive form of behavior—much like an addiction. For others, such as lonely elders, the only form of social contact they have may be with fraudulent telemarketers, and experienced con artists target them for just that reason. These individuals need help to break the continuing cycle of victimization.

To reduce fraud victims’ chances of being targeted and defrauded by criminals again, victim/witness coordinators can suggest several strategies. In addition to those already mentioned, the following strategies may help:

1. *Remove Victims’ Names from National Mailing, Marketing, and Phone Lists*

Victims should be advised to send a written request to have their names removed from national mailing and phone lists. Written requests should be mailed to the following:

Mail Preference Service

Telephone Preference Service

Direct Marketing Association
P.O. Box 9014
Farmington, NY 11735

Direct Marketing Association
P.O. Box 9008
Farmington, NY 11735

Requests may take several months to process. A sample letter requesting the removal of victims' names from mailing or phone lists is included in Appendix B.

Victims wishing to remove their names from marketing and pre-approved credit card offer lists maintained by Equifax, Experian, and TransUnion should be advised to mail their written request to the following:

Equifax
P.O. Box 740256
Atlanta, GA 30374

Experian
P.O. Box 949
Allen, TX 75013

TransUnion Corporation
P.O. Box 6790
Fullerton, CA 92834

2. *Change Phone Numbers*

Sometimes a fraud victim, especially a victim of telemarketing fraud, may want to change his or her telephone number or get an unlisted number. To change a telephone number, the fraud victim should call a customer service representative at the local phone company, explain the circumstances, and ask that the number be changed. Telephone companies usually change the number once at no charge for fraud victims and may charge \$20 or more to change the number a subsequent time. The change usually becomes effective within 24 hours. The victims should also ask the phone company about other options, such as how to trace calls from persistent telemarketers. When appropriate, victim/witness coordinators should write letters on behalf of victims to verify that they are in fact victims of fraud crime.

3. *Contact Creditors to Close Accounts*

When an account has been used fraudulently, the victim should contact the creditor immediately—first by phone, then in writing—to request that the account be closed and that a flag of “closed by consumer request” be placed on it. Replacement cards with new account numbers should be requested at that time.

4. *Changing Personal Identifiers*

Victims can request that fraud assistance units in national credit reporting agencies, as well as individual credit card companies that maintain their own credit accounts, change their personal identifiers or add additional personal identifiers, such as a name other than the victim's mother's maiden name. That way, if old personal identifiers are used, fraud assistance unit personnel will automatically be alerted to fraud.

Additionally, victims should be advised not to release social security numbers, credit card numbers, or bank account numbers without first verifying the legitimacy of the requesting individual or agency.

5. *Restrict Address Changes*

Victims can also request that national and local credit reporting agencies make no address changes to credit files without first contacting the victims to confirm the requested changes. It is not uncommon for identity thieves to submit new credit applications with a different address. In doing so, they are able to redirect billing notices and pre-approved credit card offers, increasing the likelihood that victims will remain unaware of new credit accounts until the perpetrators have amassed staggering debts and new identities.

6. *Routinely Review Credit Files*

Victims should review local and national credit files routinely so that crimes of identity fraud can be spotted quickly. Victims who have been denied credit are entitled to receive a free copy of their credit report. Victims may be assessed a fee for additional reports. Beginning October 1997, victims of identity theft are entitled by law to receive an annual credit report free of charge.

7. *Maintain Files of All Financial Transactions*

Victims should keep files of all financial transactions, including all credit applications, requests for credit file blocks, and changes of personal identifiers.

8. *Notify Banks and Other Lending/Investment Institutions*

Victims should cancel checking, savings, and investment accounts and obtain new account numbers. They should ask that their new personal identifiers be used to verify all transactions. Stop-payments should be placed on any outstanding checks or payments, and creditors should be notified of the reissuance of payments. Victims should not forget to cancel ATM cards and request new ones with new identifiers.

9. *Report the Fraudulent Use of Checks to National Check Verification Companies*

Victims should report the fraudulent use or theft of checks, along with the closed account number, to companies that contract with retail establishments to verify checks. Such companies include these:

- CheckRite: (800) 766-2748
- Chexsystems: (800) 428-9623
- Equifax: (800) 437-5120

- National Processing Company: (800) 526-5380
- SCAN: (800) 262-7771
- Telecheck: (800) 710-9898

10. Reject and Report “Recovery Room” and Other Financial Recovery Schemes

Previously victimized persons should be warned about “recovery room” schemes, which falsely offer victims a way to recover their losses from fraudulent acts—for a fee. Victims should be instructed that if contacted by an individual claiming he or she can help recover their losses, either with or without a request for payment, victims should immediately notify their case agent, the prosecutor handling their case, or the victim/witness coordinator. Federal and state justice agencies do not charge fees to recover victims’ losses. Most often the person contacting the victim is a confederate of the original criminal. It is not uncommon for fraud criminals to pass along their list of fraud targets to other criminals.

Occasionally, victims may be contacted legitimately by a representative of a reparations board or state agency that helps victims recover their money, but normally such contact is initiated by victims. Victims should be warned to contact their case agent, prosecutor, victim/witness coordinator, or the state agency being represented to determine the legitimacy of the representative. Many fraud criminals operate in organizations with names that sound like those of government agencies.

11. Use Consumer Protection Agency “Fraud Alerts”

Victim/witness coordinators should provide victims with contact information to receive fraud alerts and other fraud-related promotional materials from consumer protection groups, such as the National Fraud Information Center of the National Consumer’s League (800-876-7060). Through consumer protection agencies, victims can find out about current scams and tips and report fraudulent activities. (Contact information is found in Appendix C.)

12. Change Social Security Number

This action should be used only in extreme cases of identity theft, where victims’ credit is so badly associated with bad checks and credit that repair is unlikely no matter what. Victims should contact the Social Security Administration to request a new number. Victim/witness coordinators should advise victims to provide their new number to all credit grantors, credit reporting agencies, insurance carriers, employers, state and federal taxing agencies, and departments of public safety (if the social security number is used as the driver’s license number). Afterwards, victims should review their social security benefits annually to ensure that they have been properly credited with benefits transferred from their old accounts to their new ones. Victims should request such statements from their local office of the Social Security Administration.

V. Managing Mass Victim Cases

Perhaps a victim/witness coordinator's most challenging responsibility is the coordination of mass victim cases. Such cases are common in fraud crimes and can involve hundreds or even thousands of victims. Notification challenges are heightened when victims are spread over the entire country. Additionally, many fraud investigations involve multiple jurisdictions and investigative agencies, compounding the difficulty of obtaining victims' contact information. It is not surprising that the delivery of even the most basic victim services in such cases can be overwhelming.

Several strategies have proven successful for victim/witness coordinators who must manage mass victim cases. Some strategies require the purchase of equipment or the contracting of services to streamline the notification process. Others simply involve old-fashioned ingenuity.

A. Automated Victim Notification

Automated victim notification programs enable registered victims to access court-related information 24 hours a day, seven days a week, with a simple phone call to a national call center established by the vendor. Such programs work by establishing interfaces with existing case documentation systems located in prosecutors' offices, court clerks' offices, and detention facilities and then downloading the information into databases housed in the vendors' call center.

Automated victim notification systems allow several options. They can relate the offender's custody status (and even warn of an offender's escape from custody) and provide court dates, times, locations, cancellations, and postponements. They can impart that information via an outgoing phone call or by producing and distributing notification letters to registered victims. (See sample letters and forms in Appendix B.) In addition, victims can usually call the system on a toll-free number. Information is normally provided in a number of languages.

An added benefit of automated programs is that they eliminate the redundant entering of case information by multiple agencies. Victims can be entered into the system as early as their offender's arrest, and they can update their personal contact information—by phone—throughout the progress of the case, including prosecution and incarceration.

B. Coordination Between Probation and U.S. Attorneys

Provisions under the Mandatory Victims' Restitution Act require the U.S. Probation Department to notify victims of the following:

- Defendants' convictions
- Victims' right to submit financial loss statements for restitution consideration, including the probation officers' formal requests for these losses

- The time, date, and location of sentencing
- Other information pertaining to restitution and sentencing

To reduce the duplication of work, victim/witness coordinators may wish to consider working with probation officers to determine the appropriateness and feasibility of including other information in notification correspondence to satisfy both the agencies' mandates for notification and victims' need for comprehensive case-related information.

C. Use of Provisions Found Under 18 U.S.C. 3555, Order of Notice to Victims

Provisions of this statute provide that the court, when imposing a sentence on a defendant who has been found guilty of an offense involving fraud or other intentionally deceptive practices, may order (in addition to the sentence) that the defendant give reasonable notice and explanation of the conviction, in such a form as the court may approve, to the victims of the offense, not to exceed a cost to the defendant of \$20,000. The notice may be ordered to be given by mail, by advertising in designated areas or media, or by other appropriate means.

Recently, the U.S. Attorney's Office, Northern District of California, used this provision to require the defendant in a telemarketing/direct mail scheme to provide case settlement notification to his victims as part of the plea agreement.

D. Toll-Free Numbers

Some victim/witness coordinators have found it helpful to obtain a toll free (800 or 888) telephone number that allows victims to access pre-recorded information about scheduled court proceedings, cancellations, and postponements. The use of a toll-free number requires that the recording be continuously updated by program staff, but it can be an effective tool when individual calls to victims are not possible. Notice of the number should be included in any initial victim contact correspondence. Victim/witness coordinators who wish further information should contact the Executive Office for United States Attorneys (EOUSA).

E. Equipment Designed for Mass Mailings

Direct-mail advertisers use machines to fold, staple, and process thousands of letters per hour. Machines are available that can fold, insert, label, and sort bulk mail. Similar equipment could be purchased for use in mass victim notification. Victim/witness coordinators may wish to contact direct mail advertisers or the U.S. Postal Service to learn about mass mailing equipment and obtain vendor contact information.

F. Sharing of Computerized Victim Contact Data

Victim/witness coordinators should consider asking case agents to place the names, addresses, phone numbers, and amounts of financial losses (and ages if victims are elderly due to special sentencing enhancements, where appropriate) of all victims and witnesses on computer as they are identified. The computer file should be shared with everyone in the system, including the Financial Litigation Unit, Clerk of Court, and Probation Department. Files should be updated and distributed when there is new victim contact information or when new victims are identified.

G. Generalized Notification Materials

Some victim/witness coordinators have found postcards useful for sharing court-related information with large numbers of victims. Postcards eliminate the need to stuff envelopes, reduce the cost of postage, and are easily duplicated at local copy centers. Computer-generated address labels addressed to "Victim/Witness," rather than to the individual, may also speed the notification process.

H. Private Sector Contracts

Some victim/witness coordinators have contracted out notification tasks to private sector mailing services. After signing a waiver stating that all information will be kept confidential, the mailing service should be given a computer file containing victims' names and addresses, along with the information to be delivered, and should print out a hard copy for the victim/witness coordinator. Victim/witness coordinators should, however, check their individual office's policy before embarking on a private contract. Such contracts may not be allowed.

If contracting out notification tasks is allowed, victim/witness coordinators may wish to consider contracting with local senior citizen centers or programs for the disabled (Goodwill, for example). These programs often fold, stuff, label, and affix postage at competitive prices.

I. Other

In some jurisdictions, victim/witness coordinators provide court notification and case status updates through newsletters written and distributed by victims. Others seek donated newspaper space to print hearing dates and case outcomes (especially if the scam was originally advertised in the newspaper).

Victim/witness coordinators might want to explore using the World Wide Web or e-mail to enhance victim notification. Using this technology, case information can be placed on specially designed websites so victims with computer capabilities can access court status information.

Other victim/witness coordinators have realized successful results from selecting one victim to represent a large number of victims, in order to reduce the numbers of victims speaking at sen-

tencing events, especially when the majority of victims are confined to one geographical jurisdiction.

VI. Networking for Effective Service Delivery

In general, victim/witness coordinators are severely burdened with growing caseloads, a lack of program or administrative staff, and numerous job-related duties. Such constraints leave victim/witness coordinators little time to establish programs and services to meet the growing needs of fraud victims. Cases involving fraud make victim/witness coordinators' jobs even more difficult, especially when those cases involve thousands of victims.

Victim/witness coordinators can employ several effective strategies to enhance their services to fraud victims. Coordinators can network with members of the community and allied professionals to learn of appropriate referrals, and they can establish local or regional task forces to address voids in victim assistance programs and services. This section provides effective strategies to do both.

A. Benefits of Networking

Networking allows victim service providers and, in particular, victim/witness coordinators to take advantage of opportunities to meet and work with a variety of professional and community colleagues, significantly enhancing their ability to do the following:

- Learn of new or enhanced victim-related referrals.
- Learn of underserved populations or changing victim needs.
- Address voids in fraud victim assistance services through partnerships with community-based victim service programs and government agencies.
- Provide training to allied criminal justice professionals, community-based service providers, medical and mental health practitioners, community residents, and others about the financial and other needs of fraud victims.
- Increase their exposure to model programs and services.
- Gain access to a variety of victim-related resources, publications, and service strategies.

B. Establishing Networking Connections

There are numerous ways to hook into established networks. Suggested avenues include these:

- Attending at monthly meetings of local civic organizations, chambers of commerce, and professional associations
- Joining state and national victim assistance professional organizations
- Serving on the boards of community-based service programs
- Volunteering

- Serving on crime-related task forces
- Attending criminal justice-related meetings and training events
- Joining speakers' bureaus
- Attending local, state, regional, and national victim assistance conferences, seminars, and workshops addressing a variety of victim-related topics and populations, such as elderly, disabled, or other vulnerable victims

Networking provides victim/witness coordinators with other opportunities as well:

- Increased understanding of the nature of criminal victimization (general or crime-specific) by allowing for interactions with a variety of professional disciplines, philosophies, and work experiences
- Professional growth through attendance at training conferences
- Sharing of work-related experiences through membership in state and national victim assistance professional organizations

C. Using Network Connections to Enhance Services to Fraud Victims

If networking efforts are successful, victim/witness coordinators will have created valuable new contacts to draw upon to enhance program services to victims of fraud. Examples of using network contacts to enhance fraud victim services include these:

- Asking accountants, credit counselors, and others identified through networking efforts to speak at informational workshops, addressing fraud victims' most common concerns, such as "How to Address Credit Problems" or "Fraud Victims' State and Federal Tax Liabilities"
- Identifying programs and services through volunteer agencies that provide "companion services" and other services to elderly crime victims
- Learning of job training programs for displaced homemakers or retired seniors who must re-enter the job market due to their victimization

D. Establishing a Fraud Victim Task Force

Without a coordinated community approach to serving the informational, emotional, and financial needs of fraud victims, a fragmented approach to service delivery is likely to occur. This is unfortunate because fragmented approaches often allow for the duplication of some services, while allowing other victim-related service needs to go unmet. The establishment of community or regional fraud task forces is one way to achieve comprehensive victim-related services and reduce the chances of a fragmented service approach.

Task forces can be developed by bringing together representatives of interested groups in area-wide meetings to explore new ways to work for fraud victims. An added benefit is that the entire workload does not fall on any one person.

1. Task Force Goals

Overall goals can vary from group to group. However, meeting the needs of fraud victims should be one of the primary goals. Task force goals relating to victim service needs should be fourfold:

- Assess the emotional, financial, and informational service needs of fraud victims.
- Assess local, state, and regional governmental and nonprofit agencies and programs that currently provide services or support to fraud victims.
- Identify gaps in current programs and services.
- Determine how best to address those gaps.

2. Task Force Membership

A fraud victim task force should include a mix of governmental and community-based professionals and officials, community leaders, members of the public, and victim representatives so that a variety of expertise and experience can be drawn upon. Members might include the following:

- Prosecutors (county and federal)
- Law enforcement officers (city, county, and especially those who work with elderly victims through such programs as TRIAD)
- Federal case agents
- Prosecutor-based victim assistance professionals (county and federal)
- Police chiefs
- Sheriffs
- Probation and parole officers (county, state, and federal)
- Judges (county and federal, representing both criminal and civil courts)
- Elected officials (mayor, county commissioner, county executive, city council members)
- Representative of the state attorney general's division of economic or consumer fraud
- Community-based victim assistance representatives
- Consumer protection agency representatives
- Better Business Bureau representatives
- Aging and adult protective service representatives

- Consumer credit counseling representatives
- Media representatives
- Senior citizen organization representatives
- Local business leaders (especially those in businesses affected by fraud crimes, or those who can provide free or reduced services such as printing)
- Nonprofit organizations (especially those that deal with consumer fraud and elder abuse)
- Religious leaders
- Fraud victims

3. Task Force Organizational Structure

Some task forces serve as one body to address all issues surrounding the primary subject area. Others create subcommittees to look at particular issues or concerns in depth and then report back to the full task force with findings or a plan of action. Task force structuring that allows for subcommittees lets members select issues related to their area of expertise or interest and make substantial contributions quickly.

Specific subcommittees for a fraud task force might include the following:

- *Public Awareness and Education Committee*—develops public awareness and education campaigns to prevent fraud. The committee also works to raise understanding, among other victim service agencies and the general public, of fraud crimes and the emotional and financial impact to victims and the larger community. Public awareness and education campaigns can also be useful in reducing the social stigma that many fraud victims experience.
- *Legislative Committee*—tracks state and federal statutes pertaining to fraud crimes to alert interested parties of changes that may affect mandated programs and services.
- *Prevention Committee*—creates opportunities, using promotional materials, to reduce the prevalence of fraud victimization. Opportunities include hosting community or regional citizen forums, distributing fraud alerts to target victim populations, and arranging a speakers' series to address topics relevant to fraud crimes.
- *Victim Assistance Committee*—tracks emerging trends in the delivery of services to fraud victims, assesses current victim assistance programs, and develops and implements service programs to meet new or emerging victim assistance needs.
- *Training Committee*—develops strategies to train community service providers and allied criminal justice professionals (judges, probation and parole officers, prosecutors, case agents, and others) about the effects of fraud victimization. Additionally, the committee develops and implements local, state, or regional fraud-related training conferences.

- *Financial Remuneration Committee*—seeks model program services to increase victims' opportunities for financial recovery.

4. Additional Task Force Benefits

Task forces can also help raise public awareness about the overall issue of fraud and, in particular, its devastating financial and emotional impact on victims. Task forces can do so by releasing their findings and recommendations to local, state, and regional media, such as newspapers and television news programs. Task force findings should also be distributed to at least the following:

- Local, state, and regional elected officials
- Professional associations
- State bar associations
- Medical, insurance, real estate, contracting, investment, and other local and state licensing boards
- Credit reporting agencies
- Allied criminal justice professionals
- Governmental agencies with mandates to serve specific populations, such as the elderly or disabled
- Nonprofits and other community-based programs that provide direct services to crime victims

Appendix A

How Victims of Crime Act (VOCA) Funds May Be Used to Assist Victims of Financial Fraud

The Victims of Crime Act (VOCA) authorizes the Office for Victims of Crime (OVC) of the U.S. Department of Justice to administer grants to the states for victim services and victim compensation. Although VOCA funds may not be used to compensate victims of fraud for their financial or property losses, VOCA funds may be used to provide such victims with services to help them obtain justice and healing. **VOCA defines “services” as efforts that**

- **Respond to the emotional and physical needs of crime victims,**
- **Assist victims of crime in stabilizing their lives after a victimization,**
- **Help victims understand and participate in the criminal justice system, and**
- **Provide victims of crime with a measure of safety and security.**

OVC allows each state grantee the latitude to determine how VOCA victim assistance grant funds can be used most effectively. The eligibility requirements for organizations receiving VOCA funds may be found in sections IV.B and IV.C of the *1997 VOCA Victim Assistance Final Program Guidelines*.

In response to comments from VOCA victim assistance and victim compensation program administrators, victim service providers, representatives of national victim organizations, elder services agencies, and other victim advocates, the revised *Guidelines*, published in April 1997, encourage states to fund new or expanded services for victims of fraud and economic exploitation. **The amended language of the *Guidelines* does the following:**

- *Expands the definition of “victim” to include victims of financial crimes.* In Section I, Background, the definition of “crime victim” has been modified to “a person who has suffered physical, sexual, financial, or emotional harm as a result of the commission of a crime.” Although VOCA-funded programs cannot be used to restore the financial losses suffered by victims of fraud, victims are eligible for the counseling, criminal justice advocacy, and other support services offered by VOCA-funded victim assistance programs.
- *Expands the definition of “elder abuse” to include economic exploitation and fraud.* In the Program Requirements section of the Final Guidelines (IV.A.4.) describing grantee eligibility requirements, the definition of “abuse of vulnerable adults” now includes the mistreatment of older persons through economic exploitation and fraud.
- *Expands the definition of “previously underserved” priority areas to include victims of fraud crimes.* The Program Requirements section (IV.A.4.) also states that an

additional 10 percent of each VOCA grant will be allocated to crime victims who were “previously underserved.” These underserved victims may include victims of economic exploitation and fraud.

A. Direct Services

VOCA grant funds may support direct services for fraud victims, such as the following:

1. Immediate Health and Safety

Services that respond to the immediate emotional and physical needs of crime victims (excluding medical care) are eligible for support with VOCA victim assistance grant funds. Examples include crisis intervention; hotline counseling; and providing emergency food, clothing, transportation, and shelter (section IV.E.1.a.).

2. Mental Health Assistance/Support Groups

Counseling, on either an individual or group basis, may help some fraud victims and their family members understand their victimization and stabilize their lives after the experience. Grant funds may be used to pay for individual counseling, fraud support groups, and therapy (section IV.E.1.b.).

3. Respite Care and Serving Victims with Disabilities

Assistance with participation in criminal justice proceedings can be paid for with VOCA funds. These may include the cost of caring for a child or a dependent adult so that a victim can attend court. Funds may be used to purchase items such as Braille equipment for the blind or TTY/TTD machines for the deaf, or to make minor building improvements that make services more accessible to victims with disabilities (section IV.E.1.c. and IV.E.2.d.).

4. Credit Counseling Advocacy or Other Special Services

VOCA funds may be used to help crime victims manage the practical problems created by victimization. One example would be acting on behalf of the victim with other service providers, creditors, or employers (section IV.E.1.f.).

5. Restitution Advocacy

Restitution advocacy on behalf of specific crime victims is now an allowable activity under VOCA grants. Restitution advocacy can include the cost of purchasing, developing, printing, and distributing restitution information for victims. Victim/witness coordinators may prefer to hold a meeting with a group of fraud victims or develop a formal program to discuss the restitution process, such as a one-day restitution clinic or workshop (section IV.E.1.c.).

6. Public Presentations

Grant funds can be used to support presentations that are made in community centers, nursing homes, and other public forums and that are designed to identify fraud victims and provide or refer them to needed services. Specifically, grant funds can be used to cover presentation materials, brochures, and newspaper notices about the event (section IV.E.2.k.).

7. *Advanced Technologies*

The use of computers and automated victim notification systems can dramatically improve the ability to reach and serve fraud victims (section IV.E.2.f.). In purchasing these technologies with grant funds, applicants should describe the following:

- How the computer equipment will enhance services to fraud victims
- How it will be integrated into or enhance the existing system
- Cost of installation
- Cost of training staff to use the computer equipment
- Ongoing operational costs, such as maintenance agreements and supplies, and how these additional costs will be supported (property insurance is an allowable expense, as long as VOCA funds support a prorated share of the cost of the insurance payments)

B. Assistance

VOCA grant administrative funds may assist fraud victims through the following:

1. *Training*

VOCA funds can be used for training direct service providers, such as social service workers, adult protective service providers, and mental health and medical professionals about the nature of financial fraud and the needs of its victims.

2. *Publications*

VOCA funds can be used to purchase, print, or develop publications such as brochures, training manuals for service providers, or victim services directories. For example, VOCA funds could be used to translate and print informational brochures to assist non-English speaking victims of financial fraud.

Appendix B

Sample Letters

The following pages contain sample letters for use by fraud victims and victim/witness coordinators. The first eight letters are for use by victims.⁷ The next 13 letters are models that victim/witness coordinators can follow.

A. Letters for Use by Victims

1. *Request to Be Removed from Mailing Lists*
2. *Request to Be Removed from Phone Lists*
3. *Letter to Credit Reporting Agencies (Initial Letter)*
4. *Letter to Credit Grantors (Including Creditors, Banks, Department Stores, Utility Companies, and Investment Firms)*
5. *Letter to Collection Agencies*
6. *Notification to General Creditors to Flag Account*
7. *Bureau of Prisons Notification Request*
8. *Petition for Remission or Mitigation of Forfeiture*

B. Letters and Forms for Use by Victim/Witness Coordinators

1. *Post-Sentencing Disposition Letter to Victims with Findings of Guilt*
2. *Guilty Verdict/Victim Impact Statement/Sentencing Notice to Witnesses and Other Interested Parties*
3. *Notification to BOP of Victim Request*
4. *Confirmation to Victim of Receipt and Forwarding of BOP Notification Request*
5. *Request for Inmate Status—State Custody*
6. *Not-Guilty Verdict Letter*
7. *Notice of Arrest*
8. *Notice of Indictment*
9. *Notice of Arraignment*
10. *Notice of Trial*
11. *Letter to Employer on Behalf of Victim or Witness for Any Scheduled Court Event*
12. *Abstract of Judgment*
13. *Petition for Remission or Mitigation (Cover Letter to Non-Owner Victims)*

⁷ Some of these letters were adapted from the book *From Victim to Victor: A Step-By-Step Guide for Ending the Nightmare of Identity Theft* by Mari J. Frank (Laguna Niguel, CA: Porpoise Press, 1998).

A. Letters for Use by Victims

1. Request to Be Removed from Mailing Lists

[Date]

Mail Preference Service
Direct Marketing Association
P.O. Box 9014
Farmington, NY 11735

Dear Sir/Madam:

I am writing to request that my name be removed from any and all mailing lists for unsolicited mail, effective immediately. I am currently receiving unsolicited mail at:

[Name]

[Address]

[City, State and ZIP code]

Other persons living at this address who also request that their names be removed immediately from any and all mailing lists are [Names of family members]. If this request is not sufficient for removing my name or those of my listed family members, please notify me promptly of any other procedures I need to follow. I can be reached at the address listed above. Thank you for your attention to this matter.

Sincerely,

[Signature of victim]

[Printed name]

2. Request to Be Removed from Phone Lists

[Date]

Telephone Preference Service
Direct Marketing Association
P.O. Box 9008
Farmington, NY 11735

Dear Sir/Madam:

I am writing to request that my name be removed from any and all phone lists for unsolicited telemarketing phone calls, effective immediately. I am currently receiving unsolicited telephone calls at [Area code and phone number].

Other persons living at this address who also request that their names be removed immediately from any and all phone lists are [Names of family members]. If this request is not sufficient for removing my name or those of my listed family members, please notify me promptly of any other procedures I need to follow. Thank you for your attention to this matter.

Sincerely,

[Signature of victim]

[Printed name]

[Street address]

[City, State and ZIP code]

3. Letter to Credit Reporting Agencies (Initial Letter)

[Date]

Equifax Information Service Center
Customer Service/Fraud Assistance Unit
P.O. Box 740256
Atlanta, GA 30374

Experian
Consumer Fraud Assistance Unit
P.O. Box 949
Allen, TX 75013

TransUnion
Fraud Victim Assistance Department
P.O. Box 6790
Fullerton, CA 92834

Or Local Credit Reporting Bureaus

Re: [Victim's name]
Social Security Number: _____
Date of Birth: _____
Subject: Case of Fraud

Dear Sir/Madam:

This letter is to serve as written follow-up to my phone call to your office on [Date]. As I stated in my call to your representative [Name], I am the victim of identity fraud. I became aware of the theft of my identity on [Date] and in the following manner: [Brief description of crime].

Thus, I request certain items and assistance from your office. Specifically, please:

- Provide me with the name of an individual in your office to whom I should address all future correspondence about my credit file and the theft of my identity.
- Place a fraud alert on my credit file, noting that I am the victim of identity theft and that no credit is to be issued without my permission.
- Send a complete copy of my credit report to my home address, which is listed below. I understand that because I am a fraud victim, there is no charge for this report.

- Remove my name from any client list you may provide to other credit grantors or direct marketers.
- Notify all credit grantors or other agencies that have received my credit report within the last year that there has been a fraud committed against me. Please send me a copy of all such correspondence.
- Send me a list of all credit grantors (with phone number and address) to whom you are sending this information.
- Notify all companies that have inquired in the last 12 months about my credit that a fraud has occurred against me.
- Send me any booklets or handouts as to my legal rights and obligations, along with any additional information your agency may have to help me deal with this identity theft.
- Do not release my credit report without my permission.
- Do not change my address without my approval.
- Place this letter in my credit file.

I am attaching a copy of my last utility payment and driver's license to verify my identity. I have filed a complaint with the [Name of police department] concerning this crime. The police report number is [Number]. You may contact [Name of investigator or case agent] at [Phone number] to verify that this crime was reported.

Thank you very much for your immediate attention to this matter. I look forward to receiving the information I have requested, along with a copy of my credit report. Should you need me to supply with any additional information, please notify me as soon as possible. My address is [Home address], and I can be reached during the day at [Phone number] and during the evening at [Phone number].

Sincerely,

[Signature]

[Name]

[Address]

[City, State and ZIP code]

4. Letter to Credit Grantors (Including Creditors, Banks, Department Stores, Utility Companies, Investment Firms)

[Name of Supervisor of Fraud Department]

[Creditor]

[Address]

[City, State, ZIP code]

Re: Identity Fraud

Account: _____

Dear [Name of Supervisor of Fraud Department]:

On [Date], I contacted your office by phone to alert your company that I am the victim of identity fraud and that the account opened under my name, with your agency, was done so fraudulently. This letter should serve as written verification of the crime. Please note that I phoned your office immediately upon learning of the fraud, and thus I shall not be responsible for any charges or debits resulting from this crime.

I was informed by [Name of company representative] that you opened an account in my name and that [Information, statements, credit cards, etc.] were mailed to the following address: [Address]. That is not my address. My address is [Address] and has been for the past [Number of months or years]. I have enclosed a copy of my current utility statement and driver's license to verify my identity.

I will be happy to complete any paperwork your company may require in conjunction with this report or sign any affidavits required of me. Please close this account immediately and send to my attention the following:

[As applicable]

- The address, phone number, and password for the fraudulent account/credit card
- The original application and/or forged signature
- Copies of all billing statements, along with any other correspondence in regard to this account
- Copies of notices you send to any credit reporting agencies or other credit grantors about this account

I reported this crime to the police on [Date]. The police report number is [Number]. You may contact [Investigator or case agent] for additional information or verification of the reporting of this crime. [He/she] can be reached at [Phone number].

Additionally, please do not sell my name, address, or phone number to anyone at anytime for promotional purposes. Please do not make any address changes or issue any new credit in my name without first personally contacting me to verify the request's legitimacy.

I look forward to receiving the information I have requested without delay. If you should need to reach me by phone, I can be reached at [Phone number] during the day and [Phone number] in the evening.

Sincerely,

[Signature]

[Printed name]

5. Letter to Collection Agencies

[Date]

[Supervisor's name]

[Address]

[City, State and ZIP code]

Re: Account Number: _____

Dear [Supervisor's name]:

This letter is to serve as written notification that I am a victim of a fraud crime. The account currently in your office for collection does not belong to me—it was opened fraudulently. I reported this crime to [Name of police department] on [Date]. The police report number is [Number]. The [Investigator/case agent] handling my case is [Name]. [He/she] can be reached at [Phone number].

Please provide me with all documentation of the original fraudulent account. Additionally, please send me whatever forms are necessary for me to sign so that this account can be removed from my credit report. Do not send me any further threatening letters and do not call me, my employer, or anyone else about this. If you should need any additional documentation concerning this crime, please contact me at [mailing address]. I request written confirmation that this account has been removed from my credit history.

Thank you very much for your assistance in this matter.

Sincerely,

[Signature of victim]

[Name]

6. Notification to General Creditors to Flag Account

[Date]

[Agency representative]

[Address]

[City, State and ZIP code]

Name of Account: _____

Account Number: _____

Dear [Agency representative]:

This letter is to serve as written verification that I am a victim of identity fraud. While it does not appear that any fraudulent activity has occurred in the account listed above, I would like a credit/fraud alert placed on my file that notes that prior to making any changes in my account I am notified for approval. This includes changes to my address. I have enclosed a copy of my current utility statement and driver's license to verify my identity and the correct address.

Do not close the account. Once again, no fraudulent activity has occurred at this time. This notice is only an alert that fraudulent activity has occurred in other accounts under my name. Please send me written verification that the requested credit/fraud alert has been placed in my file. If you should require anything else from me, I can be reached at [Phone number] during the day or [Phone number] during the evening.

Thank you for your assistance in this matter.

Sincerely,

[Signature]

[Name]

[Address]

[City, State and ZIP code]

7. Bureau of Prisons Notification Request

[Date]

[Victim/witness coordinator]

[Address]

[City, State and ZIP code]

Re: United States v. [Defendant's name]

Bureau of Prisons Notification

This is to serve as notice that I wish to be notified of any and all releases or related proceedings involving the above-named defendant. This information includes notice of furloughs, transfers, death, and final release, as well as any escape or recapture. I understand this request will be forwarded to the Bureau of Prisons, which will keep me informed of all changes.

[Signature]

[Date]

My contact information is [Print or type]:

Name: _____

Address: _____

Home phone: (____) _____

Work phone: (____) _____

I understand that the responsibility for notifying the Bureau of Prisons of any change in my address or phone number is mine. Thank you for your assistance.

8. Petition for Remission or Mitigation of Forfeiture

MODEL PETITION TO THE ATTORNEY GENERAL FOR REMISSION OR
MITIGATION OF CRIMINAL FORFEITURE, OR CIVIL FORFEITURE PURSUANT
TO 18 U.S.C. § 981(e)(6), BY A NON-OWNER VICTIM OF THE UNDERLYING OR
RELATED OFFENSE

TO: THE ATTORNEY GENERAL OF THE UNITED STATES
C/O U.S. ATTORNEY FOR THE DISTRICT OF [District where forfeiture
took place]
[Address of U.S. Attorney's Office]

[Send copy to the seizing agency in the district where the seizure took place or,
in the case of the DEA, at the address set forth in 28 C.F.R. § 9.4(e).]

FROM: [Name, address, social security or other taxpayer identification number, and
daytime telephone number]

1. I, [Name of petitioner], assert that I am a victim of the offense committed by defendant(s), [Name of defendant(s)], who [was/were] convicted in [Full name and number of case, with date of conviction, or of a related offense], having lost the following property to the defendant(s) as a direct result of that offense or related offense, without having any knowledge that defendant(s) [was/were] engaged in illegal activity: [Describe: the property in detail, including serial numbers, legal descriptions, etc. as appropriate; any evidence of the fair market value of the property on the date of the loss; any information concerning the present whereabouts of the property; and any information concerning the agency that seized the property, the asset identifier number, and the date and place of seizure].

2. The circumstances that led to my being a victim are as follows: [Describe in detail how you were victimized, providing names of witnesses, dates, and locations, attaching copies of relevant documents, and, if you turned over property to the defendant(s), explaining how you were induced to do so and what, if any, direct or indirect benefits you received].

3. I have made the following efforts to receive compensation for my losses: [Describe in detail all attempts to be reimbursed and the outcome or present status of those efforts]. I am unaware of any other assets of the defendant(s) against which I might have recourse, except the following: [State any information you have suggesting the defendant(s) has/have any other assets].

4. I affirm that if I receive any compensation for my losses, I will immediately notify the official who grants this petition (if it is granted) of that fact.

5. I understand that this petition will be governed by the regulations, including definitions of terms such as “victim” and “related offense,” set forth in 28 C.F.R. § 9.1 et seq.

DECLARATION

State of: _____

County of: _____

I hereby declare under penalty of perjury that the foregoing petition, including any attachments thereto, is true and correct in every respect.

Executed: _____
[Date signed]

[Signature of petitioner]

[IF REPRESENTED BY AN ATTORNEY]

DECLARATION OF REPRESENTED PETITIONER

State of: _____

County of: _____

I hereby declare under penalty of perjury that I have authorized [Name of attorney], [Address of attorney], to represent me in this proceeding, that I have fully reviewed the petition, including any attachments thereto, and that the petition and any such attachments are true and correct in every respect.

Executed: _____

[Date signed]

[Signature of petitioner]

DECLARATION OF ATTORNEY REPRESENTING PETITIONER

State of: _____

County of: _____

I hereby declare under penalty of perjury that upon information and belief the foregoing petition, including any attachments thereto, is true and correct in every respect.

Executed: _____

[Date signed]

[Signature of attorney]

B. Letters for Use by Victim/Witness Coordinators

1. *Post-Sentencing Disposition Letter to Victims with Findings of Guilt*

[Date]

[Name of victim]

[Address]

[City, State and ZIP code]

Re: United States v. [Defendant's name]

Case #: _____

Dear [Victim]:

This letter is to inform you that on [Date], [Defendant] [pleaded or was found] guilty of the charges of [Name of charges] in the U.S. Federal Court. As a result, [his/her] conviction, [Defendant] was sentenced to [Sentence] on [Day, Date], before Judge [Name].

[Add if sentenced to a prison term:] More specifically, [Defendant] will be required to serve [Amount of time] in federal custody. Upon [his/her] release from custody, [Defendant] will be placed on supervised release for a period of [Length of term]. [His/her] supervision will be monitored by [Name of supervising agency].

[Add if appropriate:] Conditions of [his/her] supervised release will include [conditions].

[Add if appropriate:] As a part of [his/her] sentence, [Defendant] was ordered to pay you a sum of [Amount] as restitution for your financial losses. The U.S. Probation Department will arrange a payment schedule for your repayment. You will receive information from the U.S. Probation Department in the near future concerning these payments.

As the victim of this crime and under federal law, you are entitled to receive certain information about this defendant while [he/she] is in federal custody, if you so request. This information includes notice of furloughs, transfers, death, and final release, as well as any escape. If you would like to receive this information, please complete and return the enclosed form. Your completed form should be returned to [Contact name and address].

I would like to take this opportunity to thank you for your patience and cooperation throughout the prosecution of this case. It is only when citizens come forward to participate in criminal proceedings that our justice system works most efficiently.

If you should have any additional questions about your right to receive information about the supervision of this defendant while [he/she] is under the supervision of the federal correctional system, or if you need assistance in completing the enclosed form, please contact [Contact name] at [Phone number]. [He/she/I] will be happy to assist you in any manner possible.

Sincerely,

[Signature]

[Name]

Victim/Witness Coordinator

2. Guilty Verdict/Victim Impact Statement/Sentencing Notice to Witnesses and Other Interested Parties

[Date]

[Name of victim, witness, or other party]

[Address]

[City, State and ZIP code]

Re: United States v. [Defendant's name]

Case #: _____

Dear [Victim, witness, or other party]:

This letter is to inform you that on [Date], [Defendant] was convicted in [Name of court] of [Type of crime]. The defendant will be sentenced on [Day, Date] at [Time] before Judge [Name]. The sentencing hearing will take place at the [Location] in Courtroom [Number]. You are encouraged to attend the sentencing; however, you are not required to attend. If you would like to attend, please call our office at [Number] the day before the scheduled hearing to determine if there have been any changes in the date, time, and location of the hearing.

[If writing to a witness, add:] Our nation's criminal justice system cannot work efficiently without the cooperation of all of its citizens. Your participation helped to ensure this conviction. We thank you.

If you should need any further assistance or information concerning this case, please feel free to contact [Name]. [He/she] can be reached at [Number].

Sincerely,

[Signature]

[Name]

Victim/Witness Coordinator

3. Notification to BOP of Victim Request

[Date]

[Name], Chief
Victim/Witness Coordinator
Office of Victim Assistance
Federal Bureau of Prisons
320 First Street, N.W., Room 531
Washington, DC 20534

Re: United States v. [Defendant]
U.S. Marshal #: _____
Docket #: _____
Date of Sentencing: _____

Dear [Name]:

The following individual(s) have requested to be notified of all release and release-related proceedings pertaining to the defendant named above. This information includes notice of furloughs, transfers, death, and final release, as well as any escape.

Requestor 1.

Name: _____

Address: _____

Home Phone: (____) _____

Work Phone: (____) _____

Requestor 2.

Name: _____

Address: _____

Home Phone: (____) _____

Work Phone: (____)_____

Thank you for your assistance in this matter. If you have any questions please feel free to contact me at [Phone number].

Sincerely,

[Signature]

[Name]

Victim/Witness Coordinator

4. Confirmation to Victim of Receipt and Forwarding of BOP Notification Request

[Date]

[Victim]

[Address]

[City, State and ZIP code]

Re: United States v. [Defendant]

Information Request Verification

Dear [Victim]:

Your request to be notified of all release-related information concerning [Defendant] has been forwarded to the Bureau of Prisons Office of Victim Assistance. This information includes notice of furloughs, transfers, death, and final release, as well as any escape and recapture.

I have enclosed information about the Bureau of Prisons Victim/Witness Notification Program, along with the various types of notifications you may elect to receive. You should begin to receive correspondence from the correctional facility where [Defendant] is confined in the near future.

Please remember to advise the Bureau of Prisons or this office of any changes in your contact information so that your information will remain current. Should you have any questions or concerns, please feel free to contact me or the Bureau of Prisons victim/witness coordinator. I can be reached at [Number]. The Bureau of Prisons victim/witness coordinator can be reached at (800) 359-3267.

Sincerely,

[Signature]

[Name]

Victim/Witness Coordinator

5. Request for Inmate Status—State Custody

[Date]

[State agency representative]

[State agency]

[Address]

[City, State and ZIP code]

Re: United States v. [Defendant]

Case #: _____

Dear [Representative]:

This letter is to inform your agency that the victim in the above-named case has requested to be notified of the escape, parole eligibility date, parole hearing date, and release or transfer of the defendant(s) from prison.

Victim's Name: _____

Address: _____

Defendant's Name: _____

U.S. Marshal # : _____

State I.D. # : _____

Date Sentenced: _____

Federal Sentencing Court and Jurisdiction: _____

Federal Sentence: _____

Federal Term of Probation: _____

The Federal Bureau of Prisons in Washington, D.C., has requested that it be placed in your state notification system because [Defendant] has been sentenced to serve federal time [concurrently/consecutively] with state time. Notification information should be addressed as follows:

[Name], Chief
Victim/Witness Coordinator
Federal Bureau of Prisons, Office of Victim Assistance
320 First Street, N.W., Room 531
Washington, DC 20534

Your cooperation in notifying the victim of these events is greatly appreciated. I have given the victim a copy of this letter with instructions to notify your office of any changes in address and phone number. If you have any questions, please call me at [Number]. Thank you for your cooperation.

Sincerely,

[Signature]

[Name]
Victim/Witness Coordinator

cc: [Name], Parole Commissioner, Parole Commission

6. Not-Guilty Verdict Letter

[Date]

[Victim]

[Address]

[City, State and ZIP code]

Re: United States v. [Defendant]

Case #: _____

Dear [Victim]:

This letter is to advise you that [Defendant] was found to be not guilty of the charge of [Charge]. A not guilty finding means that the case is over and [Defendant] will not be prosecuted further in this matter.

Please do not feel that this verdict means that the [Judge/jury] felt [Defendant] did not commit this crime. It only means that the evidence available to our office did not prove [His/her] guilt "beyond a reasonable doubt." Learning of this decision, no doubt, must be most upsetting for you.

Your participation in the prosecution of this case fulfilled a very vital and necessary role in our criminal justice system. Without your cooperation and assistance, we would not have been able to move forward in our attempts to prosecute [Defendant]. On behalf of my office, I thank you for your efforts.

If I can answer any questions you may have, or assist you in any other way, please feel free to contact me. I can be reached at [Number].

Sincerely,

[Signature]

[Name]

Victim/Witness Coordinator

7. Notice of Arrest

[Date]

[Victim]

[Address]

[City, State and ZIP code]

Re: United States v. [Defendant]

Case #: _____

Dear [Victim]:

This letter is to inform you that [Defendant] has been arrested and [is/has been] [taken into custody or released on bail, bond, or his/her own recognizance].

The next step in the criminal justice process will be to present the case to a federal grand jury. A grand jury is a panel of private citizens who hear and review the evidence collected in a case and then determine if the federal prosecutor has enough evidence to warrant sending the [Defendant] to trial. If your appearance is required, a subpoena will be issued and either mailed or served to you by the U.S. Marshals Service. You will be compensated for your time according to government regulations. You will also receive additional information from this office about the grand jury process.

Grand jury hearings are not open to the public. If your appearance is not required, you will be informed by this office of the grand jury's decision. If you should have any questions about this information, please call me at [Number]. Please feel free to call collect if you live outside the local dialing area. Thank you for your continued cooperation.

Sincerely,

[Signature]

[Name]

Victim/Witness Coordinator

8. Notice of Indictment

[Date]

[Victim]

[Address]

[City, State and ZIP code]

Re: United States v. [Defendant]

Case #: _____

Dear [Victim]:

This letter is to inform you that a federal grand jury returned an indictment against [Defendant] for the crime of [Type of crime]. The next step in the criminal justice process will be to formally arraign [Defendant]. At an arraignment hearing, a defendant formally pleads guilty or not guilty to the offense with which [he/she] is charged. Although you are permitted to attend the arraignment, your presence is not required. You will be notified as soon as the arraignment date is scheduled.

If you have any questions about this information, please call me at [Number]. Please feel free to call collect if you live outside the local dialing area. Thank you for your continued cooperation.

Sincerely,

[Signature]

[Name]

Victim/Witness Coordinator

9. Notice of Arraignment

[Date]

[Victim]

[Address]

[City, State and ZIP code]

Re: United States v. [Defendant]

Case #: _____

Dear [Victim]:

This letter is to inform you that [Defendant] has been scheduled for arraignment at [Time] on [Date] before [Magistrate/Judge] [Name]. The arraignment will take place in Room [Number] at [Location]. An arraignment hearing is one in which the defendant formally pleads guilty or not guilty to the offense with which [he/she] is charged. Although you are permitted to attend the arraignment, your presence is not required.

If [Defendant] does not plead guilty at the arraignment, a trial date will be set and you will be notified of the date, time, and location and notified whether your appearance is required. If your appearance is required, a subpoena will be issued and either mailed or served to you by the U.S. Marshals Service. If you are required to attend the trial, you will be compensated for your time according to government regulations. If a plea agreement is considered in lieu of trial, you will be notified before it is accepted and will be informed as to whether your attendance will be required at the arraignment. Most often it is not.

If you have any questions about this information, please call me at [Number]. Please feel free to call collect if you live outside the local dialing area. Thank you for your continued cooperation.

Sincerely,

[Signature]

[Name]

Victim/Witness Coordinator

10. Notice of Trial

[Date]

[Victim]

[Address]

[City, State and ZIP code]

Re: United States v. [Defendant]

Case #: _____

Dear [Victim]:

This is to inform you that a trial date has been set in your case. The trial is scheduled for [Date] in U.S. Federal Court and will be held at [Location]. The trial will begin at [Time]. It is possible, however, that this date may change. Some cases are resolved after they have been scheduled for trial. If this should occur in your case, you will be notified in advance that the Assistant U.S. Attorney is considering a plea settlement with the defendant. Other trials are postponed for a number of legal reasons. I will make every attempt to inform you in advance of changes in the trial date.

If you are required to attend the trial, you will receive a subpoena, either by mail or through the U.S. Marshals Service. As a government witness, you are entitled to be reimbursed for certain fees and travel-related expenses associated with your appearance. The enclosed government travel information will provide you with the necessary reimbursement information. If we require your appearance in court, you will be notified.

The U.S. Marshals Service has taken certain precautions to make the courthouse safe and secure. All visitors entering the building must pass through a metal detector. This procedure exists to ensure the safety of everyone. On the day of the trial, you should report to [Location], unless you have been instructed by the Assistant U.S. Attorney to report elsewhere.

Prior to the trial, the Assistant U.S. Attorney or a law enforcement officer may need to contact you by phone or consult with you in person about certain aspects of the case. If someone approaches you, other than the Assistant U.S. Attorney or a law enforcement officer, you are under no obligation to speak with him or her about your case. You may, however, speak with them if you choose. If you are contacted by persons other than those listed above, please call me and let me know who contacted you and whether you spoke with or are planning to speak with them.

As the trial date approaches, I will contact you again to assist you with any travel arrangements that may be necessary for your appearance. Additionally, I will be available to provide any assistance you might need while working with your employer to schedule time away from work. If you have any questions or concerns, please feel free to call me at [Number].

Sincerely,

[Signature]

[Name]

Victim/Witness Coordinator

11. Letter to Employer on Behalf of a Victim or Witness for Any Scheduled Court Event

[Date]

[Employer]

[Address]

[City, State and ZIP code]

Dear [Employer]:

I am contacting you on behalf of the United States Attorney's Office for the District of [District]. This letter is to inform you that [Victim or witness] will be required to attend a court hearing set for [Date] at [Time]. [Victim or witness] has received a subpoena for this appearance and can provide you a copy if you wish.

[Victim or witness] has expressed concern over losing wages for time away from work while participating in the proceedings. It has been our experience that most companies have a personnel policy that allows for paid leave for employees summoned to jury duty or participation at court proceeding, as such participation is seen as every citizen's civic responsibility. Hopefully, your company already has a similar policy. If not, we ask that you extend all consideration of payment for time away from the job for [Victim].

We understand that your business may be burdened by your employee's time away from work. We will make every reasonable attempt to minimize the time [he/she] is needed away from the job. If you have any questions regarding this matter, please feel free to contact me. I can be reached at [Number]. Your cooperation in this matter is greatly appreciated.

Sincerely,

[Signature]

[Name]

Victim/Witness Coordinator

12. Abstract of Judgment

ABSTRACT OF JUDGMENT

Pursuant to Title 28, United States Code, Section 3201, this judgment, upon the filing of this abstract in the manner in which a notice of tax lien would be filed under paragraphs (1) and (2) of 26 U.S.C. § 6323(f), creates a lien on all real property of the defendant(s) and has priority over all other liens or encumbrances which are perfected later in time. The lien created by this section is effective, unless satisfied, for a period of 20 years and may be renewed by filing a notice of renewal. If such notice of renewal is filed before the expiration of the 20-year period to prevent the expiration of the lien and the court approves the renewal, the lien shall relate back to the date the judgment is filed.

Names and Address of Parties Against Whom Judgments Have Been Obtained		Names of Parties in Whose Favor Judgments Have Been Obtained
[Debtor Name] [Address Line 1] [Address Line 2]		UNITED STATES OF AMERICA
Amount of Judgment	Names of Creditors' Attorneys	When Docketed
[Judgment Amount] PLUS interest accruing at the rate of [percentage], costs and surcharge.	U.S. ATTORNEY'S OFFICE FINANCIAL LITIGATION UNIT [Office Address] [City, State ZIP]	[Date] U.S. DISTRICT COURT DISTRICT OF [...] [...] Court No. [...]

UNITED STATES OF AMERICA, U.S. CLERK OF COURTS, U.S. DISTRICT COURT FOR THE DISTRICT OF [District].

I CERTIFY, That the foregoing is a correct Abstract of the Judgment entered or registered by this Court.

Dated at [City, State],
[Month Day], [Year]

[Clerk's Name], CLERK OF COURTS

By _____, Deputy Clerk

13. Petition for Remission or Mitigation (Cover Letter to Non-Owner Victims)

Dear [Victim]:

Re: Petitions for Remission or Mitigation of Non-Owner Victims, 28 C.F.R. §§ 9.1 et seq. (copy attached for your information)

It has come to our attention that you may be a victim of the crime for which [Defendant(s)] was/were convicted in case number _____ on [Date], that is a violation of [Specify crime(s) of conviction], or of a “related offense” [Describe the related offense, if appropriate].

I have attached a model petition for your use, should you believe you are entitled to file a petition as a non-owner victim pursuant to the attached regulations.

[The following statements may or may not be appropriate, depending on the victim/witness coordinator’s knowledge of the circumstances of the potential petitioner and the facts of the case:]

For your information, I am providing the following information about certain property seized by the United States: [Date and location of seizure, seizing agency, and asset identifier number of property that victim lost.]

Also, for your information, the following documents are already in the possession of the U.S. Attorney’s Office and need not be provided as part of any petition you might file: [Documents that are in the USAO’s possession, that are necessary to the potential petitioner’s case, and that the potential petitioner is likely to have trouble producing on his/her own.]

Sincerely,

[Signature]

[Name]

Victim/Witness Coordinator

Enclosure: 28 C.F.R. §§ 9.1 to 9.9

Appendix C

Additional Victim Assistance Resources

Many organizations provide assistance and support to fraud victims. Victims should be advised of these options, including the telephone number, Internet address, and a description of the services they can expect to receive from the organization.

A. Licensing, Reporting, and Investigation

Commodity Futures Trading Commission (202) 418-5000
3 Lafayette Center
1155 21st St., N.W.
Washington, DC 20581
<http://www.cftc.gov>

Describes conduct that violates federal commodities law and offers a questionnaire form for reporting possible violations.

Council of Better Business Bureaus, Inc. (703) 276-0100
4200 Wilson Blvd., Suite 800
Arlington, VA 22203-1838
<http://www.bbb.org/about/aboutCouncil.html>

Provides referrals to local Better Business Bureaus and information on services available.

Federal Trade Commission (202) 326-2222
Public Reference Section
Division of Marketing Practices
600 Pennsylvania Ave., N.W., Suite 130
Washington, DC 20580
<http://www.ftc.gov>

Provides information on ways to avoid consumer fraud.

National Health Care Anti-Fraud Association (NHCAA) (202) 659-5955
1255 23rd Street, N.W.
Washington, DC 20037-1174
<http://www.nhcaa.org>

Provides an information-sharing network to aid in the investigation of health care fraud; assists law enforcement agencies in their investigation and prosecution of health care fraud (primarily fraud committed by health care providers); conducts national seminars to educate the public and private sectors on effective methods of combating health care fraud; and expands the investigative capabilities of health care reimbursement organizations (private and governmental) through education in the detection, investigation, prosecution, and prevention of health care fraud.

Securities and Exchange Commission (202) 942-7040
Public Information Office
450 Fifth St., N.W.
Washington, DC 20549
<http://www.sec.gov>
Offers "Investor Alerts" announcing SEC enforcement actions and warnings about wide-spread fraud schemes.

U.S. Postal Inspection Service (312) 983-7900
Fraud Complaints Section
433 West Harrison St.
Chicago, IL 60669-2201
<http://www.usps.gov/fyi/welcome.htm>
Provides consumer protection information, files and investigates crimes involving the use of postal services, and provides information on mail-related complaints filed against businesses and individuals. The Internet site offers excellent descriptions of different types of fraud.

B. National Hotlines

Consumer Credit Counseling Service (800) 388-CCCS or
<http://www.imon.com/cccs> (202) 682-1500
Offers free and confidential budget and debt counseling and debt management plans.

Federal Government Information Center (800) 688-9889
Provides assistance in obtaining government agency phone numbers.

National Fraud Information Center (800) 876-7060
<http://www.fraud.org>
E-mail: fraudinfo@psinet.com
Takes consumers' reports of telemarketing and Internet fraud and relays them to a variety of law enforcement agencies, and provides consumers with advice on how to identify and avoid telemarketing and Internet fraud. Professional counselors are available to speak to victims in English or Spanish. Information and statistics from the database can be requested by victim/witness coordinators and other law enforcement personnel.

National Futures Association (800) 676-4632
<http://www.nfa.futures.org>
Maintains the registry of professionals registered with the Commodity Futures Trading Commission, serves as a clearinghouse for consumer complaints and federal regulatory action, and provides information about investing.

National Insurance Crime Bureau (800) TEL-NICB
<http://www.nicb.org>

Takes and investigates complaints of insurance fraud (excluding Medicare and Medicaid), including medical and vehicular. Also provides consumer protection information.

Online Public Education Network Project (Project OPEN) (800) 466-OPEN
<http://www.isa.net/project-open/priv-broch.html>

Offers the free brochure “Protecting Your Privacy When You Go Online” for consumers concerned about privacy in cyberspace.

Securities and Exchange Commission Consumer Hotline (800) SEC-0330
<http://www.fedworld.gov>

Maintains a registry of professionals registered with the SEC, provides information on complaints filed against investment firms and individuals and on federal regulatory actions, and provides consumer investment information.

Social Security Administration Fraud Hotline (800) 269-0271
Takes reports of social security number misuse, especially incidents relating to fraud.

U.S. Department of Health and Human Services (800) HHS-TIPS
Office of the Inspector General
Fraud Division
<http://www.os.dhhs.gov>

Takes and investigates reports involving Medicaid, Medicare, Social Security, home health care, Food and Drug Administration, welfare, food stamps, and other programs administered by HHS.

U.S. Postal Service Crime Hotline (800) 654-8896
Takes reports of and investigates crimes that involve the U.S. Postal Service, including mail fraud, pornography, and drug transactions by mail, and also provides information on complaints filed by consumers against businesses or individuals.

C. Victim Assistance

The following national victim advocacy organizations provide referrals to federal, state, and local victim assistance services and programs.

Community Elder Care Locator (800) 677-1116
Provides community resources to assist elderly persons.

National Organization for Victim Assistance (800) TRY-NOVA
1757 Park Road, N.W.
Washington, DC 20010
<http://www.aoa.dhhs.gov/aoa/dir/184.html>

Maintains a database of victim-related programs and services around the nation for victim referral.

National Victim Center
2111 Wilson Blvd., Suite 300
Arlington, VA 22201
<http://www.nvc.org>

(800) FYI-CALL

Maintains a database of victim-related programs and services around the nation for victim referral. In addition to providing programs and services, the National Victim Center also houses the Center's Victims' Litigation Project (CVLP), which helps crime victims find restorative justice through the civil justice process. Victims can be referred to legal counsel through the CVLP's nationwide network of attorneys and civil experts—the Coalition of Victim Attorneys and Consultants (COVAC). The CVLP also seeks to inform and educate attorneys, prosecutors, legal experts, victim service providers, victims, and others about issues surrounding civil litigation.

D. Additional Resources

American Association of Retired Persons
National Office
601 E St., N.W.
Washington, DC 20049
<http://www.aarp.org>

(202) 424-3410

Regional Offices

AARP Northeast Region Consumer Representative
(CT, DE, ME, MA, NH, NJ, NY, PA, RI, VT)
One Boston Place, Suite 1900
Boston, MA 02108

Phone (617) 723-7600
Fax (617) 305-0444

AARP Southeast Region Consumer Representative
(AL, DC, FL, GA, KY, MD, MS, NC, PR, SC, TN, WV, VA, VI)
999 Peachtree Street, N.E., Suite 1650
Atlanta, GA 30309

Phone (404) 888-0077
Fax (404) 888-0902

AARP Midwest Region Consumer Representative
(IA, IL, IN, MI, MN, OH, ND, NE, SD, WI)
8750 W. Bryn Mawr Avenue, Suite 600
Chicago, IL 60631

Phone (773) 714-9800
Fax (773) 714-9927

AARP Southwest Region Consumer Representative
(AZ, AR, CO, KS, LA, MO, NM, OK, TX, UT)
8144 Walnut Hill Lane, Suite 700 LB-39
Dallas, TX 72531-4316

Phone (214) 265-4060
Fax (214) 265-4061

AARP West Region Consumer Representative
(AK, CA, GU, HI, ID, MT, NV, OR, WA, WY)

Phone (206) 526-7918
Fax (206) 526-7918

9750 Third Avenue, N.E., Suite 400
Seattle, WA 98115

Serves as an advocate for the rights of the elderly and provides numerous services, including financial information programs and consumer tip sheets.

Mail Preference Service
Direct Marketing Association
P.O. Box 9008
Farmingdale, NY 11735

Telephone Preference Service
Direct Marketing Association
P.O. Box 9014
Farmingdale, NY 11735

Removes names from most national mailing and phone lists if requested in writing. See sample letter provided in Appendix B.

National Charities Information Bureau
19 Union Square West
New York, NY 10003

(212) 929-6300

Provides verification of registered charities and takes complaints of fraudulent charity solicitations.

National White Collar Crime Center
1001 Boulders Parkway, Suite 450
Richmond, VA 23225

(800) 221-4424

Through funding from the U.S. Department of Justice, Bureau of Justice Assistance, the National White Collar Crime Center provides national support for the prevention, investigation, and prosecution of white-collar and economic crimes. Services include sharing information on cases, on investigations, and on organizations suspected of involvement in economic crimes; limited financial assistance to selected multijurisdictional member agency investigations; training and research; and partnership development.

Privacy Rights Clearinghouse
5384 Linda Vista Rd., #306
San Diego, CA 92110
<http://www.privacyrights.org>

(619) 298-3396

Provides information and referrals for technology-related privacy issues. Also offers a series of publications (in English and Spanish) on telemarketing, identity theft, and other consumer fraud issues. Publications may be downloaded from its Internet site or requested by mail.

E. State and Local Governmental Agencies, Consumer Protection Agencies, and Professional Associations

State attorneys general also provide consumer information about fraudulent practices and, in some cases, work cooperatively to investigate complaints of fraudulent acts with federal investigative and prosecutorial agencies. Some offices of state attorneys general have victim assis-

tance units or specialized fraud units and may be able to provide local assistance to address some federal victims' need for state- or community-based financial and emotional support.

State and local consumer protection agencies are a good source of information regarding local fraud schemes, providing printed consumer tips (often printed in several languages and available free or at a reduced charge) to avoid initial victimization. They also conduct workshops and public awareness events for professionals who work with fraud victims and for potential or already defrauded victims.

Some *local and state bar associations* have volunteer legal programs to assist low-income or elderly victims with legal matters. Many such associations conduct free workshops and seminars on bankruptcy and other legal matters.

State and local professional associations often provide services and conduct informational seminars about fraudulent practices or consumer protection at no cost or for a reduced fee. Professional associations include those established for accountants, physicians, investment brokers, bankers, financial advisors, and real estate and insurance agents.

Appendix D

Common Fraud Crimes and Tips for Reducing Revictimization⁸

The term “fraud” does not describe just one crime. It is, rather, a catch-all phrase used to describe any number of criminal acts designed to deliberately deceive consumers with promises of goods, services, or other financial benefits that do not exist, were never intended to be provided, or were misrepresented. The number of fraudulent schemes (and their variations) is limited only by the imagination of fraud perpetrators. This appendix is designed to provide victim/witness coordinators with a general overview of the most commonly perpetrated fraudulent schemes and practices. This list is not intended to include all fraud crimes, but it will alert victim/witness coordinators to some of the crimes encountered by the victims they serve.

Each fraud crime overview is followed by information to help victim/witness coordinators understand who the targeted victims are, along with some simple consumer protection tips and suggestions that coordinators may wish to relay to victims to help decrease the risk of repeat victimization.

Overviews are provided for the following fraud crimes:

- Advance fee schemes
- Bank examiner schemes
- Computer and Internet fraud
- Credit card fraud
- Financial planning fraud
- Health care fraud
- Home repair fraud
- Identity fraud
- Insurance fraud
- Investment fraud (including securities fraud)
- Mail fraud
- Planned bankruptcy schemes
- Ponzi schemes

⁸ Portions of this appendix were adapted from Jane Y. Kusic, *White-Collar Crime 101: Prevention Handbook* (Vienna, Virginia: White-Collar Crime 101); *Focus on Fraud Fact Sheet* (Washington: U.S. Office of Consumer Affairs); and *Identity Theft: A Guide for Victims* (San Diego: Privacy Rights Clearinghouse).

- Pyramid schemes
- Real estate fraud
- Telemarketing fraud

Shorter overviews are provided for the following fraud schemes:

- Art fraud
- Bank-draft scams
- Car-related fraud
- Diploma fraud
- Employment agency fraud
- Home equity scams
- Phony inheritance scams
- Work-at-home fraud

Additionally, at the conclusion of the appendix, a list of consumer protection agencies, their contact numbers, and samples of fraud-related resources are provided. Victim/witness coordinators may wish to contact the listed agencies to order free publications and fraud alerts that can be used in public awareness campaigns, distributed to fraud victims, and handed out at criminal justice-based and community-oriented training events.

A. Most Common Forms of Fraud

1. *Advance Fee Schemes*

The common definition of an advance fee scheme is one where a fee is secured in advance for products or services that will be provided at a later date but that, in fact, the fraud criminal does not intend to provide. These are some of the more common advance fee schemes:

- Promising to locate buyers, sellers, or investors for businesses, property, securities, collections, or other assets owned by the consumer
- Charging a fee to locate and secure sources of credit or capital for new business ventures or people who are unable to obtain new or additional credit because of low or damaged credit ratings
- Requiring consumers to pay a fee before taking possession of a product or service which does not exist, such as free or reduced vacation travel packages, time-shares, and lifetime memberships in health and fitness clubs, dancing clubs, etc.

Commonly Targeted Victims

- Investors, owners, or sellers who are trying to sell businesses, real estate located in less than desirable locations, or collections (art, jewelry, coins, precious metals, or gems, etc.) for which the market may be lean or limited
- People who have limited access to credit and need to finance the purchase of property or automobiles or need investment capital
- Victims who live in areas hard hit by natural disaster. For example, a con artist chooses an area hit by floods and sets up an office under the pretense that he is acting as the agent for a large financial organization, insurance company, or disaster relief program that helps victims rebuild their homes and businesses. For providing this link to credit, the con artist may charge anywhere from 10 percent to 25 percent of the financing sought as his fee for helping the client obtain financing that will never materialize.

Once the advance scheme operator has bilked all the consumers he can in one location, he picks up his mobile shop and moves on to the next location.

Consumer Protection Tips

- Verify the legitimacy of any individual claiming to act as an agent of a company, along with the company the individual claims he or she represents, through county, state, or federal licensing or regulatory agencies and with the Better Business Bureau. Where possible and practical, check with local, state, and federal Clerks of Court (in the jurisdiction where the company is licensed) to determine what, if any, civil action has been taken against the company or organization asking the consumer to pay an advance fee.
- Be wary of free introductory lessons, memberships, and classes, which often serve as a hook to get consumers' contact information for additional solicitation.
- Do not pay advance fees unless absolutely necessary, and if requested, pay only the minimum amount possible.
- Charge advance fees to credit cards so that if the service or product is never delivered, the charge can be disputed, canceled, or reversed.
- Demand that all correspondence and contracts be in writing, and have all paperwork reviewed by an attorney.
- Choose to make weekly or monthly payments directly to the spa, gym, health club, or other such business.
- Refuse lifetime memberships since there is no guarantee how long the business or company will remain in business.

2. *Bank Examiner Schemes*

The perpetrator of a bank examiner scheme pretends to be a bank examiner or law enforcement officer (often producing fraudulent documentation to support his or her claim). The perpetrator contacts victims, normally by phone, and asks that they aid the bank or law enforcement agency in an internal investigation to catch a dishonest bank employee. The targeted victim is then asked to withdraw money from his or her bank account (so as not to raise the suspicions of the dishonest bank employee) and to give the money to the perpetrator, who will record the money's serial numbers or mark it so that when it is spent by the dishonest bank employee, it can be traced easily. Once the perpetrator receives the money, he or she is never seen again.

Commonly Targeted Victims

Typically the perpetrator obtains information about bank customers by approaching them directly or by observing written documents in the customers' possession, such as bank statements or check imprints. Sometimes the information comes from a confederate working in the bank.

Consumer Protection Tip

Banks and law enforcement officers do not enlist the help of customers or private citizens to catch embezzlers or thieves. They have internal security staff to handle such matters. Report any solicitation to the bank in question and to local law enforcement officials immediately.

3. *Computer and Internet Fraud*

This type of fraud is on the rise. As consumers and business owners become more dependent on computers to assist with running businesses and personal lives, the potential for computer fraud rises dramatically. Through the use of computers, fraud perpetrators can steal classified information, funds, client lists, copyrighted programs, consumers' personal information, and other valuable data. These criminals often sabotage computer systems by destroying data, entering inaccurate data, or planting a computer virus. With the increasing use of the Internet, fraud artists have yet one more means of contacting and defrauding consumers by selling non-existent or shoddy merchandise and accessing personal information to perpetrate other crimes, such as identify theft and credit card fraud.

Commonly Targeted Victims

- Potentially, anyone whose name or business is maintained in a computer database
- Individual consumers who purchase goods or services through the Internet

Consumer Protection Tips

- Make sure data is housed or transmitted in encrypted files to limit fraudulent access.

- Do not provide any personal information—such as social security number, credit card number, date of birth, or address—until you have thoroughly checked out the individual or business.

4. Credit Card Fraud

Credit card fraud occurs when an unauthorized individual steals or otherwise obtains a consumer's credit cards or credit card information to obtain replacement or new credit cards. Once in possession of the new cards, thieves run up massive debt before leaving town to avoid detection. Here are some of the ways perpetrators obtain credit card information:

- Picking discarded receipts or carbons out of trash cans to obtain the card number and expiration date, then contacting the credit card company to ask that a replacement be sent to a specified address because the card was damaged or mutilated
- Making extra imprints of cards for personal use or to sell
- Calling consumers announcing they have won or been selected to receive free or unbelievably low-priced merchandise or travel packages, then requiring a credit card number “for identification purposes only”
- Removing credit card offers or billing statements from a consumer's mailbox to obtain new credit cards under the consumer's name or to get the account information necessary to request the replacement of lost or damaged cards

Commonly Targeted Victims

- Individual consumers
- Small businesses

Consumer Protection Tips

- Read credit card company disclaimers to fully understand all legal liabilities in the event a credit card is lost or stolen, along with procedures to report the loss or theft of the card.
- Demand copies of all carbons used in credit card transactions. Destroy carbons by tearing them into small pieces.
- Refuse to give out credit card information if required in order to receive free or low-cost promotional prizes.
- Save all credit card receipts and compare them to billing statements as soon as they arrive to detect any unauthorized activity in the account. Report any such activity immediately to the credit card company by phone. Follow up with written notification.
- Remove mail from home and business mail receptacles as soon as the mail is delivered.
- Tear all billing statements and related account correspondence into small pieces before discarding.

- Report lost or stolen cards immediately upon learning of their loss.
- Sign new credit cards as soon as they are received. If the credit card company offers to place the cardholder's picture on the credit card, take advantage of this service.
- Carry credit cards separately from checks or billfolds.
- Avoid signing a blank receipt. Draw a line through any blank spaces on the receipt above the purchase total before signing.
- Notify credit card companies of a change in address well in advance.
- In cases of credit card theft or unauthorized credit card use, instruct credit reporting agencies to flag the file with a warning to contact the victim directly before processing any new requests for credit or changes of address. Ask the credit card company to assign new personal identifiers and to issue credit cards with new numbers to replace lost or stolen ones.

5. *Financial Planning Fraud*

Changes in tax laws and a desire to plan ahead for retirement has caused more people to use the services of financial planners. However, the financial planning industry is virtually unregulated, thus creating a favorable climate for untrained, unlicensed, and unscrupulous fraud artist to set up shop and offer financial planning advice. At its best, financial planning fraud can position victims' holdings in unsuitable investments, resulting in substantial financial losses. At its worst, the money is collected but never invested. Once the perpetrator has collected enough money for his or her purposes or fears detection, he or she closes up shop and moves to another city or town or declares bankruptcy.

Commonly Targeted Victims

Fraudulent planners tend to target individual consumers looking for investment opportunities to increase their financial security—often younger consumers who are beginning to establish families and experience professional growth or older consumers concerned about retirement incomes.

Consumer Protection Tips

- Request and check several references, even if the referral is made by a friend, family member, or business associate.
- Conduct a personal interview with the potential financial planner. Interview and check the references of several financial planners before making a final decision. Ask for the names of several clients, and ask them about their experience with the financial planner.
- Ask to see sample financial plans.
- Find out the cost of the service. If a commission is involved, carefully monitor investment statements to ensure that “churning” (excessive, unauthorized activity) has not taken place to increase commissions to the financial planner.

- Check out degree and licensing requirements (and determine whether the financial planner has a Certified Financial Planner designation, which indicates some degree of professional training) with licensing and regulatory agencies to ensure that the financial planner is in compliance with all county, state, and federal licensing requirements. Ask if any disciplinary action has been taken against the person by the licensing or regulatory agency.
- Determine whether the financial planner is a member of any professional associations, and check out his or her character and reputation with the association. Also, contact the school from which the financial planner claims to hold a degree to ensure that he or she is in fact degreed in the specialty claimed.

6. Health Care Fraud

The National Health Care Anti-Fraud Association defines health care fraud as intentional deception or misrepresentation designed to result in an unauthorized payment of health benefits to an individual, entity, or third party. The most common forms of health care fraud involve the filing of a bill for (1) health-related services or supplies that were provided only in part or not at all, (2) superior medical supplies when substandard supplies were used, or (3) unnecessary tests and procedures. Health care fraud crimes also include institutional fraud, which is committed by certain hospitals, laboratories, and clinics, all or part of whose basic business operation revolves around fraudulent acts.

Health care fraud also includes the selling of bogus health care products and treatments to consumers through direct mail and telemarketing venues. These bogus products and treatments may include medications, tonics, vitamins, or other gimmicks that guarantee the loss of weight, the growth of hair, loss of cellulite, or cures for such illnesses as cancer, arthritis, or AIDS.

Commonly Targeted Victims

- Insurers—both private sector and government-sponsored health care payment programs, such as Medicare, Medicaid, CHAMPUS, and Tricare
- Self-insured companies
- Individual patients, who may be required by insurers to pay all or part of fees for (1) services and diagnostic testing that were not required or compatible with the reported diagnosis and (2) services and diagnostic testing procedures that were never provided or for which exorbitant fees were charged

According to the National Health Care Anti-Fraud Association, health care fraud places some patients at an increased risk for physical and emotional danger if the scheme involves using substandard medical products but billing for better, more expensive products. Examples of this may include using defective pacemakers or catheters during heart surgery, which can result in patient death, additional surgeries to replace defective or substandard products, and unnecessary tests and procedures that may increase fragile patients' risk of injury or death.

Consumer Protection Tip

- Review all bills for health-related care to identify services that were not rendered or appear to be unnecessary (such as an eye exam if the consumer's complaint was arthritis) and charges for supplies never received. Be aware of double-billing for the same service or product. Report all disputed charges, in writing, to the physician or entity providing the service or supplies.

7. Home Repair Fraud

Fraudulent home repair contractors use a variety of ploys to deceive homeowners into paying substantial amounts of money for work that may never be performed, is not needed, or, if performed, involves the use of inferior products (billed at the price for superior products). Most home repair con artists are likely not to be registered in the county or state in which they operate their scheme, making it hard for law enforcement officials to track and arrest them. They often avoid detection by remaining mobile and changing the name of their business and the nature of their repair as they travel from one location to another. These are some common home repair frauds:

- Soliciting homeowners through door-to-door sales pitches to repair driveways, roofs, or siding or to paint a home's exterior or interior, making promises of deeply discounted work or materials due to the possession of excess building materials from previous jobs
- Preying on the trust of homeowners by learning and using the names of neighbors as satisfied customers (most often, such work was never solicited or performed)
- Using substandard building materials and supplies while billing for products that are of a superior quality or were not purchased at all
- Posing as state or county inspectors to conduct fraudulent home inspections in which damage or the need for repair is sure to be found, then continuing the scheme by providing a referral to a repair service contractor who is a confederate of the con artist
- Requiring a down payment prior to the start of the job
- Quoting a low price for the work to be done, but then, when the work is completed, presenting a much higher bill covering work that was allegedly needed and completed, though without the homeowner's consent
- Offering a deeply discounted price on the condition that the majority of homeowners in the neighborhood take advantage of the offer. The con artist then pressures neighbors into signing up for the service so that other interested neighbors do not lose the opportunity to have the work done at a discount. This "sell" is often accompanied by a request for a sizable down payment

Home repair fraud perpetrators often prey on the victims of natural disasters, who are desperate to repair severely damaged homes and businesses. Perpetrators of this type of scam sometimes promise targeted victims that they will be placed in a priority status for repair if they pay a de-

posit, on the spot, to hold the repair company's time. The perpetrators may say they have been approved by the victim's insurance carrier to do the work and that other estimates are not needed. Additionally, senior citizens are often targeted for home repair schemes because they may have ready cash with which to pay for repairs or to make the required down payment, often live alone, and are socially or geographically isolated from family members. Those conditions reduce contractors' risk of detection and make it unlikely that their references will be verified.

Consumer Protection Tips

- Get detailed estimates from other repair or contracting companies in the area.
- Require references, check them out, and where possible, inspect other work the contractor claims to have completed.
- Verify that the contractor is insured. Ask to see the policy, or ask for the phone number of the insurance company.
- Check with city, county, state, and other licensing agencies to learn of licensing, insurance, and bond requirements, and ask if the contractor is in compliance with those requirements.
- Do not be pressured by door-to-door or telephone sales pitches that require you to commit to a contract on the same day in order to take advantage of a specified offer. Legitimate businesses will allow consumers time to check references and licensing, insurance, and bond compliance.
- Ask the contractor what states his or her company is licensed to work in. Check with local state and federal Clerks of Court in those jurisdictions to determine if liens or other civil actions are currently pending or previously registered against the company or individual contractor.
- Check with local chapters of the Better Business Bureau or local consumer protection agencies to determine if they have received any complaints against the company.
- Insist on a complete, written contract that specifies the work to be performed, the materials to be used, and any procedures for amending the contract to authorize other repair work that may be needed to complete the originally contracted job.
- Learn about cancellation rights contained in the contract, normally three business days after the signing of the contract. These rights can be verified with local consumer protection or licensing agencies.
- Arrange to pay for the work in increments that coincide with the stages of repair or construction (called construction draws). Arrange for the final payment of work to be made only after the work is completed and inspected. Do not pay a deposit unless necessary, and then only advance enough money to allow for the purchase of initial supplies.

- Review all bills, and where necessary, call the supplier to ensure that prices have not been inflated.
- Visually inspect materials to ensure that the materials billed for have in fact been purchased.

8. Identity Fraud

Identity theft is on the rise. Using a variety of methods, criminals steal credit card, driver's license, social security, checking account, savings account, and investment account numbers; ATM, credit, debit, check, and telephone calling cards; and other key pieces of an individual's identity. The thieves use the information to impersonate their victims, spending as much money and accumulating as much debt as they can before being detected. They then move on to their next victim. Even though victims are not normally saddled with paying their imposters' bills, they are often left with a bad credit report and must spend months and even years regaining their financial health. In the meantime, they experience trouble writing checks, securing loans, renting apartments, and even getting jobs.

Commonly Targeted Victims

Any consumer can become a victim of identity fraud if personal and financial information is obtained by fraudulent perpetrators. The risk of victimization is often increased by the following:

- Telemarketers or mail fraud artists who secure the credit card numbers or other forms of personal identification from victims directly
- Payment envelopes that list credit card account numbers on the outside
- Consumers who allow persons to "shoulder surf" (look over their shoulders) as they stand in line at banks and ATM machines, increasing the opportunity for fraudulent perpetrators to learn personal identification numbers (PINs) or account numbers
- Consumers who use the goods and services of a legitimate company that sells their identity on the open market

Consumer Protection Tips

- Have one's name removed from national mailing, marketing, and phone lists. Written requests should be mailed to: Mail Preference Service, Direct Marketing Association, P.O. Box 9014, Farmington, NY 11735, or Telephone Preference Service, Direct Marketing Association, P.O. Box 9008, Farmington, NY 11735. (See sample letters in Appendix B.)
- Never give out personal or financial information unless a previous, satisfactory relationship has been established with an individual or business.
- Contact creditors to close savings, checking, charge, and other accounts where fraud activity has occurred. Request that new checks, credit cards, ATM cards, and debt cards be issued.

- Ask national and local credit reporting agencies to flag the credit file with a block that prevents any new credit applications from being approved without the consumer's approval.
- Request that national and local credit reporting agencies not enter changes of address without first verifying that the consumer made the request.
- Request that national and local credit reporting agencies place a letter in the credit file stating that the account or file has been subject to fraudulent acts.
- If identify theft has occurred, change personal identifiers on credit card accounts and credit files so that when a fraudulent application for credit or request for authorization for purchase is received, fraudulent activity will be easily traced.
- Routinely review credit files, checking, savings, and investment statements so that any fraudulent activity can be seen immediately or as soon as possible after it takes place.

9. Insurance Fraud

Claiming affiliation with legitimate insurance companies, fraudulent operators sell bogus insurance policies to targeted victims. Bogus policies may be purchased for benefits relating to health care, fire, mortgage, flood, life, disability, funeral, automobile, and other situations. Insurance premiums and claims for reimbursement are paid or presented directly to a fraudulent agent. Premium payments are not paid to the carrier, and claims for payment are not forwarded for processing. Rather the "agent" pays claims with the money he collects from premiums—much like a Ponzi scheme. Insurance fraud such as this can run successfully for a long time before the fraud is detected. This normally occurs when claims exceed the premiums collected, the perpetrator disappears, and the consumer files a claim with the company, only to learn that no such policy is in effect or that for the particular illness is not covered under the terms of the policy.

Commonly Targeted Victims

- Individuals identified through door-to-door solicitations, especially elderly, low-income, or non-English speaking consumers
- Individuals named in client lists of legitimate insurance carriers
- Individuals who respond to direct mail or television advertisements

Consumer Protection Tips

- Learn as much as you can about the company, as opposed to the agent. Contact the insurance commission in the state where the company's home office is located, as well as the insurance commission in the state where the policy is being sold, to determine if the company is licensed (or admitted) to sell insurance and whether any consumer complaints or state disciplinary actions are pending against it.

- Pay attention to the premium cost quoted and what is covered under the terms of the policy. Be sure you understand what terms like “deductibles,” “copayments,” and “contributory negligence” mean in the particular policy under consideration. Make sure cancellation provisions pertaining to both the insurer and policyholder are fully understood.
- Look carefully at policies providing specialized insurance; hidden clauses may restrict payment. For example, no benefits may be payable during the first six months of coverage, or only certain medical services may be reimbursable.
- Don’t sign anything until the details of the contract, terms of payment, and covered benefits are fully understood.
- If it is difficult to obtain payment of a claim, contact the state insurance commission for review or intervention.
- Make payments and file claims for reimbursement directly with the company—not with the agent.

10. Investment Fraud (Including Securities Fraud)

Each year, thousands of consumers put money into investments. Of these investments, the North American Securities Administrators Association estimates that over \$10 million is lost to fraud. Investment swindles include land sales, time-shares, securities (stocks and bonds), commodities, futures, gems, precious and strategic metals, franchises and distributorships, oil and gas leases, art, rare coins, and financial planning services.

Investment scams are sometimes sold by direct mail and print and television ads but mostly by phone. Investment fraud perpetrators work from customer lists obtained from legal and illegal sources, or they contact victims who have responded to ads and are requesting additional information. Investment schemes frequently target victims of other fraudulent scams as well—often identified on lists perpetrators sell to each other.

Investment con artists stay abreast of current news and technology trends as they plan their schemes. The key to a successful scam is to make it difficult for the consumer to evaluate inflated claims. For example, the con artist might offer the victim an opportunity to own part of a gold mine. With the price of gold selling for double what it will cost the victim to mine, the profit potential for the victim will be astronomical, the con artist may say. To increase the appearance of legitimacy, he or she may even go so far as to register a claim on an old, abandoned mine and gather an old assay from a time when the mine was profitable. Once the investment is made, the perpetrator absconds with the money or, after hiding the money in an offshore account, declares bankruptcy.

Commonly Targeted Victims

There is no common victim profile. Individuals from all walks of life can be targeted for investment fraud.

Consumer Protection Tips

- Suspect any unsolicited calls about investments.
- Invest only in businesses or investment opportunities of which you have some knowledge.
- Avoid any business you know nothing about, no matter how enticing the sales pitch.
- Beware of testimonials for quick or large profits. These are often manufactured by the fraud perpetrator.
- Be wary of promises of above-average interest rates on tax-free bonds or penny stocks. Watch out for high-pressure sales pitches for other securities or commodities, especially if not given time to receive a prospectus or to check out the individual, company, or investment thoroughly.
- If the investment is for gold, gems, or rare commodities, have a licensed professional (such as a geologist) review all investment documents pertaining to descriptions, locations, or sample products before investing any money.
- Do not be pressured by “you must act today” sales pitches. If a company or individual will not give consumers time to check out the investment, it is almost always a scam.
- Have an attorney who is well versed in laws pertaining to investments review all contacts before signing.
- Check out the company or the individual thoroughly before investing any money. Check with the appropriate licensing and regulatory agencies, such as the Securities and Exchange Commission, state real estate commission, fraud units of state attorneys general, professional associations the company or individual claims to be a member of, Better Business Bureaus and consumer protection agencies, etc.

11. Mail Fraud

Direct mail marketing has been a highly successful and profitable tool for legitimate companies in every conceivable industry and market. The fraudulent perpetrator, however, has copied these direct mail pieces so closely that is often difficult to distinguish the legitimate company from the scam operation. Mail fraud runs the gamut from bogus sweepstakes and free vacations and merchandise to investment opportunities for precious metals. Fraud pieces arrive in the mailbox in all shapes and sizes: postcards, envelopes with official-looking seals, color brochures, letters of endorsement, etc. In a newer mail scam, consumers receive what looks like an invoice for a product or service they have not ordered or received. Fraudulent mail perpetrators hope that targeted victims will not question the “bill” and will mail a payment as directed.

Commonly Targeted Victims

All consumers are at risk for mail fraud.

Consumer Protection Tips

- Always be suspicious of unsolicited offers.
- Read the promotional literature carefully for hidden costs or obligations required to purchase merchandise or claim prizes.
- If the price sounds too good to be true, it probably is. Offers for cars, boats, and other expensive items offered at unrealistic prices may result in victims actually receiving a car or a boat—but the car will be a toy and the boat an inflatable raft.
- Never provide personal information or credit card numbers to claim promotional prizes. A legitimate company will not require you to send money or supply a credit card number to enter sweepstakes or contests. If a direct mail promotion does not state “Does Not Require a Purchase to Win,” it is almost sure to be mail fraud.
- Remember that mail fraud con artists often use names similar to legitimate, well-known companies, organizations, or charities. Be sure to ask for materials in writing before mailing any payments or contributions. If in doubt over an offer’s legitimacy or a charity’s authenticity, check it out by contacting the Better Business Bureau, consumer protection agencies, or the U.S. Postal Service’s Mail Fraud Unit.
- Do not respond to promotions that require you to act before the individual or company can be thoroughly investigated.
- Never send payments to post office boxes.
- Make payments for mail order merchandise with a credit card. The Fair Credit Billing Act allows consumers to withhold payment from the credit card issuer, bank, or other financial services institution if a “good faith effort” to resolve billing issues has been unsuccessful.
- Review the promotional materials to determine where the company’s home office is located. Check with licensing and regulatory agencies, the state’s attorney’s office, and other appropriate sources in that state to verify the legitimacy of the individual or organization or to learn of prior or pending legal or disciplinary action.
- Contact Mail Preference Service, Direct Marketing Association, P.O. Box 9014, Farmington, NY 11735, to have consumer names removed from national direct marketing mailing lists.

13. Planned Bankruptcy Schemes

A planned bankruptcy scheme is basically a merchandising swindle based on the abuse of credit. In this type of scheme, credit that has been legitimately obtained is used to purchase inventory to sell or otherwise dispose of. Meanwhile, the perpetrator plans to defraud creditors by not paying the bill, loan, or other form of credit, eventually filing for bankruptcy, either voluntarily or involuntarily.

In a typical planned bankruptcy scheme, the perpetrator creates a new business, opens a bank account, and leases operating space to create a front of legitimacy. Operators then begin to order merchandise. The bills for initial purchases are paid promptly to establish a favorable credit rating. Then the operators begin to purchase additional merchandise from new suppliers, while beginning to slow payment to old suppliers. Eventually, increasingly large orders are placed with all suppliers. The increased inventory is then sold below cost, and the profits are concealed. Once the perpetrator receives payment for the merchandise, he or she either absconds with the profits or files for bankruptcy.

In some cases, a planned bankruptcy operator will simply purchase an existing business with a favorable credit rating, thereby eliminating the need to establish a credible business front.

Commonly Targeted Victims

- Merchandisers, lenders, and others who extend credit for the purchase of goods and services (such as print and ad vendors, office equipment suppliers, etc.)
- Business owners who sell their businesses (and good credit rating) to con artists

Consumer Prevention Tips

- Check with the U.S. Clerk of Court to determine if an individual agent of the company or the company itself has filed for bankruptcy in the past.
- Check with established credit lenders and other vendors to determine how long the business has been in existence.

12. Ponzi Schemes

Named after Carl Ponzi, who is thought to have invented the scheme, Ponzi schemes are basically investment frauds where investors are enticed into a business venture with the promise of extremely high returns or dividends in a very short period. The investment is never made, but the Ponzi operator actually pays dividends to initial investors (by returning some of the investors' own money) to make the investment appear credible. The payment of the so-called dividends induces investors to put up additional funds or to bring friends, family members, or business colleagues into the scheme. Once the Ponzi operator has collected sufficient funds for his or her purposes, or fears possible detection, he or she flees the area with investors' money or files for bankruptcy after safely hiding the money. Ponzi schemes can be applied to almost any business or investment.

Commonly Targeted Victims

- Clients who have been involved in other, legitimate business activities with their accountant, financial planner, investment banker, broker, etc.
- Friends, family members, and business associates of targeted victims

Consumer Protection Tips

- Contact local chapters of the Better Business Bureau or local consumer protection agency to determine if consumer complaints have been filed against the investment solicitor or his or her company.
- Contact state and federal licensing and regulatory agencies to determine if disciplinary actions have been taken or are pending against him or her.
- Review all prospectuses and other related investment literature, and consult with an independent broker, investment firm, or another financial planner to determine the appropriateness of the investment.
- Contact the company or investment brokerage firm directly to ensure that the investment solicitor has in fact made the investment he promised.

14. Pyramid Schemes

Pyramid schemes may occur when an individual is offered a distributorship or franchise to market a particular product. The investment contract also authorizes the individual to sell additional franchises. Promoters of pyramid schemes stress the selling of additional franchises for a quicker return on the investment to potential investors. Investors, therefore, expend their energies selling franchises rather than the product. At some point, the supply of potential investors is exhausted, leading to the inevitable collapse of the pyramid. The sale of the actual product often fails because it is overpriced or no real market exists for it.

Commonly Targeted Victims

- Individuals who have little experience in direct sales, distributorships, or franchise enterprises or who have limited money or credit with which to establish their own businesses
- Friends, family members, and business associates of the targeted victim

Consumer Protection Tips

- Prior to making a down payment or signing any contract, ask for a list of investors and check the company's or individual's references with investors who were late in joining the venture. Determine their rate of return or success in the sale of the product. Relying on references from investors who invested early on in the scheme may not yield accurate results, as those who invest first normally realize a profit from the selling of distributorships and franchises before the market is saturated with investors.

- Check with competing vendors to determine the market demand for the product or service being offered in the distributorship or franchise.
- Contact local or national consumer protection agencies and Better Business Bureaus to determine if any formal complaints, disciplinary actions, or civil actions have been taken against the soliciting individual or company.
- Check the credit history of the soliciting individual and the company he or she claims to represent.
- Have the contract reviewed by an attorney well-versed in distributorship and franchise law.

15. Real Estate Fraud

Real estate frauds are often earmarked by high-pressure sales tactics that include half-truths, lies, and misrepresentations. Prospective targets receive false information regarding land, locations, value, profitability, validity of title, or the scope, nature, or quality of needed improvements. In warmer climates, real estate frauds are frequently targeted at individuals looking for vacation and retirement properties—though those properties may be underwater or isolated in rural areas without ready access to water and power. In other real estate frauds, potential investors are hooked by claims of valuable mining and mineral rights that do not exist. Real estate investors are also defrauded when they enter into residential and commercial development projects. Money is put up, but the development is never built or goes belly up as the fraud artist walks away with investors' money.

A common ploy used by some real estate fraud perpetrators is to sell bogus time-shares, whereby fraudulent operators place entry blanks and boxes in stores or restaurants offering customers a chance to win a free weekend getaway. After filling out the entry form, the prospective target receives a phone call to schedule an appointment for a high-pressure “sales presentation” or is asked to send in a deposit to hold his scheduled weekend. The deposit is guaranteed to be returned when the targeted victim checks in. Most often, when money is required as part of the free package, the fraud perpetrator absconds with the money, and when the victim shows up for his or her free weekend, the real estate representative pretends to know nothing of the victim's reservation. In other cases, the purchase of a time-share does in fact provide the victim with opportunities to use the property; however, numerous restrictions make it almost impossible to use the time-share as anticipated. For example, the time-share property may be available to the victim only during the off-season.

Today, real estate fraud is big business, and projects of all descriptions and sizes have sprung up throughout the nation.

Commonly Targeted Victims

- Retirees looking for retirement or second home sites, and middle-class families seeking vacation homes or time-share properties

- Individuals or businesses looking to purchase commercial real estate
- Individuals or businesses looking for income from investments in residential or commercial development projects

Consumer Protection Tips

- No matter how slick and glossy the brochures and videos are, never invest in property sight unseen. Insist on visiting the site personally.
- Get as much information and documentation as possible, including surveys, inspection certificates, etc. Before signing any contract, the customer should have the materials reviewed by his or her own attorney, preferably one who is well versed in real estate law.
- Complete an extensive background check on the company and the principals offering the property or real estate investment opportunity. Check with the real estate commission in the company's home state and the state where the property is being offered to determine whether the company meets all licensing requirements and whether there are any pending disciplinary or civil actions against the company or any of its principals.
- After verifying the company and its principals, require that all down payments and other transaction-related funds be placed in an escrow account prior to closing.
- Ask for a complete list of investors or clients. Contact several of them to obtain references.
- Find out about the contract cancellation laws of the state where the property is located. Most states require the seller to release the purchaser from a contract within a specified period after the signing of a contract—normally, anywhere from three to 15 days.

16. Telemarketing Fraud

Like direct mail marketing, telemarketing has been a highly successful and profitable tool for legitimate companies to sell products in every conceivable industry and market. The fraudulent telemarketer, like the fraudulent mail marketer, has copied methods and tactics from legitimate companies so closely that it is often difficult to distinguish the legitimate company from the scam operation. Telemarketing scams are often perpetrated in “boiler rooms”—rooms where hundreds of workers call consumers throughout the day to sell fraudulent products, prizes, and investments. They read from high-pressure, carefully worded scripts. Victims may be chosen at random or from carefully compiled lists based on age, geographical location, interests, business or occupation, etc. Operations are mobile to avoid detection or flee prosecution. The following are examples of fraudulent telemarketing schemes:

- Callers ask consumers for their credit card numbers because their “marketing company” has a “free” gift for credit card holders, and if they can just verify the credit card number, the “gift will be on its way.”
- A postcard or letter arrives in the mail, announcing that the consumer has won a free prize and that to claim the prize, the consumer should call either a 900 number or an

800 number that then asks the consumer to call a 900 number. The consumer pays for the call but receives nothing.

- A letter announces that the consumer has won a free stereo system and that to claim it, he or she must pay a \$50 shipping and handling charge. What arrives in the mail is a plastic transistor radio. If a cash prize was promised, it turns out to be a certificate that cannot be redeemed unless the consumer buy hundreds of dollars' worth of overpriced, substandard merchandise.
- Callers congratulate a consumer on the free trip or vacation he or she has won, but a "handling fee" or "membership fee" anywhere from \$50 to hundreds of dollars is required. In a similar scheme, to get the free trip or vacation, the customer must purchase a second ticket with a credit card.
- Callers offer "free," "prepaid," or "special" deals on magazine subscriptions. The total cost is never mentioned, merely that the consumer will get the magazines for just pennies per week. If the consumer bites, he or she pays hundreds of dollars for subscriptions that normally sell for much less.
- Callers solicit a contribution or attempt to sell products that will benefit a charity or a specified population, such as firefighters, police, or disabled or disadvantaged children. These products often include light bulbs, vitamins, trash bags, or other household or health aids that are sold for up to 20 times their value—all in the name of charity. Fraudulent telemarketers claim to represent charitable organizations, often using names similar to well-known, legitimate charities. For example, they may call themselves the American Kidney Foundation instead of the legitimate National Kidney Foundation, or the American Cancer Center instead of the legitimate American Cancer Society.
- Callers alert consumers of investment opportunities of various kinds, including stocks and bonds, real estate, etc.

Commonly Targeted Victims

Any consumer is at risk for becoming a victim, but at a higher risk are those who

- Respond to advertisements by asking for more information,
- Fill out sweepstakes, contest, or "free promotion" entry forms,
- Have been victimized in the past, or
- Are elderly.

Consumer Protection Tips

- Always request written materials about the company, product, or charity. If they won't send any or say that no materials exist, do not buy or donate.

- Check the telephone directory or call directory assistance to find out if the company is listed. Often, con artists won't have a listing since they move in and out of locations quickly to avoid detection.
- If a charitable contribution is solicited, make sure the charity is registered with the state's charitable solicitations office, or contact the Better Business Bureau or local consumer protection agency.
- Never be rushed into buying any product over the phone. If the product, service, or offer of free merchandise has to be purchased or acted upon immediately, decline the offer and hang up.
- Be wary of these phrases or words: free, selected, chosen, entitled, risk-free, life-time membership, approved, instant winner, offer for a limited time only, low-risk, special, bonus, sweepstakes, money-back guarantee, etc.
- A consumer should never give out personal or financial information over the phone unless he or she has done business with the company in the past and was satisfied, the consumer initiated the call to order something, or the company has been checked through state or local consumer affairs offices, the office of the state attorney general, or the Better Business Bureau.

B. Other Examples of Fraud

1. Art Fraud

Fraudulent operators exploit the growing trend to purchase works of art as status symbols and investments. The inexperienced victim purchases what he or she believes to be an original artwork without having the piece appraised or its authenticity verified. The victim often pays an exorbitant amount of money for a fake or for artwork that will never appreciate in value.

2. Bank-Draft Scams

A fraud artist offers a targeted victim anything to get his or her checking account number. Using the checking account number, the fraud artist prints an unauthorized demand draft (used by insurance and other legitimate companies to collect ongoing payments from their customers directly through their checking accounts), and deposits it in the bank. This demand draft allows the fraud artist to directly withdraw money from the victim's checking account. By the time the victim sees his or her next statement, the fraud artist may have depleted the account. Unauthorized bank drafts are very difficult to detect and combat. Because check-processing operations are highly automated, it is nearly impossible for a bank to catch a questionable demand draft.

3. Car-Related Fraud

Con artists in these schemes prey upon consumers who have credit problems and do not qualify for car loans under conventional terms. A typical scheme includes the use of a "credit broker,"

who charges an advance fee to line up credit for the consumer but instead takes the fee and flees or refers the consumer to a high-interest loan company. Similar schemes involve a “sublease broker,” who promises, in exchange for a fee, to arrange for the consumer to “sublet” or “take over payment” on someone else’s car loan. Since these types of transactions are illegal in most states and usually violate the original loan or lease, the bank can repossess the car even if the consumer has made all the payments.

4. *Diploma Fraud*

Career advancement in many instances is tied to educational or degree credentials. Fraudulent operators seize opportunities such as these and open study-at-home courses or set up schools that are not accredited. The operator will claim that his or her school is accredited and that the degrees or certificates are bona fide and ask students to pay tuition in advance. In some cases, the classes provide poor resources and opportunities for study, while in other frauds, the operator takes the advance tuition payment and flees without opening a school at all.

5. *Employment Agency Fraud*

In this scheme, fraud perpetrators usually advertise in the newspaper and claim to have an outstanding success rate in placing candidates in well-paying, secure jobs—for an advance fee. Once the fee is paid, the fraud perpetrator provides the client with the names of some corporations, which usually have not contracted with or heard of the fraud artist, or provides the client with a list of possible employment opportunities that the fraud perpetrator has compiled from various newspapers’ “help wanted” ads.

6. *Home Equity Scams*

Congress and many states have passed home equity conversion laws that make it easier for older, low-income homeowners to cash in the equity of their homes to increase retirement income or pay off debt. Unfortunately, home equity scams have become one of the fastest-growing frauds. Fraudulent perpetrators refinance mortgages by charging exorbitant interest rates and fees, thus depleting the homeowners’ equity. Some consumers cannot make the higher, new payments on their homes and are forced to continue to refinance their homes to meet current payments. Eventually, a homeowner may be unable to keep up with the payments, and the home is lost through foreclosure. Elderly persons are primary candidates for this scheme since their homes have often accumulated high amounts of equity.

7. *Phony Inheritance Scams*

Thousands of consumers are targeted each year by fraud artists who call themselves research specialists and notify targeted victims that inheritance funds have been located in their names. Victims are then lured into mailing a fee to secure a copy of a fraudulent “estate report,” which supposedly explains where the inheritance is located and how it can be claimed. The fraud artist then offers to help the victim file his or her claim to the inheritance for an additional fee. Usually,

no inheritance exists, or if one does, the amount is so negligible that it is not worth the fee charged.

8. *Work-at-Home Fraud*

A victim is lured into this type of fraud by the promise of high pay earned while working in the comfort of his or her home. The victim may also be required to purchase materials and equipment—at high prices—from the fraud perpetrator in order to assemble work products. The typical scam goes like this: A victim purchases the materials needed to complete the job on a promise from the fraud perpetrator that once the product is assembled, he or she will buy it back from the victim and sell it to a well-known retail chain. The victim invests, but the fraud perpetrator never buys the product back from the victim, often closing shop and moving to a new location. The victim is left with products for which there is no market and little opportunity to recoup his or her investment. Work-at-home jobs sometimes involve assembling fiberglass hoods for cars; making aprons, dollhouses, or plastic signs; or stuffing envelopes.

C. Help from Consumer Protection Agencies to Reduce Revictimization

Many consumer protection agencies offer consumer protection tips, fraud fact sheets, and advance warnings of newly identified fraud schemes and practices (“fraud alerts”), which are designed for mass distribution at community awareness events and forums at little or no cost. Many of these resources are printed in both English and other languages and can be found on the Internet.

Victim/witness coordinators may wish to contact the agencies listed below to determine what resources are available and order samples that can be shared with victims, law enforcement personnel, task force members, networking contacts, fraud support group participants, state governmental agencies with mandates to protect the elderly or disabled, and community action groups that have an interest in working with specific populations of potential victims, such as the elderly.

On receiving the resources, victim/witness coordinators may want to consider distributing the materials through a series of community awareness campaigns to address fraud crimes with professionals and community citizens. Local colleges, law enforcement agencies, and state and local consumer protection agencies may wish to co-host such events.

Below is a list of agencies that victim/witness coordinators may wish to contact for resources, pamphlets, public awareness campaigns, newsletters, and other fraud-related resources. Copies of some fraud-related resources are provided at the end of this appendix.

American Association of Retired Persons
National Office
601 E St., N.W.

(202) 424-3410

Washington, DC 20049

<http://www.aarp.org>

Produces a variety of free or low-cost fraud-related materials to reduce the incidence of fraud crime against senior citizens. Publications include fraud alerts, newsletters (*Senior Consumer Alert*), fraud-specific brochures, and a “Stop Telemarketing Fraud” program kit, which provides information and training agendas for community public awareness campaigns and events.

Call For Action

(301) 657-8260

5272 River Road, Suite 300

Bethesda, MD 20816

Provides free written information on avoiding the latest scams and cons.

Consumer Action

(415) 777-9648

717 Market St., Suite 310

San Francisco, CA 94103

Federal Trade Commission

(202) 326-2222

Bureau of Consumer Protection

Office of Consumer and Business Education

600 Pennsylvania Ave., N.W., Suite 130

Washington, DC 20580

<http://www.ftc.gov>

Produces a free educational campaign called “Spread the Word . . . About Telemarketing Fraud,” which includes resources for use in public awareness campaigns. Those resources include fact sheets; public service announcements; press releases; suggested activities for multi-agency, multi-community plans of action; and order forms for additional fraud-related resources addressing a variety of fraud schemes and practices. Topics include “Automatic Debit Scams,” “900 Numbers,” “Telephone Investments,” “Art Fraud,” “Dirt-Pile Scams,” and more.

MasterCard International Incorporated

(800) MASTERCARD

2000 Purchase Street

Purchase, New York 10577-2509

National Consumers League

(202) 835-3323

1701 K Street, N.W., Suite 1200

Washington, DC 20006

Provides some of its informational, fraud-related consumer brochures free to consumers, such as “They Can’t Hang Up—Help for Elderly People Targeted by Fraud,” but also, for a fee, produces and disseminates educational resources (videos, reports, etc.) to consumers and professionals who work with fraud victims. For example, NCL has produced a 20-minute video containing personal stories told by fraud victims and helpful advice for seniors

and their families, which is available for \$20. NCL also runs the National Fraud Information Center (contact information and services listed below).

National Fraud Information Center

(800) 876-7060

<http://www.fraud.org>

A hotline operated by the National Consumers League which consumers across the nation can call to receive advice and tips on how to spot possible fraud and to report it. Prepares and makes available numerous free publications and resources related to fraudulent schemes and practices.

National Futures Association

(800) 621-3570

200 West Madison Street, Suite 1600

Chicago, Illinois 60606-3447

Provides free brochures addressing investment fraud, such as the “Investors’ Bill of Rights” and “Investment Swindles: How They Work and How to Avoid Them.”

North American Securities Administrators Association

(202) 737-0900

555 New Jersey Avenue, N.W., Suite 750

Washington, DC 20001

Provides free brochures to consumers about good investing strategies. Also produces informational brochures highlighting investment schemes and practices.

Securities and Exchange Commission

(202) 942-7040

Public Information Office

450 Fifth St., N.W.

Washington, DC 20549

<http://www.sec.gov>

Provides free “Investor Alerts” announcing SEC enforcement actions and warnings about widespread fraud schemes.

U.S. Office of Consumer Affairs

(202) 634-4329

1620 L Street, N.W.

Washington, DC 20036-5605

Provides free fact sheets on a variety of fraud-related topics. Also hosts “National Consumers Week” to empower consumers through education and information.

U.S. Postal Service

(202) 268-4267

Inspection Services Department

475 L’Enfant Plaza, S.W.

Washington, DC 20260-2100

Provides free tip sheets that highlight current fraud schemes, consumer protection tips, and contact information for verifying the legitimacy of offers, merchandise, or practices with licensing and regulatory agencies. Additionally, the tip sheets provide information about the procedures for filing consumer complaints. The U.S. Postal Service also produces the

“Take a Bite Out of Crime” educational and public awareness campaign featuring “McGruff the Crime Dog” and provides these materials free.

D. Additional Resources to Consider

1. National

- Credit card companies that participate in fraud awareness campaigns
- Professional associations, which often print brochures describing licensing and consumer protection tips and suggestions
- National credit reporting agencies
- Postal inspectors

2. State Resources

- Departments of consumer affairs
- Offices of attorneys general
- Contractor licensing boards
- Insurance commissioners
- Real estate commissioners
- Departments of health and human services or other state agencies mandated to protect the elderly, disabled, or persons living on low incomes
- Licensing and regulatory agencies
- Professional associations of accountants, investment bankers, financial planners, etc.
- Better Business Bureau
- Consumer protection agencies

3. Local Resources

- Local sheriffs’ departments that participate in TRIAD programs (partnerships between agencies, advocacy groups, and sheriffs to address the problems of the elderly)
- Prosecutors’ offices
- Chapters of the Better Business Bureau
- Credit reporting agencies
- Consumer protection agencies

E. Samples of Fraud-Related Resources

On the following pages are samples of fraud-related resources. Contact information for the providing organizations is listed in Section C, above.

1. *American Association of Retired Persons*

The American Association of Retired Persons has produced a package called the “Stop Tele-marketing Fraud Program Kit.” The 80+ page document contains information to help facilitators conduct anti-fraud training. Included are sample agendas; advice on setting dates, times, and locations; materials for distribution; promotional guidance; general talking points; and much more. AARP also produces various fraud alerts and consumer references. Contact AARP at 601 E St., N.W., Washington, DC 20049. (202) 424-3410.

2. Call For Action

A Smart
New Way
to Pay

What Savvy
Consumers Need
to Know About
Debit Cards

COUNTDOWN
To
Smart
Dialing

10 Important
Dialing Tips

3. Consumer Action

receive a free copy, send a self-addressed stamped envelope to: Consumer Action Secured Credit Card Survey, 116 New Montgomery St., Suite 233, San Francisco, CA 94105. (Available in English only.)

The Consumer Credit Counseling Service (CCCS) assists consumers who have problems in paying their bills—before their good credit ratings suffer. CCCS does not assist consumers whose overdue bills have been referred to collection agencies.) Your local CCCS office can help you work out flexible payment plans to make debt repayment more feasible. Call 1-800-586-CCCS for an executive recording that will provide you with the phone number of the office nearest to you. Spanish-speakers can call 1-800-608-MILDA (1-800-608-2683) between 8 a.m. and 7 p.m. central time.

Before you sign a contract with any company, check it out with the local **Better Business Bureau (BBB)**, a non-government service which advises consumers on fraud prevention. Call your local BBB. If you cannot find a local number listed in the phone directory, call the Council of Better Business Bureaus at 1-703-276-0100 for a referral to the office nearest you.

This brochure was produced by Consumer Action's National Consumer Resource Center (NCRC). The NCRC is sponsored by AT&T, MCI, Pacific Bell, Southern California Gas Company and Sprint. For more information about the consumer publications the NCRC offers (available in free bulk orders), call 1-415-777-9648.

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**Don't Be Fooled
By Misleading
"Credit Repair"
Claims!**



Some companies cheat consumers by making misleading claims about "cleaning up" bad credit reports. This brochure explains the limited services that credit repair companies can legally perform, and reveals some companies' misleading claims and illegal practices.

An NCRC Publication

Credit reports

Your credit report is a listing of your payment history on credit cards and loans, including your mortgage. It includes information about outstanding loans, debt repayment and credit limits. It may also include non-credit information, such as jobs you have held, public record information, your date of birth and your address.

Your credit report is reviewed by lenders when you apply to them for credit. They use the report's information in deciding whether to give you a loan. Credit reports are maintained by credit reporting agencies. These private companies work with banks and other lenders. The three biggest national credit reporting agencies are TRW, Trans Union and Equifax. If you have ever fallen behind in making payments on previous loans or on your credit cards, it may be difficult for you to get a new loan, an apartment or even a job. Most negative information—including information about federally-guaranteed student loans—stays on the report for seven years after it was reported; bankruptcies stay on for 10 years.

It is possible that incorrect information also may be in your credit report. For instance, your credit report might contain a statement that you failed to pay a debt that you did pay, information about another person with the same name, or a court action you were not involved in.

How do I find out what is in my credit report?

You can obtain a copy of your credit report from any or all of the three major credit reporting bureaus. Write to them at the following addresses, or call them if you prefer (note that all three companies offer toll-free 800 phone numbers):

Equifax
P.O. Box 109873
Atlanta, GA 30348
1-800-685-1111

TRW
P.O. Box 80390
Layton, UT 84041
1-800-392-1122

Trans Union
P.O. Box 990
Springfield, PA 17064
1-800-688-6336

TRW gives you one free copy in each calendar year. The others charge up to \$8 to get a copy. However, a credit bureau must give you a free copy if you have been turned down for credit, a job, insurance or a rental unit within the last 60 days because of information in its report. The company turning you down must tell you which of the bureaus furnished the report it used.

What can I do about inaccurate information in my credit report?

You have the right to ask a credit reporting bureau to verify information in your credit report that you believe is inaccurate. Also, contact the company that gave the information to the credit reporting bureau and ask it to provide corrected information to all credit reporting bureaus it works with.

Inaccurate information about you may be on more than one credit report. While the three large credit bureaus mentioned above usually share information about an error, you should write to each credit reporting bureau to make

save the error is corrected on all your credit reports. About two months after you think the error should have been corrected, order copies of your credit reports again to check that the inaccurate information was deleted.

If the verification process does not resolve your dispute, you can write a statement of 100 words or less to present your version of the situation and ask the credit reporting bureau to include it in your credit report.

Beware of credit repair companies!

So-called "credit repair" companies claim they can remove negative information from credit reports. Advertising as "Credit Advisors," "Credit Rating Correction Services," or "Credit Consultants," they manage variations on this message: "I turned down because of bad credit? We can help! Many of these companies charge hundreds if not thousands of dollars for the promise to "clean up" bad credit reports. But the truth is, these companies can only do what you could do your-
self—at no charge.

Nobody can remove negative information that is accurate from your credit report. No company has a "secret" ability to remove all negative information.

But this doesn't stop their claims. This deceptive quote is from a credit repair company brochure: "Changed-off accounts, collection accounts, judgments, tax liens, repossessions, and even bankruptcies can be removed from your credit records in less than one year (five to seven month average)."

One tactic is to bombard credit reporting agencies with requests to verify information. If a credit reporting agency cannot verify an entry within 60 days, it will remove the

information from the report. But if the information is later verified to be accurate, it will go back in the report.

Before you even consider signing a contract with a company that promises to repair your credit, remember these facts:

- You may obtain a copy of your credit report on your own.
- You have the right to dispute entries in your credit report.

Beware guaranteed credit offers!

Credit repair and other companies often claim they "guarantee" to get you a credit card, regardless of your credit history. In fact, these companies do not always honor their guarantee. Sometimes, they'll just take your money and run—you will not get any credit, regardless of what they promised.

If they get you a card at all it taken will be a "secured" bank credit card with high up-front "application" fees that require you to



deposit and keep several hundred dollars in a savings account, or a card that only allows you to buy items in a catalogue from a business that you probably never heard of.

(You can apply for a secured credit card by yourself. For a free list of banks that do not charge application fees for secured cards, see the information from Consumer Action in the "Where can I get help?" section below.)

Credit repair companies often advertise on television, in newspapers and even on mailbooks. Sometimes they require consumers to dial a "900" telephone number to get more information. Calls to 900 numbers can cost \$2 or \$3 a minute, so listening to a few minutes of information about the cards can be expensive.

Some companies try to get people a credit card by having them apply with financial information of other people with good credit histories. It is a criminal act to apply for credit under someone else's name—do not do business with one of these companies.

Law enforcement agencies have shut down many credit repair outfits, but it is hard to stop a fraudulent credit repair outfit unless people complain about it. Therefore, be careful about responding to credit repair ads listed below if you think a credit repair company took advantage of you.

Where can I get help?

The Federal Trade Commission (FTC) publishes information for consumers on the subject of credit and enforces federal laws on credit. For a list of free publications, write to the FTC's Public Reference Department at the address given below. While the FTC does not handle individual cases, it can act when it sees a pattern of possible law violations.

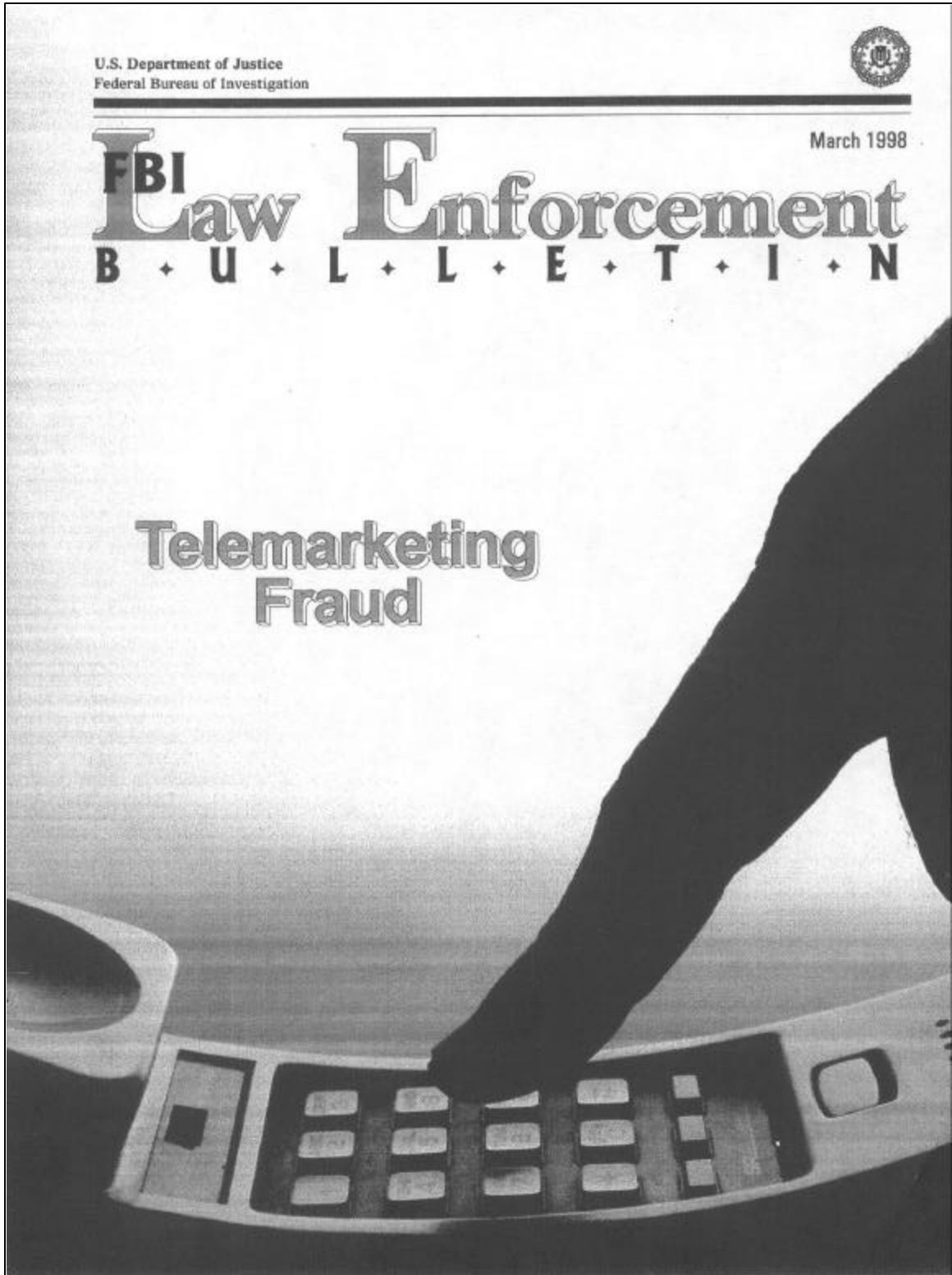


development. Complaints about credit reporting agencies and credit repair scans must be in writing. Send them to: FTC Credit Practices Division, 6th St., N.W., Washington, DC 20580.

Contact your local consumer protection agency or your state Attorney General's office. Many attorneys General have toll-free consumer hotlines. These numbers may be listed in the "self-help" or government sections in the front of your phone book. These agencies can offer you advice and may also be able to help resolve your complaint.

Consumer Action's free complaint information worksheets offering once-legal consumer advice and referrals can be reached from 10 a.m.-2 p.m. on weekdays, Chinese, English and Spanish are spoken. Call either 1-415-777-2945 (San Francisco office) or 1-213-624-8327 (Los Angeles office). Consumer Action has a free list of secured credit card banks that do not charge application fees. To

4. *FBI Law Enforcement Bulletin*





Hidden Faces Combating Telemarketing Fraud

By KEITH SLOTTER, CPA

"And the grand prize is... \$25,000 in cold... hard... cash! There are only five people left in our holiday bonus bonanza, and it looks to me like you're on top! I hope you can afford an addition to your one-car garage, because you're going to need it!"

How many times does the phone ring at dinnertime with claims like this from overzealous telemarketers trying to lure a purchase in exchange for promised riches and award winnings? Worse, how many people do you know who have been taken in by these schemes?

"Telemarketing" was a term coined by telephone companies in the mid-1970s indicating a way to promote sales through phone solicitation. Con artists quickly learned

that selling and promoting over the phone offered a new wrinkle on age-old customer swindle schemes. By promising cash, cars, jewelry, and other prizes, unscrupulous telemarketers have fleeced millions of people out of their hard-earned savings. Many victims are the elderly—folks who normally close deals on a handshake, but have been conned out of their retirement nest eggs in exchange for cheap trinkets.

Illegal telemarketing schemes have one common element.

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Whether the products offered for sale are pens, vitamins, water purifiers, lottery winnings, or investments, illegal telemarketers prosper by promising customers an array of valuable prizes—big rewards that never come.

Over time, illegal telemarketing has become an international problem, with new and varied operations springing up throughout the United States, Canada, and Europe. To put today's problem into perspective, one must examine how illegal telemarketing operations, called "boiler rooms," operate and how they developed.

INSIDE THE BOILER ROOM BUSINESS

To trace the inner workings of an illegal telemarketing operation, one must understand the language, as well as exactly how and why business is conducted the way it is. Most boiler rooms operate in six

stages—solicitation, sales, verification, collection, shipping, and customer service. Each stage depends on the others for success.

Solicitation

No boiler room can prosper without a core base of victims and continuous new prospects. Telemarketers solicit potential customers in two ways—either inbound or outbound. Inbound systems usually involve a bulk mailer of some sort, often a card or certificate, notifying prospects that they have won a prize or business opportunity and requesting that they call the company within the next 24 or 48 hours. This deadline creates a sense of urgency that a big award might be missed if the offer is not acted upon immediately. Mailers result in about a 5 to 7 percent response rate for most boiler rooms. Outbound systems use the cold-calling approach—telemarketers get on

the phone and pitch their promotions through unsolicited initial contact.

Regardless of which system is used, all telemarketers rely on leads. These phone professionals do not pick names out of the phone book; they operate from lead lists—hundreds of names and telephone numbers that boiler room owners purchase from lead brokers, usually on a weekly basis. Lead lists identify likely prospects, often those who have been victimized recently by other telemarketers. A boiler room owner might pay anywhere from 5 cents to 5 dollars per name, depending on the likelihood of a sale. Most boiler rooms exclusively solicit out-of-state victims in order to avoid the risk of personal confrontation in the future.

Sales

As the heart and soul of any boiler room, sales personnel do not all do the same job. They are located in various rooms inside the company depending on their function. Many salespeople at all levels operate using a written pitch, usually drafted by the owner or room manager. However, most phone representatives are given wide latitude in price negotiations and what they can say and promise a victim.

Front Room

The front room is where the new, less experienced salespeople, sometimes called "fronters," work. They generally contact new prospects from their lead lists and offer the customers products and awards with relatively low prices, usually



Special Agent Slotter serves in the FBI's New Haven, Connecticut, office.

“By promising cash, cars, jewelry, and other prizes, unscrupulous telemarketers have fleeced millions of people out of their hard-earned savings.”

between \$299 and \$599. They are managed separately and segregated from the more advanced operators.

No Sale Room

This room houses salespeople who refuse to take no for an answer. Once the fronter has failed in a sale, the lead is forwarded to the No Sale Room, where a more experienced telemarketer takes a second crack at it. This telemarketer feigns misunderstanding and incredulity that the customer is not taking advantage of the opportunity being offered and usually says something like this:

"Frankly Mr. Jones, my associates and I are completely confused, and we're not sure what to do about it. What you're telling us is that you don't want your prize—that we should just forget about it and send it off to some other lucky customer? I don't think you realize what you have coming to you."

Sometimes these salespeople, or "no salers," try to explain away the cost of an award or product by claiming that the fee simply covers the costs associated with the prize, such as shipping, insurance, and taxes.

Reload Room

A boiler room lives or dies through the success of its reload room, the established phone professional's turf. These salespeople, called "reloaders," use high-pressure tactics and an assortment of bogus promises to convince past victims that they should buy



again. Ironically, these victims are the easiest to pitch because they tend to spend more and more money in hopes of eventually winning that big prize or at least breaking even. Reloaders fuel those hopes with lies and unkept promises about grander promotions and newfound riches if the victim will just play along one more time.

Reload orders often total thousands of dollars apiece and represent the bulk of the company's illicit income. Seasoned reloaders commonly earn well over \$100,000 in commissions annually.

Verification

Verifiers recontact customers shortly after a sale has been completed. They review the promotion, awards, and price with the customers. More important, they attempt to diffuse the misrepresentations made by the sales representatives. Verifiers also secure arrangements for the victims to pay for the bogus products.

Collection

To circumvent the problem of buyers' remorse, telemarketers need to ensure that customers pay them as quickly as possible. The two most common methods of payment are checks sent via overnight delivery and demand draft authorizations. The verifier secures the customer's address and arranges for the overnight courier to pick up the check as soon as possible, with all charges to be paid by the boiler room. By using check debits or demand drafts, telemarketers also can arrange for the direct electronic transfer of funds from a victim's bank account.

Because of the instability and illegality of most boiler room operations, telemarketers generally cannot obtain bank merchant accounts for credit card sales. Some owners misrepresent the nature of their businesses to secure such accounts, but once banks determine that the companies' profits are generated exclusively through phone

sales, they quickly shut down the accounts.

Shipping

Also known as the "back end," most telemarketers initially get into trouble at this point. It is one thing to lie over the phone to induce a sale; it is another thing to lie over the phone and then not ship the customer anything, not even the least valuable award. Many financially strapped owners, to their detriment, resort to nonshipment when business gets hectic. Reliable shipping minimizes customer complaints, which, in turn, reduces the threat of law enforcement intervention.

Incidentally, most illegal prize rooms operate on a 10 to 1 principle; that is, they award a prize costing one-tenth of the amount paid. There even have been cases in which boiler rooms awarded victims vacation packages that consisted of nothing more than travel certificates the boiler room bought in bulk for pennies apiece.¹

Customer Service

This task requires a special talent and also might be called customer harassment or customer intimidation. Once victims realize they have been duped, the customer service representative (CSR) must eliminate the problem using any tactics necessary. The CSR usually is an old-time telemarketer who either belittles and berates customers into submission or, through an endless series of delay tactics and empty promises, wears the complainants down until they eventually give up. Only the most persistent customers or the threat of law

enforcement action actually elicits a refund.

HISTORY OF TELEMARKETING

The first major illegal telemarketing company was Fifty States Distributors. This company began operations in 1975 in Las Vegas and eventually spread out across the west. Fifty States sold advertising

“
**Secrecy is
the key to
illegal
telemarketing
success.**
”

specialty products or "ad specs"—usually pens, key-chains, or refrigerator magnets with a company's embossed name and logo—to businesses throughout the country. The owner of Fifty States, Barry Schrader, soon learned that his phone representatives could sell more products by offering customers a watch or other jewelry trinket along with their orders.² This simple gesture eventually evolved into the 1-in-5 scheme, which has become a staple of illegal prize room operations.

In the 1-in-5 scam, telemarketers guarantee that customers will receive one of five prizes—with the top award being an automobile or other lucrative item, all the way down to the least valuable prize, often represented to be a television,

VCR, or stereo. In fact, the least valuable award is buried somewhere in the middle, and, though represented to be valuable, it usually consists of worthless jewelry, artwork, or costly and restricted vacation packages. Everyone gets this award—except for the few customers who have spent thousands and thousands of dollars chasing dreams concocted through crafty salesmanship. Of course, before becoming eligible for an award, the victim must purchase something, often a product with a true value difficult for amateurs to determine. The first rule of illegal telemarketing is that no one gets more than they pay for.

Fifty States, which employed more than 300 salespeople at its peak, eventually was raided and shut down in 1979. Unfortunately, former managers and salespeople spread across the country to start their own scam operations, such as Cypress Creek Promotions in Fort Lauderdale, Florida, Nationwide Marketing in San Diego, California, and Pioneer Enterprises in Las Vegas, Nevada, which at one time was the largest boiler room in the United States.

EARLY LAW ENFORCEMENT EFFORTS

Secrecy is the key to illegal telemarketing success. Telemarketers, by nature, shun outsiders. They feel secure in defrauding people throughout the country with the comfortable detachment of never having to meet their victims face to face. Telemarketing companies are equally wary of law enforcement, and their operations are primed for

quick relocation, as required. A boiler room owner easily can set up an office without any overhead concerns, needing only office space, desks, and phones, all under the cover of an innocuous name, often with the words "marketing" or "promotions" in the title.

Further complicating law enforcement's efforts at investigating boiler room operators, most employees, from the owner to the lowest level salespeople, use aliases, or "phone names," to insulate themselves from suspicion. Tracing an alias involves extensive police surveillance and cumbersome records review, often without success.

Prior to 1990, most law enforcement investigations were historical in nature. Federal agents and local detectives were challenged to pore over thousands of documents, including sales orders, payroll records, shipping receipts, purchase orders, telephone toll records, and bank account information, to reconstruct company operations. Additionally, cases only could be solved by contacting and interviewing hundreds of victims across the country, making successful telemarketing investigations at all levels of law enforcement very rare.

Boiler room operators simply can pack up and move to another county or town, leaving pursuers perplexed. Part of the problem is that the boiler room community has its own language and way of doing business. Investigators attempting to thwart boiler room operators quickly learned that without thorough knowledge of boiler room lingo and behavior, their limited understanding of such operations immediately would compromise their

proactive investigative efforts. Many of these barriers ultimately toppled in the early 1990s with the FBI's Operation Disconnect, which gave law enforcement one of its first real glimpses inside the boiler rooms of America.

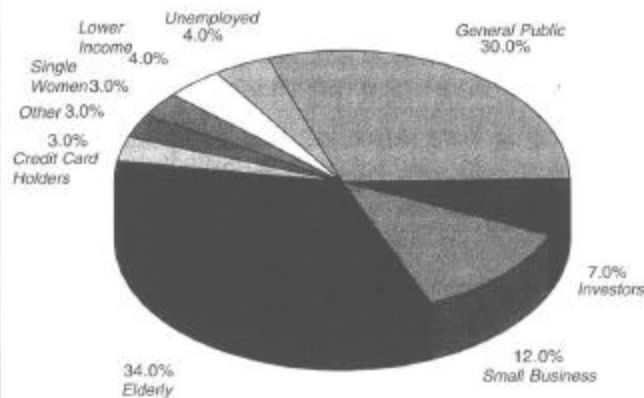
OPERATION DISCONNECT

After the FBI, state attorneys general throughout the country, and innumerable police departments suffered years of investigative frustration, the FBI solicited the services of a former boiler room manager, who guided agents through this intricate and secretive world. With this intelligence, the FBI's Salt Lake City office initiated undercover operation Bo Deal, which subsequently evolved into national Operation Disconnect. In

Disconnect, undercover agents posed as distributors of a computerized lead service, promising con artists profits far beyond what they were raking in already. This technique enabled agents to gain first-person admissions of illicit sales tactics and to understand boiler room machinations fully. During this undercover operation, investigators developed so-called hot tests in which agents, posing as customers, purchased products and recorded the fraudulent pitches and unkept promises of telemarketers throughout the country.

Many federal and local law enforcement agencies, along with 18 FBI field offices, participated in the March 1993 takedown, resulting in raids of 79 boiler rooms and the arrest of 300

Telemarketing Fraud Victim Profile



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subjects nationwide.³ Although Disconnect was a one-time operation, the methodology used in this investigation established a solid foundation for law enforcement to combat illegal boiler rooms in an effective, proactive manner.

PROACTIVE TELEMARKETING ENFORCEMENT

In the wake of Disconnect, many telemarketers became even more secretive and suspicious in their business dealings. Law enforcement quickly learned, however, that the bonds of secrecy and distance, so implicitly cherished by boiler room operators, could be effectively used against them. While phone professionals depend on deception and trickery for success, they never can be completely sure to whom they are speaking on the other end of the line. The challenge for law enforcement is to exploit this vulnerability and put investigators into the position of customers without arousing suspicion.

Operation Disconnect's success led the FBI's Miami division and the Fort Lauderdale Police Department to combine forces in 1994 in Operation Sunstroke. Together, they developed a strategy to place agents and detectives consistently in the role of victims, allowing for direct evidence of illegal sales tactics. Over time, a twofold system involving cooperating witnesses (CWs) and fictitious leads has developed.

First, cooperating witnesses with previous boiler room experience are sent into suspected illegal

telemarketing companies to seek employment. The CWs typically are trained by boiler room personnel in all phases of the operation and usually sit in on calls made by other employees. All activity in the boiler room is recorded, and the law enforcement agency reimburses victims upon takedown for any actual sales made by the CW. The evidence associated with this part of the investigation can be obtained in a matter of days.

“
The key to combating telemarketing crimes is communication—both among law enforcement agencies and within communities.
”

Second, fictitious leads are created and inserted into the boiler room. Telemarketers maintain an unquenchable thirst for new leads or “fresh paid,” victims who have purchased from other telemarketers and likely will buy again. Leads, take many forms, often consisting of index cards, computer sheets, and previous sale orders. By creating their own leads, usually in the form of supposedly old sale orders, law enforcement officials can place themselves in the victim's hot seat. Standard sale order forms can be purchased from a business supply store or duplicated from previous searches and seizures. Once the form is completed with the

fictitious information and submitted to the boiler room, investigators can expect a call in a matter of days.

The next investigative step is to overcome the interstate aspects of telemarketing and create the illusion that the law enforcement victim actually is located in a faraway state. One way to set the stage is to work in tandem with another law enforcement agency out of state. For a relatively low cost, each agency can establish one or more telephones in its office space with calls forwarded permanently to the other agency. For instance, in Miami, the FBI and the Fort Lauderdale Police Department set up five telephones with recording equipment. Through cooperative efforts with other FBI and law enforcement offices, the phones in Florida were connected to phones in Atlanta, Dallas, Los Angeles, New York, and Chicago. Those phones were placed in permanent call forward status so that if, say, a telemarketer in Miami called a lead in Atlanta, the call automatically bounced to the phone bank in Fort Lauderdale. By replicating this strategy, law enforcement agencies can make phone solicitors believe they are conducting interstate sales when the investigators might be literally right next door.

To complete the scenario successfully, all law enforcement personnel involved in the investigation need to be briefed on case objectives, phone personas, how to elicit incriminating information, and the mechanics of arranging for the purchase and receipt of products and prizes—usually through a mail-drop arrangement. Once law

enforcement personnel make a purchase, the phone typically continues to ring with reloaders soliciting more money and, eventually, with other boiler rooms that have purchased the leads from the initial target.

Following Miami's success, the FBI in San Diego coordinated national Operation Senior Sentinel. In addition to investigators from multiple agencies, this initiative also solicited the services of retired law enforcement personnel and members of the American Association of Retired Persons (AARP) to pose as

victims. To date, Senior Sentinel efforts have led to the arrests of over 1,000 boiler room subjects nationwide.⁴

CRIMINAL INNOVATIONS

Even with the successes of Disconnect, Senior Sentinel, and hundreds of similar local law enforcement operations, telemarketing continues to thrive. Canadian authorities, in particular, have witnessed explosive growth in illegal telemarketing during the past 3 years.⁵ In addition, new variations on these schemes continue to arise.

Some of the most popular include recovery schemes, so-called rip-and-tear operations, and investment schemes.⁶

Since operation Disconnect, telemarketers have discovered a more insidious way of defrauding customers. Phone professionals, posing as recovery and liquidation specialists, promise customers a return of their lost monies in exchange for an additional fee that supposedly covers court costs and other legal expenses. These con artists often claim to be working hand-in-hand with law enforcement

Common Terms Used in the Telemarketing Trade

Dropping Mail: The process of bulk-mailing promotional materials (usually award notification letters or cards), enticing potential customers to call the boiler room to claim their prize.

Lay Down: An easy sale. A customer who is so excited about the promotion, he/she is an easy target for the salesperson.

Catalog Rebuttal: A phony catalog. Many telemarketers instruct customers to send in photographs of themselves with their awards. Customers are told the pictures will be published in the telemarketing company's catalog. This rebuttal lends an air of legitimacy to the deal even though no such catalog is ever published.

In the Ether: When a salesperson is able to excite a potential customer about the awards or prizes they may have won, the customer is said to be "in the ether." The customer is then brought "out of the ether" upon hearing the

actual terms and conditions associated with the winnings.

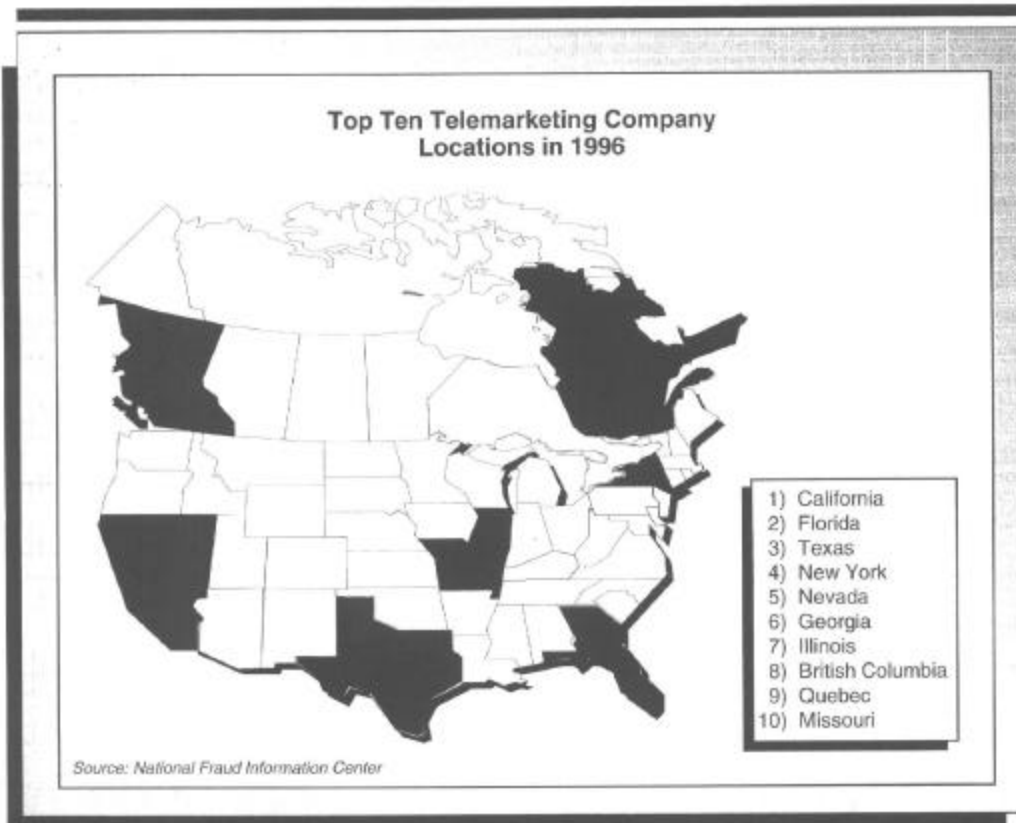
Gimme Gift: The trinket or low-value prize that all customers receive, regardless of the extravagant prizes that were promised. Typical "gimme gifts" include cheap jewelry, travel certificates, and phony artwork.

Misreps: Misrepresentations, lies, and exaggerated statements made by the salesperson to close the sale.

Mooch: A sucker. In short, the ideal customer.

Spiff: An incentive or bonus given by the company to a salesperson who has had an especially successful day on the phone.

Takeover (TO): When one salesperson passes a customer on to another sales representative to try to wear the buyer down and close the deal. The second seller is usually fresher and often will try a different tact to elicit a sale.



authorities and prey on the victims' ultimate desire to recoup the losses they incurred, perhaps from the very telemarketers now promising to help.

To help avoid detection, another set of telemarketers, known as rip-and-tear operators, often work out of a basement or office facility with a month-to-month lease arrangement. Their goal is to defraud as many customers in as short a time as possible with no intention of fulfilling customer orders or awarding prizes. They just take the money and run.

A new wave of sophisticated telemarketing has emerged in the fraud arena. These phone professionals claim to be investment specialists, often referring to themselves as brokers or investors and their businesses as independent sales offices, or ISOs, rather than boiler rooms. They offer high-priced investments in stocks, bonds, and new business opportunities and might go so far as to furnish prospective victims with phony registration and prospectus papers. Despite their air of professionalism, their schemes are no more

legitimate than the rip-and-tear operators' ploys.

CONCLUSION

The key to combating telemarketing crimes is communication—both among law enforcement agencies and within communities. By sharing investigative and intelligence information, law enforcement at all levels can defy the interstate aspects of these crimes. For example, the Boiler Room Task Force in San Diego maintains a comprehensive tape library consisting of thousands of recorded

telemarketing conversations that are available for law enforcement use. Nearly 200 recorded victim conversations are added to this collection weekly. Additionally, Federal Express, headquartered in Memphis, Tennessee, has established its own initiative against boiler rooms that use their delivery services. The cooperation and testimony of Federal Express officials in these matters has proven invaluable in bringing many of these criminals to justice.

Finally, the public, particularly the elderly population, depends on law enforcement to educate them about the pitfalls of dealing with

boiler rooms and the common schemes to which they might become susceptible. Most of America's elderly population grew up in an era when trustworthiness was the norm and a person's word was his bond. They find it hard to comprehend that salespeople could lie in such a straightforward and outrageous fashion, and they are so embarrassed by their losses they find it difficult to report these crimes.

With the impact of proactive boiler room investigations and other intensified law enforcement efforts, former telemarketing hotbeds like Las Vegas, Texas, south Florida, and southern California,

have seen significantly reduced illegal telemarketing activity. With cooperative efforts and a commitment to addressing the problem, law enforcement can continue to expose the hidden faces of illegal telemarketers around the world. ♦

Endnotes

¹ Operation Sunstroke, FBI, Miami Division, 1994.

² Warren Rupp, former manager, Fifty States Distributors, interview by author.

³ Economic Crimes Unit, Financial Crimes Section, FBI Headquarters, Washington, DC.

⁴ *Ibid.*


⁵ National Fraud Information Center, A Project of the National Consumer's League, Washington, DC, 1996.

⁶ *Supra* note 3.

5. Federal Trade Commission


Facts


for Consumers



Health & Fitness

Fraudulent Health Claims: Don't Be Fooled






Federal Trade Commission
Bureau of Consumer Protection
Office of Consumer & Business Education
(202) 328-3650
www.ftc.gov
March 1996

Produced in cooperation with the
U.S. Food and Drug Administration
96-1249

Billions of consumer dollars are wasted on unproven, fraudulently marketed, and sometimes useless health care products and treatments. In addition to wasting their money, consumers with serious medical problems may be wasting valuable time before they seek proper treatment. Even worse, some products may cause serious harm and endanger lives.

Fortunately, there are ways to tell which health-related claims are likely to be legitimate. This brochure will help you spot false and unsubstantiated claims. It describes some typical areas where fraud flourishes and suggests how you can protect yourself.



How to Spot False Claims

Remember the first rule of thumb for evaluating health claims: If it sounds too good to be true, it probably is. Also, learn to recognize the typical phrases and marketing techniques used to deceive consumers:

- ◆ The product is advertised as a quick and effective cure-all for a wide range of ailments or for an undiagnosed pain.

- ◆ The promoters use key words, such as *scientific breakthrough, miraculous cure, exclusive product, secret ingredient or ancient remedy.*

- ◆ The promoter claims the medical profession or research scientists have conspired to suppress the product.

- ◆ The advertisement includes undocumented case histories claiming amazing results.

- ◆ The product is advertised as available from only one source, and payment in advance is required.

In addition, health care clinics that require patients to travel away from home to receive treatment may be suspect. While many clinics offer effective treatments, some prescribe untested, unapproved, ineffective, and possibly dangerous "cures." Moreover, physicians who work in such clinics may be unlicensed or lack appropriate specialization. For these reasons, you should contact state or local health authorities where the clinic is located before you arrange to go.

- ◆ Finally, don't rely on promises of a "money-back guarantee." Be aware that many fly-by-night operators will not be around to respond to a refund request.

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Why Health Fraud Schemes Work

Health fraud is a business that sells false hope. It preys on people who are victims of diseases that have no medical cures, such as AIDS, arthritis, multiple sclerosis, and certain forms of cancer. It also thrives on the wishful thinking of those who want short-cuts to weight loss or improvements to personal appearance. It makes enormous profits because it promises quick cures and easy solutions to better health or personal attractiveness.



Some Medical Problems That Attract Health Fraud Schemes

Cancer

A diagnosis of cancer can bring feelings of fear and hopelessness. Many people may be tempted to turn to unproven remedies or clinics that promise a cure. Although some cancer patients have been helped by participating in legitimate clinical trials of experimental therapies, many others have wasted time and money on fraudulently marketed, ineffective treatments.

When you are evaluating cancer-cure claims, keep in mind that no single

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device or remedy is capable of treating all types of cancer. Cancer is a name given to a wide range of diseases that require different forms of treatment best determined by a medical doctor.

For more information about cancer, contact the American Cancer Society office listed in your yellow pages. To order free publications on cancer research and treatment, call the National Cancer Institute's Cancer Information Service: 1-800-422-6237.

AIDS and HIV

People diagnosed with AIDS and HIV infection also may feel pressured to try untested "experimental" drugs or treatments. Although there are legitimate treatments that can extend life and improve the quality of life for AIDS patients, there is, so far, no cure for AIDS. Trying unproven products or treatments can be dangerous, and may delay proper medical care. It also can be expensive and usually is not covered by insurance.

Don't be pressured into making an immediate decision about trying an untested product. Ask for time to get more information from a knowledgeable physician or health care professional. Legitimate health care providers will not object to your seeking additional information. The U. S. Government has established a toll-free HIV-AIDS Treat-

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ment Information Service, 1-800-HIV-0440. This information help line is staffed by health information specialists who are fluent in English and Spanish.

Arthritis

If you are among the estimated 37 million Americans who suffer from one of the many forms of arthritis, be aware that this disease invites a flood of fraudulent products and services. This is because medical science has not yet found a cure for arthritis. The Arthritis Foundation advises that symptoms should be monitored by a doctor because the condition can worsen if it is not properly treated.

An estimated \$2 billion is spent annually on unproven arthritis remedies. Thousands of dietary and natural "cures" are sold for arthritis — mussel extract, vitamin pills, desiccated liver pills, and honey and vinegar mixtures. Many scientists believe there is insufficient medical evidence to suggest that a lack of vitamins or minerals causes arthritis or that taking dietary supplements can give relief. For a free brochure about unproven remedies, call the Arthritis Foundation, toll-free, 1-800-283-7800 (9:00 a.m.-7:00 p.m., Eastern Time, Monday-Friday), or write: Arthritis Foundation, P.O. Box 19000, Atlanta, Georgia 30326.

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Precautions for Taking Dietary Supplements

There are thousands of dietary supplements on the market. Many contain vitamins and minerals to supplement the amounts of these nutrients that people get from the food they eat. There also are many products on the market that contain substances such as high-potency free amino acids, botanicals, enzymes, herbs, animal extracts, and bioflavonoids.

Some dietary supplements have documented benefits; the advantages of others are unproven and claims about those products may be false or misleading. For example, claims that you can eat all you want and lose weight effortlessly are not true. To lose weight, you must lower your caloric intake or increase your caloric use through exercise. Most experts recommend doing both. Similarly, no body building product can "tone you up" effortlessly or build muscle mass without exercise. Claims to the contrary are false. Other questionable claims may involve products advertised as effective in curing insomnia, reversing hair loss, relieving stress, curing impotency, improving memory or eyesight, and slowing the aging process.

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In addition to lacking documented effectiveness, some dietary supplements may be harmful under some conditions of use. Reports of adverse reactions to dietary supplements are monitored by the U.S. Food and Drug Administration to identify emerging safety issues.

According to the FDA, the following substances in dietary supplements are among those that raise serious safety issues at certain concentrations: chaparral, comfrey, yohimbe, lobelia, german-der, willow bark, guar gum, jin bu huan, ma huang, L-tryptophan, phenylalanine, and geranium. In addition, some vitamins and minerals can cause problems for some people when taken in excessive doses. These include vitamin A, niacin, vitamin B₆, vitamin D, iron, and folic acid. And remember, a label of "natural" is no guarantee of a product's safety or effectiveness.

Consumers who use dietary supplements should always read product labels to determine the % daily value for various nutrients contained in the product. Also, it's a good idea to seek advice from a health professional before taking dietary supplements, particularly for children, adolescents, older or chronically ill persons, and women who are pregnant or breast-feeding.

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For More Information or To Report a Problem

◆ To determine the value of a health care product or treatment, consult a pharmacist, doctor, or other health professional.

◆ To report a company you believe may be making false advertising claims, write to: Consumer Response Center, Federal Trade Commission, Washington, DC 20580.

◆ To report a company for falsely labeling its products or to report a serious adverse effect associated with the use of a dietary supplement, call your local Food and Drug Administration office.

◆ For information about a particular hospital, clinic, or treatment center, contact state or local health authorities where the facility is located. If it is in a foreign country, contact that government's health authority to see that the facility is properly licensed and equipped to handle the procedures involved. For information about facilities in Mexico, contact the Secretary of Health (Secretaria De Salud) in the Mexican state where the

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facility is located. Here is a list of phone numbers for Mexican states that border the U.S.:

Baja California (112) 201-38
Sonora (62) 13-42-81
Chihuahua (41) 13-38-05
Coahuila (84) 15-57-33
Nuevo Leon (8) 343-31-37
Tamaulipas (131) 222-93

◆ In addition, you may wish to contact your state Attorney General's office or a local consumer agency to get more information or to report problems. These offices are listed in your telephone directory.

FTC Headquarters

6th & Pennsylvania Avenue, N.W.
Washington, D.C. 20580
(202) 326-2222
TDD (202) 326-2502

FTC Regional Offices

Suite 5M135, Madison Building
60 Forsyth Street, S.W.
Atlanta, Georgia 30303
(404) 656-1399

101 Merrimac Street, Suite 810
Boston, Massachusetts 02114-4719
(617) 424-5960

55 East Monroe Street, Suite 1860
Chicago, Illinois 60603
(312) 960-5633

1111 Superior Avenue, Suite 200
Cleveland, Ohio 44114
(216) 263-3410

1999 Bryan Street, Suite 2150
Dallas, Texas 75201
(214) 979-0213

1961 Stout Street, Suite 1523
Denver, Colorado 80294
(303) 844-2271

10877 Wilshire Boulevard, Suite 700
Los Angeles, California 90024-4341
(310) 824-4300

150 William Street, Suite 1300
New York, New York 10038
(212) 264-1207

901 Market Street, Suite 570
San Francisco, California 94103
(415) 356-5270

915 Second Avenue, Suite 2896
Seattle, Washington 98174
(206) 220-6363

[Press Release]

(Retype this press release on your organization's letterhead. Be sure to double-space it (bulleted items can be single spaced), and print it single-sided. If the release runs onto more than two pages, consider using a smaller type face, line-and-one-half spacing, or judiciously edit the text. Refer to "Suggested Activities" for distribution suggestions.)



SPREAD THE WORD... **About Telemarketing Fraud**

FOR IMMEDIATE RELEASE:

[Insert date]

CONTACT:

[Insert name and telephone number]

[NAME OF YOUR ORGANIZATION] AND THE FEDERAL TRADE COMMISSION LAUNCH TELEMARKETING FRAUD AWARENESS CAMPAIGN

On the first anniversary of federal rules designed to pull the plug on telemarketing fraud, [name of your organization], the Federal Trade Commission (FTC), and dozens of corporate and civic partners today launched a nationwide consumer education campaign to "Spread the Word About Telemarketing Fraud."

During the year since the FTC's Telemarketing Sales Rule went into effect, complaints about telephone sales scams have declined significantly. According to the National Association of Attorneys General, telephone marketing frauds dropped from the top consumer complaint in 1995 to tenth place in 1996. In that one year, law enforcement organizations have closed down more than 100 illegal telemarketing operations.

Despite the improvement, telephone con artists continue to bilk consumers out of an estimated \$40 billion a year. To help stem these massive losses, the FTC's Partnership for Consumer Education is launching this major campaign.

"Educated consumers can outsmart telephone swindlers," said [name of head of your organization]. "We just need to better arm consumers with the facts about their rights and tell them where to turn for help should they become victimized." According to [last name, head of your organization] and the FTC, here's how consumers can reduce their risk of becoming victims of telemarketing fraud:

- Be skeptical of "too good to be true" telephone offers.
- Resist pressure for an immediate decision and ask for written follow-up materials that explain the offer.
- Agree to pay no more than the price of a postage stamp when notified about "winning" a sweepstakes. All legitimate sweepstakes must allow a "no purchase necessary" way to play the game and collect the prize.

Federal Trade Commission ■ Bureau of Consumer Protection ■ Office of Consumer and Business Education

- Never provide your credit card or checking account numbers to a caller from an unfamiliar company without first checking the company out with the local Better Business Bureau or state Attorney General.
- Ask to be placed on the company's "do not call" list to reduce the number of unwanted telephone solicitations you receive.

This year's most common types of scams include **prize offers**, where hundreds of dollars are requested in advance for shipping, taxes, or other products sold in conjunction with the offer, and **pager scams**, which induce unsuspecting consumers to call long distance numbers with foreign area codes and subject the caller to exorbitant undisclosed charges.

The FTC began enforcing the Telemarketing Sales Rule on December 31, 1995, in an effort to curb telemarketing fraud. Among the key provisions of the rule are:

- Telemarketers must disclose at the beginning of a call their identity, the nature of the call (sales) and the goods offered, and that no purchase is necessary if a prize is being offered.
- Telemarketers must disclose that cancellations and returns are not permitted if that is the case.
- No money can be collected in advance for credit repair services or recovery schemes that promise to return monies lost on previous scams, or for services that guarantee the extension of credit or a loan.
- Telemarketers may only call consumers at home between 8 a.m. and 9 p.m.
- It is illegal for telemarketers to call consumers who had previously asked to be placed on the company's "do not call" list.

Consumers who have received illegal telemarketing solicitations or who have lost money in a scam should report the problem to their state Attorney General or the National Fraud Information Center, a project of the National Consumers League, at 1-800-876-7060.

6. MasterCard

DEFENDING
YOURSELF AGAINST
CREDIT CARD
FRAUD



USEFUL TIPS ON MONEY MATTERS



Of Consumer Information Brochures Provided By



SAFEGUARD YOUR CREDIT CARDS

- Keep your cards in a secure place.



- Keep card account numbers in a separate, confidential place.

- Sign new cards as soon as you receive them.

- Destroy carbon copies of receipts, copies of airline tickets, travel itineraries, or anything else that displays your card number — and discard them yourself.

- Check cards periodically to make sure none are missing.

- Know when new or reissued cards and billing statements should arrive. Contact your card issuer immediately if they don't.

- Memorize your personal identification number (PIN) for automated teller machine (ATM) transactions, or keep it in a separate place from your card.

- Don't use an obvious PIN, such as your birth date, your telephone extension, or consecutive numbers.

- When using your credit or cash card at an ATM, supermarket, unattended gasoline pump, or anywhere else, be sure you take your receipt with you. Never throw it away at the site of the purchase or in a public trash container.

REVIEW YOUR STATEMENT CAREFULLY

- Make sure all charges are accurate.
- Compare dates and amounts to verify expenditures.

- If you don't keep your monthly statements, destroy them carefully before discarding them.



REPORT ERRORS, LOSS, OR THEFT IMMEDIATELY

- Contact your card issuer through its 800 number as soon as you discover that your card has been lost or stolen.

Although there is no time limit for reporting unauthorized charges, reporting a lost or stolen card immediately can reduce your liability. If there has been an unauthorized use of your card, before you report it lost or stolen, your maximum liability is \$50. If your card is a MasterCard® card, in most circumstances, there is no liability for unauthorized use if you promptly report your card missing.



- Follow up with your issuer in writing. Once you've reported by telephone that someone else has used your credit card number, send a letter to the issuer stating that "an unauthorized charge" was made. (This language ensures that your issuer will understand that you are reporting a fraud, rather than a billing error.) Furthermore, you are protected in a dispute with creditors by the federal

Fair Credit Billing Act *only* if you report an error in writing.

- Call your card issuer if a new or reissued card does not arrive when expected.

- Write your card issuer if you discover errors on your statement.

- Pay at least the minimum on all undisputed charges. You need not pay for any charges under dispute until the card issuer has attempted to resolve the dispute.

KEEP YOUR PERSONAL INFORMATION PRIVATE

- When making a purchase in person (as opposed to ordering over the telephone), refuse merchant requests for personal information. Your address and telephone number, for example, are not required as a condition of purchase with a credit card.

- Do not provide your account number over the phone unless you can verify that the call is legitimate. The number

can be used to generate a new card or make unauthorized purchases on your account. Telemarketers offering cheap vacations, magazine promotions, or merchandise awards and asking for your credit card number are among the most common telephone scams.

- Do not allow a merchant to record your credit card number on a check, receipt, or other document. Many states have laws prohibiting this practice.

REPORT SUSPICIOUS SOLICITATIONS




If you receive a suspicious solicitation by phone or mail from someone who requests your credit card number (or if you feel you have been a victim of fraud), you should *immediately* report it to the National

Fraud Information Center's fraud hotline at 1-800-876-7060, 9:00 a.m. to 5:30 p.m. ET, Monday through Friday. This organization collects information on credit card scams and works with state and local law enforcement agencies to eliminate such operations.

7. National Consumers League

THEY CAN'T HANG UP

help for elderly people targeted by fraud.



EXECUTIVE SUMMARY

a project of the
National Consumers League

THEY CAN'T HANG UP education program

___ copies, consumer brochure* ___ copies, executive summary brochure* ___ copies, full report ___ copies, video, \$20

Your Name: _____ Organization: _____

Address: _____ City: _____ State: _____ Zip Code: _____

*I understand that individual copies of the brochure are free, but I will have to pay a small fee for shipping and handling for bulk requests. FOR BULK REQUESTS CALL (202) 835-3323.

I will pay by: _____ American Express _____ MasterCard _____ Visa _____ Check, payable to NCL

Card Number: _____ Expiration Date: _____

*Signature: _____

Mail or fax form to the National Consumers League, 1701 K Street, N.W., Suite 1200, Washington, D.C. 20006.

Individual copies of NCL's consumer education brochure, "They Can't Hang Up," are available for free. Bulk copies can be shipped for a small fee.

NCL also offers a 20-minute video (for \$20 each) with personal stories told by fraud victims and helpful advice for seniors and their families. NCL has also produced a 28-page report (for \$10 each) outlining the problem of telemarketing fraud against older people and strategies for empowering them to fight back.

To order these materials please see the back of this brochure, or for more information, call or write to the National Consumers League at 1701 K Street, N.W., Suite 1200, Washington, D.C. 20006. (202) 835-3323.

The National Consumers League, founded in 1899, is America's pioneer consumer organization. NCL is a private, nonprofit membership organization dedicated to representing consumers on issues of concern such as fraud, health care, fair labor standards, food and drug safety, and telecommunications. NCL's three-pronged approach of research, education and advocacy has made it an effective advocate and source of information for consumers and workers. For more information, call NCL at (202) 835-3323.

NCL runs the National Fraud Information Center, which was created in 1992. NCL staff members answer the NFIC 800 hotline, which consumers from across the United States can call to receive advice and tips on how to spot possible fraud and to report it. To reach NCL's National Fraud Information Center, call (800) 876-7060.

The Problem

Illegal telemarketers prey upon senior citizens, and it has become a serious social problem. It causes distress, family conflict, anguish, poverty, sickness, and in some cases premature death. To combat the problem, focused intervention by the private and public sectors is critical.

The National Consumers League, with funding from the American Express Company, has launched a project to restore personal dignity and financial independence to older Americans who are targeted for fraud. The Aspen Conference, convened by NCL, marked the start of the project, using experts, survey data, and current research to develop new messages for the elderly and a new strategy to empower them and their families to combat telemarketing fraud.

Messages used in the past to advise the elderly haven't worked as expected, especially among some segments. The weakness of many initiatives often lies in a reliance on facts and data, with little knowledge of the targeted population.

The Process

An understanding of the consumer is crucial. The diversity of seniors, their values and attitudes about money, the influences that trigger their behaviors, and their family interactions are important factors which must be explored in order to develop messages that they will heed.

The American Association of Retired Persons made great strides with its surveys and focus groups in defining the population of older fraud victims, the scope of the problem, and the "triggers," "behaviors," and "attitudes" which propel seniors into accepting fraud and make it so difficult for them to avoid it. The research also shows that older Americans' experiences with telephone solicitations are numerous. Many seniors find it difficult or are overconfident in their abilities to spot fraud. Many admit they are unwilling to report fraud, due in part to a "kindly perception" of the telemarketer.

Elder fraud victims are not isolated, lonely, and out-of-touch people. This description may represent some victims, but it does not describe the entire or even a majority of the targeted population. AARP has classified five types of senior victims: Open to Anything; You Can't Fool Me; Polite and Vulnerable; Likes to Buy; and Naïve. No one person fits exactly into a type, but may instead be a composite. The designations provide insight into the variety of motivations and personalities at work in a fraudulent telemarketing encounter.

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AARP's classifications confirm that one message cannot, and will not, be successful with all senior citizens. After reviewing the research and focus group findings, the Aspen Conference participants designated the "Open to Anything" and "Polite and Vulnerable" populations as the target audiences for the new messages. These two groups represent high percentages of the elderly population and are considered most reachable.

NCL's Aspen Conference used social marketing principles to develop a message strategy relevant to seniors. In crafting the message, the Aspen participants used a consumer-based communication model, a mechanism to view the world through the eyes of the consumer. The model's uniqueness is the equal weight assigned between the scientific research, which recommends new behavior, and the consumer research, which identifies consumer reality.

3

The Message

The Aspen focus groups established the framework for messages based on the target population's traits and reality. The new message strategy is not one of victimization, but of empowerment. There are three key components to the new strategy, which can be summed up under the heading: **FRAUDULENT TELEMARKETERS ARE CRIMINALS.**

It's a Crime! Stop a Criminal!

AARP research and the experience of NCL's National Fraud Information Center counselors show that messages will not work with seniors until they believe that the activity is a crime, and the fraudulent telemarketers are crooks. Only after they are convinced that fraud is a crime, and they blame the criminal, not themselves, will seniors change their behavior.

No Victims Here! I Take Control!

Seniors should not be approached as victims, but as active participants in stopping crime. The senior must be enabled to get control of the conversation with a fraudulent telemarketer by ending the call and reporting it to NCL's National Fraud Information Center at **(800) 876-7060.**

Don't Lecture! I Don't Want Your Advice.

Victims resist when confronted, criticized, or humiliated for being "gullible," and then are unlikely to change their behavior. Therefore, family and friends need to be better educated and understand the problem. Their approach should emphasize the criminal's behavior and craftiness, not the senior's behavior or gullibility.

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NCL and AARP developed new messages aimed at seniors, especially those described as "Open to Anything" and "Polite and Vulnerable." The message strategy attempts to encourage a new behavior that tells seniors how to respond to fraudulent telemarketing schemes. In April, AARP tested five print advertising and three television concepts with its members and former fraud victims. The two most favorably received print ads were the following:

"Your friendly telemarketer could be your friendly thief."

SUBHEAD: "Don't fall for a telephone line."

ACTION: Call the (NCL) National Fraud Information Center at (800) 876-7060.

"Don't let a thief into your house."

SUBHEAD: "Don't fall for a telephone line."

ACTION: Call the (NCL) National Fraud Information Center at (800) 876-7060.

The Solution

The success of the new message strategy will rely on building cooperation among the various agencies, organizations, and programs. The Aspen Conference participants stressed the importance of communication and coordination among the different groups that work to end telemarketing fraud and protect senior citizens.

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8. National Fraud Information Center

NATIONAL FRAUD INFORMATION CENTER

A project of the National Consumers League. NCL is a private, nonprofit membership organization dedicated to representing consumers on issues of concern including fraud, health care, fair labor standards, food and drug safety, and telecommunications. Contact us at (202) 835-3323.

Consumer Assistance	(800) 876-7060
Facsimile	(202) 835-0767
TDD	(202) 835-0778
Electronic Mail	fraudinfo@psinet.com
World Wide Web	http://www.fraud.org



PO BOX 65868
Washington, DC 20035



National Fraud Information Center

BE SMART

- Know the company you plan to do business with.

A reputable company will be pleased to send you information. A fraudulent promotion requires an immediate response.

- Never reveal account numbers, partial account numbers, or any other personal identification to strangers, especially over the phone.

A crook who knows the name of your bank has enough information to clean out your account. An expiration date is all that is needed to charge hundreds of dollars on your credit card.

- Never send cash by private carrier.

Required overnight delivery of checks or money orders is an indication of fraud. Frauds which use the mail are investigated by federal agents.

- Never pay up-front fees for services which normally operate on a commission basis or charge interest.

Employment agencies, real estate agents, and travel agents generally operate on a commission basis. Lenders charge interest rates.

- When anyone tells you that you have won a prize, hold on to your money.

Any time you are told you have won a prize and have to pay money, refuse the prize.

For further information call
1-800-876-7060

9. North American Securities Administrators Association, Inc.



NASAA

NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, INC.

555 New Jersey Avenue, N.W., Suite 750
Washington, D.C. 20001
202/737-0900
Telecopier: 202/783-3571

PYRAMID SCHEME FRAUDS

July, 1986

The *pyramid scheme*, in which promoters lure the unwary by extravagant promises of profit which are tied to an ever-expanding class of new participants, is back on the American scene. State securities regulators and the Council of Better Business Bureaus warn that this circle get-rich-quick con game has returned in *new and sometimes more sophisticated guises, leaving thousands of defrauded investors in its wake.*

The recent renewed national interest in entrepreneurship has provided the cover for a new generation of unscrupulous pyramid scheme operators who combine a money-making variation of the age-old chain letter game with modern high pressure sales techniques. While the new pyramid often employ the use of a "product" to enhance the appearance of legitimacy, the bottom line is that *the profits always come out of the next investor's pocket.*

A recent survey by the North American Securities Administrators Association (NASAA) and the Council of Better Business Bureaus (CBBB) revealed a myriad of pyramids operating throughout the U.S. and Canada:

- Over twenty states have issued Cease and Desist Orders against the principals of a company which used a pyramid sales scheme to promote sales of "lactic activator" kits. The kits contained a substance which purchasers would combine the milk to produce a type of mold culture which an affiliated company would allegedly repurchase for use in the manufacture of new cosmetic product. The company selling the kits has filed for bankruptcy, claiming 27,000 creditors. Investors throughout the U.S. lost \$6 million. Investigators discovered that the vast majority of cultures were simply being ground up and recycled into new activator kits and that each kit's value was a fraction of the price being charged to investors.
- Two smaller versions of the lactic culture schemes have resulted in both civil and criminal actions against operators in Canada and Oklahoma. The latest schemes combine alleged new uses for the same old mold with a religious approach to investors.
- In a number of states, the latest fad is the pyramid party, in which the product is dispensed with altogether. A player puts up \$1,000 to enter the bottom of the pyramid and then must recruit two more players to recoup his or her original investment. Heavy peer group pressure is employed in hopes that each new players will recruit enough others to produce a 64-person pyramid that puts the original player on top with \$16,000. An operator running a similar scheme in Illinois was ordered to repay thousands to losers after the pyramid's inevitable collapse.
- At least twelve states, including Tennessee, Texas and Minnesota, have acted to halt sales of a pyramid scheme disguised as a "self-motivation" program. Participants, who pay up

President: Lewis W. Brothers, Jr. (Virginia) • President Elect: Barry C. Guthary (Massachusetts) • Secretary: Wade Nesmith (British Columbia)
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to \$6,000 each to attend self-improvement and nutritional seminars, are then motivated to recoup their investment by introducing the program to new investors and receiving a commission on the fee. State actions followed numerous complaints that the seminars were difficult to sell and that the materials were not worth the price charged.

- The U.S. Postal Service obtained a consent order in late 1985 from an Arizona company it had alleged was falsely advertising large earnings from a multi-level credit card sales scheme in which participants could supposedly build up huge credit lines and never have to pay the balance due. The State of New Mexico also obtained a consent agreement with the company after charging it with violating the state Pyramid Sales law.

Other questionable schemes that have come to the attention of securities regulators and Better Business Bureaus in recent months have included plans for multi-level sales of investment newsletters. One such program promises to provide new subscribers with part ownership in investment portfolios if they recruit new subscribers. Another offers commissions for new subscriber sales in the form of silver bullion, as well as cash.

WHAT IS A PYRAMID SALES SCHEME?

In its purest form, a pyramid sales scheme involves the *collection of money from individuals on the bottom to pay other individuals further up the pyramid*. The program appeals simply to the greed of individuals and their willingness to take the risk that the pyramid will last until they get to the top.

Many pyramids attempt to prove their legitimacy by the use of a product. The reason is that *most state laws prohibit a program where the profit potential comes not primarily from the sales of products to consumers, but from the inducement of other investors to join the scheme*. The Federal Trade Commission states that such pyramids display two essential elements: the payment of money for the right to sell the product and the payment for the right to recruit others into the program for rewards that are unrelated to sales of the product to ultimate users.

The classic model for such pyramid scams originated in the late 1960's with Koscot Interplanetary, Inc., Glen Turner and Dare to be Great. Investors purchased individual distributorship for up to \$5,000 which enabled them to sell mink oil cosmetics to the public or to participate in a self motivation course. At revival-type meetings, investors were dazzled by Turner's quasi-religious pitch and promises of enormous wealth.

However, the company provided limited advertising and product distribution, thus encouraging most investors to try to recoup their losses by selling distributorship to new investors. The scheme ultimately collapsed after thousands of people lost over forty million dollars. Turner was prosecuted and sued by investors, but the model was set and other schemes quickly followed.

In contrast, a legitimate multi-level marketing business emphasizes solid product or service. Success is based on two factors, product quality and hard work based on the ability to sell the product. Recruiting new distributors is secondary.

FRAUDULENT TECHNIQUES--NO ROOM AT THE TOP

Unlike most economic activity, no new money is created in a pyramid sales scheme; those who get in on the ground floor take money from those who come later. Thus, *for everyone who makes money, some other person must lose money*.

Programs always produce promoters at the top of the pyramid who wave in front of prospects checks for thousands of dollars they claim to have received from pyramid payments. As more people come

in, new levels of pyramid are created with the initials promoter and a few early participants on the top levels. Later recruits are on the bottom with little chances of getting the riches promised by the promoters.

Pyramid schemes are doomed from their inception. Like insatiable monsters, they demand more and more players to stay alive. A successful pyramid would eventually involve more people than live in the North America. *This is why pyramid schemes always collapse.*

Furthermore, program operators often target closely-knit groups to increase peer-group pressure to participate. Such groups may be as diverse as religious and social organizations, football teams and college students. A prospect is led to believe that if a program does not use the mails or is being promoted by a religious group, it must be legitimate and safe.

HOW TO AVOID BEING SWINDLED

The one sure way to avoid losing money in a pyramid is *not to play the game*. Pyramids are *illegal* are thus not registered by any federal or state agency. However, in addition to securities laws many states do have business opportunity laws which may apply to any given promotional scheme. Prospective participants should check with their state securities regulator to see what kind of laws may apply to their situation. Here are some basic rules to follow in steering clear of pyramid schemes:

- Watch out if the start-up cost for the investment is substantial. Pyramid schemes pressure you to pay a large amount to become a "distributor." Profits are thus based on the signing up of new recruits. *Beware of promises of quick, easy and unreasonably high profits.*
- Must you buy a product in order to become a distributor? Find out if the company will buy back inventory ... *you could get stuck with unsold products*. Remember that legitimate companies should offer and stick to inventory buybacks for at least 80 to 90 percent of what you paid.
- What is the consumer market for the products? If the promoters seem to be making most of their money through sale of distributorships or through volume sales to new recruits, *stay away*.
- If the distributorship is providing a product for use in making a final product, *make sure that whatever you are required to produce under the investment program is actually reaching the final manufacturer*.
- Get all the facts about the company, its officers, and its products. Get written copies of the company's marketing plan, sales literature, etc. *Avoid promoters who fail to provide clear and detailed explanations of their plans.*
- Resist the temptation to invest just because the person selling you the program is a friend or its part of your religious or social organization. Remember, that person may have been misled into believing he/she can make large amounts of money in a short time. Also remember that your participation in such a cash pyramid scheme may result in closer IRS scrutiny of your tax return.

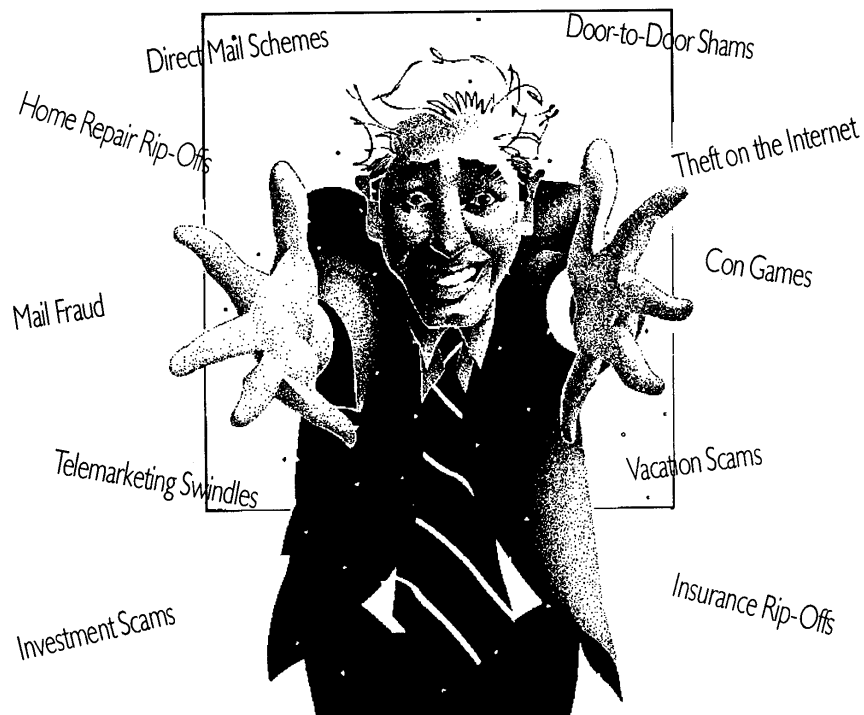
FOR MORE INFORMATION

The securities administrator in your state, province or territory is responsible for the protection of investors insuring that complete information is available for many types of investments. If you have

questions about possible pyramid sales schemes, contact the securities administrator listed in this alert. Your prompt action could save you money.

The Council of Better Business Bureaus and the Better Business Bureaus (BBB) of the U.S. and Canada answer inquiries on companies located in areas they serve. Before putting your money in an investment plan, it is a good idea to contact your local BBB for a reliability report on the company you intend to deal with. For more information, contact the BBB.

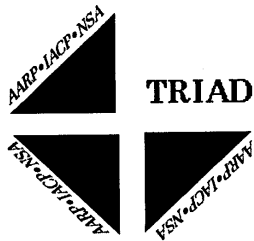
They Want to Take *Your* Money



How to Avoid Scams & Frauds

A Consumer Reference Guide for Seniors

A TRIAD publication



TRIAD

reducing crime against the elderly

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Introduction

You probably have heard it said many times: “If it sounds too good to be true, it probably is.”

Not bad advice, but how can you tell the difference between an offer that’s genuine and has your best interest in mind, and a trap set by a con artist looking for ways to get your money or a business that wants you to spend more money than you need to?

This resource covers a number of scams, frauds and other consumer issues that could affect you and offers information, tips, and telephone numbers that will help you avoid falling prey to con artists or being talked into decisions that turn out to be unnecessarily expensive.

The FRAUDS AND SCAMS resource packet is camera ready, intended to be duplicated. Topics are indicated by letter. For example, Topic A, How to Spot a Scam, is a two-page handout which can be copied on one sheet of paper and distributed to reinforce a crime prevention presentation.

The topics should probably be addressed separately, on the theory that we learn best with simple, useful, to-the-point presentations and a handout to reinforce the topic. The choice of topics will depend on current crime problems in a community.

At the end of each topic is a telephone and space to add local contact numbers. Here you may add the telephone number of a law enforcement agency or some other local or state agency.

Only on rare occasions would a presenter hand out all of the topics at once; probably picking and choosing your community’s “hot topics” will be most effective.



Worldwide Web of Cheaters, Liars & Thieves

Internet access offers crooks new routes to your money

Bill was excited about learning to use the Internet on his computer. While "surfing the net" one day, Bill came across what looked like a fabulous business opportunity to use his PC to make money at home. When he sent for more information about the business, he was surprised to discover that the required initial investment of money was far greater than was advertised on the net.

The so-called Information Superhighway, or Cyberspace, is the newest area being used by con artists. As the number of seniors using the Internet grows, and as more and more seniors become computer literate, the chances of becoming a victim of an on-line scam increase. Many scam artists using the telephone and mail to trick consumers are now using the Internet and on-line services. Some of the favorite techniques are:

- **Classified advertising** that promises much more than can be delivered, such as quick-and-easy weight-loss products.
- **Business opportunities**, especially work-at-home schemes involving the use of a personal computer to make money.
- **Use of "900" telephone pay-per-call services**, which promise high profits for a small investment.
- **"Disguised advertising"** on the Internet and on-line service bulletin boards, chat rooms or chat forums that may actually be sales pitches for products.

Topic J-1

Here are some warning signs and tips to avoid being taken by an on-line scam.

- **Overstated claims** of product effectiveness.
- **Frequent use of the word “hot”** to describe proposed investment opportunities.
- **Exaggerated claims** of potential earnings.
- **Claims of “inside” information.**
- **Promotions of cheap stocks** promising high returns.
- **Promotions for exotic investments** such as gold mining, ostrich farming, etc.
- **Never provide your credit card number** in any on-line transaction.
- **ANY information of personal nature**, once on-line, becomes EVERYBODY'S business.

For additional information on on-line scams contact the National Fraud Information Center, Consumer Assistance Service at 800-876-7060 or <http://www.fraud.org> on the World Wide Web.



11. U.S. Postal Inspection Service



TIP SHEET

UNITED STATES POSTAL INSPECTION SERVICE

FREE PRIZE SCHEME

It happens every day; thousands of people receive mailings stating they have won a free prize. Usually, it's a postcard-type notice which says your prize will be one of four or five "valuable" items listed on the card, such as a new car, a one-week vacation, a color television, or a \$1,000 savings bond. Major companies sometimes give away expensive items in special promotions, but not by mailing notices such as these. Typically, these notices are mailed by con artists whose purpose is to rip you off.

If you contact the company by phone, as the postcard will tell you to do, your "free" prize could end up costing you hundreds of dollars. The following examples illustrate the point. A man in San Mateo, California, paid \$398 for "shipping charges" to receive a "free" 1988 Pontiac automobile; needless to say, he got nothing. A Bergen County, New Jersey, resident paid a \$69 "shipping and handling charge" to get his "free" \$1,000 savings bond (with a maturity of some 30 years); he could have bought the same bond from the U.S. Government for only \$50.

Often you never get a prize. If you do get one, it typically is an inferior, overpriced, or grossly misrepresented piece of merchandise. For example, an "all terrain vehicle" turned out to be a lawn chair with wheels. A "Winnibag-0" was a cotton sleeping bag, and a "genuine fur coat" was a dyed rabbit pelt worth about \$30. Beware if the notice lists nice-sounding prizes like "designer" or "diamond" watches. They are likely to be cheap or practically worthless junk.

Further, you must actually pay to get your "free" item, either by ordering and paying for certain other merchandise items you will be required to purchase in order to claim your prize, by paying shipping and/or handling charges, or by paying a processing fee. You can almost be certain that the fees required to get the prize will exceed the true monetary value of the prize itself. And the merchandise you are required to buy will be grossly overpriced, as has been the case with the water filters and purifiers and the vitamins that are often marketed to the lucky "winners."

Every day, consumers throughout America lose many thousands of dollars to these unscrupulous free prize promoters. Their operations, known as boiler rooms, are staffed by high pressure sales people armed with sophisticated selling techniques designed to get you to send them money. Don't be swayed by their sales pitches and pressure tactics. Even better, arm yourself in the best possible way against falling victim to these kinds of frauds--by knowing how these con men operate and being prepared to ignore their come-ons.

If you receive a mailing promising you a free prize, or if you have been victimized in a free prize promotion through the mail, contact your local postmaster or the nearest postal inspector so we can stop the promotion before more people are victimized. Complaints may also be sent to the U. S. Postal Inspection Service, Operations Support Group-Chicago, Attn: Fraud Complaints Section, 433 West Van Buren Street, 7th Floor, Chicago, IL 60607-5401.

Appendix E

Designing Victim Impact Statements for Fraud Victims⁹

Due to various policy and jurisdictional issues surrounding the submission of victim impact statements (VISs), this appendix does not provide victim/witness coordinators with a sample of a fraud victim impact statement. It does, however, provide information and recommendations to consider when developing or modifying VISs to meet the specific needs of fraud victims. Victim/witness coordinators who wish to design a fraud-specific impact statement should work with their U.S. Attorney, probation department, court representative, and EOUSA.

A VIS is perhaps one of the most powerful vehicles victims have for becoming actively involved in the disposition of criminal cases. As early as 1981, researchers, mental health practitioners, and criminal justice professionals recognized that victims who receive information about their criminal case and are allowed to have input into the justice process experience a higher degree of satisfaction with the justice process.¹⁰ One way victims can increase their participation in the justice process is through the submission of written VISs. Although all states and the federal government have granted victims the right to submit written VISs, many victims fail to exercise this right due to several factors:

- Fear of defendant retaliation
- Belief that prosecutors and judges will not take the impact statement seriously
- Ignorance of their right to submit a written impact statement
- Ignorance of the importance of a VIS

Additional factors for victims' reluctance to submit VISs include these:

- Indifferent forms that use cold and insensitive language or are written above the victims' reading level
- Multiple forms that must be completed separately and submitted to numerous criminal justice agencies
- Form formats that restrict victims' ability to fully recount the emotional, physical, and financial impact of the crime (for example, providing only two or three lines in which to

⁹ Portions of this appendix have been adapted from *Impact Statements: A Victim's Right to Speak—A Nation's Responsibility to Listen* by E. K. Alexander and J. Harris Lord (Arlington, Virginia: National Victim Center, 1994).

¹⁰ Kidd and Cajet, "Why Do Victims Fail to Report? The Psychology of Criminal Victimization," 40 *Journal of Social Issues* 34-50 (1984).

write about the impact of the crime, or asking closed-ended questions to extract information)

- Use of VISs primarily as restitution documents
- Limited explanation of how to complete and submit VISs and how they will be used in the justice process (including who will have access to them)

Ultimately, a VIS should address the agenda of both the victim and the criminal justice system. For a victim, the VIS should serve as a means to

- Describe how the crime harmed the victim and his or her family members emotionally and physically,
- Provide information on the victim's financial losses as a direct result of the crime, and
- Promote psychological healing, if possible.

It is important to note that victims of fraud typically do not experience direct physical harm as a result of the crime (the most notable exception being cases of Medicare fraud where victims' health was put at risk or compromised). Therefore, questions related to physical harm in fraud crimes might be tailored to extract more information about physical impact. For example, the form could ask, "Has this crime affected your overall physical well-being? If so, please explain."

For the justice system, a VIS should

- Aid judges in determining fair restitution orders,
- Balance the information the court receives about the defendant's background, and
- Provide information about the victim's need for additional or continuing justice-related support services and referrals.

A. Important Considerations in Developing a VIS

When developing a model VIS form and accompanying resources (such as cover letters), victim/witness coordinators, in cooperation with their U.S. Attorney, representatives of the court, U.S. Probation Department, and EOUSA, should consider the following recommendations to increase victims' understanding of VISs, thereby increasing their submission to the court:

1. Form Design

Research has shown that one of the primary reasons victims fail to submit a VIS is poor form design. Many forms provide limited space for victims to respond or ask narrowly focused, closed-ended questions. Such a format often conveys to victims that those who work in the justice system really are not interested in what they have to say. A model form design is one that

- Is easy to read and understand,
- Uses clear, concise language in both its instructions and questions,
- Is at a reading level appropriate to its audience (best not to exceed the ninth-grade reading level, and sixth grade is preferable),
- Avoids the use of impersonal language,
- Extracts information using open-ended questions, and
- Provides adequate space for responses.

2. Introduction of the Victim Impact Statement

A model VIS contains an opening paragraph that explains why the victim has been asked to complete the form. This is important since many victims are not familiar with a VIS or its uses. The following information should be noted on the form itself or in accompanying materials:

- The purpose and importance of the VIS
- The statement's use in the justice process
- The statement's confidentiality (and who will have access to the statement, such as court personnel, the defendant, defense attorney, etc.)
- Victims' right to submit a VIS
- Other allowable formats for submitting a statement (such as video or audio formats, or a letter as opposed to a form)

Additionally, victim/witness coordinators should provide victims with information, where appropriate, on their ability to attend and present oral impact statements to the court at the time of sentencing, either in addition to or in place of the written statement. Victims should also be told how to request the opportunity to present oral VISs.

3. Instructions for the Completion and Submission of a VIS

Victims may be reluctant to submit a VIS if they do not have clear, concise instructions on how the form (or other allowable format) should be completed and to whom it should be submitted. Instructions may appear on the form itself or in an introductory letter. A model VIS includes an instruction section that does the following:

- Informs victims who is allowed to complete and submit a VIS (victim only, family members, etc.)
- Instructs victims as to where a VIS should be submitted (court, victim/witness coordinator, probation department)
- Specifies a time frame for submission

- Provides cues or prompts regarding what material might be included in the statement (for example, opened-ended questions, such as “How has this crime affected you, your family, or your relationship with others?” or “How has this crime affected your ability to earn a living?”)
- Provides a contact name and phone number to call if assistance is needed in completing the form or if victims have questions

4. Order of Questions

A model VIS should seek information from the victim on a number of aspects of the victim’s life:

- Emotional state
- Social, work, and family relationships
- Physical injury
- Crime-related costs

Each statement should begin with a question about the victim’s emotional state or emotional harm to convey a sense of caring by those who work in the justice process.

5. Other Considerations

Some victims will not submit a VIS if they are required to list their personal contact information on the form itself, out of fear of retaliation by the defendant. Where possible, victims should not be required to place personal contact information on the form itself, but rather on a separate cover sheet that can be removed (with the court’s permission) before distribution to the defendant and his or her attorney. If this procedure is allowed, victims should be told early on.

Additionally, VISs should be reproduced in large print for elderly or sight-impaired victims and, where practical and necessary, in languages other than English.

B. Sample Cover Letter to Accompany a VIS

[Date]

Dear [Victim]:

Although many crime victims experience similar feelings, questions, and concerns as a result of crime, no two victims experience the same emotional, physical, and financial impact. Only you can tell those of us involved in your case how you or those close to you have been affected by this crime. One way to do this is to prepare a victim impact statement. Not all victims are comfortable putting their thoughts on paper, and while you have the opportunity to complete an impact statement, you are under no obligation to do so.

If you would like to submit an impact statement for the court's review, a form is attached for your use. The enclosed form may appear to be impersonal, but when it is completed in your own words, it will help to personalize the impact this crime has had on you and those close to you. To further assist you, I am enclosing a suggestion sheet that may help as you complete your impact statement.

Upon receipt of your completed victim impact statement, I will forward it to the U.S. Probation Department. The Probation Department may use information gathered from your impact statement to help prepare a pre-sentence investigative report for the judge hearing your case. Someone from the probation office may contact you for additional information. If a probation officer does contact you, please respond promptly.

The victim impact statement also provides you with an opportunity to present the court with information about the financial costs you may have incurred as a result of this crime. Please complete the enclosed financial worksheet and return it with your completed impact statement, along with any copies of documentation you may have to verify your losses. Your completed form should be returned to my office at [Mailing address] no later than [Date].

[Add if applicable:] You also have the right to attend the sentencing hearing and request to speak to the judge at the time of sentencing. If you would like to do so, please contact me as soon as you receive this correspondence and I will assist you in making your request to speak to the judge at the sentencing hearing.

If you have any questions concerning how to complete the victim impact statement or how it will be used in the criminal justice system, please call me at [Number]. No one knows better than

you how this crime may have changed your life. Thank you for taking the time to provide us with this important information.

Sincerely,

[Signature]

[Name]

Enclosure

Suggestions for Completing Your Victim Impact Statement

The following suggestions are offered only as a guide to help you to complete your written victim impact statement. Please answer as many questions as you wish. If you need additional space, please use additional pages and simply attach them to the form when you return it.

Only you know how best to describe the effects this crime has had on you and those close to you. We realize it may be difficult for you to put this impact into words. However, those of us involved in the justice process believe that it is very important for the judge in your case to understand all the ways this crime has affected you and those close to you. However, you are under no obligation to complete the statement if you do not wish to or feel uncomfortable in doing so.

You should also be advised that once you submit your statement, it becomes part of the defendant's permanent file. The judge, prosecutor, and probation officer will read your statement, and the defendant and his or her attorney will also receive a copy of it. [Add, where appropriate:] However, your personal contact information will be removed before the defendant or his or her attorney has a chance to review your statement.

Many victims find it helpful to organize their statement by the emotional, physical, and financial impact of the crime. Others find it helpful to write a rough draft of their statement before completing the final version.

If you would like to tell the court about the emotional impact of this crime, you may wish to consider the following:

- Has the crime affected your lifestyle or the lifestyle of those close to you?
- Have your feelings about yourself or your life changed since the crime?
- Has your ability to relate to others changed?

If you or your family members have suffered any physical impact as a result of the crime, you may wish to describe the following:

- Changes in your general, physical well-being
- How long these physical symptoms lasted or how long they are expected to last
- Any medical treatment you have received or expect to receive in the future

If you would like to tell the court how this crime has affected your ability to earn a living and how it has affected you financially, please complete the financial impact section of the statement. When writing about the financial impact of this crime, you may wish to consider the following:

- Has the crime affected your ability to continue your normal work?
- Has the crime affected your membership in or license from any professional organizations or state or federal regulatory agencies?

A financial worksheet attached to the victim impact form allows you to list financial losses that have resulted directly from the crime. It is important to be as complete as possible when describing your financial losses. The judge will use this information to determine whether it is allowable and appropriate for the defendant to be required to repay you for your losses. If ordered, this repayment of losses is called restitution.

Thank you very much for completing this important statement. If you need help or have questions, please contact [Name and phone number]. Your completed statement should be returned to [Agency name, contact, and address] no later than [Date].

Appendix F

Glossary

This glossary defines the terms most frequently used in connection with restitution and asset forfeiture in the federal criminal justice system, as well as general terms used in the civil justice system. It is not an exhaustive list.

Abscond. To go in a secretive manner out of the jurisdiction of the courts or to lie concealed, in order to avoid their processes.

Abstract of Judgment. A legal document completed by the U.S. Clerk of Court that, in summary form, certifies that a judgment has been entered in the victim's favor, including the amount of the judgment. The victim then registers the document in the counties or states in which the defendant is believed to have assets. Upon registration, the judgment becomes a lien against any property the defendant may own or have a legal interest in (both current and future, until such a lien is satisfied or removed by the issuing court), or any future inheritance of property the defendant may receive that could be applied towards the satisfaction of the judgment/lien.

Action. The case, cause, or controversy before a court.

Administrative Cap. Statutory limit that allows an investigative bureau to forfeit administratively most property whose value does not exceed a certain amount, along with illegally imported merchandise, facilitating conveyances, and monetary instruments, regardless of their value. (Refer to 19 U.S.C. 1607, "Conveyance," "Investigative Bureau," and "Monetary Instruments.")

Administrative Forfeiture. Process by which property may be forfeited, without judicial involvement, to the United States by the investigative agency or bureau that seized it.

Adoptive Seizure. Federal adoption and forfeiture of property seized exclusively through the efforts of state or local agencies. Investigative bureaus authorized by statute or regulation may adopt such seized property for forfeiture where the conduct giving rise to the seizure is in violation of federal law. Department of Justice policy generally requires a state or local agency to request federal adoption within 15 working days. (See "Fifteen Day Rule.")

Affidavit. A written statement of facts made under oath before a notary or court officer having the authority to administer oaths.

A.K.A., Alias. "Also known as," a former or fictitious name.

Answer. 1. A formal written statement by a defendant that responds to each allegation in a complaint. 2. The defendant's statement of the facts and objections to the plaintiff's brief. (Rule 12, Federal Rules of Civil Procedure.)

Appraised Value. Estimated fair market value of the subject property at the time of seizure.

Arrest of Property. Actual seizure of property.

Asset. Any property capable of being seized and forfeited.

Assets Forfeiture Fund. Special fund within the Department of the Treasury, established by 28 U.S.C. 524(c), which is available to the Attorney General for the payment of expenses necessary to effect the seizure, detention, inventory, safeguarding, maintaining, advertising or selling of property under seizure, detention, or forfeiture pursuant to any law enforced or administered by the Department of Justice. Also known as “AFF” and “the Fund.”

Assignment. The transfer to another of real or personal property in possession, or of any right or interest therein.

Assumption of Risk. A legal doctrine that may relieve perpetrators of liability for injuries to victims if the victim voluntarily entered into a situation knowing that there was a risk of injury.

Assignee. One to whom the subject property was assigned and who has standing as a claimant in a forfeiture action, provided he or she can show that the assignor had a legitimate ownership interest in the property when it was assigned and that the assignment was legally valid.

Assignor. One who makes an assignment of a property interest.

Attachment. Act or process of taking, apprehending, or seizing persons or property by virtue of a writ, summons, or other judicial order and bringing the same into custody of the court for the purpose of securing satisfaction of the judgment ultimately to be entered in the action.

Bankrupt. A person or business that, voluntarily or at the request of the creditors, is declared unable to sufficiently pay debts. The debtor’s assets, as of the date bankruptcy is filed with the court, may be liquidated and divided among the creditors under bankruptcy law. This is done as quickly as possible so the debtor can pay creditors and start anew or reorganize. Debtor reorganization is designed to allow the debtor to pay his debts.

- **Liquidation.** In general, converting assets to a cash form. Straight bankruptcy (Chapter 7 of the Bankruptcy Code) is in the nature of a liquidation proceeding and involves the collection and distribution to the creditors of all the bankrupt’s non-exempt property by the trustee in the manner provided by the Bankruptcy Act.
- **Reorganization.** In reorganization (Chapters 11, 12, and 13 of the Bankruptcy Code), liquidation may be avoided and the debtor may continue to function, pay creditors, and carry on business by rehabilitation and redistribution of the rights, interests, and implied ownership of the various security owners.

Bankruptcy. Properly defined as insolvency, that is, the inability of the debtor to pay his debts as they become due. However, it is technically a legal process under the Bankruptcy Reform

Act of 1978 (See 11 U.S.C., Bankruptcy Code, effective October 1, 1979, and Bankruptcy Rules, effective August 1, 1983.)

Bankruptcy Court. A district court established for the administration of the bankruptcy laws and presided over by a bankruptcy judge.

Bond. Certificate or evidence of a debt; written commitment to pay a certain sum if particular conditions are not met.

Breach of Duty. Conduct that exposes others to unreasonable risk or harm.

Burden of Proof. The amount of evidence that one party must present in order to win his or her case. In criminal cases, the burden of proof is very high: “beyond a reasonable doubt” or nearly 100 percent of the evidence. In civil cases, however, the burden of proof on the victim or plaintiff is “a preponderance,” or more than 50 percent of the evidence.

Calero-Toledo Defense. An affirmative defense whereby the claimant/owner must establish that he or she was neither involved in nor aware of the unlawful conduct giving rise to forfeiture, that he or she did not consent to the unlawful conduct or the involvement of the property in it, and that he or she took all reasonable steps to prevent the proscribed use of his property. Also known as the “*Pearson-Yacht* Defense.”

Cash. Currency, negotiable instruments, or securities.

Causes of Action. The legal basis for a civil suit brought by a victim against a perpetrator.

Chattel. An article of personal property, as opposed to real property.

Choate Lien. A lien that is perfected so that nothing else is necessary to make it enforceable. (Identity of the lien, property subject to lien, and the amount of the lien have been established.)

Civil Action. A lawsuit filed by a victim to enforce private rights, most often to recover monetarily from injuries sustained or damage incurred as a result of the perpetrator’s crime.

Civil Conspiracy. Tort in which one or more persons actually commit the physical acts constituting the crime while others, although not physically participating, agree to and assist the actual perpetrators (civil conspirators).

Civil Division. The division of the Department of Justice or court that oversees the conduct of civil (rather than criminal) litigation.

Civil Forfeiture. In certain crimes, the means used to transport or to conduct illegal activity can be ordered forfeited to the United States (or the victims of certain offenses). Items such as cars, boats, houses, etc. can be subject to forfeiture or an *in rem* proceeding, which is brought

against the property rather than the wrongdoer based on the legal fiction that the property itself is guilty.

Claim and Cost Bond. The claim is a statement of the claimant's interest in the seized property. The cost bond is a check or surety in the amount of \$5,000 or 10 percent of the value of the property, whichever is lower, but not less than \$250. (See 19 U.S.C. 1608.) Both claim and cost bonds must be submitted to the seizing agency by a party asserting an interest in the subject property within 20 days of the initial publication of notice. The filing of a claim and posting of a cost bond stops administrative forfeiture proceedings. Thereafter, the seizing agency refers the case to the appropriate U.S. Attorney's office for judicial forfeiture proceedings.

Cognovit. Written authority of the debtor for entry of judgment against him.

Claimant. One who asserts a right to, or an interest in, property.

Collateral Estoppel. A legal doctrine which provides that, in some cases, the criminal conviction of perpetrators will be considered proof of those perpetrators' legal liability in civil actions brought by the perpetrators' victims.

Collectibility. A general term meaning the extent to which defendants/perpetrators have the financial means to pay judgments from assets on hand, assets reasonably to be expected in the future, or financial assistance from such sources as insurance coverage.

Comparative Negligence. A legal doctrine, adopted in most jurisdictions, which modifies the strict rules of contributory negligence by allowing negligent plaintiffs/victims to recover damages from defendants/perpetrators by reducing the amounts of damages by the applicable percentage of the plaintiff's/victim's negligence. (See also: Contributory Negligence.)

Compensation. Monetary reparations made to crime victims by a state or other governmental entity to recover "out-of-pocket" expenses incurred as a result of a crime.

Compensatory Damages. Damages paid to compensate victims for losses caused by the torts of the perpetrator. Such losses often include out-of-pocket expenses; loss of income, including savings, investment, and earnings; expenses such as medical bills, therapy, etc.; loss of present and future earning capacity; pain and suffering; financial support; etc.

Contributory Negligence. A legal doctrine, now modified in most jurisdictions, that any negligence on the part of the plaintiff/victim will bar civil lawsuits against defendant/perpetrators.

Consent Decree for Forfeiture. An agreement between the United States and the defendant in which the defendant relinquishes his or her interest in a particular assets and which states that the property is subject to forfeiture because it constitutes or was derived from proceeds of illegal activity or was used or intended to be used to facilitate illegal activity. Also known as a "consent decree."

Cost Bond. A bond given by a claimant to contest an administrative forfeiture action. The bond is deposited into the U.S. Marshals General Deposit Fund. (See “Claim and Cost Bond.”)

Creditor. One who voluntarily trusts or gives credit to another for money or other property.

Criminal Forfeiture. An *in personam* proceeding instituted only in conjunction with a criminal charge against a particular defendant. (See “*In Personam*” and “Civil Forfeiture.”)

Damages. Amounts of money awarded to winning parties in civil suits.

Debtor. One who owes another something or is under obligation arising from express agreement or implication of law to pay a sum of money.

Declaration of Forfeiture. Equivalent to a judicial order of forfeiture but issued by the seizing agency that administratively forfeited the property, rather than the court. Also known as a “declaration.” (See “Order of Forfeiture.”)

Deed. A legal instrument in writing which, when executed and delivered, conveys an estate or interest in real estate. (See “General Warranty Deed,” “Special Warranty Deed,” and “U.S. Marshal’s Deed.”)

Deed of Trust. An instrument used in some states, taking the place and serving the uses of a mortgage, by which the legal title to real property is placed in one or more trustees to secure the repayment of a sum of money or the performance of other conditions. Though differing in form from a mortgage, it is essentially a security.

Default Judgment. The judgment entered against a defendant for failure to plead (answer) or otherwise defend.

Defendants. Parties against whom civil actions are brought.

Delayed Discovery Rule. A legal doctrine that suspends the running of statutes of limitations during periods of time in which the victim did not discover, or by the exercise of reasonable diligence could not have discovered, the injuries that would lead to his or her causes of action against the defendant/perpetrator.

Demurrer. Motion by the defendant for the civil court to dismiss a motion for summary judgment. If granted, the plaintiff loses the right to proceed with the civil action.

Deposition. Pretrial proceeding in which attorneys for parties in a civil case have the opportunity to examine, under oath, the opposing parties and potential witnesses in the case. Depositions are sworn and reduced to writing. The transcripts of such proceedings may be admissible in evidence at trials if the witnesses are no longer available or for purposes of impeachment.

Determining Official. The official who has the authority to grant or deny petitions for remission or mitigation of forfeiture, as follows: (1) for petitions in administrative forfeitures, the head of the seizing investigative bureau; (2) for petitions in judicial forfeitures, the Director, Asset Forfeiture Office, Criminal Division.

Discharged in Bankruptcy. The release of the bankrupt from all his or her provable debts, but not a release against such debts that are specifically non-dischargeable by the Bankruptcy Code. Court-ordered restitution is one such debt.

Encumbrance (Also Incumbrance). Legal liability on real property that does not prevent the passing of title but diminishes its value, such as a mortgage, judgment, or lien.

Entry of Judgment. Recording into the docket book a statement of the final judgment and entering copies thereof in the record of the case and the judgment box.

Equitable Sharing. The transfer of federally forfeited property to a requesting state or local law enforcement agency, reflecting the agency's participation in or other contribution to the seizure or forfeiture of the property.

Exculpatory. Evidence favorable to a party on the issue of guilt.

Federal Rules of Civil Procedure. Body of procedural rules that govern all civil actions in U.S. District Courts and after which most of the states have modeled their own rules of civil procedure.

Federal Rules of Criminal Procedure. Procedural rules that govern all criminal proceedings in U.S. District Courts and, where specified, before U.S. magistrates.

Fifteen-Day Rule. Department of Justice policy that a state or local seizing agency should file a request for federal adoption within 15 business days of the state or local seizure. Intended to avoid situations where seized properties are held for interminable periods prior to commencement of federal forfeiture proceedings.

Finance Litigation Unit. The section of the civil section in the U.S. Attorney's office responsible for the collection of fines and restitution.

FIRREA. Financial Institution Reform, Recovery and Enforcement Act of 1989. This legislation pertains to federally insured financial institutions. Forfeiture provisions are contained at 18 U.S.C. 981-2.

First Party Action. Lawsuits brought by victims directly against their perpetrators.

Foreclosure. Procedure by which property is sold on default of the mortgagor in satisfaction of a mortgage debt.

Forfeiture. Loss of property without compensation when it is used in a manner contrary to the laws of the sovereign. A forfeiture may be either administrative or judicial. (See “Administrative Forfeiture” and “Judicial Forfeiture.”)

Fraud. Intentional deception resulting in injury to another. Usually consists of a misrepresentation, concealment, or nondisclosure of a material fact, or at least misleading conduct, devices, or contrivance.

Fraudulent Conveyance. The transfer of property, the purpose of which is to defraud a creditor by hindering him by putting such property beyond his reach. Courts will set aside such conveyances. (See “Action to Set Aside Complaint,” Federal Rules of Civil Procedure, Form 13, 28 U.S.C. 2410.)

Fund. The Department of Justice Assets Forfeiture Fund as established by 28 U.S.C. 524(c)(1). Also known as the Assets Forfeiture Fund.

Garnishee. A person who receives notice to retain custody of assets in his control that are owed to or belong to another. In a statutory garnishment proceeding, the garnishee may be directed to pay over to the creditor a portion of the debtor’s property, such as wages, funds in bank accounts, etc.

Garnishment. A statutory procedure in which money or goods that are placed in the hands of a third party and that are due a debtor are attached by the creditor. (Rule 64, Federal Rules of Civil Procedure, 28 U.S.C. 2405).

General Creditor. One whose claim or debt is not secured by a specific right to obtain satisfaction against the particular property subject to forfeiture. Also known as “unsecured creditor.”

General Warranty Deed. Deed that assures a purchaser that title to the property is free and clear of liens, encumbrances, and covenants and insures the purchaser against any future claims against the property.

Homestead Laws. Laws that except certain property of a debtor from execution and forced sale by creditors. Devised to protect the property as long as it is occupied and used as a principal residence.

In Forma Pauperis. Latin for “in the manner of a pauper.” The permission given to a person with no money to sue without payment of court fees or payment for representation. (Rule 24, Federal Rules of Civil Procedure, 28 U.S.C. 1915.)

Inmate Financial Responsibility Program. A joint project between the Bureau of Prisons and the Department of Justice for the collection of fines and restitution, in which an inmate’s attitude toward meeting court-imposed obligations is measured when considering inmate status and benefits.

Innocent Owner. Bona fide purchaser for value who was reasonably without cause to believe the property was subject to forfeiture when acquired, or a legal owner (lienholder or mortgagee) of property subject to forfeiture, who has a vested interest superior to the claimant or defendant at the time of the acts giving rise to the forfeiture and who had no knowledge of or involvement in the offense.

In Personam. Means “against the person.” Action seeking judgment against a person involving his personal rights and based on the jurisdiction over his person, as distinguished from a judgment against property.

In Rem. Action brought “against the thing” (the subject property) without regard to its owner, as distinguished from an action brought *in personam*.

Insolvent. Financial condition in which one is unable to meet his or her obligations as they become due or in which one’s liability exceeds one’s assets at any given time.

Interlocutory Sale. Sale of property before issuance of the final order of forfeiture. The original property may be sold and the proceeds of that sale treated as substitute property where the originally seized property is liable to perish, waste, or greatly depreciate in value during the pendency of the forfeiture proceeding, or if the expenses of keeping it are excessive. In a judicial forfeiture, the sale is conducted pursuant to a court order. (See “Stipulated Sale” and “Wasting Asset.”)

Investigative Bureau. Department of Justice component agency authorized by federal statute to investigate and enforce forfeiture statutes. These agencies are the Drug Enforcement Administration (DEA), Federal Bureau of Investigation (FBI), Immigration and Naturalization Service (INS), and United States Marshals Service (USMS). With the exception of the USMS, deposits resulting from forfeitures by these agencies are made to the Fund. Federal agency investigative units outside the Department of Justice whose forfeitures result in deposits into the Fund are the U.S. Postal Service, the Internal Revenue Service (IRS), and the Bureau of Alcohol, Tobacco and Firearms (ATF).

Joint Investigation. Investigation in which one or more foreign, state, or local agencies participate with a federal law enforcement agency empowered to forfeit property.

Judgment. 1. The final decision or order of the court resolving the dispute and determining the rights and obligations of the parties. 2. An obligation, especially a debt arising out of a judicial decision. (Rule 54, Federal Rules of Civil Procedure, *et seq.*)

Judgment, Amended. Upon motion of a party or the court itself made no later than 10 days after entry of judgment, the court may amend its findings and amend the judgment accordingly.

Judgment Lien. A lien imposed by statute for the benefit of a creditor. There must be a valid, final judgment for a definite amount of money. In many jurisdictions, it must also be recorded (docketed) to protect the creditor. It is a general lien that affects all of the debtor’s property

that is not exempt. Often the lien of the U.S. District Court is referred to as a “judgment lien” since state law provides that a lien is perfected or brought into existence by recording a copy of the federal district court judgment in the office of the county clerk (28 U.S.C. 1962).

Judgment Vacated. The original order is reversed and no longer applies.

Judicial Forfeiture. Either a civil forfeiture or a criminal forfeiture that results in a judicial order of forfeiture.

Jurisdiction. Power or legal authority of a court to hear and decide a case.

Lis Pendens. A pending suit. Jurisdiction, power, or control that a court acquires over property in a suit pending action until final judgment. (See “Notice of *Lis Pendens*.”)

Lien. A claim or charge put on real or personal property for payment of a debt or performance of an obligation or duty. Used to help insure the payment of a debt.

Lienee. One whose property is subject to a lien.

Lienholder. A creditor whose claim or debt is secured by a specific right to obtain satisfaction against the particular property subject to forfeiture, liquidation, or hold.

Litigant. A party to a lawsuit.

Litigation. A case, controversy, or lawsuit. The effort made by the attorneys in court towards a legal end.

Magistrate Judge. Judge of the lower courts. U.S. magistrate judges may conduct preliminary and pretrial proceedings in minor offenses and in some district court proceedings.

Magistrate’s Court. Court with jurisdiction restricted to handling minor offenses, small claims, or preliminary hearings. In federal district courts, magistrate judges may conduct many of the preliminary or pretrial proceedings in civil and criminal cases.

Marshal Sale. A sale held by a U.S. Marshal to dispose of foreclosed or forfeited property in order to regain money owed to a lender or to liquidate the asset.

Money Laundering. The conversion of illegally earned or otherwise tainted cash to an alternative form that conceals its origin, or ownership, often accomplished through steps taken to hide direct links to illegal activity and to allow the use of proceeds of illegal activity.

Monetary Instruments. Currency; traveler’s checks; negotiable instruments (including personal checks, business checks, official bank checks, cashier’s checks, third-party checks, promissory notes, and money orders) that are in bearer form, endorsed without restriction, made out to a fictitious payee, or otherwise in such a form that title thereto passes upon delivery; incomplete instruments (including personal checks, business checks, official bank checks,

cashier's checks, third-party checks, promissory notes, and money orders) signed but with the payee's name omitted; and securities or stock in bearer form or otherwise in such a form that title thereto passes upon delivery.

Mortgage. An interest in land created by a written instrument providing security for the performance of a duty or the payment of a debt.

Mortgagee. The lender; the party who advances the funds for a mortgage loan and in whose favor the property serving as security is mortgaged.

Mortgagor. The borrower; one who has all or some title to property and pledges it by written instrument as security for a debt.

Motion. A written application to the court requesting an order or ruling in favor of the applicant. Motions are generally made in reference to a pending action.

Motion Hearing. A legal proceeding held in response to a motion made by the defendant's or plaintiff's attorney.

Negligence. A legal doctrine providing that one may be liable to another if the following four conditions are met: one person owes a legal duty to another, he or she materially breaches that duty, the breach is the proximate cause of the other's injury, and the other person suffers damages.

Net Proceeds. Forfeited cash or gross receipts from the sale of forfeited property less allowable asset management and case-related expenses, third-party interests, and any award based on the value of the forfeiture.

Notice of *Lis Pendens*. Notice filed on public record for the purpose of warning all persons that the title to certain property is in litigation and that they are in danger of being bound by an adverse judgment.

Occupancy and Indemnity Agreement. Agreement between the U.S. Marshal and a resident of real property subject to forfeiture, which allows that resident to continue occupying the property subject to certain terms and conditions pending conclusion of the forfeiture action. Also known as "occupancy agreement."

Official Use. Utilization of forfeited property by a law enforcement agency in the direct performance of law enforcement activities.

Order of Forfeiture. A judgment of a court, entered in writing, which declares that the subject property has been forfeited to the United States and will be disposed of in accordance with law. In a criminal forfeiture, a "preliminary" order of forfeiture is entered after a defendant is convicted and upon the return of a special verdict finding that a defendant's property is subject to forfeiture. A "final" order of forfeiture is entered after publication if no claim is filed. If a claim

is filed, the final order is entered after the conclusion of an ancillary hearing. (See “Declaration of Forfeiture.”)

Owner. One having a legal and possessory interest in property seized for forfeiture. (See “Straw Owner.”)

Perpetrators. Persons who have criminally injured victims.

Plaintiff. One who brings a suit asking for the enforcement of a right or the recovery of relief from a wrong.

Professional Liability Insurance. Insurance coverage issued to “professional” persons: doctors, dentists, investment bankers and counselors, accountants, etc., to cover any losses covered by malpractice in the course of their professional services.

Parallel Proceedings. Civil and criminal proceedings involving the same property and the same underlying criminal conduct that are investigated, instituted, and pursued concurrently.

Person. An individual, partnership, corporation, joint business enterprise, or other entity capable of owning property.

Personal Notice. Procedure by which notice of the pending forfeiture action is personally served upon all persons, including lienholders, whose identities and addresses are reasonably ascertainable and whose rights and interests in the property will be affected by the action.

Personal Property. Tangible and intangible property, including rights, privileges, interest, claims, and securities.

Proximate Cause. The “cause in fact” of injury to victims; a “cause” without which the victim’s injuries would not have occurred.

Proceeds. Property (including personal property, real property, and attorney’s fees) acquired by, or exchanged with other property acquired by, unlawful activity. (See “Tracing.”)

Process. Any means used by a court to acquire or exercise its jurisdiction over a person or specific property. For example, in a civil judicial forfeiture case, process consists of the verified complaint and the summons.

Property. Property of any kind capable of being owned or possessed. May include a controlled substance, raw material, product, container, equipment, money, real property, vessel, vehicle, or aircraft. In the context of equitable sharing, tangible personal and real property other than cash.

Publication. Requirement that notice of a forfeiture action be published for three successive weeks in a newspaper of general circulation in the district where the action was filed.

Punitive Damages. Damages awarded to victims against perpetrators, over and above compensatory damages, in order to punish or make an example of the perpetrator.

Quick Release. Process by which a seizing agency returns property to a party who has a good faith interest in the property and no reason to know of its illegal use or the wrongdoer's criminal record or reputation. Generally dependent on the recipient's execution of an agreement to hold the government harmless and to pay the costs incurred by the seizing agency.

Quit Claim Deed. Deed of conveyance operating by way of release. Intended to pass any title, interest, or claim which the grantor may have in the premises, but not professing that such title is valid, nor containing any warranty or covenants of title.

Realty. Real property as distinguished from personal property. Land and whatever is erected, growing on, or affixed to land.

Relation Back Doctrine. Provides that all right, title, and interest to forfeitable property, including proceeds traceable to unlawful activity, vests in the government at the moment the unlawful activity occurs.

Res. Personal or real property subject to forfeiture.

Respondent. A party who answers. Respondents generally are answering parties to petitions, summons enforcement, and forfeiture actions.

Responsive Pleading. Formal request of the defendant in civil court to dismiss the case against him or her because of procedural issues, such as lack of jurisdiction, improper service of process, statutes of limitations, etc.

Restitution. The act of making good or giving the equivalent for any loss, damage, or injury. Restitution may be ordered paid to the government for transmittal to the victims or directly to victims of the crime. Restitution is generally limited to the loss described in the counts of conviction, although the defendant can agree to pay other victims as part of a plea negotiation.

Search Warrant. A document designed to be used to search for forfeitable assets (bank records, purchase receipts/orders, real estate records, insurance appraisals, loan applications, financial statements, wills, etc.), in addition to documentary evidence of criminal activity.

Secured Creditor. One whose claim or debt is secured by a specific right to obtain satisfaction against the particular property subject to forfeiture.

Security Interest. Form of interest in property that provides that the property may be sold on default in order to satisfy the obligation for which the security interest is given.

Seized Asset Deposit Fund. The holding account administered by the U.S. Marshals Service for seized cash pending the resolution of forfeiture cases. Also known as the SADF.

Seizing Agency. Federal agency that has seized the property or adopted the seizure of another agency and has the responsibility for administratively forfeiting the property.

Seizure. The taking possession of a person or property by legal process.

Settlement. Agreement among the parties to a lawsuit to end the suit without trial; usually the plaintiff agrees to drop the lawsuit for a fixed sum of monetary damages paid by the defendant.

Service of Process. The delivery of writs, summonses, subpoenas, or rules to the party to whom they are addressed. Service of process must be carried out by a process server in order to be valid.

Sharing. The transfer of cash, property, or proceeds realized through federal forfeitures pursuant to the *Attorney General's Guidelines on Seized and Forfeited Property*. (See "Equitable Sharing.")

Smurfing. The practice of dividing financial transactions into amounts less than \$10,000 to avoid triggering bank reporting requirements. Often, a number of persons (smurfs) are employed by the offender to carry out the transactions.

Special Warranty Deed. Deed that assures a grantee (purchaser) that the current grantor (seller) has done nothing to encumber the property while it was in his or her possession.

Standing. The ability of a person to assert an interest in seized or forfeited property. A legal concept that a person has an ownership or possessory interest in property so as to exercise dominion and control over it. A person with standing may contest a forfeiture action.

Statute of Limitations. A period of time, set by law, after which a civil action cannot be brought.

Stay of Civil Forfeiture Proceedings. The suspension of a civil forfeiture action pending the conclusion of a related criminal investigation or action. Title 21 U.S.C. 881(I) provides that the government may move to stay a civil forfeiture action upon a showing of good cause when an indictment or information has been filed in a related criminal proceeding.

Stipulated Sale. A sale of seized property, prior to the final order of forfeiture, by agreement of all the parties to a forfeiture who assert an interest in the property. (See "Interlocutory Sale.")

Stipulation for Compromise Settlement. The resolution of a civil forfeiture action by the U.S. Attorney, or by the U.S. Attorney in consultation with the Asset Forfeiture Office, Criminal Division, and the Deputy Attorney General, that forgoes the need for trial.

Straw Owner. A "front man" who holds minimal title to the subject property but lacks dominion and control over it. Such a party lacks standing as a claimant to contest a forfeiture action.

Subrogation. The substitution of one person in the place of another with reference to a lawful claim, demand, or right, so that he or she who is substituted succeeds to the rights of the other in relation to a debt or claim and its rights as a remedy.

Subsequent Purchaser. Party who purchases the subject property after commission of the underlying offense or after seizure. Such a party may have standing to contest a forfeiture action.

Substitution of Assets. Procedure by which the court, in a criminal forfeiture action, may order forfeiture of other property belonging to the defendant where the original property subject to forfeiture is unavailable upon conviction. See 21 U.S.C. 853(p).

Summary Judgment. Judgment given on the basis of pleadings, affidavits, and exhibits presented for the record without any need for a trial. It is used when there is no dispute as to the facts of the case and one party is entitled to judgment as a matter of law. (See Federal Rule of Civil Procedure 56.)

Temporary Restraining Order (TRO). An order of the court prohibiting the performance of an activity likely to result in irreparable harm. In a criminal forfeiture case, the issuance of a TRO restrains, prohibits, and enjoins a person from attempting or completing any action that would affect the marketability or value of the property, such as transferring or selling it. A TRO is of short duration, usually lasting only 10 days, unless extended by the court. (See 21 U.S.C. 853 and Federal Rule of Civil Procedure 65.)

Third-Party Actions. Lawsuits brought against persons whose negligence or gross negligence has facilitated the commission of a tort by a defendant.

Third-Party Interest. Interest of a third party in a matter between two parties (primary parties). For example, in a forfeiture action, a lienholder has a third party interest.

Title. Evidence of an ownership interest in property.

Tolling of Statute of Limitations. Suspension of the running of a statute of limitations.

Tort. A civil wrong (as opposed to criminal offense) committed by a perpetrator against a victim. A defendant/perpetrator can be subject to both criminal and civil charges for his or her actions.

Tracing. Process of identifying property that was purchased or acquired with money derived from unlawful activity.

Trier of Fact. In civil cases, evidence is heard as to the facts, and the facts must be applied in the context of the applicable law. The entity that decides which facts are true is called the “trier of fact.” This is usually a jury, but in non-jury cases, the trier of fact is a judge.

U.S. Marshal's Deed. Deed that conveys to a grantee (purchaser) only such interest in the property as a grantor (seller) may have. The grantee assumes responsibility for any claims brought against the property. Same as a quit claim deed.

Unsecured Creditor. One who has a claim against the wrongdoer but no specific claim against the property subject to forfeiture. Such a party lacks standing to contest a forfeiture action. Also known as a general creditor.

Verified Complaint. A complaint that is sworn as correct upon an affidavit or oath.

Verified Complaint of Forfeiture. A complaint in a civil forfeiture action must be "verified" so as to cause an authorized government official to be satisfied that the allegations in the complaint are true, based either on personal knowledge or on information and belief.

Violator. Person whose use of the property in violation of the law subjected such property to forfeiture.

Waiver of Bond. In an administrative forfeiture, the procedure in which the bond requirement is waived for a person claiming an interest in the seized property, upon showing satisfactory proof of financial inability to post bond. (See "*In Forma Pauperis*.")

Warrant of Arrest *In Rem*. Form of process filed with or after the filing of a verified complaint. Gives the court jurisdiction over the property to be seized. Usually must be served within the district of issue. Historically, it has not included a finding of probable cause.

Warrant of Seizure. Form of process that secures a judicial determination of probable cause but does not confer jurisdiction upon the court issuing the warrant.

Wasting Asset. Property whose value may diminish after the time of its seizure so that an interlocutory sale may be justified, or that has so diminished in value that forfeiture is no longer practicable. For example, realty in general; livestock; a business operating under state or local licensing requirements where seizure may result in suspension or revocation of the license; and cars, planes, or boats that are expensive to maintain. (See "*Interlocutory Sale*.")

White-Collar Crime. A non-violent criminal act involving deceit, concealment, subterfuge, or other fraudulent activity.

Writ of Entry for Inspection. Order of the court that allows the U.S. Marshal (or his or her deputies) to conduct a reasonable and necessary structural and physical inspection.