

TELESCAMS EXPOSED: HOW TELE- MARKETERS TARGET THE ELDERLY

HEARING
BEFORE THE
SPECIAL COMMITTEE ON AGING
UNITED STATES SENATE
ONE HUNDRED FOURTH CONGRESS
SECOND SESSION
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WASHINGTON, DC
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HEARING ON TELESCAMS EXPOSED: HOW TELEMARKETERS TARGET THE ELDERLY

WEDNESDAY, MARCH 6, 1996

U.S. SENATE,
SPECIAL COMMITTEE ON AGING,
Washington, DC.

The committee met, pursuant to notice, at 9:31 a.m. in room 562, Senate Dirksen Building, Hon. William S. Cohen (chairman of the committee) presiding.

Present: Senators Cohen, Grassley, Pryor, Reid, and Kohl.

Staff present: Mary Berry Gerwin, Helen Albert, Priscilla Hanley Sally Ehrenfried, Elizabeth Watson, Lindsey Ledwin, Theresa Forster, Ken Cohen, Jerry Reid, Libby Wood, Ted Totman, Brooke Roberts, and Steve Kimball

OPENING STATEMENT OF SENATOR WILLIAM S. COHEN, CHAIRMAN

The CHAIRMAN. Good morning. My understanding is that Senator Pryor will be here shortly, and so we're going to commence. I know that Senator Reid has another commitment that he has to make, so I will begin.

Over the past few years the Aging Committee has investigated and held several hearings on schemes that prey on unsuspecting senior citizens. We have witnessed an explosion of bogus investment, so-called "prize giveaways," sweepstakes, direct marketing and other types of scams that victimize millions of retired Americans living on fixed incomes.

Today the committee is holding a hearing on the dramatic increase in telemarketing fraud targeting senior citizens and what law enforcement is doing to crack down on these schemes. Everyday, senior citizens across the Nation are besieged by telemarketers who invade the privacy of their homes seeking donations to charities or making promises that are too good to be true. Telemarketing scams cost Americans about \$40 billion a year, and they run the gamut from small fly by-night operators to sophisticated organized crime rings that establish boiler rooms in several cities. Whatever their size, these telephone thugs share the common motto of "reach out and scam someone," using high pressure sale tactics and slick talk to lure their victims into sending them hundreds—indeed, even thousands—of dollars.

Often the victims' stories are tragic and the amounts lost are staggering.

For example, an 81-year-old widow from Arkansas lost about a quarter of a million dollars over 6 years through various telemarketing scams such as charitable donations, vitamins, sweepstakes and other sales pitches.

A retired food worker in her early 80's from Ohio lost over \$240,000 to 50 telemarketing businesses. She was told that she was giving her money to an organization that helped children avoid drugs, and she sent the money saying that perhaps, "If I could save the life of just one child, it would be worth it." The woman told the committee investigators that she had lost her life savings to these scams and has to rely on neighbors to pay for her food. Needless to say, none of her donations actually went to a legitimate charity.

An 86-year-old man from Pennsylvania sent over \$130,000 to telemarketers who called him repeatedly with promises of vacation properties with, quote, "no strings attached" winnings, and great deals on expensive cars. He told committee investigators that he wants to help others avoid these schemes, but he is ashamed to testify because his children would find out just how much money he lost and they may take away his independence.

A woman in her 70's allegedly lost over \$60,000 from her retirement savings, including \$13,000 in loans that she was convinced by telemarketers to take out. She was afraid to tell her husband about her losses, and she told investigators that she considered suicide but feared that there wasn't enough money to even bury her.

Recently, the Federal Government has stepped up its efforts to combat telemarketing fraud. In 1993 the FBI unveiled "Operation Disconnect," a national covert investigation targeting telephone boiler rooms that made millions of deceptive calls to consumers. Congress and the Federal Trade Commission also moved to crack down on telemarketing fraud by placing restrictions on when telemarketers can make calls and what can and cannot be included in their sales pitch. Based on findings made by this committee and others, Congress also imposed tougher penalties on telemarketers who intentionally target senior citizens.

Today we're going to hear the results to date of "Senior Sentinel," a major covert investigation led by the FBI and using the cooperation and resources of many law enforcement agencies. Senior Sentinel used senior citizen volunteers to receive calls by telemarketers who believed they were soliciting innocent victims. The taped conversations were then used as evidence of the outrageous and deceptive promises made by the callers. The tapes and transcripts of these conversations vividly illustrate how unscrupulous callers engage in what amounts to "teleterrorism" by verbally abusing, insulting and berating senior citizens that they call.

I would like for you to listen now to how one perpetrator treated a 78-year-old widow in a phone scam. The caller tells the woman that she had won \$50,000, but to receive the award she would have to pay a \$500 bonding fee by midnight.

Let me play this one excerpt:

Question. Do you have your most recent statement, Ardell?

Answer. No.

Question. OK, you know in your own—you're kind of being evasive. I'm not trying to rob you or find out, you know, what you do

or what you have. Be honest with me. Do you feel that your card will cover this?

Answer. No, I don't.

Question. You really don't, do you?

Answer. But I can send you a check?

Question. No, ma'am, you can't. OK, boy, I swear to God. This is just crazy. Somebody spends all this money and wins \$50,000 and you tell them what they have to do, and they don't do it. How much cash do you have available, Ardell?

Answer. Do you mean in my purse?

Question. Yes, ma'am.

Answer. Probably \$20.

Question. OK, would your card cover \$200?

Answer. I'm not sure—

Question. OK, you're—

Answer. [continuing]. Because I haven't gotten the statement.

Question. You're really not going to tell me, are you?

Answer. I'm not sure. I'm telling you the truth. I am not sure.

Question. OK, will it cover \$100?

Answer. It probably would.

Question. OK.

Answer. But I cannot—I am 78 years old, and it is—

Question. Yes, ma'am. So you're not going to go to the American Express anyway, are you?

Answer. I can't.

Question. Uh-huh, see, why didn't you just tell me that before I went through all this trouble?

Answer. Well, I—

Question. Ardell, let me ask you something. I don't care if you're 78 or 88 or 108. You've got—I don't care what you've heard on the telephone, I don't care how badly you've been taken advantage of, I don't care if you hate me. You've got \$50,000—that's the truth. I can go to bed living with the fact that I told you the truth, and you were too stubborn or just refused to believe me, and I had to pick another name and give it to somebody else. If I have to give it to somebody else, I am going to, but I need some cooperation from you. And if I don't get it, you're hurting yourself. This is enough money for you to set up anybody that you care about and go to your grave knowing that you went and did the right thing, and you can go and meet God with a clear conscience.

Now what do you want to do? Do you want your winnings or do you want me just to go ahead and hang up the phone with you and forget that I ever saw your name?

Answer. Of course, I want the winnings but—

Question. So now you're going to start crying again and going off on me, right?

Answer. There is nothing I can do.

Question. Yes, there is something you can do.

Answer. What?

Question. I'll have you call Western Union and you can wire the money through Western Union by telephone. Do you want to do it that way?

The CHAIRMAN. Well, after the perpetrator was unsuccessful in getting the victim to wire the money, he told her, "You will never

be anything. You're going to your grave a loser, a big loser. I think you're terrible."

Well, the victim didn't lose the money to this scam artist, but she was not as successful in fending off other telephone thugs who targeted her. Over a 1-year period she was contacted by over 50 telemarketing operations. She sent her entire life savings of \$182,000 to these callers.

Today we are also going to see some of the items that unsuspecting customers get in return for their money. For example, senior citizens were told that they could get an expensive fur coat if they sent a few hundred dollars to secure the prize. I want to show you the coat that they actually received. This is the expensive fur coat—something that you probably would not allow your pet to lie down on for fear that it might be gobbled up by this thing. [Laughter.]

But this is the expensive mink sable coat. That's one of the extraordinary prizes that came in.

Another example is a flimsy piece of metal that was sent to a small business owner as a premium for ordering novelty and promotional items for their businesses. The small business owners thought they were getting a satellite dish, and instead they got this extraordinary item—another great promotional item for the scam artist. [Laughter.]

Of major concern to the committee is the growing number of scams operated from Canada and other countries that are preying on American senior citizens and consumers, and today we're going to hear testimony about the boiler room operations, which originate outside of our national borders, and the difficulties that law enforcement faces in trying to apprehend them and prosecute the individuals.

The committee is also concerned about emerging trends in marketing scams; for example, how some con artists are moving their skulduggery to the Internet and computer scams as more consumers are going on-line. It may be that currently some of our older citizens are not computer literate and not on-line, but as the baby boomers start to age and we all become a little more computer literate, we can expect that this type of scam activity is going to intensify.

As we have stressed during past hearings, a major weapon in the war against telemarketing fraud is consumer education. We must do all that we can to educate consumers to recognize a telemarketing scam before falling victim to it. We cannot, and should not, flatly prohibit all individual companies from soliciting business by telephone, mail or computer. But tough law enforcement and regulation are only partial solutions to telemarketing abuses. A vigilant and well-educated consumer on the other end of the phone is equally important to putting these crooks out of business.

Today's hearing is going to provide valuable insight into the tactics of telephone scam artists, where we are in our law enforcement efforts and the types of victims who tend to be targeted for abuse.

First, we hope we are going to hear from a perpetrator who will tell how he began scamming victims and the techniques that he used to lure victims into sending in hundreds and thousands of dollars to these scams. He will be our first witness. We will then hear

from a senior citizen and the family members of another senior citizen victimized by telemarketing fraud.

We are pleased to have with us this morning a United States Attorney involved in major telemarketing cases and representatives of the Federal Bureau of Investigation and the Federal Trade Commission to explain recent trends and responses to telemarketing scams.

Our final panel of witnesses will consist of Agnes Johnson of Biddeford, ME, who is representing the AARP, which has worked closely with law enforcement on Operation Senior Sentinel. Ms. Johnson will discuss the AARP's findings on the attitudes and behaviors of seniors who are contacted by telemarketers. This panel will also include testimony from the National Fraud Information Center that operates a toll-free number for consumers and provides information to consumers about current telephone frauds and tips on how to avoid them.

I am hopeful that this hearing itself will provide important education to seniors and their families, as well as consumers of all ages, about con artists who gain access to their homes through telephone, television, mail or computer lines.

Finally, I want to recognize the leadership of Senator David Pryor in this area. During his chairmanship of the committee, he and I held hearings on investment scams and similar tactics, and I want to personally thank him for the extraordinary efforts he has made in this regard and his continued assistance in fighting the battle against consumer rip-offs that cost Americans billions every single year.

[The prepared statement of Senator Cohen follows:]

PREPARED STATEMENT OF SENATOR WILLIAM S. COHEN

Good morning. Over the past few years, the Aging Committee has investigated and held several hearings on schemes that prey on unsuspecting senior citizens. We have witnessed an explosion of bogus investment, "prize giveaways," sweepstakes, direct marketing, and other types of scams that victimize millions of retired Americans living on fixed incomes.

Today the committee is holding a hearing on the dramatic increase in telemarketing fraud targeting senior citizens and what law enforcement is doing to crack down on these schemes.

Everyday, senior citizens across the Nation are besieged by telemarketers who barge into their homes seeking donations to charities or making promises that are too good to be true. Telemarketing scams cost Americans about \$40 billion a year and run the gamut from small fly by-night operators to sophisticated organized crime rings that establish boiler rooms in several cities. Whatever their size, these telephone thugs share the common motto of "reach out and scam someone," using high pressure sales tactics and slick talk to lure their victims into sending them hundreds and even thousands of dollars.

Often the victims' stories are tragic and the amounts lost are staggering. For example:

- An 81-year-old widow from Arkansas lost about a quarter of a million dollars over 6 years through various telemarketing scams, such as charitable donations, vitamin sales, sweepstakes, and other sales pitches.
- A retired food worker in her early 80's from Ohio lost over \$240,000 to 50 telemarketing businesses. She was told she was giving her money to an organization that helped children avoid drugs and she sent the money saying that perhaps, "if I could save the life of just one child, it would be worth it." The woman told committee investigators that she lost her life savings to these scams and has to rely on neighbors to pay for her food. Needless to say, none of her donations actually went to a legitimate charity.
- An 86-year-old man from Pennsylvania sent over \$130,000 to telemarketers who called him repeatedly with promises of vacation properties, "no strings attached"

winnings, and great deals on expensive cars. He told committee investigators that he wants to help others avoid these schemes but is ashamed to testify because his children would find out how much he lost and they may take away his independence.

- A woman in her 70's allegedly lost over \$60,000 from her retirement savings, including \$13,000 in loans that she was convinced by telemarketers to take out. She was afraid to tell her husband about her losses and told investigators that she considered suicide but feared there was not enough money left to bury her.

Recently, the Federal Government has stepped up its efforts to combat telemarketing fraud. In 1993, the FBI unveiled "Operation Disconnect," a national covert investigation targeting telephone boiler rooms that made millions of deceptive calls to consumers. Congress and the Federal Trade Commission also moved to crack down on telemarketing fraud by placing restrictions on when telemarketers can make calls and what can and cannot be included in their sales pitch. Based on findings by this committee and others, Congress also imposed tougher penalties on telemarketers who intentionally target senior citizens.

Today we will hear the results to date of "Senior Sentinel," a major covert investigation led by the FBI and using the cooperation and resources of many law enforcement agencies. Senior Sentinel used citizen volunteers to receive calls by telemarketers who believed they were soliciting innocent victims. The taped conversations were then used as evidence of the outrageous and deceptive promises made by the callers. The tapes and transcripts of these conversations vividly illustrate how unscrupulous callers engage in what amounts to "teleterrorism" by verbally abusing, insulting, and berating the senior citizens they call.

Let's listen to how one perpetrator treated a 78-year-old widow in a phone scam. The caller tells the woman that she had "won" \$50,000, but to receive the award she would have to pay a \$500 bonding fee by midnight.

(Excerpt from audio tape will be played at this time)

After the perpetrator was unsuccessful in getting the victim to wire the money, he told her, "You'll never, ever be anything. You're going to your grave a loser: A big loser. I think you're terrible." While the victim did not lose money to this scam artist, she was not as successful in fending off other telephone thugs who targeted her. Over a 1-year period, she was contacted by over 50 telemarketing operations and sent her entire life savings of \$182,000 to these callers.

Today we will also see some of the items that unsuspecting customers get in return for their money. For example, senior citizens were told that they could get an expensive fur coat if they sent in a few hundred dollars to secure the prize. But this is the coat they actually received.

Another example is this flimsy piece of metal that was sent to small business owners as a premium for ordering novelty and promotional items for their businesses. The small business owners thought they were getting a satellite dish and instead got this useless item in the mail.

Of major concern to the committee is the growing number of scams operated from Canada and other countries that are preying on American senior citizens and consumers. Today we will hear testimony about these boiler rooms which originate outside our national borders and the difficulties law enforcement faces in trying to apprehend and prosecute these foreign perpetrators.

The committee is also very concerned about emerging trends in marketing scams; for example, how some con artists are moving their skullduggery to the Internet and computer scams as more consumers are going on-line.

As we have stressed repeatedly in past hearings, a major weapon in the war against telemarketing fraud is consumer education. We must do all we can to educate consumers to recognize a telemarketing scam before falling victim to it. We cannot and should not flatly prohibit all individuals or companies from soliciting business by telephone, mail or computer. But tough law enforcement and regulation are only partial solutions to telemarketing abuses. A vigilant and well-educated consumer on the other end of the phone is equally important to putting these crooks out of business.

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Investigations and the Federal Trade Commission to explain recent trends and responses to telemarketing scams.

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I am hopeful that this hearing itself will provide important education to seniors and their families—as well as consumers of all ages—about con artists who can gain access to their homes through the telephone, television, mail, or computer lines.

Finally, I want to recognize the leadership of Senator Pryor in this area. During his chairmanship of the committee he and I held hearings on investment scams and similar tactics. I thank him for his continued assistance in fighting the battle against consumer rip-offs that cost Americans billions each year.

And I now yield to the ranking member, Senator Pryor.

Senator PRYOR. Mr. Chairman, thank you.

I would be glad to yield to Senator Reid. He was here before I was.

Would you like to go first?

Senator REID. Senator Pryor, I ordinarily wouldn't take you up on your being so courteous but I have to go and do a public television program in—

Senator PRYOR. Well, you're a very public person.

Senator REID. So I have to be downtown at 10 o'clock.

OPENING STATEMENT OF SENATOR HARRY REID

Mr. Chairman, I appreciate very much your statement. It certainly outlines the program, and you, Senator Pryor, for allowing me to go ahead of you.

In Nevada, unfortunately, Senator Bryan and I are very familiar with telemarketing fraud. These schemes and practices are pervasive in our State of Nevada.

In 1993 I supported my colleague, Senator Bryan, who led a successful effort in enacting the Telemarketing and Consumer Fraud and Abuse Prevention Act of 1994. These telemarketing fraud schemes amount to nothing less than electronic muggings. During the 1980's fraudulent telemarketing schemes were a growth industry in the State of Nevada. Estimates show that Nevada consumers lost at least \$8 million from 1985 through 1989 due to these schemes and millions untold from people outside the State as a result of phone calls being made from inside the State of Nevada.

In December of last year our U.S. Attorney who—by the way, Kathryn Landreth is here, and she certainly is one of the stars of Nevada government—helped to lead a successful Federal operation, Operation Senior Sentinel, in arresting over 400 people involved in fraud schemes. Over 200 of these people, I am sad to say, were from Las Vegas. The FBI used train volunteers from the AARP to play the role of consumers, and today telemarketing fraud and abuse cost consumers about \$60 billion a year.

Nevada is perhaps more vulnerable than other States because of its high population of elderly. Seniors, as has been pointed out by the Chairman today, are susceptible to these schemes. While the Fraud, Abuse and Prevention Act has had success, the practices we're discussing are very, very hard to please. The crooks that or-

ganize and run these schemes are clever, and they're getting better all the time and harder to catch all the time.

Mr. Chairman, as I've indicated to you and Senator Pryor, I am going to have to leave, but I want for each of you to take special note of our U.S. Attorney, Kathryn Landreth, whom I've already mentioned. She is going to talk about the effects the law has had to this date, as well as suggestions that they may have to further crack down on those fraudulent practices.

It is my understanding that the U.S. Attorney's Office in Nevada will be prosecuting over 150 defendants, as a result of the Federal operation I talked about last December. I would like to commend her and her office for the great work that they've done in this area, especially the cooperative work. Not only was the Federal Government involved in this, but we have State and local officials who cooperated also.

I believe getting more information to the public about telemarketing fraud in order to educate our seniors, as you've just mentioned, Mr. Chairman, will put them on alert when they receive these calls. I am glad that some of the perpetrators of these crimes are here today. As we found with gaming in Nevada, the best people to tell us how to catch cheaters are the cheaters themselves.

Thank you very much.

The CHAIRMAN. Thank you, Senator Reid.

Senator Pryor.

OPENING STATEMENT OF SENATOR DAVID PRYOR

Senator PRYOR. Thank you, Mr. Chairman.

Mr. Chairman, I want to thank you for your nice comments a moment ago—I deeply appreciate them. We held a hearing here last week that was a most remarkable hearing. Chairman Bill Cohen brought together a distinguished panel of witnesses on mental health for the elderly that was enlightening and educational. Not only witnesses, but also our colleagues, lamented the fact that our colleague, Senator Cohen, is departing from the U.S. Senate. He is going to be missed in large measure by all of us. We hate to see you leave, Senator Cohen. You have been a great Chairman of this committee, and I have enjoyed working with you for years.

Senator Cohen and I have held many hearings on this issue of telemarketing scams and other scams against seniors. I wish we could point to some degree of victory. But I will be honest with you—I feel like every time we attempt to plug up a loophole a new one opens up. I don't call the people doing this scum bags they're scam bags. These scam bag operators, they're cheats. I have no mercy and I have no sympathy for them whatsoever. It seems that every time we do something they find a way around it, and I am just very, very hopeful that together with the legislation that we recently passed with the leadership of Senator Bryan, our colleague from Nevada, the Federal Trade Commission will have additional sets of tools to combat this. I applaud him for the introduction of the legislation and for steering the passage of it to its conclusion.

This thing has just gotten out of proportion. The people are looking to the Congress for some protection. I think that Senator Cohen may have alluded to a constituent from Little Rock. I don't know—

there may have been more than one—but there is one person there that works at a church in Little Rock, and she wrote me a long and detailed letter—her name is Shirley—about her mother who lives in another State. Her mother lost \$70,000, her entire life savings, to these people who called. It was just like the call that Chairman Cohen played a while ago on the tape recorder. They started out basically friendly and they ended up to be threatening calls. These were calls of great intimidation against her 80-year-old mother. Ultimately she started sending in her checks to these people. Then, these people started selling her name to other scam companies and scam bags, as I've called them. She started getting all this other mail and all this other literature. At one time a firm out of Phoenix, AZ, persuaded this elderly lady in April 1994 to send in \$2,488 to pay for a pain zapper. This item resembled a hair dryer with a red light bulb at the end of it. You would hold it wherever the pain was and turn it on for 4 minutes and do this three or four times a day, and your pain would supposedly disappear.

This went on and on and on, and, finally, she found herself with \$70,000 less because she had been victimized by these people. She was too proud to admit it. This is another thing that we've found among this generation—they are too proud to admit that they have been taken.

So whatever we can do, Mr. Chairman, and my good colleague from Wisconsin and others, whatever we can do in this committee, whatever we can do in this Congress to give additional help and protection and impose additional sanctions, additional penalties on those who perpetrate these serious frauds against this portion of our population, I certainly support, and I think the American people support.

Mr. Chairman, I have a statement that I would like to have placed in the record. I don't want to take any additional time from our witnesses and our good colleague, Senator Kohl.

[The prepared statement of Senator Pryor follows along with prepared statements of Senator Craig and Feingold:]

PREPARED STATEMENT OF SENATOR DAVID PRYOR

Mr. Chairman, I want to thank you for holding this hearing on telemarketing fraud—a 40 billion-dollar industry. Every American with a phone and a credit or bank account is a potential victim of illegal and questionable telemarketing activities. Seniors, as we will hear today, are a favorite target of scam artists.

The concept behind telemarketing theft is not very complicated. Most of us have received calls telling us "congratulations you have just won a valuable prize." This prize may be—we are told—a car, cash, a vacation, or a diamond necklace.

The catch is that you have to buy something—such as "super concentrated cleaning solution" before you get your "prize." With telemarketing fraud, the product you buy costs much more than the value of the item you get for "free." For example, the diamond necklace you supposedly won—after buying the cleaning solution—usually ends up being a worthless trinket.

Mr. Chairman, I recently received a letter from Shirley, who works at a Methodist Church in Little Rock. When she heard that we were holding this hearing, she wanted to share the experiences her 80-year-old mother, who lives in Iowa, has had with telemarketing fraud. Shirley explains in her letter that her mother lost over \$70,000 to 80 telemarketing companies in 2 years. This money represented her entire life savings. Shirley wrote:

"Most of us can say 'No thank you' to solicitors, but to the elderly who live alone and who are unable to leave their homes to shop, the voice on the other end of the line is a 'friend.'"

"I have a very intelligent mother, a woman who knew hard work, respected money, and taught her three children to be responsible citizens. So, how did (the telemarketer) get to her and why did she respond so positively to them? I don't know; she won't say."

"When I share my story with my peers they can't relate—their parents are too smart to be conned! Mine was smart, but it is going to take more than 'smarts' to stop these people."

"By the way, I have retrieved approximately \$6,000 of the \$70,000 my mother lost. That is enough to cover 2 months worth of bills of the nursing home where Mother now resides."

Mr. Chairman, I do not want seniors thinking that nothing is being done to combat fraudulent telemarketers like the ones that hurt Shirley's mother. In the crime bill were provisions authored by the Chairman that address telemarketing fraud.

In addition, legislation written by Senator Richard Bryan of Nevada in 1994 that became law last year provides the Federal Trade Commission with another set of tools to law enforcers and private citizens to combat telemarketing fraud and gives additional power to State's attorney general to bring suits against telemarketing firms in Federal court.

I'd also like to point out that the "legitimate" telemarketing industry is taking action to ensure that their fraudulent colleagues are put out of business. The trouble is that the fraudulent operators do everything they can to look legitimate.

Mr. Chairman, I look forward to learning from our witnesses what the extent of the problem is and what more needs to be done to combat telemarketing fraud and to help people like Shirley's mother.

PREPARED STATEMENT OF SENATOR LARRY CRAIG

Mr. Chairman, thank you for holding this valuable hearing.

I am looking forward to the testimony of our witnesses today because I believe public awareness is an important factor in preventing scams like these. It is my hope that our effort here today will better enable consumers to identify, avoid and respond to telemarketing scams.

Senior citizens of our country seem to be particularly vulnerable to this type of crime—perhaps because they were raised at a time when a man's word was his bond. Frankly, I don't know how people can live with themselves after stealing from the elderly. "Tele-sharks" bother me especially, because they are responsible for the largest number of scams in my own State of Idaho. I think the geography of my State causes many seniors to be tied to their homes—and consequently to their phones. And those who live on fixed incomes are particularly hard-hit when they're robbed of their savings.

It's refreshing to see the tables turned by seniors going undercover to expose these scams through Operation Senior Sentinel. I would like to commend the law enforcement officials who conducted and participated in this operation. It sends a strong message to criminals that we will not tolerate innocent people being victimized.

I sincerely hope we can look forward to hearing more success stories like Operation Senior Sentinel as we work to end telemarketing fraud forever.

PREPARED STATEMENT OF SENATOR RUSS FEINGOLD

Let me thank the Chairman and the Ranking Member for putting this hearing together. I very much look forward to hearing from today's witnesses.

One of the principal functions of this committee is public education, and today's hearing certainly falls in that category.

We all hope that the testimony offered here will help alert seniors to telemarketing scams.

But the problem of illegal telemarketing is not exclusively an elderly problem.

Many of us has been subjected to high pressure telemarketing, often by legitimate businesses, but also increasingly by illegal operations, and even well-educated consumers can be taken in by these con artists.

The Chairman and Ranking Member will have done a great service if not only seniors but Americans of all ages are made little more cautious with respect to telemarketing operations by today's hearing.

My thanks again to the Chair and to the committee staff for putting together today's hearing.

The CHAIRMAN. Thank you very much, Senator Pryor.

Senator Kohl.

OPENING STATEMENT OF SENATOR HERB KOHL

Senator KOHL. Thank you very much, Senator Cohen and Senator Pryor.

As has been pointed out, telemarketing fraud is taking an estimated \$60 billion annually from our most vulnerable citizens. The criminals who perpetrate this fraud are sophisticated operators running complex scams, but the victims are often the same people who are preyed upon by common thugs—the elderly and the trusting Americans.

This sort of crime is almost impossible to stamp out with traditional police techniques. Those victimized are too ashamed to come forward, and the ability of illegal telemarketers to call around the country makes them almost impossible to track down. The best way that we will really get a grip on this problem is to shine a bright light on the contemptible practices of illegal telemarketers. The more senior citizens know about how these crooks operate, the better able they will be to defend themselves—by simply hanging up the telephone.

I commend the AARP and the FBI for their Senior Sentinel project that has helped us learn so much about how illegal telemarketers operate, and has led to 400 arrests by the end of the operation.

I also want to praise Senator Cohen for holding this hearing. As always, Senator Cohen is providing a real service to our Nation's senior citizens, and, as always, Senator Cohen is using his position and his intellect to dig up the truth in a manner that will make many people better off. Senator Cohen is a great advocate for the elderly, and he is a great Senator. When he retires next year, I and the entire Senate, as well as the country, will miss his dedication, his compassion, and his profound understanding of the issues that really matter to this country.

Thank you, Senator Cohen.

The CHAIRMAN. Thank you very much, Senator Kohl.

I have discovered that since I announced my retirement, my popularity has skyrocketed. [Laughter.]

I do appreciate your comments very much.

Our first witness today will share his first-hand experience in the world of telemarketing fraud. Mr. Edward Gould will testify about how he set up telemarketing, "recovery rooms," and how he targeted elderly victims.

Mr. Gould.

The CHAIRMAN. I think he is in our entry room and will be brought forward.

STATEMENT OF EDWARD GOULD, LAS VEGAS, NV

Mr. GOULD. Mr. Chairman, Senators, I have prepared a statement, which I am sure would have been easier than to go from memory. I am going to be drinking water often because I just got over strep throat.

Mr. Chairman, and members of the Special Committee on Aging, my name is Edward Bruce Gould, Jr., and I am testifying before you today as a personal atonement for my participation in a crimi-

nal scheme that defrauded a large number of citizens, most of them being seniors, out of millions of dollars. In 1995 I pled guilty to a 51-count indictment for racketeering, wire fraud, and money laundering in connection with my involvement in a telemarketing and recovery room industry.

My purpose is not only pleading to these charges, but in coming to Washington today because there are no adequate words to convey my remorse and sorrow for my actions and the pain and suffering that I have caused. Therefore, it is my hope that by telling you not only how I was able to be such a successful telemarketer, but how this industry works, perhaps I can in some small way assist you in stopping further harm.

As you are no doubt aware, I am scheduled to be sentenced to Federal prison on March 29, 1996, and I have no idea how long I shall have to serve. Contrary to the initial belief of the U.S. Attorney's Office and other authorities, I am totally penniless, and because of me, my parents and my grandmother have used up every cent they ever had to assist me. I have already been incarcerated both in the Clark County Detention Center for 11 months on these charges, and since October 3, 1995, I have been on total house arrest without even the ability to walk into the backyard of my parents home because it is more than 100 feet from the monitor. I have not been allowed to work in any capacity since November 9, 1994, since I was indicted, which means that I am totally dependent upon others.

I was not allowed to be released from custody because a disgruntled girlfriend claimed that I was a threat to her, and the authorities were sure that I was a flight risk because the same woman told them that I had millions of dollars stashed in six different countries, even though I have never in my life had a passport or even been in Mexico or Canada, nor have I ever had a real history of violent or abusive behavior.

I originally started work in the industry as a fronter, which is a salesman that handles people who have never purchased anything or dealt with telemarketing companies before. A fronter cannot charge anyone more than \$900. I then became a reloader, which is a salesperson whose expertise is to deal with people that in the industry labels as "mooches" who have been scammed before and a reloader had a no maximum limit that could be charged. All salesmen work on a commission basis, with a fronter only capable of earning a maximum of 35 percent on the highest sale of \$900, while a reloader, although the percentage was less because the ticket value is higher, could earn as much as anywhere from \$5,000 to \$15,000 take home week in and week out.

Because of my talent at white-collar crime, I soon became the most sought after reloader in Las Vegas, but also because I saw what percentage the owners were making on my sales, I learned all that I could from those who employed me and then opened my own telemarketing company.

My original Nevada corporation was a partnership named Marketing Information Services, Inc. This company stayed open 7 months with an average gross of \$90,000 per week. Due to partner conflicts, the company was disbanded and I reopened another Nevada corporation known as Recourse Information Corporation,

which also was, as was our initial venture, for all intent and purposes, a telemarketing recovery room. This operation lasted for 5 months, with an average weekly gross of \$70,000 per week.

My next endeavor was the most coordinated and the most dangerous. The name of the company, also a Nevada corporation, was named The Consumer Protection Foundation. For this business I had a working partner whose name was Lars Rygaard who also owned a mortgage company in the State of Nevada. That proved to be extremely lucrative since money laundering and hiding assets was a problem that Mr. Rygaard could easily solve. This corporation opened only for 6 months and generated more than \$1.9 million dollars.

Since I do not believe that the reason for my journey here today is simply to biography what I have done but that you can be better served in knowing how it is being done in this country to the tune of approximately \$700 million per year. The first order of information necessary to effect change—it is most important that you understand that the industry not only survives but has grown to be a national embarrassment because it is guided by lawyers who charge telemarketers incredible fees in both money and untraceable gifts to assist them in not only the legal loopholes, but the grey areas in laundering their ill-gotten gains.

Even some agencies of State and local bureaucracy are partners in a grossing trend of telemarketing companies by calling a percentage of their gross incomes an administration fee and granting a license to the telemarketers, which actually in reality is a license to steal.

Telemarketers are extremely successful because there are four major factors for their marks, meaning their mooches or people they call. As a human condition, those factors are loneliness, greed, chasing the rainbow, and fear of exposure. Those who are successful, as I was, at the white-collar crime of both telemarketing and an even more horrendous scam known as telemarketing recovery, could have probably obtained a doctorate in psychology without even setting foot in a classroom because we are able to read people over the telephone and gear the pitch to the personalized psychological needs on the other end. If the target lives alone or comes across as being lonely or vulnerable in any way, we would spend extra time in quickly establishing the facade of being caring and capable of long-lasting friendship, which could easily prolong by constantly agreeing to buy whatever dream is being sold.

In any case of senior citizens who in most cases have their entire lives and personalities to this day, affected by having lived as children and younger adults through the Great Depression. The key to work under greed and insecurity caused by these times to promote the need for a deal, diamonds or a car at a fraction of what the real cost would normally be. It is incredibly easy to convince a person who remembers his or her mother having to pawn their wedding band to put food on the table over and over again 60 or more years ago that by sending me a money order or giving me their credit card number they were a shoo-in to win the grand prize worth tens of thousands of dollars, and all they had to do was send me a few measly thousand to ensure their win.

For most of us the classic realization that we were, in essence, providing the attention to the old folks that their own children didn't have time for, so whatever they had belonged to us, and because most senior citizens are more trusting of supposedly caring strangers because they grew and matured in less threatening times, they are incredibly easy to con out of virtually everything they have. We teach our children never to talk to strangers, but, fortunately, for telemarketers our grandparents will usually talk to anyone, especially if they are widowed or lonely.

Even when a mooch didn't want to play anymore, it was easy to keep the game and the money going by threatening to expose them either to their spouses, their neighbors, or even take them to court. Since most of the people we preyed upon were raised in a different time and place than exist today, relying on shame or fear of exposure works beautifully.

This is a whole generation of people whose attitudes are based on what the neighbors would say, and it never occurred to them that their spouse would find out anyway when the credit card bill came or the bank statement comes in, and that a divorce after 50 or 60 years of marriage because they were victimized is probably not going to happen.

The irony of this whole scam is that after being scammed out of tens of thousands of dollars in some cases—or at least one, for me personally, hundreds of thousands of dollars—should a mooch actually win a grand prize in actuality what they have won is:

First, a Hawaiian vacation, which is 3 days mid-week off-season, the cheapest accommodations available without airfare, meals or gratuities or transportation, the cost to the telemarketer 15 cents, and this comes from a travel agency.

The second would be a 21-foot boat. This 21-foot boat is a rubber boat big enough for two people, no motor and manufactured by a company known as the 21-Foot Boat Company, Inc., and cost approximately \$4.50.

The third is a diamond and gold tennis bracelet. It's a gold-plated cubic zirconia bracelet, and the cost is anywhere from \$7.20 to about \$28.

The greatest prize and the one that is only provided after a mooch has paid all to one telemarketer anywhere from \$75,000 to \$100,000 is a luxury car. The cheapest model available with no radio, no air-conditioning, no power anything, standard transmission, which can be bought through auto brokers who buy up lemons or substandard vehicles, cost is tops \$7,500.

I am going to sway from this for a moment, and I'm going to express that the diamond and gold tennis bracelet is something called a "gimme," meaning everyone gets a diamond and gold tennis bracelet. In the State of Nevada they issue a license to telemarketers saying that you can do this, but they say that you must give one out of 100,000 people a car. That means that if each person sends you \$2,700, 100,000 people will send you \$2,700 and only one car has to be given, and they give you a license for this and you can do this as long as you send them something. It is impossible for me to verbalize just how hard it has been for me to come before you today. In fact, my lawyer told me not to come before you today, and I am doing it anyway because in preparation

for this hearing I have had to take a cold hard look at myself and to realize what I have thrown away by my prior behavior. Moreover, I shall never be able to really realize the honest hopes and dreams I would have enjoyed, and the pride to me that I have robbed my family of, had I not chosen to become a victim of my own victimization of strangers who trusted me.

Although this concludes my prepared testimony, I stand before you willing to attempt to answer any questions and assist in the solutions you may inquire of me. This may seem trite, but I am sorry for what I did, and I do wish to help.

[The prepared statement of Mr. Gould follows:]

TESTIMONY OF EDWARD BRUCE GOULD JR.

My name is Edward Bruce Gould, Jr. I am testifying before you today as a personal atonement for my participation in a criminal scheme that defrauded a large number of citizens, most of them being senior, out of millions of dollars. In 1995, I plead guilty to a fifty-one (51) count indictment for racketeering, wire fraud and money laundering in connection with my involvement in the telemarketing and recovery room industry. My purpose in not only pleading to these charges but in coming to Washington today, is because there are no adequate words to convey my remorse and sorrow for my actions and the pain and suffering I have caused. Therefore, it is my hope that by telling you, not only how I was able to be such a successful telemarketer, but how this industry works, perhaps I can in some small way assist you in stopping further harm.

As you are no doubt aware, I am scheduled to be sentenced to Federal prison on March 29, 1996, and have no idea how long I shall have to serve. Contrary to the initial belief of the U.S. Attorney's Office and other authorities, I am totally penniless, and because of me, my parents and my grandmother have used up every cent they ever had to assist me. I have already been incarcerated in the Clark County Detention for 11 months, on these charges, and since October 3, 1995, I have been on total house arrest without even the ability to walk into the backyard of my parents home because it was more than 100 feet from the monitor. I have not been allowed to work in any capacity since November 9, 1994, which means that I am totally dependent upon others. I was not allowed to be released from custody because a disgruntled girlfriend claimed I was a threat to her and the authorities were sure I was a flight risk because that same woman told them that I had millions of dollars stashed in six different countries even though I have never in life had a passport or have even been to either Mexico or Canada, nor did I have any real history of violence or abusive behavior.

I originally started working in the industry as a fronter, which is a salesman that handles people who have never purchased anything or dealt with a telemarketing company before. A fronter cannot charge anyone more than \$900. I then became a reloader which is a salesman whose expertise is to deal with people, that the industry labels as "mooches", who have been scammed before and a reloader had no maximum limit that could be charged. All salesman work on a commission basis, with a fronter only capable of earning a maximum of 35 percent of the highest sale of \$900, while a reloader, although the percentage was less, because the "ticket value" was higher could earn as much as anywhere from \$5,000 to \$15,000 dollars, take home, week in and week out. Because of my talent, at white collar crime, I soon became the most sought-after reloader in Las Vegas but also because I saw what percentage the owners were making on my sales, I learned all I could from those who employed me and then opened my own telemarketing company. My original Nevada Corporation was a partnership, named Marketing Information Services, Inc. That corporation stayed open 7 months with an average gross of \$90,000 per week. Due to partner conflicts, the company was disbanded and I reopened another Nevada Corporation, known as Recourse Information Corporation which also was, as was our initial venture, for all intent and purpose, a telemarketing "recovery room". This operation lasted for 5 months with an average weekly gross of \$70,000. My next endeavor, was the most coordinated and the most dangerous. The name of the company, also a Nevada Corporation, was named Consumer Protection Foundation. For this business I had a working partner, whose name is Lars Rygaard, who also owned a mortgage company in the State of Nevada. This proved to be extremely lucrative since money laundering and hiding assets was a problem that Mr. Rygaard

could easily solve. This corporation, open only for 6 months, generated more than \$1.9 million dollars.

Since I do not believe the reason for my journey here today is simply to biograph what I have done but that you can be better served in knowing how this is being done, in this Country, to the tune of approximately \$700 million dollars per year. The first order of information necessary to effect change is that it is most important that you understand that this industry not only survives but has grown to be a national embarrassment because it is guided by lawyers who charge telemarketers incredible fees, in both money and untraceable gifts, to assist them in not only the legal loopholes but the grey areas in laundering their ill-gotten gains. Even some agencies of the State or local bureaucracy, partner in the gross income telemarketing companies by calling a percentage of the gross receipts, an "administration fee" and granting a license to the telemarketer, which in reality is "a license to steal."

Telemarketers are extremely successful because of four major factors in their "marks" human condition. These factors are: (1) loneliness; (2) greed; (3) chasing the rainbow; and (4) fear of exposure.

Those who are successful, as I was, at the white collar crime of both telemarketing, and the even more horrendous scam known as telemarketing "recovery", could probably attain a doctorate in psychology without ever setting foot in a classroom because we are able to read people over the telephone and gear the "pitch" to the personalized psychological needs on the other end. If the target lives alone or comes across as being lonely or vulnerable in any way, we would spend extra time in quickly establishing the facade of being caring and capable of long lasting friendship which could easily be prolonged by constantly agreeing to buy whatever dream was being sold. In the case of senior citizens, who in most cases, had their entire lives and personalities, to this day, affected by having lived, as children or younger adults through the Great Depression. The key is to work on the greed and insecurity caused by those times to promote the "need for a deal", diamonds or a car, at a "fraction" of what the real cost would normally be. It is incredibly easy to convince a person who remembers his or her mother having to pawn their wedding band to put food on the table, over and over again, sixty or more years ago, that by sending me a money order or giving me their credit card number, they were a shoo-in to "win that grand prize worth tens of thousands" and all they had to do was send me a few measly thousand to ensure their win. For most of us the classic rationalization was that we were, in essence, providing the attention to these old folks that their own children didn't have time for, so whatever they had belonged to us; and because most senior citizens, are more trusting of supposedly "caring" strangers, because they grew and matured in less threatening times, they are incredible easy to con out of virtually everything they have. We teach our children to never talk to strangers, but fortunately for telemarketers, our grandparents will usually talk to anyone, especially if they are widowed or lonely.

Even when a "mooch" didn't want to play anymore, it was easy to keep the game, and the money, going by threatening to expose them to either their spouse, their neighbors or even to take them to court. Since most of the people we preyed upon were raised in a different time and place than exists today, relying on the "shame" or fear of exposure works beautifully. This is a whole generation of people who stayed honest based upon "what the neighbors would say" and it never occurs to them that their spouse will find out anyway when the credit card bill or the bank statement comes in and that a divorce after 50 or 60 years of marriage, because you were victimized, is probably not going to happen.

The irony of this whole scam is, that after being scammed out of tens and in some cases, or at least one case for me personally hundreds of thousands of dollars, should a "mooch" actually "win a grand prize", in actuality what they have won is:

1. Hawaii Vacation—Three days, mid-week, off season, cheapest accommodations available without airfare, meals, gratuities or transportation: Cost to the telemarketer is about .15 (one dime and one nickel).

2. 21' boat—a rubber boat big enough for two people, no motor, manufactured by a company known as the Twenty One Foot Company, Inc.: Cost approximately \$4.50.

3. Diamond & Gold Tennis Bracelet—gold plated, cubic zirconia bracelet: Cost \$7.20.

The greatest prize and one that is only provided after a "mooch" has paid, all to one telemarketer, anywhere from \$75,000 to \$100,000 or more, the "LUXURY CAR"—The cheapest model available, with no radio, no air-conditioning, no power anything, standard transmission which can be bought through auto brokers who buy up "lemons" or sub-standard vehicles: Cost is tops, \$7,500.

It is impossible for me to verbalize just how hard it has been for me to come before you today, because in preparation for this hearing, I have had to take a cold hard look at myself and to realize what I have thrown away by my prior behavior and moreover that I shall never be able to really be able to realize honest hopes and dreams I would have enjoyed, and the pride in me that I must have robbed my family of, had I not chosen to become the victim of my own victimizations of strangers who trusted me.

Although this concludes my prepared testimony, I stand before you willing to attempt to answer any questions or assist with any solutions you may inquire of me.

The CHAIRMAN. Thank you very much, Mr. Gould.

Could you describe some of the tactics that would be employed against the elderly, the so-called intimidation, the threats that they might be exposed or sued?

Mr. GOULD. A lot of times one of the spouses will be part of the telemarketing scheme—meaning, they would be, like, “My husband is not home or my wife is not home,” and they will do this, and they will do it without having to actually include their spouse because of the credit cards. You see, senior citizens spent their whole live especially them—a lot of them—a credit limit and a house that is probably already paid for. So they just charge whatever the deal is, and then when they don’t get the car because I guess they’re figuring they’re going to surprise their spouse, they are scared to tell their spouse what actually happened. So they will pay the bill themselves. But the problem is that they start chasing the money. They start running after it—meaning, like, let’s pretend they lose \$900 the first time. So a reloader will call them and say, “Listen, you didn’t win the first time on the grand prize, but let’s get you into our national promotion and let’s get you that car.” And they actually tell you, “Let’s get you that car.” They tell you that they don’t tell you that, but they do, and a lot of the telemarketing companies that they say are legitimate they offer tapes where the elderly person on the phone says, “Oh, they didn’t tell me that I won anything,” but they’re told to say that or they will be disqualified. It’s a scam.

But to get back to the intimidation—I don’t want to run on—so they will buy again trying to get that car so they can replace the money without having to tell their spouse. Before the person knows it, it’s 5 months later and they are \$40,000 \$50,000 in the hole, and this \$40,000 or \$50,000 didn’t come from the bank so the spouse never knew. It just accrued on the credit cards. I mean, I know my grandmother has six credit cards and she says they’ve got to have at least a \$5,000 or \$10,000 limit on each one, and it comes to a point to where they are just desperate to win that car so that they can make things right. If the telemarketer realizes that you know this, then you will say, “Well, I’ll just tell your husband or I’ll just tell your wife,” and then they will just keep buying.

The CHAIRMAN. How old were you when you became a millionaire?

Mr. GOULD. Twenty-seven.

The CHAIRMAN. How old are you now?

Mr. GOULD. Thirty.

The CHAIRMAN. How do these telemarketers go about getting leads for reloading? I notice here—I’ve got a sample of some of the names that, I guess, you would sell to other telemarketers for anywhere from \$5 to \$20.

Mr. GOULD. If you look on there, it also includes—see, that was my computer printout list, which I included the age, sometimes the account numbers of their bank, sometimes the amount that they bought every time. You will notice some of them spent \$100,000—some of them has a label over it—but if you look in the right-hand corner, it says, “\$100,000 spent.”

The CHAIRMAN. It says, “call back in 1 hour.”

Mr. GOULD. Yes, but then if you look down in the right-hand corner, look at the other side where it says, “amount,” it will say \$100,000. That is how much they actually gave me.

The CHAIRMAN. You take this list and then after you’ve taken what you want—

Mr. GOULD. They are sold to other telemarketers.

The CHAIRMAN. They’re sold and you charge for the—

Mr. GOULD. And then they charge, and then they charge.

The CHAIRMAN. But you charge?

Mr. GOULD. Yes, but then they will sell them again, and again, and again.

The CHAIRMAN. And you would sell these names for, what, anywhere from \$5 to \$20 per name?

Mr. GOULD. Yes, there are other leads there from other companies too that I actually supplied. One was Aware, which was a charity room, in which the owner was Ron Cooke.

The CHAIRMAN. I am told that you had anywhere from 80,000 names, does that sound right?

Mr. GOULD. Yes, that’s about right.

The CHAIRMAN. So if you market these names for \$5 to \$20, you can make a half a million dollars just by selling the names?

Mr. GOULD. Yes, but I no longer can do that. In my indictment and in my—

The CHAIRMAN. No, I understand that you can’t do it now, but this is what you were doing?

Mr. GOULD. Yes.

The CHAIRMAN. All right—

Mr. GOULD. Well, I wouldn’t, no. No, when I owned the company, I never would have sold those names for anything ever. Why would I give someone else my customers to take money that I could actually make myself? See, because once I sold that name, 30 other telemarketers would be calling them.

The CHAIRMAN. So when would you sell, after you got out of the company?

Mr. GOULD. Usually, you would sell when you close one company up or the person doesn’t buy from you anymore. Then you would sell the name to actually make more money off of it.

The CHAIRMAN. How do you train the employees? How many employees do you have, by the way, in your operation?

Mr. GOULD. The maximum was 30.

The CHAIRMAN. And how did you pick them and train them? Were they high school students or are they—

Mr. GOULD. Oh, no, just—it was Las Vegas. I mean, there was just so many people there that just have the aptitude to have that quick gambling, you know, scamming way about them that it was just easy to find people to work for you. After awhile you had in the industry, I mean, an influx of people that worked, you know,

as telemarketers. Fronters were trained because they were people who, you know, just came in right from the beginning, and a front-er is—you actually lost money on a front deal; meaning, if you sold a deal for \$900, you actually lost money from the salary that you paid the fronter, and the cost of the lease and then probably your phone bill was \$40,000 to \$100,000 a month. The front deals is where you lost the money, but the front deal was made from leads that you bought that—see, companies send out mailers where it says, “You won this grand prize. Just fill this out and send it back,” and then the people fill it out and they put it back in the mail, and they send it out. But that is actually a lead broker that is trying to generate leads, and then he sells those front leads for \$1. Then you take—those front leads are the leads and most of the people that fill those things out are senior citizens because they have nothing else to do. I mean, one of the lead brokers actually got their list of subscribers from AARP in order to send those little things out to get them to be signed.

So the fronters are where you lost the money. What you needed was you needed to hire people that didn't know anything about telemarketing, and they would get their front deals—maybe three or four a day that would buy \$400 or \$900—but where you made your money was when the reloader called them because now you had a lead, now you had a customer that you could call a second time and ask them for \$3,000 or \$5,000 or \$10,000. And because they didn't win the first time and they know you're legitimate because you sent them the first gift—the vitamins, or the skin care or whatever it was—they would buy from you again.

The CHAIRMAN. What about the training again? Do you have any kind of a set, prepared statement that you would give your trainees to make these phone calls?

Mr. GOULD. Yes, you would have to give them a script that they would have to follow. The script would have to be OK'd by Consumer Affairs, the same Consumer Affairs that gave you the license that took their 6 percent assessment fee from your gross.

The CHAIRMAN. Do you mean the state licensing agency would approve—

Mr. GOULD. Consumer Affairs. You would have to give them your script, and they would have to approve it. Now, of course, in the script you would have no lies in there or no misrepresentations.

The CHAIRMAN. Senator Pryor pointed out in his opening remarks that a telemarketer goes from comfort, and concern and then it gradually escalates up to intimidation during the course of the conversation.

Now is that kind of ad-libbed by your people?

Mr. GOULD. By whatever telemarketer is on the phone, and it escalates over months, not over just one conversation. It is a constant rapport with this person. See, by law in Nevada you can only sell them one time every 30 days. So one time every 30 days you have this rapport with this person. If this person has high credit limits on their credit cards, which you can find out from the credit bureaus from something called “The Merchant Account,” then you will call them, like, once a week. Even though you don't sell to them, you will call them and just say hello. Then when you call them on the fourth time, you will sell to them again.

But the intimidation doesn't actually happen until probably they have bought well into their fifth or eighth time. That's when it starts happening because they start running out of—they don't have any more credit cards to put it on. They actually have to go to the bank to pay, or they're just so broke that they can't pay it so you need to then have them go borrow against their house or whatever the case may be. It is up to whatever individual telemarketer—that is mostly what reloaders do. Fronters follow a script that is given to them because they don't know any better. It's people that's usually hired off the street, a fronter; someone that is good you hire as a reloader, that has experience. But someone with no experience you hire as a fronter.

Now they follow this list. See, now they have to read this script, but each person has a certain different way about them. They may say something, like—and they're not lying—say, "Well, God willing, you're going to get that car."

Now the person didn't hear "God willing." They heard, "You're going to get that car." I mean, there's a lot of ways in which they don't lie but they do. I mean, and then there are a lot of companies that out and out lie. They say, "Yes, you're getting the car."

The CHAIRMAN. Thank you.

Senator Pryor.

Senator PRYOR. How many people have you victimized?

Mr. GOULD. I wouldn't know off-hand. I don't know—do you want me to take a guess?

Senator PRYOR. Yes.

Mr. GOULD. Even working for other companies you would say?

Senator PRYOR. Yes.

Mr. GOULD. About 5,000.

Senator PRYOR. What would be a fair sentence for the judge to impose upon Mr. Edward Gould?

Mr. GOULD. I wouldn't even guess. I suppose a sentence long enough for me to understand what I did. I mean, 11 months in county jail, I wouldn't say that that was enough time—I wouldn't say that by no means. But, you know, it gives you a lot of time to think and then it gives you a lot of times to overlook—and it may seem trite that 11 months would actually cure a person, but after 11 months I was much different then than I am now. Eleven months ago I would not be sitting here.

The CHAIRMAN. Thank you, Senator Pryor.

I might point out, Mr. Gould, it is not only the question of the time and length of the sentence, it is not only for you personally, but it is also a message to all the other telemarketers; it is a deterrent. So that has to be taken into account, and only the Court will do that. But that is one of the objectives of the law itself—not simply to punish, although that is an element of it, but to deter others from doing exactly what you've done and there are so many. From the figures we've heard today it ranges anywhere from \$40,000 billion to \$60,000 billion a year.

Mr. GOULD. I know of \$700 million, just from me and my friends in Las Vegas. You have—and I know I promised I wouldn't run on and this isn't a run on—but you have larger telemarketing companies, actually the companies that started it, like, in 1983 and 1984 that accrued \$100 million and \$200 million. I mean, people had

never heard of it before. So 8 out of 10 people would buy it, and, I mean, Publisher's Clearing House, they put up \$10 million in the bank so they're legal. They can do it—but it's the same thing, all right. They're just not lying but who is going to win the \$10 million and how many magazines are going to be sold to win that \$10 million? And then they never really get the \$10 million—they get the interest on the \$10 million.

But more in the line of telemarketing and lying to people, all right, you need to understand that you have two or three companies in Las Vegas that are just so money high, one telemarketing company bought a bank because they couldn't get a merchant account anymore. So now they have a merchant account because they own the bank.

The CHAIRMAN. How many companies do you think are operating telemarketing in the Las Vegas area?

Mr. GOULD. A hundred and fifty.

The CHAIRMAN. And would you put them all in the category of illegal versus legal or—

Mr. GOULD. Well, I would say about 70 of them are legal, but they are legal because you have much larger companies that put them under their umbrella.

Now, of course, when this room goes under or they are no longer rated, this larger company says, "Well, we didn't run the day-to-day operations of that room. We don't know what you're talking about. We just did this for them, or we just did that for them or we just shipped for them." So they are never held in the indictment, but then all they do is 2 days, later they open up a room across town somewhere else, or they will open up a room in another name in the same lease. I mean, it doesn't change.

The CHAIRMAN. Did you use a verification tape? You talked about the tapes that are used by some companies.

Mr. GOULD. Yes.

The CHAIRMAN. Did you use the verification tape?

Mr. GOULD. I didn't use a verification tape. I used this. May I?

The CHAIRMAN. Sure.

Mr. GOULD. I would get one copy and they would get the other one. They would send that copy back with the check. That was written up by a lawyer that told me when you have a problem—not if you have a problem or don't do it because you will have a problem—but when you have a problem, that will be your defense.

The CHAIRMAN. Who selected the name Consumer Protection Foundation?

Mr. GOULD. My partner.

The CHAIRMAN. Isn't that a fraud in itself?

Mr. GOULD. No, because I didn't say agency.

The CHAIRMAN. No, but just the use of the words "Consumer Protection Foundation." What does that mean?

Mr. GOULD. No, because I opened it as a Nevada corporation, and the only way that I couldn't have it be a fraud—I mean, it's misleading.

The CHAIRMAN. Isn't it a fraud, though, in the sense that this is not—you weren't engaged in consumer protection. You were engaged in consumer exploitation? I mean, isn't that a fraudulent misrepresentation from your—

Mr. GOULD. Yes, my partner and I—and am not even defending myself; I mean, I'm being earnest with you—

The CHAIRMAN. I understand.

Mr. GOULD. He put the heading—and let me show you the top of this letter. I do need this back for the U.S. Attorney—but look what it says next to the logo and then you will see how he protected us.

The CHAIRMAN. Well, it says, "Consumer Protection Foundation, helping consumers help themselves."

Mr. GOULD. Yes. [Laughter.]

See, everything I did they could have done themselves. See, a recovery is—

The CHAIRMAN. But even that is not correct, is it? It should be helping consumers help us, right?

Mr. GOULD. That is true. Yes, that is true.

The CHAIRMAN. So it really doesn't qualify—

Mr. GOULD. I wouldn't have made much money, though, if I would have done it the other way. [Laughter.]

The CHAIRMAN. Exactly, but that is the nature of the fraud that is involved, and I am not pointing to you specifically, but many of these companies, all have an angle. They have what looks like a Senate seal, it looks like the U.S. Government, and they use words like "consumer protection, or senior citizen foundation."

Mr. GOULD. That is why that was the most dangerous and that is why that one company in less—I was in business for, what, 14 months and I made less than what I made in 5 months with that company.

The CHAIRMAN. If I were a senior citizen, which I am approaching that age some point soon, and I were unwitting and I saw that symbol, and I saw the words "Consumer Protection Foundation," I would assume that it has some government connection.

Mr. GOULD. Look how much money that person gave us. Read the rest of the letter.

The CHAIRMAN. It looks like "\$28,251 on behalf of so and so for these services, Mr. Z, will be paid a one-time fee of \$500."

Mr. GOULD. Yes, that was the courier that was sent to pick up the money.

The CHAIRMAN. The courier got \$500?

Mr. GOULD. We bought him an airline ticket. He went to her house and picked up \$28,000 in cash.

The CHAIRMAN. So the checks that were sent were always couriered?

Mr. GOULD. Yes, either Federal Express or—

The CHAIRMAN. Or the mail.

Mr. GOULD. Yes, but that was quite a large sum of money and she said she always pays her things in cash. So we had to send someone because Federal Express you couldn't send cash. I do need that letter back. You can make a copy of it, though.

The CHAIRMAN. It's all right. You may have it back. We'll make a copy for the record and we'll make a copy of your Recovery Intention Contract.

Mr. GOULD. You can have that—that is for you. You can have it.

The CHAIRMAN. I also noticed when you talk about the age factor, in looking over this list the ages range from—there is one 78, one

that is 50, another 68. We have one here age 23, and we had another one I think age 80, 70—

Mr. GOULD. How much did the 23-year old buy?

The CHAIRMAN. There is no amount listed—I'm sorry, it's \$1,500.

Mr. GOULD. That is probably because they learned the first time and they didn't buy again.

The CHAIRMAN. Well, what I'm getting at is that most of the people are certainly 65 or over, but you have some who are 49 and one who is 23. How do you go about selecting? How do you get these lists and types?

Mr. GOULD. Well, it's all by lead brokers. I mean, you buy the leads and then you take the chance—see, I write the ages down and some other companies write the ages down, but you never really know how old the person is until you actually call them. I mean, when you get a lead, I mean, it looks like a little puzzle or it looks like a little piece of paper that says "Awards Committee," and they fill it out in the mail.

The CHAIRMAN. Each one of us—I think every person in America gets one of these things in the mail.

Mr. GOULD. That's what I buy for and then I call you.

The CHAIRMAN. So if I got this and it said—this happens to say Kenneth Cohen, no relation—but let's say it said, "Bill Cohen, pack your bags. This certifies you will receive a world-class Florida Caribbean vacation package offered, including all accommodations and round trip cruise, et cetra, et cetra. Seven days, six nights, Las Vegas style, night club shows, glittery casino action, bountiful buffet meals on board." And I take a look at that and it says it's mine just for sending in my name, right?

Mr. GOULD. Yes, and do you know what you receive? Remember the first time I said Hawaiian vacation, no accommodation? They don't give you—see, what they do is they do this: they say you can have a cruise. That is called a "cert." That's what it is called—that's called a cert. You pay 15 cents for it. Eight cents of it is a paper, OK. Travel agencies, several that I know of, all right, they sell those certs, and what you have to do if you live in New Jersey, you must fly to Los Angeles to get the cruise, but you must buy the airfare from that travel agency in order to get the cruise.

The CHAIRMAN. Is it a two-way ticket?

Mr. GOULD. It's a round-trip ticket, but you have to—see, you get the cruise, oh, yes, and you get your accommodations because they're not going to throw you off the boat. But you have to buy the airline ticket, and you're not getting off-time hours. You have to buy the airline ticket of \$1,400 coach. I mean, that is what it is. You must buy the airline ticket to get that.

The CHAIRMAN. What I'm getting at is every one of us gets this, and a number of people, a percentage, will open it up and say, "Hey, that is terrific news. I've always wanted to go on a cruise," and they send their name in. They return it. Is that where the list is then compiled?

Mr. GOULD. Yes, see, I don't know what the law is and there are many other things. That is where—then they will take that—that's a perfect example—and I'll buy that just as you see it, just like that, OK. I will buy that for about \$2.50.

The CHAIRMAN. And then you do what?

Mr. GOULD. I will give it to a fronter.

The CHAIRMAN. And he will make or she will make a call?

Mr. GOULD. He will try to call you and sell you vitamins or skin care. If you buy, then you will be given to a reloader and then you will generate a lead like you see over there. That is where it all starts. That thing in your hand is where it all starts.

The CHAIRMAN. So if Ed McMahon calls up—

Mr. GOULD. Now, I buy Ed McMahon's list all the time. He sells his lists, too. I could buy Publisher's Clearing House's lists. They're expensive but I can buy them, and all you need to do is call him and ask him and he will sell them to you. He has a lead broker. I think—what is it called? Worldwide or something like that, but he has a lead broker that actually sells the names that he generates. People that buy his magazines he sells to telemarketing companies. I mean, the guy was "Here's Johnny" for all those years and all these senior citizens trust him because he is Ed McMahon. He is doing the same exact thing. I mean, maybe I'm making a mistake putting him down because everybody is going to think I'm crazy, but it's the truth. It's the exact truth.

I mean, of course, they do give away the \$10 million, and they have their \$18,000 van drive around and give away prizes, but how many magazines did they sell? Believe me, the loan pays for the money that caused him to give away the prizes.

The CHAIRMAN. Well, they wouldn't be in the business if they weren't making money, right?

Mr. GOULD. But is it OK for him because he's Ed McMahon?

The CHAIRMAN. Well, the question really is, is there any legitimacy to any of these? I mean, one of the reasons you're here today in addition to enlightening us in terms of how this takes place is hopefully to educate our citizens. If you had to give advice, for example, to the American people who might be watching this telecast on C-Span or whatever, what advice would you give to every citizen, especially senior citizens, who are, No. 1, I think you used the words "lonely, greedy, chasing the rainbow or fearful and embarrassed that they might be found out by their relatives so they've succumbed." What advice do you as a millionaire exploiter—

Mr. GOULD. Well, I am not a millionaire anymore.

The CHAIRMAN. But you were.

Mr. GOULD. Yes.

The CHAIRMAN. At 27, now you're 30 and you're broke. But what advice would you give to all the people who might be watching this?

Mr. GOULD. Well, that was my first—Helen, do you still have that first statement? You don't have that anymore?

Don't buy over the phone. I mean, it's hard to say that but there is no reason—

The CHAIRMAN. Well, this comes in the mail. I don't buy over the phone. I get something in the mail that says, "Congratulations"—

Mr. GOULD. Nothing—if it's too good to be true, then it's not true. Nobody is going to give you anything for free, all right. Do not fill out any of those award lists, those prize lists. If they are going to send it to you, then there is no reason for them to send that. I mean, how could I explain this? Let me find the proper words to explain this.

You know all that junk mail that you get that you throw on the counter and then you throw it away eventually because you're tired of it sitting there and looking at you? Some people don't consider it junk mail. You don't fill it out. You have to stay away from giving your name and your phone number and mailing it to people. You have to stop trying to get awards that are coming to you because they're not all right, and they're not. I mean, they're just not. So I guess I would just say throw all the junk mail away. I mean, that would be your best thing to start, but never ever buy anything on the phone, give your credit card number over the phone unless you're talking to the Sheraton, or the Hilton or Alamo Rent-A-Car or someplace you know. But even them, they sell your name and your stuff. You just can't give these credit card numbers over the phone. You have to be a wary consumer. You have to see what you're buying and then buy it. If you want to go on a cruise, go buy the cruise.

I used to give away a Mercury Tracer that used to cost me \$9,300. People used to give me \$30,000, \$40,000, \$50,000 to buy this Mercury Tracer and they could have gone and bought it themselves.

The CHAIRMAN. OK, so, basically, don't buy anything over the phone. If you get a phone call, hang up.

Mr. GOULD. Yes.

The CHAIRMAN. The FTC has adopted regulations that prevent repetition calls. People get a repeat call and they can report that.

Mr. GOULD. See, but these laws—and I'm not being sarcastic—they don't stop it. They just change the rules. They just have another company. Like, I owned three companies so if I couldn't call anymore, then I would just fax it to another room. All right, the laws—

The CHAIRMAN. The problem is living in a free country that has a Constitution that says that you have a right to make a phone call. That's one of the difficulties that we have, but in any event, there are remedies available for people who are harassed by telemarketers.

Mr. GOULD. Yes.

The CHAIRMAN. But your advice is, No. 1, don't buy anything over the phone. No. 2, don't ever give your credit card number out. I would suggest that your social security number be added to that as well.

Mr. GOULD. Yes, because then you could get bank information. You could actually teledraft money right out of their bank account without them giving you a check.

The CHAIRMAN. Do not look for gifts—no one gives you anything for nothing, right?

Mr. GOULD. Yes.

The CHAIRMAN. And if you get something in the mail, no matter who the endorser is, no matter how prominent the celebrity is, beware that even though it might be, "legitimate" in terms of them paying the \$10,000 to someone at some point over a period of time, what is happening is by responding to this, your name goes into a file and that file is then exploited by hundreds of other companies.

Mr. GOULD. Because your name is sold, even with Publisher's Clearing House. If they want to buy a magazine, tell them to go to the 7-Eleven or subscribe yourself. It's cheaper. You could go to a 7-Eleven and take the subscription thing out of the magazine, do it yourself and it's \$3 cheaper. I mean, so I guess what it is, is see what you're buying.

The CHAIRMAN. All right, and if you're promised a \$75,000 Mercedes or whatever, be wary. You're probably getting a \$75,000—

Mr. GOULD. Or your share of \$75,000. We have charity rooms. Here is the biggest one. Here is the biggest problem that I see right now, all right, is there are—they're called charity rooms, and what they do is some telemarketers go and open up their own tax exempt non-profit charity and just pay high salaries or they will find MADD—Mothers Against Drunk Drivers is being exploited right now. You have veteran's groups, you have, what is it, the VVA. You have prominent charities that they can't—and it was in my other speech that I had. You have prominent charities that can't generate enough money because most of the people that are in these charities have disabilities or they can't generate the money that they actually need. So they go to—what did they used to call it—they go to a fundraiser, all right—

The CHAIRMAN. I think we're familiar with those. [Laughter.]

Mr. GOULD. Or they go—I'll remember the name as I go on, OK—but it's a telemarketing thing, a telefunding room—telefunding. The telefunding company gets 80 or 85 percent; the charity gets 20 percent. They call you up and they say, "Listen, this is a charity and everybody knows it, Mothers Against Drunk Drivers. You've got to help us and for this you're going to get your share of \$75,000 for your contribution of \$2,500."

Now their share could be \$3, all right, and that's what it is. Their share is \$7.20. They get a necklace. That's what they get. That's their share of \$75,000, and that company, that telefunding room must put \$75,000 on the side and give it away over a year, and they do. But how many people give \$2,500 and how much is 80 percent of \$2,500 and why should a telemarketer get 80 percent? See, it just changed so now instead of your having to buy televisions and having to pay Consumer Affairs 6 percent, you just pay the charity. But you hold all the charity's money so you get the interest on the charity's money. You don't have to pay taxes on the charity's money. Forget SISC because you don't have to pay it because it's all 1099 or they're all volunteer workers, and you keep all the money and you make 80 percent off of charity for your share of \$75,000. "Yes, you too have won \$25,000," but that doesn't mean that you've won it. "You too could have won \$25,000; yes, you're share of \$75,000," and that's what they hear. And they send the money to these charities, but the charities don't get the money. They get 20 percent of the money or most of the time 15 percent of the money. Baby Aid, MADD, veteran's groups—I can't remember the names of the veteran's groups—Veterans For Wheelchairs, Save The Children. When you see what's her name from All In The Family on television—what is it, Sally something—when you see her on television, they give 9 percent to Ethiopia and they keep 91 percent. Jerry Lewis, he keeps 40 percent of all that grand total

on the thing. He keeps 40 percent of all that money, and what does he put out—what, 24 hours? I'll stay up for 24 hours for that.

But that's not really the major concern. The major concern is you now have telemarketing companies though it's no longer telemarketing companies—it's now telefunding companies.

The CHAIRMAN. Mr. Gould, we could continue this conversation well into the morning. We have three other panels to go—

Mr. GOULD. I'm sorry.

The CHAIRMAN. No, we wanted you to have an opportunity to explain to the committee, and ultimately the American people, what's going on, and, hopefully, as we indicated earlier in our opening statements, through consumer education we can at least try to wage an effective war against this kind of fraudulent activity.

Thank you very much for your appearance today.

Mr. GOULD. Thank you, Mr. Chairman.

The CHAIRMAN. We are pleased to welcome our next panel of witnesses: Mrs. Mary Ann Downs of North Carolina who is going to testify how she was victimized by telemarketers; Mr. Peder Anderson, as a family member, will testify how his 83-year-old father-in-law who lives in Rhode Island was also victimized by telemarketers.

Mrs. Downs and Mr. Anderson, good morning.

Mrs. DOWNS. Good morning, Senator Cohen.

Mr. ANDERSON. Good morning.

The CHAIRMAN. Your full statements will appear in the record. If you can summarize, that would be appreciated.

STATEMENT OF MARY ANN DOWNS, RALEIGH, NC

Mrs. DOWNS. Good morning, Senator Cohen. My name is Mary Ann Downs. I am 75 years old and live in Raleigh, NC. I was a victim of telemarketers, and I would like to tell you my story.

I am a native of Michigan where my husband, William T. Downs, a lawyer and probate judge, and I raised our seven children. We left Detroit when Bill retired from the University of Detroit School of Law. We moved first to Guadalajara, Mexico, and then to San Antonio, TX. A little more than a year after moving to Texas, Bill died in October 1990.

We had been married for 48 years. It was like my world disappeared. I lived in a place where I really didn't know anyone. With Bill gone and no family or friends around, I felt terribly alone. Then I was diagnosed with breast cancer. It was an extremely vulnerable time in my life.

When the phone calls started in April 1992, they were friendly voices to talk to. They were always pleasant and seemed so genuine in their efforts to help me win the big awards—luxury cars, thousands of dollars in cash, vacation trips. Most of the time I was called by Kurt from PMI, Professional Marketing, Incorporated, in Las Vegas. Kurt and the others told me that the more I spend ordering their products, the better chance I would have to win the big payoff. I bought dozens of ballpoint pens, baseball caps that said "No To Drugs," desk clocks, money clips, cleaning supplies, shampoo for thousands of dollars, and it was junk.

After each telephone conversation with Kurt, someone else called to confirm my order. Every time she told me that she was taping

the conversation. She repeated what Kurt said to me but also said that she wanted to make sure that no promise of a specific award was made. For awhile I really did not realize how much money I was spending. They called and I authorized payment on my credit card. A couple of times I wrote checks. I always received something like pens, caps, and the cleaning supplies I just mentioned. It seemed like the UPS man was at my door every day. I also received items I did not order like a VCR, a CD player, video camera, a tennis bracelet, telephone—things just showed up. I was not told ahead of time that they were coming or that I had won a prize.

One time, though, I was told that I had won two mink coats. When they arrived, they were like rat hair and I immediately took them down to the Goodwill.

My first order was on April 17, 1992. Soon thereafter I was told that I had won either a 1992 Lincoln, a sapphire bracelet, \$5,000 or a 46-inch TV. I never received any of them. According to my charge accounts, there were seven companies calling me, but I didn't realize it because they all sounded the same. I even recognized a familiar voice when Bob called me as a prospect for a new company, and I asked him if he had been with another company and he said he had.

At different times I was told that I was guaranteed to receive one of several awards, but they never said specifically what my award was, just that it was from a group that included such things as \$20,000 in cash, lesser amounts of cash, a big screen TV, a trip to London or Paris, a sapphire diamond tennis bracelet, a pound of gold or a luxury car. PMI even sent a letter confirming that guarantee and I had to sign and return the credit card receipt and warranty invoice for \$799. They gave me a confidential code number that would be activated, and my second award announcement would be made when I returned these documents. I did as they asked.

One time I told Kurt that I had to stop, that I couldn't put any more money in. He said he knew that I had investments that I could liquidate. I was upset that he had information about my finances, but I felt helpless. I gave in and ordered again. Another time I told the man who called that I did not want to spend what they wanted from me. Within hours, three different people called saying they were supervisors and asked if I had been offended somehow. They wanted to know why I refused to place an order and told me they knew I had the money. I didn't know what to do. When I said no, it didn't make any difference. I couldn't stop it and I couldn't tell anyone. I did liquidate some of the investments that my husband had so carefully made. I couldn't believe what was happening and I was so helpless. I am an intelligent, educated, strong person, but look at what I was doing. I knew I was being taken, but was too embarrassed to even tell my children.

In December 1992 my apartment was filled with the junk I had ordered, and the calls were increasing. I was desperate. I filled 19 identical boxes with pens, clocks, shampoos, et cetera, and these were the Christmas presents for each of my kids, their spouses and children. By the looks on their faces they thought I was crazy.

That's how I revealed what I was caught up in, but I still really couldn't talk about it. I just said I had been scammed. I felt so dumb and couldn't bear to tell them how stupid I had been.

Then in January 1993 two other companies told me that I had won a luxury car. One of them said I was originally the second prize winner, but the person who had actually won the Lexus had moved to New York and they had to have a winner in Texas so I won. I was so sure it was true I called my kids and told them I had really won, but I never got either car.

Fortunately, in March 1993 I left San Antonio and moved to Raleigh. That's how I finally stopped, but not immediately. Mail was forwarded from PMI dunning me for a telephone order they claimed I had made after I left San Antonio. That was false and I did not pay them.

On March 15 and 16, 1993, I received several telephone calls at my new home in Raleigh from a man identifying himself as Virgil Hastings. He said the operator in San Antonio gave him my number and advised that I contact the operator to protect myself so it didn't happen again. He said he was an attorney with the Federal Court in San Francisco. He told me that the group that I had dealt with in Texas had their funds and business records impounded by the court, and the records showed that I was a victim of their scam. He told me that I could recover my money, but I had to send \$960 to Phillips Slater in Livermore, CA, by Western Union. He gave me his address and telephone number. I was leery so I called my son-in-law who is a lawyer, and asked him to call Virgil Hastings and verify he was legitimate.

Then, I didn't wait. Virgil had told me exactly what to say to Western Union, and I called them. They tried to talk me out of sending the money, asking if I knew the person I was sending it to. I didn't listen and sent the money.

On March 17, Virgil called again and told me there was an additional fee of \$1,000 to Del Rose of Hayward, CA, to get my money back, and I sent it.

On March 19, Virgil called and told me that because they could document that I had spent \$55,000 with the group, they would have to have an additional \$2550 from me. He told me that the post office in Raleigh had a package with \$52,000 to be delivered to me in an hour and a half if I sent the fee. After all, I had already spent \$2550 so to get back the rest was a bargain.

I contacted Western Union again and sent it. No package came from the post office. I never heard from Virgil again. I kept trying the phone number he gave me and it was always either busy or no answer.

Days later someone finally answered and told me it was a pay phone. That was it, and I told my daughter the whole story. When we went through my notes and receipts, we saw that I had lost over \$74,000 to the telemarketers from April 1992 to March 1993.

There were five companies out of Las Vegas, one in Louisiana and one in Utah. According to the names on the charge card statements, I ordered from PMI only six times, but I am sure that I talked to Kurt much more often than that. Some of the company names were new to me.

I live on the investments that my husband made. I gave the telemarketers a couple of years of income. My husband worked very hard for that money, and I feel very guilty about losing it. Fortunately, I was able to continue to make my living expenses. The emotional damage has been much greater and a terrible harm to my confidence, my self-esteem, and my belief in myself. That has taken much longer to recover.

Coming here today and telling you my story has helped me regain part of myself that they took away. They cheated me financially, psychologically, and every other way. I will do anything I can to stop them from doing the same to others.

Thank you for caring about this terrible crime.

[The prepared statement of Mrs. Downs follows:]

STATEMENT OF MARY ANN DOWNS

MARCH 6, 1996

Good morning. My name is Mary Ann Downs; I am 75 years old and live in Raleigh, North Carolina. I was a victim of telemarketers, and I would like to tell you my story.

I am a native of Michigan, where my husband, William T. Downs - a lawyer and probate judge - and I raised our seven children. We left Detroit when Bill retired from the University of Detroit School of Law. We moved first to Guadalajara, Mexico, then to San Antonio, Texas. Little more than a year after moving to Texas, Bill died in October 1990.

We had been married for 48 years. It was like my world disappeared. I lived in a place where I really didn't know anyone. With Bill gone and no family or friends around, I felt terribly alone. Then I was diagnosed with breast cancer. It was an extremely vulnerable time in my life.

When the phone calls started in April 1992, they were friendly voices to talk to. They were always pleasant, and seemed so genuine in their efforts to help me win the big awards: luxury cars, thousands of dollars cash, vacation trips! Most of the time, I was called by Kurt from FMI, Professional Marketing, Inc. in Las Vegas.

Kurt, and the others, told me that the more money I spent ordering their products, the better chance I would have to win the "big pay-off." I bought dozens of ballpoint pens, baseball caps

that said "No to Drugs," desk clocks, money clips, cleaning supplies, shampoo. For thousands of dollars. It was junk.

After each phone conversation with Kurt, some else called to confirm my order. Every time, she told me she was taping the conversation. She repeated what Kurt said to me, but also said she wanted to make sure that no promise of a specific award was made.

For awhile, I really did not realize how much money I was spending. They called and I authorized payment on my credit card. A couple of times I wrote checks. I always received something, like the pens, caps and cleaning supplies I just mentioned. It seemed like the UPS man was at my door every day.

I also received items I did not order, like a VCR, a CD player, video camera, tennis bracelets, telephone. These just showed up; I was not told ahead of time that they were coming or that I had won a prize. One time, though, I was told that I had won two mink coats. When they arrived, they were like rat hair and I gave them to Goodwill.

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At different times I was told that I was "guaranteed" to receive one of several awards. They never said specifically what

my award was, just that it was from a group that included such things as \$20,000 in cash, lesser amounts of cash, a big screen TV, a trip to London or Paris, a sapphire & diamond tennis bracelet, a pound of gold or a luxury car. PMI even sent me a letter confirming that guarantee, but I had to sign and return the credit card receipt and "warranty invoice" for \$799. They gave me a Confidential Code Number that would be "activated" and my second award announcement would be made once I returned these documents. I did as they asked.

Maybe that's how I got the tennis bracelet. I really don't know. I certainly never received cash, a big screen TV, or anything else of value.

One time I told Kurt that I had to stop, that I couldn't put any more money in. He said he knew that I had investments that I could liquidate. I was upset that he had information about my finances, but I felt helpless. I gave in and ordered again.

Another time, I told the man who called that I did not want to spend what they wanted from me. Within hours, three different people called, saying they were supervisors, and asked if I had been offended somehow. They wanted to know WHY I refused to place an order, and told me they knew I had money.

I didn't know what to do. When I said "No," it didn't make any difference. I couldn't stop it. I couldn't tell anyone. I did liquidate some of the investments my husband had so carefully made.

I couldn't believe what was happening. And that I was so helpless. I am an intelligent, educated, strong person. But look

what I was doing! I knew I was being taken, and was too embarrassed to even tell my children.

By December 1992, my apartment was filled with the junk I had ordered and the calls were increasing. I was desperate. I filled **19** identical boxes with the pens, clocks, shampoo, etc. - and these were the Christmas presents for each of my kids, their spouses and children. The looks on their faces - they thought I was crazy!

That's how I revealed what I was caught up in. But I still would not really talk about it - just said that I had been scammed. I felt so dumb and couldn't bear to tell them how stupid I had been.

Then, in January 1993, two of the companies told me that I'd won a luxury car. One of them said that I was originally the second prize winner, that the person who had actually won the Lexus had moved to New York and they had to have a winner in Texas, so I won! I was so sure it was true, I called my kids and told them how I'd really won. But I never got either car.

Fortunately, on March 1, 1993 I left San Antonio and moved to Raleigh. That's how I finally stopped. But not immediately. Mail was forwarded from PMI dunning me for a telephone order they claimed I made after I left San Antonio. That was false and I did not pay them.

On March 15 & 16, 1993, I received several telephone calls at my new home in Raleigh from a man identifying himself as Virgil Hastings. He said the operator in San Antonio gave him my number, and advised that I contact the operator to protect myself, so it didn't happen again.

He said he was an attorney with the Federal Court in California. He told me that the "group" I had dealt with in Texas had their funds and business records impounded by the court, and the records showed that I was a victim of their scam.

He told me he could recover my money. But I had to send \$960 to Phillip Slattery in Livermore, California, by Western Union. He gave me his address and telephone number. I was leery, so I called my son-in-law, who is a lawyer, and asked him to call Virgil Hastings and verify that he was legitimate.

Then, I didn't wait. Virgil had told me exactly what to say to Western Union, and I called them. They tried to talk me out of sending the money, asking if I knew the person I was sending it to. I didn't listen and sent the money. On March 17, Virgil called again and told me there was an additional fee of \$1000 to Del Rose of Hayward, California to get my money back. I sent it.

On March 19, Virgil called and told me that, because they could document that I had spent \$55,000 with the "group," they would have to have an additional \$2550 from me. He told me that the post office in Raleigh had a package with \$52,000 to be delivered to me in 1 1/2 hours if I sent the fee.

After all I had already spent, \$2550 to get back the rest was a bargain. I contacted Western Union again and sent it. No package came from the post office. I never heard from Virgil again. I kept trying the phone number he gave me; it was always either busy or no answer. Days later, someone finally answered, and told me it was a pay phone.

That was it. Then I told my daughter the whole story. When

we went through my notes and receipts, we saw that I lost over \$74,000 to the telemarketers from April 1992 to March 1993. There were five companies out of Las Vegas, one in Louisiana, and one in Utah. According to the name on the charge card statements, I ordered from PMI only six times, but I'm sure that I talked to Kurt much more often than that - and some of the company names were news to me!

I live on the investments my husband made. I gave the telemarketers a couple of years of income. My husband worked very hard for that money and I felt very guilty losing it. Fortunately, I was able to continue to make my living expenses.

The emotional damage has been greater. The terrible harm to my confidence, my self-esteem, my belief in myself. That has taken much longer to recover.

Coming here today and telling you my story has helped me regain part of myself that they took away. They cheated me financially, psychologically, and in every way. I will do anything I can to stop them from doing the same to others.

THANK YOU for caring about this terrible crime.

MARY ANN DOWNS Transactions

4/17/92	New Image Way II
5/20/92	New Image Way II
5/27/92	PMI
6/18/92	American Clearinghouse
6/18/92	American Clearinghouse
7/07/92	New Image Way II
7/07/92	PMI
7/10/92	New U Distributors (Utah)
7/28/92	American Clearinghouse
7/29/92	New Image Way II
9/08/92	PMI
9/10/92	New Image Way
9/16/92	American Clearinghouse
10/13/92	New Image Way
11/2/92	New U Distributors (Utah)
11/5/92	PMI
11/13/92	American Clearinghouse
11/13/92	New Image Way
11/23/92	American Enterprise (Louisiana)
12/15/92	New Image Way
12/15/92	USAD
12/29/92	PMI
1/04/93	American Clearinghouse
2/08/93	PMI
2/11/93	USAD
2/19/93	American Clearinghouse

PROFESSIONAL MARKETING INC.

5333 S. Arville • Suite #3 • Las Vegas, NV 89118

MAY 18, 1992

DEAR MARY ANN DOWNS

CONGRATULATIONS. AS PER OUR TELEPHONE CONVERSATION, THIS IS TO CONFIRM THAT YOU ARE GUARANTEED AND WILL RECEIVE ONE OF THE FOLLOWING FIVE AWARDS, IN ADDITION TO THE ONE ENCLOSED IN YOUR PACKAGE:

- * 20,000 IN CASH
- * 7,500 IN CASH
- * BIG SCREEN TV
- * SAPPHIRE & DIAMOND TENNIS BRACELET
- * 1,000 CASH

LISTED BELOW IS YOUR CONFIDENTIAL CODE NUMBER. IN ORDER FOR US TO ACTIVATE THIS NUMBER WE MUST HAVE YOUR WARRANTY INVOICE SIGNED AND IN OUR FILES. SINCE WE HAVE ALREADY BILLED YOUR CREDIT CARD IT IS IMPORTANT THAT YOU SIGN YOUR CREDIT CARD RECEIPT AND SEND IT BACK TO US AS QUICKLY AS POSSIBLE. WE WILL NOT ACTIVATE YOUR CODE NUMBER AND MAKE YOUR SECOND AWARD ANNOUNCEMENT UNTIL WE HAVE RECEIVED YOUR CREDIT CARD SLIP AND WARRANTY INVOICE. KEEP YOUR CONFIDENTIAL CODE NUMBER IN A SAFE PLACE.

CONFIDENTIAL CODE NUMBER:

* TPK951844X

IF YOU SHOULD HAVE ANY QUESTIONS REGARDING YOUR ORDER, PLEASE FEEL FREE TO CALL OUR CUSTOMER SERVICE DEPARTMENT AT (800) 458-1606, BETWEEN THE HOURS OF 8AM TO 5PM, MONDAY THRU FRIDAY P.S.T. YOUR PERMANENT FILE IS LOCATED IN THE CUSTOMER SERVICE DEPARTMENT, AND THEY WILL ASSIST YOU WITH ANY PROBLEMS YOU MAY HAVE. THANK YOU FOR YOUR PATRONAGE.

SINCERELY,

Kurt Trombetti
KURT TROMBETTI

100
_____ 79 _____ 94-76/1234

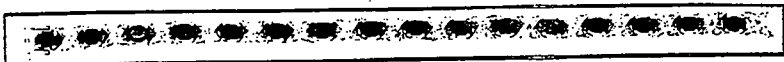
Pay to the order of _____ \$ **20000.**

TWENTY THOUSAND Dollars

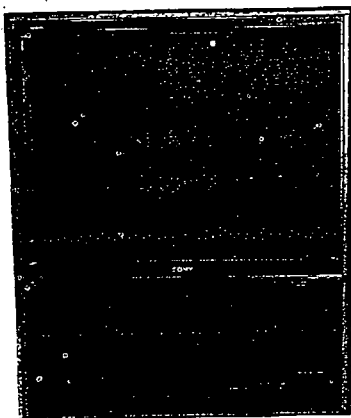
Memo **CASH** Signed *[Signature]*

⑆123400456⑆00001234500⑆100

\$20,000.00 IN CASH



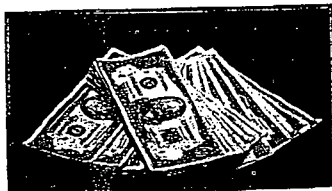
10 KT. SAPPHIRE AND DIAMOND
TENNIS BRACELET



52" SONY
STEREO TELEVISION



\$7,500.00 IN CASH



\$1,000.00 IN CASH

PROFESSIONAL MARKETING INC.

5333 S. Arville • Suite #3 • Las Vegas, NV 89118

DEAR VALUED CUSTOMER;

WE LOOK FORWARD TO MAKING YOUR AWARD ANNOUNCEMENT AS SOON AS POSSIBLE. P.M.I. HAS GIVEN OUT WELL OVER \$1,000,000.00 SO FAR. FOR THE QUICKEST RESPONSE ON YOUR AWARD ANNOUNCEMENT FOLLOW THESE 5 STEPS:

1. PLACE THIS LETTER FACE UP ON FLAT SURFACE
2. SET CREDIT CARD IN SQUARE
3. THEN PLACE YOUR INVOICE DIRECTLY OVER THIS FORM
4. RUB SPOON FIRMLY IN SQUARE ON INVOICE
5. THEN SIGN AND RETURN YOUR YELLOW (INVOICE) COPY

THIS IS YOUR 'PROOF OF PURCHASE' AND IS VERY IMPORTANT WHEN PROCESSING YOUR PAPERWORK. YOU WILL NEED TO CALL 1-800 238-5355 TO HAVE FEDERAL EXPRESS COME OUT TO PICK UP YOUR ENVELOPE AT NO CHARGE. THAT'S RIGHT...ABSOLUTELY FREE. THIS WILL EXPEDITE YOUR PAPERWORK FOR THE FASTEST POSSIBLE RESPONSE. OR FOR ASSISTANCE CALL 1-800-458-1605.

AGAIN, CONGRATULATIONS AND THE BEST OF LUCK.

2/25/84

PLACE CREDIT CARD

IN THIS BOX

PP

The CHAIRMAN. Thank you very much, Mrs. Downs. We truly appreciate your coming forward and telling this sad tale, and I hope it does everything that you've said in terms of giving you a measure of recovery of your self-confidence and self-esteem, but most especially what it will do for hopefully millions of other people in this country who are either current victims or potential victims.

Mrs. DOWNS. Well, preparing this has stirred up an awful lot of things I had locked in the back of my head.

The CHAIRMAN. We'll talk about it in a moment a little bit more.

Mrs. DOWNS. OK.

The CHAIRMAN. Mr. Anderson.

STATEMENT OF PEDER ANDERSON, WASHINGTON, DC

Mr. ANDERSON. Senator Cohen, as I sit here this morning listening to Mrs. Downs explain her situation, I have certainly some anxiety coming before the committee and testifying this morning in its own right, but listening to these stories come forward adds a whole dimension of gut-wrenching feeling. I mean, I am going to relate to you a personal family situation, and it sounds like a broken record really. I mean, these things fall into certain patterns and it's pretty clear that they're programmed pretty well and developed out there.

So, with that, let me present then to you my prepared remarks.

As a family member of a victim of telemarketing fraud, I wish to describe to you how this criminal activity has affected my family. On behalf of family members, I wish to thank you and other committee members for inviting me here today to describe our experience.

My father-in-law is the family member who has been victimized in our case. While I choose not to disclose his name to respect his privacy, let me describe him in general terms to you. He is an elderly gentleman, 83 years old, who lives by himself in a family residence in Middletown, RI. He has lived alone since his wife died in May 1983. Two children and their immediate family members continue to live in Middletown; three others live in Phoenix, AZ, Brandon, FL and my family and I live in Springfield, VA.

Dad, as I prefer to call him, worked as an engineer during his professional years for the U.S. Government prior to his retirement, and during this time he also served on the board of directors of a local credit union. If you can appreciate that fact, having that capacity to deal with finances and sitting on the board of a local credit union.

Like so many of his time, he worked hard, lived within his means and regularly saved money during his productive years in order to later supplement his government retirement. He was the one who was primarily responsible for the financial affairs of the family. Today he remains in generally good physical and mental health, for someone his age and especially considering what he has recently been through. He still is able to drive a car some around town.

However, when it comes to those who perpetrate telemarketing fraud, Dad is simply too honest, trusting, and innocent. While we are still in the process of uncovering the extent of how badly he has been victimized by this awful plague, here is what we know.

Looking back the family members now recognize that there were certain changes in Dad's behavior that signaled a developing problem. We only wish that we would have been more observant and intervened at an earlier point in time. For example, little things began to occur in the early part of last year when he got a flat tire on his car, for example, and rather than go out and fix that flat tire, he continued to use the small temporary spare that he had put on the car for an extended period of time.

The CHAIRMAN. He might just be considered as conservative in that regard. [Laughter.]

Mr. ANDERSON. Well, you know, that was perhaps the original reaction that we had, and, you know, individually and isolated it didn't really present anything that terribly unusual, but it was nonetheless looking back at it sort of odd and now we know why, of course, unfortunately.

Last year he also abruptly stopped a long practice of sending each child and grandchild on their birthday a card with a check in the amount equal to their age. Also last year without explaining further he said he could not attend the granddaughter's wedding in Brandon, FL. In June of last year he informed us that he was unable to pay the real estate taxes on the family residence that he was living in. This tax situation, however, clearly signaled to us that Dad's financial resources had become inexplicably depleted. The family then got together and met the tax obligation by the children giving Dad a Father's Day gift to cover the taxes, but it was much more difficult to begin a discussion with Dad about his financial situation.

I ask you to keep in mind that Dad was someone who was always the one his children respected, looked up to and who indeed had taught them much of what they knew about managing their own finances. We had always operated under the belief that Dad's property was his own. He earned it and he should be able to enjoy it as he wished. Then too in financial matters Dad was a private person who kept these details to himself.

Nevertheless, following the real estate tax revelation, we did have conversations with Dad regarding his finances. Yet, at this point we didn't directly probe into his personal financial accounts. After receiving assurances from Dad that he could and he would regain control over his finances, we allowed the status quo to remain.

But, unfortunately, by the end of the year—that is, last year—checks on Dad's account at the bank started to bounce and we knew that more intervention on our part was necessary, and then as recently as February of this year, Dad sent a check, a \$1,300 check, via Western Union to one of these scam artists. It was—that particular situation took place when the son, who lives in Middletown, RI, was out on travel away from the home. He had been trying to keep touch with Dad and watching what was going on, but when he was out of town, he comes back and he finds that this \$1,300 had been wired. This Western Union or immediately transfer process is especially insidious because once that money is put in Western Union, it's gone. And another thing is you don't know where it goes. It can be sent anywhere and it could be a drop point or a pick-up point or something like that so it becomes a very dif-

difficult problem to trace once these kinds of mechanisms are used to transfer the money.

But, anyway, after that particular transaction occurred we recognized that there was a form of a compulsion that had taken over with Dad seemingly where at least he was not able on his own accord to handle the matter. Looking at the dynamics of this difficult family situation from Dad's perspective, we now sensed his embarrassment and how it has adversely affected his pride. He obviously finds it very difficult to discuss the matter with us. This circumstance makes it hard for us to determine the full extent of the problem. Nevertheless, we believe that Dad's case goes back now at least 2 years. We based this conclusion on the fact that we uncovered evidence of Dad having contacted the National Fraud Center in Washington approximately 2 years ago. Perhaps this was one of the first situations, and at a time when he was still in sufficient control to question the propriety of the particular scam and his own actions.

Unfortunately, after the scam artist got his name, address, and telephone number, it seems that he fell deeper and deeper under their control. It almost seems as though he assumed the gambler's approach that with one more entry, he could win back all of his losses. Unfortunately, it appears that his never-ending losses also increased his embarrassment, which kept him from asking for help from us, the family members.

Now that we have determined that Dad is essentially broke, we still are not sure how much control we should exercise over someone who is otherwise alert and able to care for himself. I mean, here is an individual—although he is 83 years old—he is able to get around town. He still drives the car, and we do not want to create such a family situation where there is any type of a break-up or anything like that. I mean, the gentleman is clearly otherwise able to care for himself so it presents a special challenge for us to be able to deal with this in some kind of a reasonable way, but not to, you know, completely destroy his dignity.

We worry over how he will react after we recently took the following control measures.

All the mail now is sent directly to the son who lives in Middletown, and he screens that mail when it comes to his address. Dad's telephone number has been changed. He has voluntarily agreed to allow his son to control his savings account where his monthly social security and retirement checks are deposited. There is a direct deposit arrangement that goes right to his savings account, and then this allows the son to move periodically from that savings account money into Dad's checking account so that he retains some control. In other words, that checking account is his and although the money is limited in that account, he nonetheless has the ability to use that when he desires. And we are also examining other possible trust arrangements in his case at this time. We have consulted a local attorney in that regard.

Nonetheless, we continue to be concerned that this loss of control could lead to defensiveness on his part where he might question our motives. Here are some of the scams perpetrated on Dad, as we understand them:

It is important to understand that the two principal means used by the scam artists to reach Dad was through the telephone and the U.S. mail. Now, you added another one this morning, Senator Cohen, with regard to the Internet. I mean, I didn't think of that, and, of course, he doesn't have a computer, but it is no doubt that that is another way. It's like these are the mechanisms, these are the devices that they use to get into the home, and because of the type of people that are being confronted, the two are courtesy and respect. They don't have the ability within themselves to say no, leave, throw the mailing away or whatever.

The CHAIRMAN. You've got an intruder in the house, someone who has actually entered into the home either by telephone, by mail, or by computer, and they're in the house and now you've got a vulnerable citizen, as such, who does it either out of fear, out of kindness, generosity, but doesn't know how to get rid of the intruder. So they start paying the intruder off, in essence.

Mr. ANDERSON. Yes, we believe that one of the activities that greatly facilitate this crime is the selling or exchanging of mail lists by organizations, and in some cases, by otherwise legitimate entities such as the Reader's Digest, and Dad was always one of those who subscribed to the Reader's Digest. You know, I firmly believe that that might have been one of the entries into this thing.

While someone may desire to subscribe to a particular magazine, few desire that their name be wholesaled to scores of other solicitors. In any event, Dad has received piles of mailings to enter different sweepstakes, and I had the son, my brother-in-law, send some things here today, which is just very typical and things that you've already examined to a great degree. It has all the officialness to it, it has all the seals and the stamps, and all of the language that goes along with it. So he would get piles of this stuff in the mail.

The CHAIRMAN. One of the intriguing things is that they have a little window, of course, in the envelope and your name is in big, bold print. You say, my God, how did they find out about me?

Mr. ANDERSON. Absolutely, and they sprinkle the name throughout the correspondence so that it sounds like it's as personal as it can get, and it makes it appear as though if they know my name and they treat me this way, then there must be something legitimate about this.

In any event, Dad has received piles of mailings to enter different sweepstakes. These are the kind that boldly pronounce on the outside of the envelope that you are one of the top 10 qualifiers to win a fantastic prize, but, first, you must send in an entry fee. One such scam is called Opportunities Unlimited. It operates by providing several entry levels in \$5 increments between \$5 and \$35. Naturally, the solicitation proclaims that the more money you send in with your entry, the greater your chances of winning and the more you can win. It is important here to point out that while many of the individual amounts were not great, Dad could receive between 5 and 10 of these requests from the same solicitor in 1 day. Unfortunately, the most that Dad ever won was a consolation prize of coupons allegedly worth \$500 toward merchandise that he was unlikely to use or discounts that were otherwise available to the general public.

Another combination mail/telephone scam called the Australian Lottery also proved irresistible to Dad. The approach was to solicit an entry fee through the mail, and then follow it up with a telephone call informing Dad that he had been selected to win, but an additional amount of money would ensure an even bigger prize. The caller would indicate that time was of the essence, and, therefore, Dad had to give the caller a credit card number. Again, lots of money went out this way, but nothing to show for it.

Another favorite approach is to play off generally recognized social causes such as the war on drugs or fighting cancer. The drug scam involves getting Just Say No caps and coloring books in exchange for \$500. The cancer ploy uses an official sounding name like the National Cancer Center to perpetrate an appearance of legitimacy in name alone. Since Dad's wife died from cancer, this scam was especially effective, as I am sure it is with many elderly individuals who know relatives and friends that have had the disease.

Another troublesome but apparently legal practice is the direct mail solicitation practice of sending a promotion with a bill. An expensive health series of books and home repair manuals started this way. Unfortunately, Dad would read the part that stated how much the book cost and he would conclude that it was a bill that he should pay. Once started, however, he would receive a never-ending stream of unsolicited books. Dad now has more manuals, books, and other reading materials upstairs in his home than he could in two lifetimes.

Yet, another approach was perpetrated by an outfit called FEL. In this case Dad received what appeared to be a \$5 check in the mail. The solicitation asked Dad to sign the check and send it back to FEL. Now I'm not sure whether or not that check was actually sent back because in here I got just last night a copy of this check, and it looks to me the way it worked was that that \$5 could actually be cashed but it required an endorsement on the back of the check. Then right above the signature was in very, very small print language that authorized, based on that signature, the direct debiting of the bank account for \$360. So by signing that \$5 check then you effectively authorized this outfit to go ahead and directly debit the bank account for the money.

Most of the unsolicited telephone calls appeared to have come from the Las Vegas area. Since Dad lives alone, these telephone calls provided him with conversation during the day. Unfortunately, these conversations proved to be extremely costly companionship. We are still trying hard to determine how much Dad has lost to all these scams. So far our research, which only goes back 6 months, indicates that approximately \$15,000 has been lost during this timeframe.

If this period of time is representative of the larger 2 years that we believe he was involved in this thing, the amount could rise to \$60,000. We now know that Dad has spent all of his modest savings. The only money he now has to live on comes from his monthly retirement and social security checks. Dad's lifetime savings, which were lost through these scams, would have provided some financial security to him in his later years. For example, he may need nursing home care or other specialized care in the future.

In summary, this experience has been devastating for Dad and the family members. Dad has been greatly embarrassed by this experience. As I said previously, we wish that there would have been some way for us to have realized the extent of the problem sooner. While it is still too early to say for sure how this will end, we now believe that we are in a better position to monitor and control the matter. Additionally, Nora Dowd, who is from the Attorney General's Office for the State of Pennsylvania, and on assignment at the American Association of Retired Persons, has been extremely helpful to me. She suggested that we contact the Office of the Attorney General for the State of Rhode Island. Approximately a month ago, the Attorney General, Mr. Jeffrey Pine, assigned Mr. Stanley Butterworth from his office to work on Dad's case. Demands made by that office on some of the solicitors have already resulted in the return of a few of the payments. Additionally, the office is in the process of trying to develop prosecutable cases against others.

Individuals and organizations who prey on the elderly are viewed by us as the lowest of the lowlife, perhaps only ranking above those who kidnap and prey upon our young children. This activity by the scam artists is done consciously, deliberately and with cold, calculating indifference to their victims. It is a cowardly way of committing larceny through trick and fraud, and doing it on a major scale, depriving many elderly of their lifetime savings. It is not only the financial loss but the toll that this activity takes on the mental and the physical health of the victims and their families.

Last, I have given some thought to controlling the problem and offer you these suggestions:

Consideration should be given to establish a national registry, which permits those who do not want to receive solicited mail or telephone calls and other unsolicited approaches to register their name, telephone number, and address. This registry should not be a self-policing arrangement but mandated and controlled by Federal law. The availability to the elderly of this registry should be widely announced. For example, I have a mother at home who also is living alone at this point. She is about the same age as my father-in-law here, about 83 years old. I would love to be able to have some place where she could go and register her name. Now, this is a conscious, deliberate effort by the subject because I know that there are privacy concerns that come into play here, but it would seem to me that if the individual does not want to be contacted and makes that fact known, then that does not impact or affect this privacy issue. Once that registration is made, then there would be need to have a law coupled with that registry that would put the burden on the solicitor before he makes an unsolicited contact to check that registry. The burden is on him, and if he fails to do so, there ought to be some serious criminal penalties attached. That would make the ability to prove the violation a lot easier than trying to work on the fraudulent scams and trying to show that what they were doing was really in violation of a particular law.

Anyone who commits an unsolicited contact with the registrant on this registry should be subject to stiff criminal penalties. Attention should also be given to banks, post offices, telephone companies, and express delivery services.

This is a suggestion that was offered by my brother-in-law. He feels strongly that there was just a blizzard of this sort of stuff going on—the mail coming in, the telephone numbers, UPS, the special delivery people—just all kinds of stuff like that. While I find it a little bit more difficult to try to figure out how a program or how a law could be devised where we could have these people become, well, let's say, more responsible when they become obviously aware that this sort of thing is going on, if in fact they would have brought that to our attention, I could say in our case we would have been able to get on top of this a lot quicker. But because Dad was living alone in the home, a lot of that stuff was taking place and we didn't become aware of it.

That, basically, completes my prepared statement, and, of course, I'm here to answer any questions that you may have. Thank you. [The prepared statement of Mr. Anderson follows:]

PREPARED STATEMENT OF PEDER ANDERSON

Mr. Chairman, members of the committee, my name is Peder Anderson. As a family member of a victim of telemarketing fraud, I wish to describe to you how this criminal activity has affected the family. On behalf of the family members, I wish to thank you and the other committee members for inviting me here today to describe our experience.

My father-in-law is the family member who has been victimized in our case. While I choose not to disclose his name to respect his privacy, let me describe him in general terms. He is an elderly gentleman, 83 years old who lives by himself in the family residence in Middletown, Rhode Island. He has lived alone since his wife died in May 1983. Two children and their immediate family members live in Middletown. Three others live in Phoenix, Arizona, Brandon, Florida, and Springfield, Virginia with their families.

Dad as I prefer to call him, worked as an engineer during his professional years for the U.S. Government prior to his retirement. During this time he also served on the Board of Directors of the local Credit Union. Like so many of his time, he worked hard, lived within his means and regularly saved money during his productive years in order to later supplement his government retirement. He was the one who was primarily responsible for the financial affairs of the family. Today, he remains in generally good physical and mental health for someone his age, especially considering what he has recently been through. He still is able to drive a car some around town. However, when it comes to those who perpetrate tele-marketing fraud, Dad is simply too honest, trusting and innocent. While we are still in the process of uncovering the extent of how badly he has been victimized by this awful plague, here is what we know.

Looking back, the family members now recognize that there were certain changes in Dad's behavior that signaled a developing problem. We only wish we would have been more observant and intervened at an earlier point in time. For example, little things began to occur in the early part of last year when he got a flat tire on his car. Rather than fix it, he continued to use the small temporary spare tire for an extended period of time. Last year he also abruptly stopped a long practice of sending each child and grandchild on their birthday a card with a check in an amount equal to their age. Also last year, without explaining further, he said he could not attend the grand-daughter's wedding in Brandon, Florida. In June of last year he informed us that he was unable to pay the real estate taxes on the family residence. This tax situation, however, clearly signaled to us that Dad's financial resources had become inexplicable depleted.

The family got together and met the tax obligation by the children giving Dad a Fathers Day gift to cover the taxes. It was much more difficult, however, to begin a discussion with Dad about his financial situation. Keep in mind that Dad was someone who was always the one his children respected and looked up to and who, indeed, had taught them much of what they knew about managing their own finances. We had always operated on the belief that Dad's property was his own, he earned it and he should be able to enjoy it as he wished. Then too, in financial matters Dad was a private person who kept these details to himself. Nonetheless, following the real estate tax revelation, we did have conversations with Dad regarding his finances. Yet, at this point we didn't directly probe into his personal financial

accounts. After receiving assurances from Dad that he could and would regain control over his finances, we allowed the status quo to remain. Unfortunately, by the end of the year checks on Dad's account at the bank started to bounce and we knew more intervention on our part was necessary. When Dad sent a check for \$1300 via Western Union to one of these scam artists in February of this year we knew he was compulsively involved with these scams and otherwise incapable of stopping of his own.

Looking at the dynamics of this difficult family situation from Dad's perspective, we now sense his embarrassment and how it has adversely affected his pride. He obviously finds it very difficult to discuss the matter. This circumstance makes it hard for us to determine the full extent of the problem. Nonetheless, we believe that Dad's case goes back at least 2 years. We base this conclusion on the fact that we uncovered evidence of Dad having contacted the National Fraud Center in Washington approximately 2 years ago. Perhaps, this was one of the first situations and at a time when he was still in sufficient control to question the propriety of the particular scam and his actions.

Unfortunately, after the scam artists got his name, address, and telephone number it seems that he fell deeper and deeper under their control. It almost seems as though he assumed the gambler's approach that with one more entry he could win back all of his losses. Unfortunately, it appears that his never ending losses also increased his embarrassment which kept him from asking for help from his family.

Now that we have determined that Dad is essentially broke, we still are not sure how much control we should exercise over someone who is otherwise alert and able to care for himself. We worry over how he will react after we recently took the following control measures. All mail is now sent directly to the son who lives in Middletown. Dad's telephone number has been changed. He has voluntarily agreed to allow his son to control his savings account where his monthly social security and retirement checks as deposited. This allows the son to move periodically a limited amount of money to Dad's checking account over which he retains control. We are examining other possible trust arrangements in his case. Nonetheless we continue to be concerned that this loss of control could lead to defensiveness on his part where he might question our motives.

Here are some of the scams perpetrated on Dad as we understand them. It is important to understand that the two principle means used by the scam artists to reach Dad was through the telephone and the U.S. mails. We believe that one of the activities that greatly facilitated this crime is the selling or exchanging of mailing lists by organizations, in so me cases by otherwise legitimate entities such as the Reader's Digest. While someone may desire to subscribe to a particular magazine, few desire that their name be wholesaled to scores of other solicitors. In any event Dad has received piles of mailings to enter different sweepstakes. These are the kind that boldly pronounce on the outside of the envelope that you are one of the top ten qualifiers to win a fantastic prize but first you must send in an entry fee. One such scam is called "Opportunities Unlimited". It operates by providing several entry levels in \$5 increments between \$5 and \$35. Naturally, the solicitation proclaims that the more money you send in with your entry, the greater your chances of winning and the more you can win. It is important here to point out that while many of the individual amounts were not great, Dad could receive between five and ten of these requests from the same solicitor in 1 day. Unfortunately, the most Dad ever won was a cancellation prize of coupons allegedly worth \$500 toward merchandise that he was unlikely to use or discounts that were otherwise available to the general public.

Another combination mail/telephone scam called the Australian Lottery also proved irresistible for Dad. The approach was to solicit an entry fee through the mail and then follow it up with a telephone call informing Dad that he had been selected to win, but an additional amount of money would assure an even bigger prize. The caller would indicate that time was of the essence and therefore Dad had to give the caller a credit card number. Again, lots of money out but with nothing to show for it.

Another favorite approach is to play off generally recognized social causes such as "War on Drugs" or "Fighting Cancer". The drug scam involves getting "Just Say No" caps and coloring books in exchange for \$500. The cancer play uses an official sounding name like the "National Cancer Center" to perpetrate an appearance of legitimacy in name alone. Since Dad's wife died from cancer, this scam was especially effective as I'm sure it is with many elderly individuals who know relatives and friends that have had the disease.

Another troublesome but apparently legal practice is the direct mail solicitation practice of sending a promotion with a bill. An expensive health series of books and home repair manuals started this way. Unfortunately, Dad would read the part that

stated how much the book cost and he would conclude that it was a bill he should pay. Once started, however, he would receive a never ending stream of unsolicited books. Dad now has more manuals, books and other reading materials upstairs in his home than he could read in two lifetimes.

Yet, another approach was perpetrated by an outfit called "F.E.L.". In this case Dad received what appeared to be a five dollar check in the mail. The solicitation asked Dad to sign the check, send it back to F.E.L. and he would receive five more checks worth five dollars each in the mail. Unfortunately, in the fine print at the bottom of the check was a statement indicating that his signature authorized the direct debit of he bank account for \$360.

Most of the unsolicited telephone calls appear to have come from Las Vegas area. Since Dad lives alone, these telephone calls provided him with conversation during the day. Unfortunately, these conversations proved to be extremely costly companionship.

We are still trying to determine how much Dad has lost through all the scams. So far our research which only goes back 6 months, indicates that approximately \$15,000 has been lost during this timeframe. If this period of time is representative of the larger 2 years, the amount lost could rise to \$60,000. We now know that Dad has spent all of his modest savings. The only money he now has to live on comes from his monthly retirement and social security checks. Dad's life-time savings which were lost through these scams would have provided some financial security to him in his later years. For example, he may need nursing home care or other specialized care in the future.

In summary, this experience has been devastating for Dad and the family members. Dad has been greatly embarrassed by this experience. As I said previously, we wish that there would have been some way for us to have realized the extent of the problem sooner. While it is still too early to say for sure how this will end, we now believe that we are in a better position to monitor and control the matter. Additionally, Nora Dowd who is from the Attorney General's Office for the State of Pennsylvania and on assignment at the American Association of Retired Persons has been extremely helpful to me. She suggested that we contact the Office of the Attorney General for the State of Rhode Island. Approximately a month ago, the Attorney General, Mr. Jeffrey Pine, assigned Mr. Stanley Butterworth from his office to work on Dad's case. Demands made by that office on some of the solicitors have already resulted in the return of a few of the payments. Additionally, the office is in the process of trying to develop prosecutable cases against others.

Individuals and organizations who prey on the elderly are viewed by us as the lowest of low-life, perhaps only ranking above those who kidnap and prey upon young children. This activity by the scam artists is done consciously, deliberately and with cold calculating indifference to their victims. It is a cowardly way of committing larceny through trickery and fraud on a major scale, depriving many elderly of their life-time savings. It is not only the financial loss but the toll that this activity takes on the mental and physical health of the victims and their families.

Last, I have given some thought to controlling the problem and offer these suggestions. Consideration should be given to establish a national registry which permits those who do not want to receive unsolicited mail or telephone calls to register their name, telephone number and address. This registry should not be a self-policing arrangement but mandated and controlled by Federal law. The availability to the elderly of this registry should be widely announced. The law should place the burden on the solicitor to determine whether an individual is on the register before this individual is contacted. Anyone who commits an unsolicited contact with a registrant should be subject to stiff criminal penalties. Attention should also be given banks, post offices, telephone companies and express delivery services. Many times these places are the first ones to become aware of multiple contacts to a particular address or telephone number. It would greatly assist relatives, if some law or program could be devised which would direct these entities to inform relatives of unusual circumstances indicative of mail or tele-marketing fraud.

This completes my statement and, again, let me thank you for permitting me to share this personal account with you today.

The CHAIRMAN. Thank you very much, Mr. Anderson. That's one of the ironies involved in the key proposal that you make about individuals—listing their names and addresses and telephone numbers saying that we do not want to receive unsolicited mail or telephone calls. The irony is that most or many, at least, of the elderly want to receive the mail. They have lost a spouse, their families may be living far away, and they look forward to receiving mail

from any source. We have found that out through various hearings in the past, that that's one of the reasons why they are targeted because in fact they enjoy getting something in the mail that keeps a connection that someone actually is thinking about them, caring about them, wanting to communicate with them. So we find that they become victims because of that sense of loneliness.

Mr. ANDERSON. Yes, but—

The CHAIRMAN. If I could just finish. Mr. Gould, if you heard his testimony initially, he talked about four factors. He said loneliness, which is one of the first factors he listed, greed, chasing the rainbow and then ultimately fear. The greed part or chasing the rainbow I would like to talk about for a moment.

I think there is an item in today's Washington Post that talked about many States or a number of States that are now looking toward gambling as a source of revenue.

Mr. ANDERSON. They had a series on that.

The CHAIRMAN. I mean, here is a prime example of a State sanctioning perhaps the worst human instincts. Because of people trying to find a way to make it, to find that pot of gold at the end of the rainbow, how many people lose their entire life savings through gambling? And, yet, now States are saying, hey, as long as it's out there, we might as well take advantage and why not organize it and have the State pick up the revenues as a result of it?

Mrs. Downs, basically, I think what happened in your particular case—and pardon me if I oversimplify it—but you took a chance of winning something whether you call it greed or a chance to catch the rainbow as such. You did it once and then I think it's entirely human instincts saying, wait a minute. I got taken advantage of. I've got to get it back, and so you take another chance to get it back, and then it becomes almost an addiction. You are so embarrassed of the fact that someone took advantage of you that you have to replenish what you lost and so it's a constant quest to replenish.

I don't know how many times you've been to Las Vegas—I've only been there a couple of times—but what has struck me about Las Vegas is that all the way out to the airplane from the moment you're going down the gangplank practically there is another one-armed bandit. You know, one last chance to win back all that you lost at the tables, and it's addictive. You're saying, "Gee, I just blew everything I had over here, but if I put another dollar or two in this one-armed bandit, I might get some of it back." So you are addicted from the moment you hit the ground all the way to the time you leave, and everybody here knows that you can go out to Vegas and it doesn't cost much to stay there—fine hotel rooms, posh as can be for a very reasonable amount, almost a Motel 6 or 7 or 8 or whatever rate for a very nice room, but the room is the gimme, as was said by Mr. Gould.

Mr. ANDERSON. But one thing I want to express is that while they may be subtle, I think there is a difference between those individuals who go outside their home and seek out these forms of—well, I'll call them entertainment or whatever—you know, the gambling centers, and seek those out with affirmative action. The kind of situation that I'm talking about here in this proposal wherein

these people, they intrude into the home and then they pry their wares on people who otherwise would not take up that kind of a practice. There is a significant difference there, and I believe that—for example, with Dad I believe that early on he would have put his name on that registry. I think that he had the capacity and the ability to do that early on, but after he got trapped into this thing, it just snowballed and it just got out of control.

The CHAIRMAN. Let me ask you—you said had we known about—there was a sign a couple of years ago when he had a flat tire and put the donut wheel on.

Mr. ANDERSON. Right.

The CHAIRMAN. Now was the sign, in your mind, now looking back retrospectively that he didn't have the money to put the tire back on?

Mr. ANDERSON. Yes, of course—well, I think it was. I mean, it's hard to—

The CHAIRMAN. Why would that be a sign? Let me stop you for a moment. Why would that necessarily be a sign?

I had a Dad who just passed away. He was 86, living in Maine, and he worked until the day he died. He drove a vehicle—his bakery wagon, as such—with completely bald tires. And I said, "Dad, you do have snowfall in Maine. It is icy in Maine. What are you doing?" And he said, "Well, I think I can get one more season out of it."

Now should that have been a sign to me that maybe there is something wrong here or just his own conservativeness that is saying, "Hey, I can get one more year out of this."

Now how does that differ from your donut?

Mr. ANDERSON. Well, perhaps it's just an overabundance of guilt that we have, that we have now looked back, reflected back, and tried to figure out how could we have gotten the signals earlier on to deal with this. It may not be nothing more than frugality, you know, on his part.

The CHAIRMAN. That's what I'm saying.

Mr. ANDERSON. But I think that as it evolved, there clearly were other signals that came forward that we should have paid more attention to. Now I don't—you know, it's easy to look back and criticize yourself for having not intervened early and avoided a lot of this stuff from happening, but, unfortunately, this is the way it unfolds many times.

The CHAIRMAN. Mrs. Downs, I also found a note, as you were giving your testimony, about someone assuring you, calling back saying, "Now, remember now, there has been no specific promise made to you."

Mrs. DOWNS. Yes.

The CHAIRMAN. Now that in itself is almost an implicit signal to you. It may even be a subliminal signal saying, "Now we want you to understand that no specific promise has been made," but your understanding is that you're still going to get something, right?

Mrs. DOWNS. Eventually, yes.

The CHAIRMAN. And that's one of the subtleties involved here. "Now we're just following up to make sure no specific promise is made," but the implication is we want you to know that you still

have an expectation that you will receive something. We just can't promise it to you specifically in writing or over the phone, right?

Mrs. DOWNS. Right.

The CHAIRMAN. That's another one of the great ironies in the approach that is made and how they take advantage of you.

Mr. Anderson, you talked about Opportunities Unlimited was the name of the company. I suspect that was probably the motto for the salesman of the company. That cuts both ways—Mr. Gould was in the back of room saying, "Gee, this is the name of my new company, Opportunities Unlimited," because we've got unlimited opportunities to take advantage.

Mr. ANDERSON. Sure.

The CHAIRMAN. I am going to cease and desist here. I think Mrs. Downs, your story is truly poignant. I know how hard it must have been for you to come forward to tell how you lost as much as you did, but as important as the money involved, which is very important, there is a sense of self-worth and dignity that you know you have been preyed upon.

What makes this crime so insidious—and I think Mr. Anderson compared it to child abuse being at the other end of the spectrum—what makes it so insidious is there are people who are always going to be taken advantage of in our society from whatever age, but young people have a chance to bounce back. If you are 20 or 29 and lose \$2,500, you have a chance to recover during your life, assuming you don't go down the same path that your father-in-law did, Mr. Anderson. But someone who is older and all they have is the nest egg they put away, and that is being robbed, they're robbed of their dignity, their self-worth, but they're also robbed of a chance to make a comeback, and that is what makes this so insidious a crime taking place out there today. And I think what you have come forward to reveal to all of us, and you, Mr. Anderson, I think our only hope is education. We keep talking about this, but the only real hope—we can pass all the laws and Mr. Gould was very frank about that. We can pass all the laws you want, but we'll just change the name of the company. We'll do it under a different name and we'll make another phone call. So no matter how many laws you pass, we're going to be there, and the only real protection anyone has is education, and that is not always going to be enough. Your father-in-law sounds like a very educated man, Mr. Anderson.

Mr. ANDERSON. Well, when you listen to Mr. Gould, if he can get 2 minutes with you, you've been had. I mean, he is slick. I mean, and, look, if he can get you on the phone and he can get you to listen to him for 2 minutes, it's over with. That's why you've got to prevent these people from absolutely coming forward, knocking on the door, through the mail or the telephone because if they can get an ear of the elderly for just a short period of time, it's all over. It's all over.

The CHAIRMAN. And I think the other point that you also made, which we have to take into account, and that is the fine line between intervention and destruction of independence. If there is any one thing that we have to contend with—and I did it with my father, who insisted on driving until his final day, and I always sort of compared him to a combination of Mr. Magoo and Evel Knievel. [Laughter.]

Boy, I never let him get behind the wheel when I was in the car—

Mr. ANDERSON. With those bald tires.

The CHAIRMAN. But it's one of the issues where how do you start to take control and not go too far, and then suddenly you run into this issue of, wait a minute; you are robbing me of my independence. It's a tough choice for all of us to make, very difficult to make.

So this proposal of yours would have to be handled in a way that really takes the family members out of it, as such, and it has to be the individual making that choice up front. But, hopefully, through programs such as this and—programs, I hope somebody is covering it and promoting it, as such, for people to look in and see your stories because that is really the only hope that we have for helping other people from being victimized in the future.

Mrs. DOWNS. There is a question I had about Mr. Gould's testimony. He said they are licensed by the State of Nevada. I can't imagine a State licensing a scam outfit, but maybe I am naive.

The CHAIRMAN. Well, what he indicated was precisely what is taking place.

Mrs. DOWNS. And they have to have their spiel OK'd by the State?

The CHAIRMAN. That's even more incredible, isn't it?

Mrs. DOWNS. Yes, it is.

The CHAIRMAN. And I've seen a number of these spiels, as such. I've actually been writing about it in a book called "Easy Prey," which I hope to have come out at some point, including examples of the kinds of training manuals they give to various employees saying, "Here is what you say, and if you get this kind of resistance, here is how you come back," and it's all very predatory.

Mrs. DOWNS. Yes, to think that that is sanctioned and licensed by the State just blows my mind.

The CHAIRMAN. Yes.

Senator Grassley.

OPENING STATEMENT OF SENATOR CHARLES GRASSLEY

Senator GRASSLEY. I think that maybe I can appreciate the embarrassment that you talk about and why you may not want to talk about it. It's not a telemarketing scam that I refer to and it wasn't a lot of money—it was only \$175. But about 30 years ago, 25 years ago, my mother had a person come by her home who wanted to get a lot of money from her. She didn't think it sounded quite right. But she ended up paying them \$175 that she shouldn't have I mean, that wasn't right even at that cost because she didn't even need to do what the person suggested. But the point is, and I would agree with you, that she—even with that small amount of money—she didn't even want to talk about it, because she had been taken as a victim.

I just have one short question for Mr. Anderson. Before I ask it I would join the Chairman in thanking you for coming by to tell us about this truly tragic sort of situation that you don't really want to talk about. But by talking about it, you will help us learn about these scams. So I commend you for your courage. You said Mr. Anderson, that your father had contacted the National Fraud

Center in Washington. So my question is, did anything happen as a result of that call?

Mr. ANDERSON. We don't have any indication that anything did. I think that the way my brother-in-law has described it to me is that he came across what was something like a complaint that he had filled out, and here again I don't really know whether he actually sent it in. But there was some evidence approximately 2 years ago that he had gotten some information and had gone about trying to report an incident. He may have sent it in. This idea about the difficulty of getting a hold of the information is extremely difficult. Dad has, obviously, reluctance to talk about it, but we did find this in the papers around the home there to indicate that he had taken some steps a couple of years ago, but I don't believe that anything substantial came out of it.

The CHAIRMAN. Thank you very much, both of you.

Mr. ANDERSON. Thank you.

Mrs. DOWNS. Thank you.

The CHAIRMAN. Now for our third panel we are pleased to have with us the U.S. Attorney for the District of Nevada, Kathryn Landreth. She testifies from a unique vantage point, since many illegal telemarketing operations are located, as we've heard this morning, in the Las Vegas area. We will then hear from Jodie Bernstein of the Federal Trade Commission she will testify on recent cases and trends and civil enforcement. And, finally, we will hear from Chuck Owens of the FBI who will also testify on recent law enforcement operations, as well as some emerging trends.

I want to thank Ms. Landreth, and in particular, John Ham and Robin Skone-Palmer, of her office for all their assistance in locating some of our witnesses. If you could, in view of the fact that we're running a little bit behind, perhaps summarize your testimony—your full testimony will be included in the record—as best you can. We have one more panel and we need to conclude by 12:15.

So, Ms. Landreth.

**STATEMENT OF KATHRYN LANDRETH, UNITED STATES
ATTORNEY, DISTRICT OF NEVADA, LAS VEGAS, NV**

Ms. LANDRETH. Mr. Chairman, my name is Kathryn Landreth, U.S. Attorney for the District of Nevada. I will condense my remarks, but I want to thank you for the opportunity to appear here and discuss the problem of telemarketing.

As you have pointed out, fraudulent telemarketing represents an ugly underbelly of society. The tragedy is that its perpetrators often target elderly victims who have contributed so much to our society. As the previous panel showed, these victims were contributors to our society. Many of the victims that we have gotten to know were veterans of World War II or Korea. They are retired school teachers; they are our parents and our grandparents, and many of the victims come from a time and place when one's word was one's bond. So they are particularly easy prey to a con artist who will say whatever it takes to separate someone from their money.

You have already seen an example of the kind of person that we have prosecuted for telemarketing, and I will be talking a bit more about Mr. Gould later, but he is an example of the kind of white-

collar thugs, as we refer to them, who prey on people and who try to satisfy their greed by bilking others out of their honest day's work. They strip victims not only of their hard earned money, but also of their dignity.

We recently had a victim write to us and say "I would rather be taken advantage of by someone who placed a gun in my ribs than be cheated by someone I trusted." Many older Americans are exploited at a time when they are particularly vulnerable. They are sometimes mentally infirm and I have a tape that I will play that will indicate that often these people suffer from disabilities, and they are frequently lonely, as you've learned. An alarming number are suffering from debilitating grief over the loss of a lifetime spouse at the precise moment that they are tapped by a telemarketer. One of the telemarketers that we prosecuted recently in our office collected obituaries from various newspapers so that he could contact recent widows and widowers and take advantage of them in their time of grief. They count on the victims' physical and mental infirmities, perhaps even impending death, to prevent them from testimony at trial, along with the shame that you have heard about today, as well. Often these elders get trapped in a downward spiral of repeated victimization as they grow increasingly desperate to try to recoup their losses. Their adult children contact our office in fear that their parents are no longer financially able to support themselves, as you have heard, and the elderly victims implore us not to reveal the full extent of their losses because they're frightened that their last measure of independence will be taken from them.

As U.S. Attorney for the District of Nevada, I have become aware that Nevada has received a black eye by the actions of this industry. If I may make one comment about the topic of the registration and licensing of firms. This has been one attempt by the State of Nevada to attempt to control the telemarketing problem, but one of the obvious loopholes around it is that while companies may submit their scripts for review, it's quite clear that the salespeople often do not stick to these scripts. So what actually happens in the sales pitch is quite different from what the State has actually reviewed.

So it's been an attempt by the State to deal with the problem, but, unfortunately, there are a number of loopholes that telemarketers can find and exploit.

Despite Nevada's identity as the center of activity, the reality is that telemarketers have migrated from State to State and have entrenched themselves in various places, including California, New York, Florida, Tennessee, Texas, Colorado and Georgia. We have some charts here that you may look at that show the scope of the problem just from the Senior Sentinel experience, which really does not begin to represent the full extent of telemarketing activity in the country.

I would like to focus on one particularly ruthless form of telemarketing, and that is the recovery room operation that Mr. Gould alluded to earlier, if I might. These are the people who target victims who have already lost thousands of dollars, sometimes their life savings, and they hit them up for a substantial fee promising to recover the money they have already lost. You've already

heard from Mr. Gould this morning, but I would like to tell just one story about his recovery room operation.

He convinced an elderly Seattle woman that he could recover \$84,000 that she had lost if she would send him \$28,251 as his up front fee. He actually went to Seattle to pick up the money from her, and when he visited her at her home, he told her that if he didn't fully recover the \$80,000, she would get the fee that she would pay him fully refunded, and that was the \$28,251. The victim explained that she needed the money to put a down payment on a home for her daughter and her son-in-law who is an Agent Orange victim from Vietnam. The son-in-law was wheelchair bound, and Mr. Gould also promised that he would deliver a wheelchair to the victim free of charge because his father, he claimed, had been in a wheelchair until recently and no longer needed it. Following receipt of the money—he got the full \$28,251—Mr. Gould blew this money on a three-bedroom suite at the Four Seasons Hotel. He partied with a couple of female employees from the hotel, and spent other money on clothes and accessories. He returned to Las Vegas, flying first-class, and, as you know, is now pending sentencing.

The tape that I would like to play is a tape from another recovery room operation. The person on the tape is Steven Tinsley, whom our office has prosecuted. He is using the telephone name of Joe Colone. I apologize for the quality of the tape. If we could play just a couple of minutes, this will show the other kind of victim, and that is the victim that is suffering from hearing problems and is confused mentally.

Question. Let me tell you how much you would get so far. Do you have a pencil?

Answer. Yes.

Question. Do you have paper?

Answer. Yes, a little bit of paper.

Question. OK, let me tell you what you can get. You have \$33,645.

Answer. And where is that from?

Question. From four different places. Let me ask you this, Clarence. We sent you a profile that you never did fill out and send back. Do you remember that profile?

Answer. I don't know. I've got so much stuff. I can't keep up with it all.

Question. Well, we're the ones trying to do something for you, sir. You've got to keep up with it.

Answer. I don't—tell me about it.

Question. The profile asks you to list some of the places that you've lost money to everything?

Answer. I don't—

Question. Well, what I'm going to do is this. Forget about the old one. I'm going to get you a new one out.

Answer. OK.

Question. Today is Monday. You're going to probably get it Wednesday or Thursday. When you get it, I want you to call me up on my 800 number, and I'm going to go over it with you and fill it out. Do you hear me?

Answer. Yes.

Question. So we can get this done. Let me give you my 800 number again.

Answer. OK.

Question. You better get a bigger piece of paper.

Answer. OK.

Question. OK. Are you excited a little bit?

Answer. Well, I'm not sure.

Question. Well, you should be. OK, remember, first of all, my name is Joe Colone, C-o-l-o-n-e.

Answer. O-n-e.

Question. Yes. The number is 1-800-529—

Answer. 5-2-9.

Question. 3-0-8-3.

Answer. 3-0-8-3.

Question. Now it's \$33,640 we've got. Do you hear me?

Answer. I heard—that's what now?

Question. \$33,640 bucks. Is that what you've got so far?

Answer. \$3,000—

Question. \$33,000. Read it back.

Answer. \$33,000—

Question. \$640 bucks.

Answer. \$640.

Question. That's what we've got so far. Do you hear? I'm going to send that to you as soon as you send me back that profile.

Ms. LANDRETH. This is what he is claiming to have recovered. The tape goes on at great length and says that Joe Colone is holding a check in his hand for \$33,640, but that this gentleman will have to send him \$640 in order to collect it. And the gentleman has a lot of trouble getting the numbers straight, but ultimately he says that he doesn't have any money. He spent all his money and he has a stack of unpaid bills, but that he will try to send \$240 and would that be enough. And Colone agrees to accept the \$240, which is all the man can come up with. And, of course, the money was sent and Tinsley, which is the real name of this person, never had any intention at all of paying back any of the money. He hadn't collected a dime, and he wasn't about to return any money. He is serving a prison sentence at the moment, and I am pleased to say that the Federal Trade Commission was able to provide us with this tape, which the victim made himself, and we used this tape to get Mr. Tinsley to plead guilty to a serious count of wire fraud.

So that is probably the worst, I think, of the frauds that we're seeing perpetrated.

There is one other thing that I think is important to mention here in this national forum and that is the fact that this problem is not just a Nevada problem. It is a national problem and it's multistate in nature because, as you know, Nevada telemarketers do not defraud Nevadans. They use the State to call out of State, and they rely on jurisdictional barriers between States, as well as geographical distance, to avoid prosecution.

We've been very lucky in the State of Nevada to have the full cooperation of the Nevada Attorney General's Office, and with Ms. Del Papa, we have formed a task force that includes State and Federal investigative agencies to work these crimes.

As a result, we've prosecuted over 100 telemarketing criminals that have been convicted, and we have nearly 200 pending trials right now.

Senior Sentinel, which has been just an unprecedented success in telemarketing prosecutions, will be discussed more fully by the representative from the Federal Bureau of Investigation here, but I would like to acknowledge the fact that between my office and the trial attorneys from the fraud section here at the Department of Justice, we brought an additional 26 indictments against operations that were responsible for bilking 52,000 seniors out of an estimated \$58 million in only a 2-year period, and we're very pleased with support we've gotten from the Department.

The final thing that I would like to say is because of the nature of the national problem, I think it is really important to emphasize what States can do to protect themselves against telemarketers wherever the telemarketers may reside, and that is they can bring victim venue cases. These have been enormously successful around the country. The best thing you can do if you are a State Attorney General is to bring telemarketers back into your State and prosecute them on the victims' turf. The telemarketers hate this. They fear very much being in the victims' forum because they know that juries, particularly in some of our rural communities, are extremely sensitive to the victims and very, very intolerant of fraudulent telemarketing in general. So I would heartily urge that.

The second thing that it does is it provides excellent deterrence. I've seen boards that are called Don't Call Boards that exist in our telemarketing boiler rooms that say "Don't call States like Iowa or New Mexico." Telemarketers know that if they call these States, they will be prosecuted. So one of the best ways that a State can provide deterrence and protection of its citizens is to prosecute these cases, and then the telemarketers will not call into the State.

So, with that, I will conclude my remarks and thank you very much for the opportunity to speak.

[The prepared statement of Ms. Landreth follows:]

PREPARED STATEMENT OF KATHRYN E. LANDRETH

Mr. Chairman and members of the committee: My name is Kathryn Landreth, United States Attorney for the District of Nevada. Thank you for the opportunity to appear before you today to discuss the problem of telemarketing fraud.

Fraudulent telemarketing operations display an ugly underbelly of society. The tragedy of telemarketing fraud is that its perpetrators often target elderly victims who have contributed so much to our society. Who are the victims? They are our veterans of World War II and Korea. They are our retired school teachers. They are our parents and grandparents. Many of the victims come from a time and place where one's word was his bond, and they are easy prey to a con artist who will say whatever it takes to separate victims from their money. Who are the people who have been prosecuted for victimizing our nation's elderly? They are white collar thugs who contribute nothing to our society. They choose to satisfy their greed by bilking others instead of doing an honest day of work. They strip victims not only of their hard earned money, but also of their dignity. They are swindlers who con our senior citizens out of their life savings by playing on trust, sympathy, and sometimes loneliness. "I would rather be taken advantage of by someone who placed a gun in my ribs than be cheated by someone I trusted," wrote an elderly victim recently.

Fraudulent telemarketers not only rob their victims of their hard-earned financial assets, but also of their human dignity. Victims are derisively referred to by their swindlers as "mooches." Many older Americans are exploited at a time when they are particularly vulnerable. They are often mentally infirm and frequently lonely. An alarming number are suffering from debilitating grief over the loss of a lifetime

spouse at the precise time they are tapped by a telemarketer. One of the telemarketers prosecuted by my office collected obituaries from various newspapers so that he could take advantage of recent widows and widowers.

Telemarketers have said that they don't fear prosecution because they count on their victims' physical or mental infirmity, perhaps even impending death, or the shame surrounding victimization, to prevent their testimony at trial. Often these elders get trapped in a downward spiral of repeated victimization as they grow increasingly desperate to recoup their losses. Their adult children contact our office in fear that their parents are no longer financially able to support themselves; and the elderly victims implore us not to reveal the full extent of their losses, fearing that their last measure of independence will be taken away from them by their well-meaning children.

As United States Attorney for the District of Nevada, I have become aware that this State has been given a black eye by the actions of an entire industry engaged in fraudulent telemarketing. Telemarketing fraud is a national problem with no State immune from its impact. In 1994 alone, the Telemarketing and Consumer Fraud Unit of the Nevada Attorney General's Office received nearly 5,000 letters from telemarketing victims from across the country and an additional 6,000 telephone calls complaining about Nevada-based operations. It is estimated that \$40 billion a year is lost through telemarketing fraud. At one point it was estimated that over 10,000 people in the Southern Nevada area were involved in telemarketing. Despite Nevada's identity as a center of fraudulent telemarketing activity, the reality is that telemarketers have migrated from State to State and have entrenched themselves in various States including California, New York, Florida, Tennessee, Texas, Colorado, and Georgia. There is also growing concern about telemarketing scams that operate outside our national borders.

The scope of the telemarketing problem is revealed by the chart showing the number of FBI field offices that participated in the recent initiative called Operation Senior Sentinel. Each of these cities represents locations where American citizens are being swindled. This chart cannot begin to reflect the total number of telemarketing locations or the locations of victims throughout the country. My prosecutors have shown me telephone bills totaling thousands of dollars per month with calls going to every nook and cranny in this country. Each of these calls represents a victim or potential victim. The chart listing targeted victim categories shows that the elderly represent the vast majority of the people defrauded by telemarketers.

Fraudulent telemarketers would want you to believe that they are no different from reputable companies such as L.L. Bean or J.C. Penney. Originally telemarketing just meant selling a product or service by telephone—a perfectly legitimate activity. As more and more crooks use telemarketing as a criminal device, however, the term has come to connote telephone fraud involving high pressure sales techniques and phony promises of valuable awards. The various schemes are illustrated on the chart titled, "Senior Sentinel, Types of Schemes." Typical schemes include "prize" or "product" schemes, whereby the telemarketer promises thousands of dollars, free vacations or new vehicles, in order to induce a victim to buy overpriced vitamins or key chains. Bogus charities that play on sympathy and offer phony awards for large donations have been very successful lately. If a victim receives anything at all in return for the money sent to a telemarketer, the items are generally worth far less than represented; in some cases, they are no more than worthless junk. I have brought a sampling of the trinkets that victims received after sending large sums of money. A particularly ruthless form of telemarketing is the "recovery" room operator who falsely promises to "recover" for victims money that have already lost to telemarketers—for a substantial up front fee, of course.

Telemarketing sales presentations are really a carefully scripted pitches designed to trap the unwary, to close a sale by whatever means necessary. Telemarketers get paid generous commissions, living by the proposition that whatever brings profit is permissible. The life blood of these swindlers are lead lists of people who have been defrauded in the past and are known to be particularly vulnerable. An experienced salesperson can make \$50,000 to \$90,000 a year, and an aggressive telemarketer can make over \$450,000 in a single year. Yet often when these con artists are brought to justice, it is impossible to recover anything to compensate their victims because most of their money has gone to purchase illegal drugs or to support an extravagant lifestyle.

Our office recently prosecuted Edward Gould who is before this committee today. He convinced an elderly Seattle woman that he could recover \$84,000 which she lost in the past to telemarketers if she sent \$28,251 to him as a fee. Gould flew to Seattle, rented a Jaguar, and visited the victim at her home in Seattle. She explained that she needed help in recovering her money so she could make a down payment on a home for her daughter and son-in-law. She further explained that her son-in-

law is wheelchair-bound and blind from exposure to Agent Orange. Gould told her that if he did not recover the money, the \$28,251 would be refunded to her. While Gould was at the victim's house, a nurse brought the victim's son-in-law into the room. Gould advised the victim that his own father had been ill and confined to a motorized wheelchair but was recovering and would not need the wheelchair. Gould said he would send the wheelchair to the victim for her son-in-law.

Following receipt of \$28,251 from the victim, Gould rented a three bedroom suite at the Four Seasons Hotel, purchased clothes and accessories, and travelled to various nightclubs in a limousine with two female hotel employees. Gould returned to Las Vegas the next day, flying first class. Gould is pending sentencing after pleading guilty to racketeering conspiracy and agreeing to forfeit over a half of a million dollars to the government.

Another recovery operation prosecuted by our office involved Steven Tinsley, also known as Joe Colon. A tape recording and transcript of Tinsley's telephone call to a victim have been submitted to this committee. As the tape reveals, Tinsley falsely promised the victim, that for a fee of \$640, he would recover approximately \$33,000 that the victim had lost in the past to fraudulent telemarketing scams. The victim described to Tinsley his poor financial condition and that he had no money until he received his next Social Security check. Undaunted, Tinsley continued to pressure the victim into sending money and eventually said he would take \$240 up front and the balance after recovery of the funds. In reality, Tinsley had no intention of recovering any money for the victim. This tape gives you a sense of the tactics that callous telemarketers use to extract any amount of money they can from their elderly victims.

Tinsley pled guilty to multiple counts of wire fraud and was sentenced to 41 months in prison. Like many telemarketers, Tinsley has an extensive criminal history, including convictions for assault and narcotics offenses. The owner of the telemarketing business in which Tinsley was employed and other salesmen are currently pending trial. This case was brought to our office by the Federal Trade Commission who provided the tape, transcript, and other victim affidavits which were instrumental in our prosecution of this operation.

Another pervasive telemarketer scam is commonly referred to as a "rip and tear" scheme. In such a scheme, the telemarketer makes calls from a motel room, apartment or phone booth and induces a victim to send money, generally through a wire service or to a mail drop, by promising the victim that he or she will receive a large cash prize. The telemarketer disappears after receiving the victim's money and the telemarketer moves on to another location using another name.

These rip and tear schemes often involve multistate activity and money laundering. My office prosecuted one such operation using the racketeering statutes to dismantle a criminal enterprise that called victims throughout the United States from Nevada, induced them to send funds to mail drops in Southern California, and then sent individuals to California to retrieve the funds and launder them through a check cashing establishment in that State. When the victims started to complain about receiving nothing in return for their funds, the defendants simply changed the names of their operations and switched postal drops. The Federal racketeering statute was used to embrace the wire fraud and mail fraud emanating from Nevada and the money laundering from California.

In handling numerous telemarketing frauds we have found that Nevada telemarketers do not defraud Nevadans; criminals in Nevada use the State as a base to victimize citizens of other States. Telemarketers have relied on jurisdictional barriers between States as well as geographical distance to avoid prosecution. If the victims were located in the same State as the boiler rooms, prosecution would be much easier.

Because of the multistate nature of the crime, telemarketing fraud is a nationwide problem requiring the commitment of State and Federal law enforcement. The Nevada Attorney General and I formed a telemarketing task-force consisting of investigators from the FBI, the Internal Revenue Service, United States Secret Service, United States Postal Inspector and the Nevada Attorney General's Office. State investigators and attorneys work side by side with Federal agents and prosecutors in a cooperative effort to combine resources in pursuit of these criminals. In other districts such as the Southern District of California and the District of Arizona, my fellow United States Attorneys participate in similar telemarketing task forces. Through this combined effort, over one hundred telemarketing criminals have been prosecuted and convicted in Nevada and nearly two hundred defendants are currently under indictment and pending trial.

Operation Senior Sentinel involved unprecedented cooperation between, State and local law enforcement on a national basis. The success of Senior Sentinel illustrates Attorney General Janet Reno's philosophy that effectively addressing a widespread

national problem requires that State, local and Federal authorities work together to find solutions and to share resources and expertise. Senior Sentinel's success was derived from the use of AARP volunteers and law enforcement personnel to take over the phone lines of elderly victims who had been repeatedly defrauded and to tape record calls from telemarketers. The tape recorded pitches, which were replete with fraudulent misrepresentations, became the basis for criminal indictments and search warrants. My office and Federal prosecutors from the Fraud Section of the Department of Justice brought indictments against 26 illegal telemarketing operations believed to be responsible for bilking 52,000 seniors out of an estimated \$58 million dollars in a mere 2 years. An initiative this extensive would not have been possible in a district like Nevada with limited prosecutive resources without the support and presence of the Department of Justice in sending trial attorneys to prosecute cases in Nevada. Nationwide, over 400 arrests of fraudulent telemarketers were made in a single day.

The Federal sentencing guidelines have been instrumental in guaranteeing lengthy prison sentences where defendants' conduct is aggravated by large losses, false testimony, or the commission of further criminal activity while on pretrial release. Recently in the District of Nevada, one rip and tear defendant was sentenced to 10 years in prison following this conviction by a jury. Many Federal judges have applied the Bail Reform Act to prohibit telemarketers from engaging in any form of telemarketing while pending trial. Additionally, all convicted telemarketers are prohibited from engaging in any form of telemarketing during their period of supervised release or probation. These prohibitions prevent telemarketers from returning to fraudulent activity following their indictment or conviction. Those that do are subject to violation of conditions of release and enhanced penalties. Most importantly, the more telemarketers who are convicted, the less elderly victims are being swindled.

Following the press coverage of Senior Sentinel, many scam artists switched from the traditional prize and promotion schemes to a newer, less publicized fraudulent schemes such as investment in wireless cable, gemstones, ostrich farms, and film production. Fewer calls are now being made by prize promotion, charity, and recovery boiler rooms.

Telemarketing fraud, like other criminal activity, cannot be completely eradicated. So long as there are criminals intent on making an easy buck, there will be scams. Vigilant law enforcement is necessary to respond to telemarketing fraud, to punish those who perpetrate it, and to deter others from entering the arena.

The importance of State and local involvement in attacking telemarketing fraud cannot be overemphasized. An important tool is the initiation of "victim venue" cases, that is, prosecuting telemarketers where the victim, rather than the boiler room, is located. In such prosecutions, telemarketers are forced to travel to other States to face their victims. There is great trepidation on the part of these scam artists to be tried in the victims' forum, often rural, where there is no tolerance for telemarketers; allowing the victim to testify locally reduces the stress of the criminal justice experience. Federal agents have shown me posted notices recovered from boiler rooms instructing their con men not to solicit in certain so-called "bad states" such as New Mexico or Iowa. The telemarketers understand that the States listed on these "don't call" boards will aggressively prosecute them, even in rural locations. Aggressive prosecution of "victim venue" cases provides a major deterrent that State and local government can use to keep scam artists from calling into their jurisdictions. One thing we can all do is to warn our aging parents and friends, especially those living out of State and away from the protective eye of family, to be alert to these parasites who exploit loneliness and trust.

This concludes my prepared remarks, and I will be happy to try to address any questions you may have. Thank you for the opportunity to be here today.

The CHAIRMAN. And during the course of the questioning perhaps you can point out why you have that laser 50 personal computer and viper telephone. It's evidence, I guess. [Laughter.]

Ms. LANDRETH. Sure, I would be happy to.

The CHAIRMAN. All right.

Ms. Bernstein.

STATEMENT OF JODIE BERNSTEIN, DIRECTOR OF THE BUREAU OF CONSUMER PROTECTION, FEDERAL TRADE COMMISSION, WASHINGTON, DC

Ms. BERNSTEIN. Thank you, Mr. Chairman.

The CHAIRMAN. Again, if you can summarize, it would be helpful to us.

Ms. BERNSTEIN. I would be pleased to do that.

I am Jodie Bernstein, the Director of the Bureau of Consumer Protection at the Federal Trade Commission. On behalf of the Commission, I want to thank you for the opportunity to appear here today to discuss at least some of our experiences on the civil side of law enforcement in connection with telemarketing fraud.

Telemarketing fraud has been a very high priority for the Commission over the last several years. Since January 1993, the Commission has brought approximately 55 cases in Federal Court against fraudulent telemarketers, and I think impressively, returned more than \$25 million in redress to the victims of the scams.

Older consumers are the vast majority of the victims in these cases. Just to give you an idea of just how blatant some of these activities are, we brought along an ad that was in a national magazine from a company that sells lists. It says, as you can see, "Tired of the same old senior lists? Here is a way to get fresh consumers, fresh older consumers, to be victims of your scam." It seemed to me to be quite shocking that there would be such a blatant effort to sell the names of people who are particularly vulnerable to this kind of scam. But it is just the beginning.

When we first file our actions and enter telemarketing fraud boiler rooms, we routinely find the lists not just of older consumers, but of the older consumers who have been repeatedly victimized by the scams that you've heard this morning. They pay—as Mr. Gould said, the telemarketers often pay a premium for the leads because they know that repeat victims are more likely to fall for scams a second or third time.

The Commission, as you know, has a number of tools to combat fraud on the civil side and I would like to just briefly describe them.

First of all, we seek Federal Court actions and obtain injunctive relief, as well as redress for injured consumers under the FTC Act. Second, the Telemarketing Sales Rule, which just became effective the first of the year and was promulgated pursuant to an act of Congress that directed us to do so, gives not only the Federal Trade Commission but the 50 State Attorneys General the ability to go into Federal Court and seek national injunctions. We think that will be a very important new tool to attack consumer fraud in this area, and we worked with the variety of groups in developing the rule. So we are optimistic as we develop our enforcement program that we will have more success in combating fraud.

Third, and something you've mentioned, Senator, is educational publications and increased media coverage. There can be no substitute for letting people know about these scams. Indeed, one of the most valuable features of the telemarketing rule is that it gives consumers new tools to try to protect themselves. That is why we're organizing initiatives like the Partnership for Consumer Education, an ongoing joint project between government agencies, private businesses, and consumer groups designed to let people know what the problems are, what they can expect, and how to protect themselves.

One of the brochures we developed, is called "Straight Talk About Telemarketing." It's being distributed not only by the government, but by businesses around the country.

Finally, we have used—again, as has been indicated today—interagency cooperation to get better and better results. Probably nothing else illustrates it better than the recent Senior Sentinel project. We all participated in that effort. The FTC contributed seed money to the audiotape data base of the Justice Department, and importantly we maintain the NAAG—the National Association of Attorneys General—FTC Telemarketing Fraud Database, a nationwide data base of consumer complaints on telemarketing fraud. It has been extremely helpful. More than 100 law enforcement organizations are using it at the present time. It is supplied with data from the National Fraud Information Center which I know you're going to hear about later on today.

The data base currently contains 56,000 complaints and in 1995 alone, more than 16,000 complaints were lodged, reflecting \$21 million in consumer injury.

I can't stress enough how critical that has been to our continued effort to work at all levels of government—Federal, State, and local—so that we all know what is happening, how to locate victims, and how to put cases together.

I wanted to mention just two or three of the principal scams. I won't recount the recovery rooms, which I certainly agree with General Landreth is—I always call that the chutzpa scam because it seems to me to just add insult to injury to try to persuade people that you can get their money back after they've been ripped off the first or the second time. But the other two that I thought I would briefly describe are prize promotions, which are by far the largest category of complaints reported on our database and were the principal focus of Senior Sentinel.

The Commission has been very active in the prize promotion area, and have found that older consumers comprise the majority of victims in prize promotion scams. They're promised, as others, valuable prizes when they agree to buy products or make charitable donations—an increasing technique that we've also heard about this morning. I also have brought an audiotape, if we can listen to one more, which I think describes better than I could the kind of conversation between a consumer—again, one who taped it—and a telemarketer who claimed to be the director of a charity called Aware Charity Center.

Question. Now, Lois, you're officially now guaranteed and authorized by law and in writing you must receive one of those awards all the way to category number 1, the \$50,000 in cash, just like I promised. In record time—it's 4½ weeks or less—I will be calling you to make arrangements to deliver one to you. You've finally done it, Lois.

Answer. I can't believe it.

Question. Congratulations today.

Answer. Well, I still can't believe it.

Question. It's OK. In fact, 85 to 95 percent of all of our winners when we notify them on the first call really can't believe it. Since they're going to be giving the big award to you, you should know that Aware—through the charity center and through our feeding

centers in over 190 cities in America—Aware helps to put children, senior citizens and women who, through no fault of their own, are either homeless or hungry back into places to live. It is the goal of Aware to put an end to hunger and the homeless problem in America.

Now, since we're registered with the Internal Revenue Service as a 501C(3) non-profit organizations and recognized as such, every year through tremendous corporate sponsors, Fortune 500 companies and small businesses, we receive some really nice gifts.

Now, second, with our program here in aiding and assisting homeless and needy Americans, we also ask for a small donation, which is tax deductible.

Ms. BERNSTEIN. I think that made the case. Americans are classically people who give to charity, and, again, this adds a patina of legitimacy to what is basically a scam.

I did bring along, as you did, Mr. Chairman, one of the prizes. The consumer paid \$300 or \$400 for this fur coat, which in fact is a rabbit coat that wholesales for \$27 and which was too disreputable for me to even try to put on. We brought a number of other prizes that are equally valueless that people received for paying their money.

One other type of scam that I think hasn't been discussed this morning, is investment scams—very high ticket scams. The Commission has brought dozens of cases over the past decade against investment scams, involving things like investing in precious metals, coins, oil, gas, and art works. But just recently we spearheaded with the State Project Roadblock, which was a coordinated campaign. We brought 85 cases across the country involving hi-tech scams. This is the newest, latest scam—we sometimes call it the scam du jour because it builds on the latest hi-tech kind of device that one might read about in the paper. Whether it be 900-number partnerships or cellular phones or interactive TV, it always says, "Invest in this. No work and get big returns." People have lost a tremendous amount of money. Indeed, one housebound senior we talked to lost her entire savings of \$100,000 on such a scam. She had raised that money over four decades as a baby sitter.

It is just impossible to describe how difficult it is to resist the state-of-the-art, very sophisticated promotional materials telemarketers use to convince consumers that it is a guaranteed way to earn big money with very little effort.

Again, I won't discuss further the recovery rooms except to say that one case that we brought by way of interesting names was against a telemarketer that called himself Senior Citizens Against Telemarketing, SCAT. The name itself tells you how smart they are in knowing how to disguise who they are and what they do.

The Telemarketing Sales Rule, we believe, will address some of those issues, and again give consumers better tools with which to protect themselves. With consumer education, we hope that they will be more wary and not pay these fees up front.

So, in conclusion, there is little I could add to what harm this does, economic harm, emotional harm. I think the prior panel probably described that as vividly as one possibly could. We will continue to take a leading role with the States and the other agencies

of government in combating the harm. Hopefully, we will make good progress over the coming year.

Thank you.

[The prepared statement of Ms. Bernstein follows:]

PREPARED STATEMENT OF
THE FEDERAL TRADE COMMISSION

PRESENTED BY JODIE BERNSTEIN
DIRECTOR OF THE BUREAU OF CONSUMER PROTECTION

"TELEMARKETING FRAUD AND SENIOR CONSUMERS"

BEFORE THE SENATE SPECIAL COMMITTEE ON AGING

WASHINGTON, D.C.

MARCH 6, 1996

Mr. Chairman and members of the Committee. I am Jodie Bernstein, Director of the Bureau of Consumer Protection of the Federal Trade Commission. I appreciate the opportunity to appear before you today on behalf of the Commission to discuss telemarketing fraud and its effects on senior consumers.¹

Combating telemarketing fraud is one of the Commission's most important priorities in consumer protection. The Commission challenges fraudulent telemarketing practices using its authority under the Federal Trade Commission Act,² which prohibits "unfair or deceptive acts or practices in or affecting commerce." Under the FTC Act, the Commission may file civil actions in federal district court seeking injunctive and monetary relief. Where appropriate, the Commission may seek extraordinary relief that includes an *ex parte* temporary restraining order, asset freeze and the appointment of a receiver to halt ongoing fraudulent activities and preserve assets for consumer redress.³ In fact, in the two year period from July 1993 through July 1995, the Commission returned more than \$25 million in redress to victims of telemarketing fraud. From July 1993 to the present, the Commission brought approximately 55 cases in federal court against fraudulent telemarketers. With the

¹ The views expressed in this statement represent the views of the Commission. However, my response to any questions you may have are my own and do not necessarily reflect the Commission's views or the views of any individual Commissioner.

² 15 U.S.C. § 41 *et seq.*

³ The injunctive relief eventually obtained may include a provision banning a defendant permanently from engaging in the same line of business or requiring a defendant to post a bond before returning to the business.

Additional relief is available to the Commission through administrative adjudications that can result in cease and desist orders that require the challenged practices to stop, and through requests to the U.S. Department of Justice to file criminal proceedings when appropriate.

recent issuance of the Telemarketing Sales Rule, the Commission -- as well as state enforcers and private citizens -- now has another set of tools with which to combat telemarketing fraud.

The Commission's telemarketing fraud cases target a wide range of unlawful conduct. At one end of the spectrum are subtle and sophisticated investment frauds, involving products such as gold, coins, art, and licenses obtained from the Federal Communications Commission to provide wireless telecommunication services. At the other end of the spectrum are the more stereotypical scams, involving, for example, vacation and prize promotions. In both areas, salespeople commonly use high pressure sales tactics and make whatever claims are necessary to make a sale. In a recent case, for example, a 78 year old woman reported that the president of a telemarketing company called her personally and threatened to sue her in court if she did not invest \$10,000 in addition to the \$10,000 that she had already given to the telemarketer. Eventually, the woman's resistance collapsed and she paid the money.⁴

In fulfilling its consumer protection mission, the Commission has developed considerable expertise in combatting telemarketing fraud of all types. The Commission's instant statement, however, is confined to discussing the major kinds of scams in which older consumers are disproportionately affected.

As in other parts of its consumer protection mission, the Commission coordinates its efforts to combat telemarketing fraud with federal, state and local authorities to the fullest extent feasible. The "Senior Sentinel" project is illustrative of this collaborative approach.

⁴ FTC v. American Fortune 900, Inc., 96-305 RAP (C.D. Cal., filed January 17, 1996).

The Senior Sentinel Project

In December 1995, the Senior Sentinel Project, which was coordinated by the U.S. Department of Justice and the Federal Bureau of Investigation, led to the arrests of over 400 telemarketers, many of whom were promoting prizes or operating "recovery rooms," which target consumers who already have been victimized by fraudulent telemarketers. As part of Senior Sentinel, the Commission brought five civil cases -- four involving prize promotions and the fifth involving a recovery room.⁵ In each of the cases, the Commission obtained injunctions prohibiting the challenged deceptive practices and froze the defendants' assets to preserve funds for consumer redress. The Commission coordinated the cases in advance with criminal authorities, with whom the Commission participates in various telemarketing task forces throughout the country.

In addition to bringing civil cases, Commission attorneys, deputized as Special Assistant United States Attorneys, brought criminal charges against two telemarketers in connection with Senior Sentinel.⁶ The Commission attorneys were acting as part of the Chattanooga Tennessee Telemarketing Task Force, in which the Commission participated together with various state and federal agencies. To date, that Task Force has led to

⁵ FTC v. E.D.J. Telecommunications, Inc., CV-S-95-01151-LDG (D. Nev., filed November 28, 1995); FTC v. Empress Corporation, CV-S-95-01174-LDG (D. Nev., filed December 5, 1995); FTC v. Desert Financial Group, Inc., CV-S-95-01173-LDG (D. Nev., filed Dec. 5, 1995); FTC v. Ideal Concepts, Civ. No. 95-8403 TJH (C.D. Cal., filed Dec. 5, 1995); FTC v. Total Care, Civ. No. 95-8229 AWT (C.D. Cal., filed Dec. 1, 1995).

⁶ United States of America v. Owsley, Criminal No. 1:95-CR-127 (E.D. Tenn., filed Nov. 28, 1995).

restitution orders for more than \$2.7 million as well as orders incarcerating individuals for a total of 531 months.

Critical to the planning and development of Senior Sentinel was the information derived from the National Association of Attorneys General ("NAAG")/FTC Telemarketing Fraud Database, a nationwide database of consumer complaints on telemarketing fraud. The Commission maintains this database, which is designed to help the 100 participating law enforcement organizations identify the victims of telemarketing fraud, target law violators, identify agencies that have opened investigations, and coordinate law enforcement efforts.⁷ Since 1991, when the database was first set up, over 56,000 complaints have been logged into the database, reflecting dollar losses in excess of \$85 million. In 1995 alone, over 16,000 complaints were entered, reflecting dollar losses of more than \$21 million. In planning Senior Sentinel, the Commission supplied criminal authorities with data on several hundred complainants who lost money to telemarketers.

Prize Promotion/Telefunding Scams

One category of telemarketing fraud in which a high proportion of victims are older consumers involves the promise of valuable prizes or awards if the consumers agree to buy other products or to make charitable donations. As noted above, many of the defendants targeted in the recent Senior Sentinel prosecutions were conducting prize promotions.

⁷ Most of the data included in the database was received from the National Fraud Information Center, a branch of the National Consumer's League. Other contributors include a number of U.S. government agencies and consumer groups, as well as the Ontario Canada Provincial Police.

In these scams, telemarketers typically make unsolicited calls or mail notification cards to consumers stating that they have won a valuable prize, such as a vacation, car, cash, or jewelry. In fact, however, the consumers do not receive the prizes -- or if they do, the prizes are worth nowhere near the value that the telemarketers claim. These promotional sweepstakes represent the largest single category of complaints reported in the NAAG/FTC Telemarketing Fraud Database. Not surprisingly, Commission litigators have been extremely active in this area. Since 1993, the Commission has filed numerous actions against telemarketers of prize promotions throughout the country, including a dozen in Las Vegas, Nevada alone.⁸

In the 1980s, when fraudulent prize promotions first appeared in significant numbers, they typically involved the sale to small businesses of such items as pens and baseball caps with the businesses' names printed on them.⁹ In exchange for making such a purchase, the businesses were promised one of several major prizes. Soon, the prize promoters were

⁸ Recent prize promotion cases include FTC v. E.D.J. Telecommunications, Inc., see supra n. 5; FTC v. Empress Corporation, see supra n. 5; FTC v. PFR, CV-S-95-000745-HDM (D. Nev., filed Jan. 25, 1995); FTC v. Thadow, Inc., CV-S-95-00074-PMP (D. Nev., filed Jan. 25, 1995); FTC v. Publishing Clearing House, CV-S-94-00623-PMP (D. Nev., filed July 13, 1994) (the defendants in this case included, among others, a corporation named MAA, Inc.); FTC v. Marketing 21 d/b/a Genesis, CV-S-94-00624-LDG (D. Nev., filed July 13, 1994); FTC v. United Holdings Group, CV-S-94-00331-HDM (D. Nev., filed April 5, 1994); FTC v. International Charity Consultants, Inc., Civ. No. CV-S-94-00195-DWH (D. Nev., filed March 1, 1994); FTC v. National Clearing House, Inc., Civ. No. CV-S-94-138 LDG (D. Nev., filed Feb. 14, 1994); FTC v. Fitness Express, Inc., et al., CV-S-93-00561-LDG (D. Nev., filed June 16, 1993); FTC v. Denny Mason, CV-S-93-135-PMP (D. Nev., filed Feb. 22, 1993); FTC v. Sierra Pacific, CV-S-93-134-PMP (D. Nev., filed February 22, 1993).

⁹ See, e.g., FTC v. Southwest Marketing, Inc., CV-S-88-00458-RDF (D. Nev., filed June 14, 1988); FTC v. Worldwide Factors, Ltd., CV-S-88-00293-RDF (D. Nev., filed April 25, 1988).

primarily targeting individuals, rather than businesses, and were selling (in exchange for the opportunity to win a prize) personal and household goods, such as vitamins, water filters, and skin care products.¹⁰ In all of these scams, the money paid for the purchase vastly exceeded the value of the prizes and products delivered.

By the early 1990s, the Commission began to see the emergence of another variation in telemarketing fraud, particularly in the prize promotion area -- the "reloading," or targeting of those consumers who have previously been victimized by fraud. Increasingly, consumers were being repeatedly victimized not only by the same telemarketer but by other telemarketers as well. The Commission has observed that many of the repeat customers were older persons, and, further, that "lists" of such repeat customers have become highly valuable, and are traded or sold among the telemarketers. Given the role played by such lists in facilitating telemarketing fraud, the Commission seeks in its lawsuits to prohibit the further sale of lists and to thereby prevent additional reloading by fraudulent telemarketers.

In 1993, a new variation in prize-promotions appeared. Telemarketing in the name of a charity, or "telefunding," offered consumers promises of extravagant prizes in return for an allegedly tax-deductible donation to a specific charity. In fact, typically, the prizes were almost worthless, and the contributions to the charities extremely small. In essence, the telemarketers were the principal beneficiaries of these donations.

Based upon its telemarketing investigations and law enforcement actions, the Commission has identified a number of trends. It has found that the size of the individual

¹⁰ See, e.g., FTC v. North American Enterprises, Inc., CV-S-89-00689-RDF (D. Nev., filed Oct. 3, 1989).

transactions and total losses (through reloading) have grown dramatically. Instead of costing the consumer hundreds of dollars, as was the case in the early 1980s, an individual transaction now frequently costs the consumer thousands of dollars. With the inclusion of reloads, the Commission has found that some consumers have lost tens of thousands of dollars to prize promotion telemarketers.

Additionally, the Commission has found that older consumers appear to have become the principal targets of telefunding scams. The Commission has examined demographic data on consumers of five telefunding companies that the Commission brought law enforcement actions against in 1994,¹¹ and found that out of 143 consumers interviewed, 85 percent were at least 65 years of age.

Finally, the Commission has observed a dramatic increase in the total number of scams in which overseas telemarketers prey on U.S. consumers. While Canadian companies have been telemarketing gemstones and strategic metals to U.S. consumers for several years, transborder telemarketing has broadened recently to prize promotions and recovery rooms services. Commission staff attempt to keep apprised of the locations of fraudulent telemarketing by examining the NAAG/FTC Telemarketing Fraud Database of consumer complaints maintained by the Commission, to which, as noted above, the Ontario Canada Provincial Police also contributes.

¹¹ These companies are National Clearing House, Publishing Clearing House, Genesis, MAA, Inc., and United Holdings Group. See *supra* n. 8.

Recovery Room Scams

A recent vehicle through which telemarketers further exploit victims of prize promotion and other schemes involves entities known as "recovery rooms." Since the fall of 1994, the Commission has brought seven cases aimed at such entities.¹² Recovery rooms are companies that make "cold" (unsolicited) calls to consumers who have lost money to other telemarketing companies in order to capitalize on consumers' strong desire to regain their lost monies. The recovery rooms claim that they will recover the cash that the consumers have lost or the prizes that they had previously been promised for a substantial fee that must be paid up front. Consumers pay the money and, inevitably, lose that money along with the money and prizes already lost.

One technique used by such recovery room telemarketers is to pose as law enforcement agencies or describe themselves as somehow being affiliated with the government or other public service organization. An example of such a recovery room is a company named USM Corporation, which did business as Senior Citizens Against Telemarketing or SCAT Services ("SCAT"). The Commission sued SCAT on July 12, 1995,¹³ and recently obtained a stipulated permanent injunction with monetary relief against

¹² FTC v. Desert Financial Group, Inc., see supra n. 5; FTC v. Meridian Capital Corporation, CV-S-96-00063-PMP (D. Nev., transferred to D. Nev. Jan. 23, 1996, originally filed in D.D.C. Aug. 17, 1995); FTC v. USM Corporation, CV-S-95-0668-LDG (D. Nev., filed July 12, 1995); FTC v. PFR, see supra n. 8 (combination recovery room and prize promoter); FTC v. Thadow, Inc., see supra n. 8 (combination recovery room and prize promoter); FTC v. United Consumer Services, 1:94-CV-3164-CAM (N.D. Ga. filed Nov. 30, 1994); and FTC v. Richard Canicatti, d/b/a Refund Information Services, CV-S-94-859-HDM (D. Nev. filed Oct. 11, 1994).

¹³ See supra n. 12.

SCAT as well as its principal. As implied by its name, "Senior Citizens Against Telemarketing," SCAT allegedly masqueraded as a consumer protection organization that worked closely with government agencies. According to the Commission's complaint, SCAT represented to consumers that it would definitely recover substantial sums that the consumers had lost in previous telemarketing scams, filing lawsuits on their behalf if necessary. The Commission alleged in its lawsuit that few of SCAT's clients recovered any money.

In another recent case against a recovery room, the Commission alleged that the Refund Information Services ("RIS") represented to consumers that it had already obtained the consumer's money and promised to send it upon receipt of a fee.¹⁴ One of RIS's alleged victims was a 78 year old man who is hard of hearing and who had previously lost approximately \$100,000, his life savings, to fraudulent telemarketers. The consumer made a tape-recording of an RIS telemarketer telling him that RIS had a check in its possession for \$33,640 and that all he had to do to get the money was to send RIS \$640. Eventually, the complaint alleges, the telemarketer succeeded in persuading the consumer to send in the most he could afford -- \$200.

Many recovery rooms prey almost entirely on older consumers. In its investigation of SCAT, the Commission staff interviewed 43 consumers who were victimized, or at least approached, by SCAT telemarketers. Of these individuals, 81 percent were at least 65 years of age; 47 percent were at least 75; and 23 percent were at least 80. This preponderance of older consumers is not unusual in recovery room cases. In its investigation of RIS, 82

¹⁴ See *supra* n. 12.

percent of the 22 consumers interviewed were at least 65; 64 percent were at least 70; and 32 percent were at least 80.

In sum, the services provided by recovery rooms are just another form of fraud. The recovery rooms rarely recover any money or other valuable items for consumers, notwithstanding their claims to the contrary. The victims in these scams typically lose anywhere from several hundred to several thousand dollars. In some cases, older consumers have lost money to multiple recovery rooms.

Investment Fraud Scams and Project Roadblock

Investment fraud is yet another category of telemarketing scam that heavily targets older consumers. While older consumers may not represent the majority of the victims of these scams, they almost invariably represent a significant proportion. These cases typically involve high individual losses. Indeed, it is not uncommon for the Commission to learn that an older victim of an investment fraud has lost his or her entire life savings to a single telemarketer. During the past decade, the Commission has brought dozens of cases attacking such frauds. In addition to the "high tech" frauds, discussed below, these cases have included such investment assets as interests in gold mines, gemstones, precious metals, rare coins, oil and gas leases, and art works.

Earlier this year, on January 30, 1996, the Commission, together with the North American Securities Administrators Association ("NASAA") announced a joint federal/state initiative aimed at high-tech scams, the latest wave in telemarketing investment fraud. "Project Roadblock" involved 85 actions by the Commission and 22 state securities agencies against telemarketing operations promoting high-tech investments such as paging licenses

issued by the Federal Communication Commission ("FCC") and pay-per-call "900" number partnerships. The defendants in these suits generated over a quarter of a billion dollars, with individual victims losing from \$2,900 to as much as \$400,000.¹⁵ One of the victims was a house-bound, elderly Alexandria, Virginia woman who, in four high-tech schemes, eventually lost her entire life savings of nearly \$100,000 raised over four decades as a babysitter.¹⁶

Although high-tech scams are the fraud du jour, they present many of the same law enforcement challenges the Commission has faced in other investment fraud cases. Many of the targets use sophisticated techniques to hide their identities, locations, and assets from the public. For example, in the Commission's law enforcement action against On Line Communications, Inc. ("On Line"),¹⁷ one of the Project Roadblock targets, it was not until after the Commission brought its action against the company and interviewed former employees that Commission staff discovered the identity of a hidden principal of On Line and the location of its boilerroom. The purported addresses where On Line was located apparently were mail drops, and the individual who served as the company's sole officer and director has claimed that he did not "run" the company, but merely provided certain "proxy" services for a client whom he refused to identify.

¹⁵ See Joint FTC/NASAA Press Release on "Project Roadblock," dated January 30, 1996.

¹⁶ See, e.g., *FTC v. Micom Corp.*, 96-CIV-0472 (SS) (S.D.N.Y., filed Jan. 23, 1996).

¹⁷ CV-S-96-00055-LDG (RLH) (D. Nev., filed January 23, 1996). This suit is now pending.

Further, the Commission has been informed that one of the On Line defendants hid nearly \$500,000 of his assets in a Bahamian bank, illustrating the difficulties faced by the Commission in its efforts to find assets and return them to victims. The funds have now been frozen indefinitely, but only after the U.S. Department of Justice, at the request of the Commission, filed a separate action in a Bahamian court.¹⁸

Where possible, the Commission attempts to attack not only the boilerrooms, but also their supporting "root" network -- such as the suppliers of the commodities they sell, the "consultants" who furnish proven misleading sales pitches, and the merchants of the consumer lists. One example of the "root" approach is the Commission's lawsuit against two affiliated entities, Unimet Credit Corporation and Unimet Trading Corporation, filed on September 23, 1992.¹⁹ The case involved an extremely complex set of transactions in precious metals, sold on credit to unsophisticated investors. The role of the Unimet companies was largely hidden from the alleged victims. Indeed, the Commission alleged that the Unimet companies served, among other roles, as a marketing arm for the "independent" dealers who telemarketed to investors. Although the Commission also brought actions against three of the boilerrooms that telemarketed the metals,²⁰ most of the money that Commission staff was able to locate for consumer redress came from the largely-hidden

¹⁸ United States of America and Olin Keith Beck v. Ansbacher (Bahamas) Limited, et. al., Equity Action No. 170 of 1996, Supreme Court of the Commonwealth of Bahamas.

¹⁹ FTC v. Unimet Credit Corporation, No. 92-5759 RSWL (C.D. Cal.).

²⁰ FTC v. First American Trading House, 92-6049 Civ. Paine (S.D. Fla., filed January 21, 1992); FTC v. Osborne Precious Metals, No. 92-4193 AWT (C.D. Cal., filed July 15, 1992); FTC v. Western Trading Group, No. 92-4194 RMT (C.D. Cal., filed July 15, 1992).

Unimet companies, and not the boilerrooms. In 1995, roughly \$1.6 million received from Unimet was returned to the alleged victims of the scam.

The Telemarketing Sales Rule

As of December 31, 1995, when the Commission's Telemarketing Sales Rule ("Telemarketing Rule")²¹ became effective, another set of tools became available to law enforcers and private citizens to combat telemarketing fraud. Under the Telemarketing Rule, telemarketers must promptly disclose certain information in telephone calls to consumers, including their identities, the fact that they are making a sales call, and the nature of the goods or services they are offering. The Telemarketing Rule also prohibits telemarketers from misrepresenting the nature of the products or services they sell and from debiting a consumer's checking account without the consumer's express authorization. Violations of the Rule may result in civil penalties of as much as \$10,000 per violation.

In addition, the Rule addresses the problem of "roots" who assist telemarketers to defraud consumers. It prohibits anyone from providing substantial assistance to telemarketers -- such as providing consumer lists, marketing materials, or appraisals of investment offerings -- when the person "knows or consciously avoids knowing" that the telemarketer is engaged in unlawful conduct. The Rule also prohibits a number of telemarketing practices, such as charging advance fees for loans or credit repair services, or engaging in credit card laundering. Moreover, the Rule prohibits such harassing practices as

²¹ 16 C.F.R. Part 310. The Commission promulgated the rule pursuant to the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. 6101-08, which was signed into law in August 1994.

calling before 8:00 a.m. or after 9:00 p.m., or calling after a consumer has specifically said, "Don't call me anymore."

The Telemarketing Rule addresses some of the specific types of deceptive telemarketing that frequently victimize older consumers. It prohibits charging an advance fee to recover money consumers lost in a telemarketing scam.²² Further, in connection with any prize promotion, the Rule requires the telemarketer to disclose the odds of winning, any material costs or conditions for receiving the prize, and the fact that no purchase or payment is necessary to win.

The Rule is enforceable in federal court by the FTC as well as the fifty state attorneys general. In addition, private citizens who have lost over \$50,000 to telemarketers may file suit to recover their losses.

Since the Rule was issued, the Commission has been working closely with consumer groups, state law enforcement agencies and private industry to educate those involved about their rights and obligations under the Rule. In furthering the Commission's consumer and industry education efforts, several members of private industry have provided valuable assistance. For example:

- The Direct Marketing Association produced the Commission's Compliance Guide to the Rule and is distributing it to its many members.
- The American Telemarketing Association arranged for the Commission to participate on line in an interactive discussion forum about the Rule.

²² Other practices that are prohibited include charging advance fees to obtain loans or provide credit repair services.

-- Numerous members of the automated payment industry are distributing consumer education materials so that consumers can protect themselves against automatic debit scams.

The Commission is also involved in training state law enforcement agencies to enforce the Rule. Given the extent and nature of cooperation that the FTC is receiving from all interested groups, the Commission is very hopeful that the Rule will be an effective tool with which to attack telemarketing fraud.

Consumer Education

While law enforcement is vital, it alone will not stop telemarketing fraud. The best approach is to prevent consumer injury in the first place. Accordingly, consumer education is an important component of the Commission's efforts in this area.

The Commission has developed and disseminated various brochures that are designed to alert consumers about telemarketing scams, including a brochure entitled Straight Talk About Telemarketing.²³ Since last December, the FTC has distributed more than 70,000 copies of that publication.²⁴

In addition, the Commission has recently formed the Partnership for Consumer Education. This initiative establishes a coalition of government agencies, private businesses and consumer groups to work to educate consumers nationwide about fraud. The

²³ Additional publications include: Telemarketing: Reloading and Double Scamming Frauds, Prize Offers, Swindlers are Calling, and 'Best Sellers': The FTC's Most Popular Publications.

²⁴ Since February 1995, the Commission's consumer publications have been available on the FTC ConsumerLine on the Internet at CONSUMER.FTC.GOV. They can also be accessed through the World Wide Web at <http://www.ftc.gov>.

Partnership's first goal is to educate consumers as to how they can protect themselves from unscrupulous telemarketers. One of the resources that will be made available to all participants in the Partnership is a public information kit relating to prize promotions and investment scams. The American Advertising Federation has assisted the Commission in producing this model kit, which the Commission believes will contribute to an effective education campaign for older consumers.

Conclusion

The Commission recognizes that telemarketing fraud continues to be a growth industry, and will continue to take a leading role in combatting telemarketing fraud that targets older consumers and all segments of society. Achieving meaningful results necessitates a broad-based effort -- through enforcement and consumer education, as well as coordination with other federal, state and local law enforcement agencies, industry and consumer groups -- so that limited resources may be leveraged both efficiently and creatively. The Senior Sentinel project and Project Roadblock are two recent examples of the successful, collaborative leveraging of resources. The Commission plans to organize and participate in additional similar efforts and is also optimistic that the new Telemarketing Rule will provide a powerful tool in curtailing telemarketing fraud.

The Commission is pleased to provide this information to the Committee and welcomes the opportunity to provide any further assistance.

The CHAIRMAN. Thank you very much, Ms. Bernstein.
Mr. Owens.

STATEMENT OF CHUCK OWENS, CHIEF, WHITE COLLAR CRIME SECTION, FEDERAL BUREAU OF INVESTIGATION, WASHINGTON, DC

Mr. OWENS. Thank you, Mr. Chairman. I am happy to be here on behalf of the FBI to discuss with you this very important area. I also brought a tape. If you would like, I can summarize the contents of it.

The CHAIRMAN. Could you?

Mr. OWENS. I'm not sure it would add that much to actually hear it, but I'll just say that this particular tape is particularly interesting, I believe, because actually the purported victim of the tape is an undercover FBI agent who is about 35 years of age, and he sounds every bit of 83, which is what the original victim was. The stage for the particular conversation is on the prior day the victim had agreed to pay \$2,600 with the full expectation based on the representations that he was going to win somewhere between \$5,000 and \$30,000 in one of these prize scams, and the conversation goes on at some length with the telemarketer attempting to persuade him to pay this money. He indicates at a point in time that his daughter has a problem. He is not sure if he can really afford the \$2,600 and so forth. Ultimately, the telemarketer indicates he is going to bring legal action against him and so forth.

Another interesting thing about the tape, unfortunately, the victim is actually deceased. He was 83 years of age, and his daughter actually came to us when she visited his apartment at one point and found the phone ringing off the hook, and immediately we took over that particular telephone line with her cooperation and began to assume the role of the victim here, and that was the basis upon which Senior Sentinel was conducted—that type of an arrangement where with the cooperating individuals we actually assume the identities of the victims, and it was highly effective, I think, as you are well aware.

The CHAIRMAN. We've had examples in past hearings where a person would receive as many as 20, or 30, or 40 phone calls a day and finally just give in and send the money in to stop the phone from ringing, which, of course, didn't stop the next day.

Mr. OWENS. That's very unfortunate. I'll try not to be duplicative. I know your hearing is running late.

Let me just indicate, as others have—I mean, we're fully aware that the solution to this problem is not solely a solution that law enforcement can address, as in many of the white-collar crime areas. I know that you have a certain interest in health care fraud and others—

The CHAIRMAN. Maybe if you could focus on the computer aspect, the Internet, in terms of what you're seeing in the way of trends there because right now probably not that many senior citizens are computer literate to the extent that they would want to get on the Internet. But as we become more sophisticated as a society, as we start to age as such, the baby boomers, a lot more people are going to be using it.

So what kind of trends and problems do you see in that area?

Mr. OWENS. I think what we're seeing is some of the types of scams that Ms. Bernstein referred to, the wireless, cable-type of scams. This type of thing is being promoted across the Internet. We're aware that that is occurring. The whole aspect of commerce over the Internet is developing at this point in time. I know there have been articles recently about several of the heads of state security agencies addressing this problem, as well as the FTC and others. The amount of loss that is occurring at this point, frankly, we're not sure. The number of citizens that are obtaining personal computers and starting to access the Internet and so forth is growing in geometric proportions, and the concern is certainly there that that problem is going to be great.

Let me make one point in that regard, and I think it relates to some of the initiatives that we've taken in this whole area. The telemarketers have been successful largely because they are playing on the actuality that over a telephone they are disguised in a certain fashion. The person on the other end of the phone can't physically identify them so there is a certain security in that. In our Operation Disconnect, which was an operation we did in 1992 and 1993, we attempted to use innovative techniques and we actually developed scenarios where we would go talk to the telemarketers offering them something that was too good to be true, and they bit—that is an automatic dialing system which would dramatically increase the amount of returned phone calls and profits that they would generate, and that was highly successful.

We also used a similar technique in Senior Sentinel where, again, we took advantage of the fact that they didn't know who was on the other end of the telephone, and that is really the beauty of Senior Sentinel, and I think you know the background of it. The fact that it is an operation that can continue and is continuing because, again, they don't know unless it happens to be a particular telemarketer who has called the same victim on many occasions if they happen to recognize a different person on the other end of the phone. They may be suspicious and hang up, and in some cases that occurred. But more often than not, with the selling of the phone numbers and so forth, when new telemarketers called, they have no idea that this individual and the tape that I had, who purports himself to be an elderly person, is not in fact the person they think they are calling.

So that is going to enable us to continue to use that technique. But, again, that is one aspect of the problem in bringing in criminal prosecutions. We fully believe that the ultimate solution here is one of education. Hearings such as this, bringing cases such as in Las Vegas, and educate the public and helping them to discern the difference between a legitimate telemarketer—and most are legitimate, we believe—and an illegitimate telemarketer.

The same is true with commerce over the Internet. Again, we believe from an investigative standpoint we can be effective in portraying the victim on the other end of the phone once we get criminal predication that these people are conducting illegal business over the Internet, and we are looking very closely at that right now as well.

So we believe we're trying to take advantage of the—

The CHAIRMAN. What's the line? If the line is too thin, AARP will say the line is too thin between legitimate and non-legitimate and the burden is heavily upon the consumer to make the distinction between the legitimate and illegitimate?

Mr. OWENS. Well, it is extremely difficult, and I think Ms. Landreth can address that too. That's one of the reasons we tried to pursue innovative techniques to deal with this where we could actually record the telephone conversations so that we are not relying on the recollection of particular victims and other things that they do to attempt to disguise their criminal activity. Proving criminal intent is really the difficulty here, but I think some of the outrageous statements that they make enable the prosecutors to be successful in overcoming that.

The CHAIRMAN. Are you having a big problem as far as operators coming from Canada, outside the United States, as far as international arrangements? Are we having trouble getting treaties with various countries to help prosecute this type of crime?

Mr. OWENS. Well, again, my understanding, my experience is that there are some problems in getting Canadian citizens extradited, but I think the reality is that this is a fertile area right now where we're seeing a growing problem, but I think we're all working very closely. The FTC and our agents have been there on many occasions. We've had a full cadre of Canadian law enforcement officers and prosecutors down here where we're actually working very closely to try to deal with that problem, and I think we're making some success.

Another emerging type of problem we're seeing is that the telemarketers are becoming very adept at using innovative money laundering techniques to hide their profits, and that is going outside the country. Certainly, the Internet problem of—

The CHAIRMAN. Buying a bank in which to make accounts.

Mr. OWENS. That is one. And the other thing we have seen is other criminals, people who have criminal records, perhaps. In some instances we're aware of drug dealers who have actually gotten out of the drug trade to enter into this business because of the lucrative nature of it.

But let me say, though, I think we are making headway. I think the spirit of cooperation that has existed in this whole area, the support of Congress with enhanced legislative pushes in recent years, the cooperative efforts of State Attorneys General who funded this national tape library that Ms. Bernstein referred to, the AARP—and I wanted to publicly thank them in this hearing. I think that is just a tremendous support structure that they provided.

The CHAIRMAN. They do indeed, and, yet, we found out today that some criminal telemarketers believe their lists are being used to target individuals, right?

Mr. OWENS. Yes.

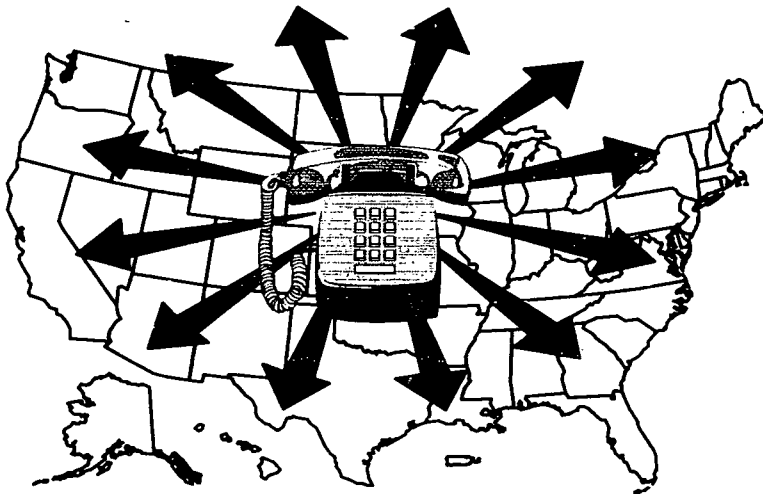
The CHAIRMAN. So we've got to talk about that with the AARP as to the accuracy of this statement.

Mr. OWENS. Right. And one final thing, which I am particularly proud of is some of the cooperators were retired FBI agents who gave up their time voluntarily to help in this Senior Sentinel initiative and that was very, very good.

I would be happy to address other questions you have.
[The prepared statement of Mr. Owens follows:]



TELEMARKETING FRAUD



**SENATE COMMITTEE ON AGING
HEARING ON TELEMARKETING FRAUD
MARCH 6, 1996**

**Charles L. Owens
Section Chief, Financial Crimes Section
Federal Bureau of Investigation**

TESTIMONY OF:**CHARLES L. OWENS****CHIEF, FINANCIAL CRIMES SECTION****TO THE SENATE COMMITTEE ON AGING****HEARING ON TELEMARKETING FRAUD****MARCH 6, 1996**

Good Morning, Mr. Chairman and members of the Committee. Thank you for inviting me to testify as the FBI representative at this very important hearing. As the Chief of the FBI's Financial Crimes Section, it is always an honor to discuss the FBI's role in attacking the crime problems facing our citizens.

Telemarketing has been an accepted way of conducting business since the early 1930s. The telemarketing industry employs over 3.4 million people nationwide and industry estimates place annual consumer spending through telemarketing at over \$500 billion. However, most telemarketers do not generate sales. Many telemarketers perform market research, conduct polls, solicit political contributions and so forth. The FBI fully realizes that the legitimate telemarketing industry contributes to American society. Of great

concern to the FBI, this committee, and nearly every American is the scourge of telemarketing fraud. The annual cost of telemarketing fraud is estimated to be \$40 BILLION per year! Telemarketing fraud is now one of the FBI's top investigative priorities in our White Collar Crime Program.

Telemarketing fraud has often been mistaken to be a small crime problem. Though individual cases may be small, the cumulative affect of telemarketing fraud can mount quickly. As an example, our Denver office investigated a case predicated upon a \$20,000 loss. The evidence led them to obtain a search warrant on a Las Vegas boiler room. Their investigation uncovered total losses to victims from the state of Colorado of nearly \$1 million and during that same time period, losses to victims around the country approximated \$23 million. This was one, medium sized, Las Vegas room. Some rooms take in \$200,000 in proceeds daily.

Let me briefly share with you some of the FBI's history in telemarketing fraud. The FBI has been involved in the investigation of

telemarketing fraud since the enactment of the fraud by wire statute.¹ When it became apparent that traditional investigative techniques were only marginally successful in this area, the FBI pursued a different course. Most notable is "OPERATION DISCONNECT" a nationwide undercover operation which targeted illegal telemarketers in 1992 and 1993.

OPERATION DISCONNECT SCENARIO

OPERATION DISCONNECT was developed as an innovative and unique approach to address Salt Lake City's identified telemarketing crime problem. Salt Lake City FBI Special Agents conceived and initiated an undercover operation designed to allow undercover FBI Agents to engage in direct conversations with the owners and operators of identified illegal telemarketing operations. During the conversation, the operators discussed explicitly how they conducted their illegal business. The undercover scenario proved to be so effective that similar undercover operations were initiated in a number of other FBI field offices around the country. At its conclusion,

¹ Note 1: {T18 USC section 1343} {July 16, 1952 by c. 879 Section 18(a), 66 Stat 722}

Operation DISCONNECT encompassed a total of 18 FBI field offices (See Chart 4). OPERATION DISCONNECT was a national criminal investigative effort unilaterally conducted by the FBI, and was at that time, the most significant investigative initiative undertaken to counter illegal telemarketing operations.

An essential feature of the undercover scenario centered around undercover FBI Agents visiting the owners of illegal telemarketing operations and representing themselves as salesmen of a company which leased a "one-of-a-kind" computerized automatic dialing system. This equipment was advertised by the undercover Agents as a method to dramatically reduce the telemarketer's operating costs and increase their incoming phone calls, thereby generating additional profits for the operation.

The undercover scenario continued with the undercover Agents designing a recorded sales pitch that was customized for that particular telemarketing operation. In order to develop the "pitch", knowledge of the operation was essential. The owners and operators disclosed that they were in the business to defraud people. The recorded sales pitch which was developed after interview with the

owners and operators would be installed in the computerized dialing equipment and used to promote the telemarketer's operation. The undercover Agents arranged for a test of this customized recorded sales pitch in order to demonstrate its effectiveness. The test results were quite successful with a number of "consumers" purchasing the product. Based upon the success of the test, the owners of the telemarketing operation were so impressed that they expressed their interest in having the system installed. The telemarketers were unaware, however, that the sales pitch was never reduced to a recording nor was the dialing equipment ever activated. At a prearranged time, FBI Agents, posing as customers made the "return" phone calls to the telemarketing sales personnel. The lure of quick illegal profits, in this instance, proved to be the undoing of these operations.

To date, OPERATION DISCONNECT has been responsible for the conviction of 296 individuals and the seizure of \$7.6 million in ill-gotten assets, of which, \$6.7 million has been successfully forfeited. OPERATION DISCONNECT brought to the fore, in more vivid terms

than ever before, the scope of the crime problem and the unconscionable conduct of these financial felons.

The FBI conducted a thorough review of the cases in OPERATION DISCONNECT for its intelligence value. This led to the realization that while the elderly are not the only telemarketing victims; they are the victim group that is impacted most egregiously by this fraud. We noted in OPERATION DISCONNECT that approximately 34% of the subject companies targeted the elderly (See Chart 1). Responding to the intelligence gathered in this operation, we undertook efforts to strike as broadly and deeply as possible at those who would victimize our most vulnerable citizens. In a follow up operation, Senior Sentinel, described more fully in the following pages, 78% of the subjects investigated, targeted the elderly (See Chart 2).

Following DISCONNECT, we teamed up with States Attorneys General, the American Association of Retired Persons (AARP) and numerous law enforcement agencies nation-wide. The National Association of Attorneys General (NAAG) funded the National Tape Library (NTL), described more fully hereafter, that allowed law enforcement agencies involved in telemarketing investigations to

obtain copies of very valuable evidence. This library, which is maintained by the FBI with the cooperation of the United States Attorney's Office in San Diego and the State Attorneys General, along with the FTC data base, provides real time insight into illegal telemarketing operations.

Immediately after DISCONNECT was publicly disclosed, telemarketers purchased the customer lists, known as lead lists or more colloquially by the telemarketers as "sucker" or "mooch" lists from the subject companies and began to run "recovery operations." In the recovery operation pitch, the solicitors identified themselves as FBI agents or other government officials and began to contact the victims known to have been taken in DISCONNECT and advised that they could obtain some of their lost funds, if they would send in money to cover the costs of taxes, administrative costs or some other fee.

Public awareness of OPERATION DISCONNECT led us to interact with other federal agencies on telemarketing fraud matters as well as nongovernment agencies, States Attorneys General, other state and local law enforcement organizations, and the American Association of Retired Persons (AARP). This interaction developed to

the point where we began to conduct joint operations and cooperate in sharing of case related and intelligence information. The AARP offered to locate volunteers who could be used to record conversations with telemarketers. The information and resource sharing produced a team synergy and was the foundation for new telemarketing crime investigative initiatives.

Based upon the very successful technique of recording the illegal pitches, the information contained in the NTL, and the newly developed cooperative contacts, another national take down was envisioned code named Senior Sentinel. FBI Agents from across the country attended a seminar in San Diego and were briefed on the Senior Sentinel scenario which included FBI undercover Agents, trained AARP volunteers or retired FBI Agents assuming control of phone lines of victims, and the victim venue prosecution theory; and were provided with tapes that were already made from their venue. Under the victim venue theory, we endeavor to prosecute the cases where the victims live and not in the venue where the subjects operate. This was a wholesale change from the traditional prosecutive approach. Victim Venue prosecutions distribute more evenly the

workload of telemarketing prosecutions from the areas that are traditional havens for telemarketing, in addition to allowing the FBI and prosecutors to charge cases in the locality of the victims providing home base enforcement for those whom they are sworn to protect. The participating offices were given time to obtain telephone lines, and make a sufficient number of recordings. A coordinated takedown date was set to occur within one year.

Victim lines were identified through complaints made to the FBI or other government agencies by the victims or their families. The tragedy of the victim lines, or "mooch lines" to adopt the telemarketer's colloquialism, was that by the time we obtained permission to take over the calls and transfer them to the control of an agent or a volunteer, some victims had lost hundreds of thousands of dollars, representing a lifetime of savings. Once the victims agreed to transfer their old line to our control we began to make recordings and enjoyed great success.

The success of Senior Sentinel was made possible in large measure due to the establishment of the NTL. The NTL is a central repository of fraudulent telemarketing pitches, consensually recorded

by or for law enforcement agencies, nationwide. The NTL contains many thousands of recordings and that number continues to grow daily, through the receipt of tapes that are continuing to be made by law enforcement officials. The tape is catalogued by company name and address, solicitor (or phone name), type of pitch and other pertinent information. When a law enforcement agency wants to obtain information on ABC prize company, a query of the NTL can provide information and recordings on their sales personnel and the sales pitch.

The NTL provides a real-time view of telemarketing actions in America today. It identifies emerging pitches, new companies and the movement of solicitors from one company to another.

The beauty of the NTL is not only in its enforcement effectiveness, but that its cost and information is shared through a cooperative law enforcement effort. It is the backbone of an effective strategy to focus on telemarketing crime.

The NTL includes many recordings made through our SENIOR SENTINEL initiative. The AARP located volunteers through their volunteer data base and provided volunteers throughout the

country. The Society of Former FBI agents volunteered their services and located retired FBI agents to take phone calls. This small army of volunteers manned the recorders, which freed the investigators from the phone lines to conduct more substantive investigative tasks.

Since its inception, with the cooperation of agencies on the Federal, state and local level, SENIOR SENTINEL has resulted in 117 search warrants being executed and 565 individuals charged nationwide including the arrest of approximately 400 people on 12/7/95.

The recorders of SENIOR SENTINEL are still rolling and recordings of fraudulent pitches are continuing. Two individuals who were arrested in Buffalo as a result of Senior Sentinel were released, recorded again, charged again and arrested again. One was declared a public nuisance, denied bond and remains in jail. Due to the notoriety of SENIOR SENTINEL and the utilization of the NTL, we have observed that use of the prize pitch, which accounted for almost half of the SENIOR SENTINEL cases is now decreasing; but the same lists of victims are being besieged with high dollar investment scams that will just as quickly dissolve their life savings.

It was interesting to note that several telemarketers were calling FBI offices or showing up at the Las Vegas armory, which acted as a temporary court house for those arrested, to turn themselves in on the Senior Sentinel takedown day. Many, however, had not been charged in the operation. This clearly indicates these individuals are cognizant that they are violating the law.

We are continually identifying new operations and other schemes and I'd like to focus on some of the investigative challenges that we face today.

In SENIOR SENTINEL, we have identified many different schemes, but categorized them into five broad areas. Prize rooms that offer one of four or five valuable prizes; Product rooms that offer a product (lottery tickets, gems, jobs); Charity rooms which claim to be calling to aid some worthy cause - the cause ultimately receives either nothing or a token donation; Recovery Rooms, who claim that for a fee they can return all or a portion of the funds lost to a telemarketer (and often identify themselves as law enforcement) and Rip and Tear operations, which purport to be operating one of the above four "services", but in fact operate from a hotel room, using false names

and mail drops and is set up to vanish immediately, after receipt of a victim's money.

Of the different schemes, the Rip and Tear is the most difficult to investigate, because they are set up to vanish in a short time without a trace. They usually collect cash or use a check cashing service. Identifying and locating the perpetrator is very labor intensive. Since the modus operandi of Rip and Tear operators is to "GRAB and GO", they make the most outrageous statements and promises and inflict great damage in a short time. When they are caught, they are usually punished on the scope of the one Rip and Tear for which they were arrested and no records exist of the true depth of their operation. The tape that was prominently played in the national media at the time of the SENIOR SENTINEL take down, where the victim was verbally abused by the telemarketer, is an example of a Rip and Tear artist. You will be happy to know that we have identified this individual and that he is already in custody, held on other fraud charges brought by the FBI.

Currently, we are seeing a number of telemarketing operations that are involved in cross-border frauds and use

sophisticated money laundering techniques. We have teamed up with our Canadian law enforcement counterparts to attack the growing Canadian telemarketing fraud problem.

We are seeing drug dealers in South Florida; give up the risks associated with the drug trade for the "easy money" as they put it in telemarketing fraud. We are seeing connections to Organized Crime; the La Cosa Nostra (LCN) and Motorcycle Gangs. Investment offers through the Internet have been noted, opening a new arena for fraud victims. Based on our intelligence information, telemarketing is a large and growing crime problem area although we are hopeful recent efforts will begin to turn the tides. We continue to identify new and innovative approaches to the problems and we are taking investigative actions to develop cases that will cost effectively and systematically cut off any new approaches or avenues used by telemarketers.

After DISCONNECT, bipartisan congressional support resulted in criminal telemarketing legislation designed to enhance penalties against telemarketers who target citizens over 55 years of age. Two telemarketers from Chattanooga, Tennessee, and one from

Las Vegas have recently received ten year sentences for their crimes and we thank Congress for its support in enhanced telemarketing fraud legislation.

In closing, I'd like to point out that telemarketing fraud is not a new crime to law enforcement; but never before has it been used so prolifically to target our elderly citizens. The FBI's analysis of this crime problem revealed, tragically, the illegal telemarketers continue to prey in large measure on older Americans -- those who may be least able to recover from losses. A telemarketer in Las Vegas can use an alias, call an apartment in New York and make the next call to a farm in Kansas. No community, urban or rural, wealthy or poor is immune from this crime. It is therefore imperative that we aggressively pursue telemarketing investigations and we will be ever vigilant in our efforts to identify perpetrators and protect our citizens from these financial predators.

The FBI has a long history of aggressively and successfully battling frauds and we will continue to wage our war on telemarketing crime. The SENIOR SENTINEL records continue to roll and new cases are being developed. The FBI believes that this unique

operation has the potential of making a major impact on illegal telemarketers who will never know whether they are pitching a person known to easily fall victim to their lurid lines, or an undercover agent or cooperating private citizen who is gathering evidence for later use in a court of law.

Mr. Chairman, thank you for the opportunity to present this opening statement and for holding these hearings which cover these important issues.

OPERATIONAL Victim Profile

VICTIM PROFILE

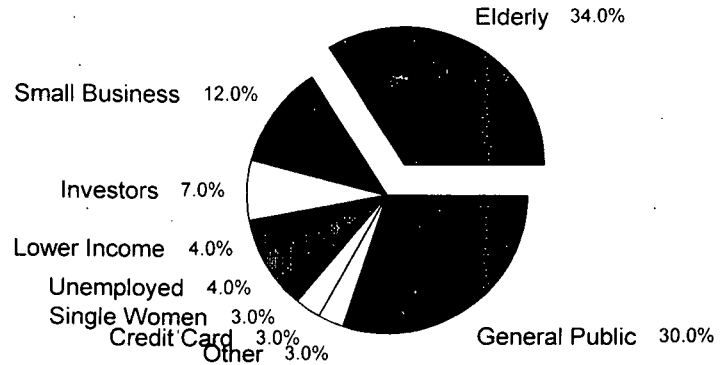
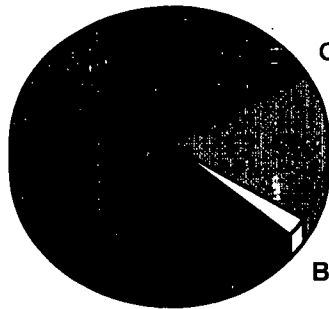


CHART 1

SIN
TARGETED VICTIM CATEGORIES



ELDERLY



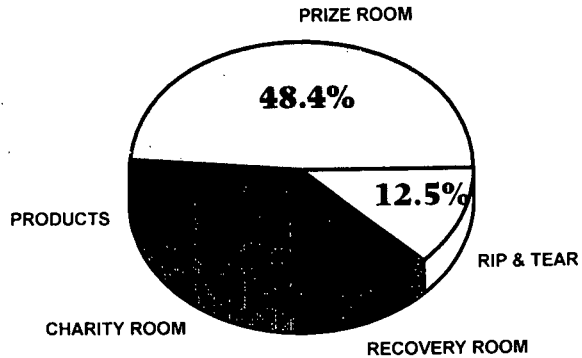
OTHER
1.4%

GENERAL POPULATION

BUSINESS
2.4%

CHART 2

TYPE OF SCHEMES



ANALYSIS OF 141 CASES

- Rip & Tear No valid product, prize, investment or service is provided to the victims. Usually a temporary operation utilizing mail drops and hotel rooms or phone booths.
- Recovery Room The victim is told the room can recover their money or prizes from other Telemarketing schemes for a fee.

CHART 3



Search/Arrest Locations

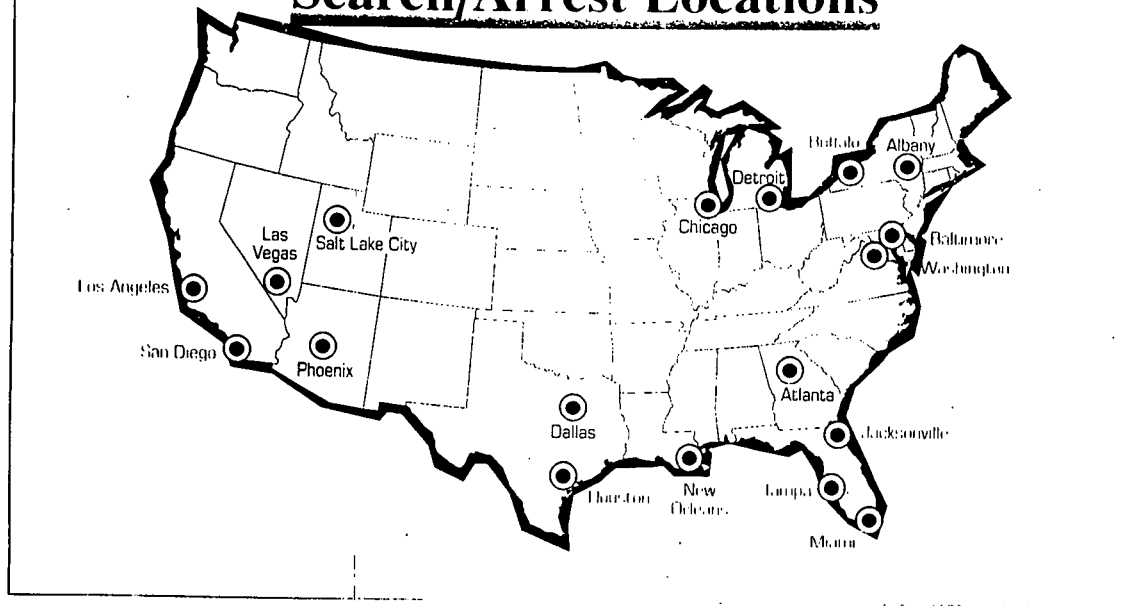


CHART 4

The CHAIRMAN. Thank you very much.

Let me Ms. Landreth, come back to you. We heard a lot about Las Vegas in terms of the State of Nevada actually licensing various individuals or companies to do business, approving the script that would be read.

What was your reaction to that?

Ms. LANDRETH. Well, first of all, I would caution everyone who heard Mr. Gould's testimony to take it with a grain of salt. This man is a convicted felon, and this was not his first felony conviction. So I would be careful to put too much credence in some of the things that he said.

The CHAIRMAN. I also noticed he said he was completely broke but he had on some bracelets that would probably carry most of us through the year. [Laughter.]

Ms. LANDRETH. Yes, but maybe he won them in a prize promotion. [Laughter.]

I thought it was interestingly said.

The CHAIRMAN. I suspect they are a higher quality than what you are about to show me in front of you.

Ms. LANDRETH. I think we can agree with that. I was amused by his statement that he didn't think the U.S. Attorney's Office believed him when he said that he was broke.

In terms of the registration, this has been a method, as I said, that the State has attempted to deal with a serious problem that the State knows it has. The Attorney General of the State of Nevada is in the process of drafting legislation, I am told, to try to correct some of the problems with the whole mechanism for registration, and I realize that registration does create certain issues but it was one way that the State thought it could address the problem.

Frankly, as I said, people who are committed to committing crimes will commit crimes no matter, and so I realize there is an issue of legitimacy that comes with registration, but it was an attempt by the State to correct some problems within the State. If I may just point out a couple of these devices, Mr. Chairman—

The CHAIRMAN. Could you point out some of these gifts and how they've been marketed?

Ms. LANDRETH. This one was sold, was marketed as a car telephone. As you can see, it's a little cheap telephone that is in the shape of a car. This is one of the earlier more popular gimmicks that we had. This little plastic container was sold as a sophisticated food processor.

The CHAIRMAN. Cuisinart?

Ms. LANDRETH. Cuisinart, probably. [Laughter.]

This little job here, which is basically a calculator, was sold as a personal computer over the telephone.

The CHAIRMAN. The retail price of something like that is what?

Ms. LANDRETH. I would guess—and I'm just guessing because this is from an old case—but I would guess it was probably in the \$5 to \$10 range tops. In terms of what was elicited from people for this sort of material and the fur coat that you showed anywhere from \$390 for some of the cheaper items. I'm pointing out some cheap watches. This is about—\$390 about the least that has been extracted for some of these gifts, and they can go up to as much

as \$4,000, and even more, as Mr. Gould has indicated, for the cost of a car.

The CHAIRMAN. Do you want to hold up that tennis bracelet right in front of the cuisinart?

Ms. LANDRETH. Sure, this is—

The CHAIRMAN. And that is what is described as either a diamond or some sort of valuable jewel?

Ms. LANDRETH. This is a diamond. I'm not sure what this one was described as, but we have diamond tennis bracelets. This one, I'm sure, was described as a ruby necklace, and it's essentially glass.

The CHAIRMAN. And the net worth is what? The value is calculated at how much?

Ms. LANDRETH. The value? In terms of what these trinkets cost the telemarketers, they probably cost, as I said, generally under \$10, maybe as little as \$4 or \$5, and they are marketed as being worth usually several thousand dollars.

The CHAIRMAN. We had one example in a past hearing when an individual was promised a home theater system, and it turned out he got one of these little small AM-FM tape players that was worth maybe \$40 or \$50 at best, and was told that it's one of those in-house stereo speakers or theater systems where the images were—these 6-foot systems with a screen that would cover your wall, and that's what he got in the mail.

Is there anything else you want to show in the way of demonstrative services?

Ms. LANDRETH. I think that that is a pretty good sampling of what we have. Here is just another gold-plated necklace. I believe that pretty much covers the range of things. It gives you a good sense of how cheap the products are.

The CHAIRMAN. Mr. Owens, just one question. Organized crime, in your statement you talk about the Costa Nostra. Are they connected to telemarketing companies?

Mr. OWENS. There are certain areas of the country where we have seen elements of the traditional organized crime involved in the telemarketing fraud arena, yes. And I think it's indicative of the high dollar return that is available under present conditions.

The CHAIRMAN. What about the scam legislation that Congress passed? Is this giving prosecutors enough of a tool to really go after these individuals and companies who are defrauding seniors?

Ms. LANDRETH. Speaking from our office's point of view, we are quite satisfied with the legislation that is in place on the Federal level. Like I said, we are working with the State on the State's issues, but I would say that with a few adjustments—and I know some are under consideration—we are quite satisfied with the consumer legislation because the problem isn't so much regulating criminals. These people will break the law no matter what it is. We've been given pretty good prosecutive tools.

The RICO statute, if I could single out something that has been around for a while, but the RICO statute and the money laundering statutes are excellent. Not only are we able to forfeit the proceeds from these illegal operations, but also we can get pretty good sentences if we can convict somebody on money laundering or RICO.

The CHAIRMAN. So you're using RICO now to get the recovery or forfeiture of some of the gains?

Ms. LANDRETH. Yes, we've done at least three RICO convictions in Nevada.

The CHAIRMAN. Well, let me thank all of you for coming. I have additional questions that I may want to submit for the record for your answer, but as we've indicated time and time again here today, the best thing that we can do is to alert the American people about what is going on, and we should look with some apprehension about the next phase of it—the Internet. I think that we have yet to even appreciate the enormity of what is coming as far as access to the Internet and people who are going to be using it, and the kind of “salesmanship” that will take place.

The major difficulty, of course, that we face is, how do you distinguish legitimate versus illegitimate? Those are enormous problems for all of us to confront.

The AARP staff has asked us to say that, for the record, despite what Mr. Gould said, the AARP membership is not for sale, rent, or brokering.

So, Ms. Landreth, we will take not only his statement with a grain of salt about Las Vegas and Nevada, but we will take with an absolute “cum granum salis”—as they say in Latin—with respect to AARP's membership not being for sale, rent, or brokering.

We will strike that from the record, or at least put it in quotes when it appears in the record.

I thank all of you for coming, and we will now proceed to our final panel.

I would like to welcome our fourth panel. I would like to welcome Ms. Agnes Johnson of Biddeford, ME, who is going to be testifying on behalf of the AARP, which has been maligned here today. I might say that Ms. Johnson is no stranger to me or to my office. I initially met her more than 20 years ago when I was first running for Congress, and she has never hesitated to let me know what she thinks about my activities ever since that time.

I might also point out she has been a particularly active and effective spokesperson for AARP both in Maine and Washington, and she happens to be a very special favorite of my staff, and that is because she always brings them cookies. [Laughter.]

The CHAIRMAN. But I don't think any of you should be misled. She is a tough cookie. She is a native Scotswoman, and she is shrewd, she is nice and I pity any scam artist who tries to take advantage or tangle with her.

We also want to welcome John Barker of the National Fraud Information Center who is going to testify about some recent emerging trends.

If you could summarize your statements, I would appreciate it. We are running way behind now, but we would like to have you proceed.

Ms. Johnson.

**STATEMENT OF AGNES JOHNSON, AMERICAN ASSOCIATION
OF RETIRED PERSONS, BIDDEFORD, ME**

Ms. JOHNSON. Senator Cohen, thank you very much for the kind words. I'll talk with you tomorrow when we have our good interview.

The American Association of Retired Persons appreciates this opportunity to testify on telemarketing fraud and the older consumer. The Association commends to the committee for examination of this complex problem.

Today AARP is submitting consumer research conducted over the past 2 years that attempts to reveal more about victims' behavior, attitudes and values with regards to telemarketing fraud. Law enforcement officials, AARP research and even evidence from telemarketers themselves confirm the belief that older Americans are being targeted by fraudulent telemarketers. Given the expected growth of the Nation's elderly population, the number of consumers considered vulnerable to telemarketing fraud will likely increase in the future.

The Federal Trade Commission recently promulgated a new telemarketing sales rule which took effect on January 1 of this year. It corrects many telemarketing abuses and was designed to send a clearer message to consumers and the industry that some telemarketing abuses will not be tolerated.

While the FTC's rules take great strides forward in protecting consumers, the AARP was disappointed that the FTC did not establish a bright line delineating permissible and non-permissible activities. Indeed, a bright line would have helped consumers better understand market place hazards.

As the FBI recognized, the best method of combating telemarketing fraud is an educated consumer who recognizes the marketing fraud. AARP encourages its members to protect themselves against fraudulent telemarketers targeting older consumers. They know that being curious enough to listen to a telemarketer's pitch is like walking down a dark alley late at night or leaving the front door unlocked. It certainly invites trouble.

Some older citizens are plagued by telephone calls for contests, sweepstakes, products, and charitable solicitations. Some victims report receiving as many as three calls a day, and half the respondents to the AARP survey discussed or reported that they tried to break off the conversation or ask for more time to consider the offer. However, despite these best efforts to resist these fraudulent calls, some older consumers continue to fall victim to smooth, talking con artists.

Now these fraudulent telemarketers have been known to change their sales pitches to become philosophically abusive to close the deal, and AARP research includes a survey of almost 800 victims of telemarketing fraud. Victims were identified by State and local prosecutors, and interviewed at length about their experiences. The major findings of the survey paint a surprising picture of the victims. They seemed to lack the skills needed to end telephone conversations when they feel some pressure from the person on the other end of the line. Further, many victims will not tell anyone about being taken, even when they are unhappy with the results. Thus, older consumers are truly in need of protection against

fraudulent telemarketers. Victims of telemarketing fraud tend to be well-educated, have higher than average incomes and are socially active members of their communities.

This profile stands in stark contrast to the prevailing view of older victims. Based on evidence as socially isolated, ill-informed, confused and committed to old-fashioned ideas about how one should treat strangers on the telephone. But perhaps the most compelling insight gained from the AARP's research is that even though 90 percent of older fraud victims surveyed, they say they have read or heard about cases of telemarketing fraud. Almost 70 percent say it is difficult to identify fraud when it is happening. What is more, fully 40 percent of the older population as a whole cannot distinguish between a legitimate and a fraudulent telemarketing sales call.

This inability to distinguish a legitimate sales pitch from a fraudulent one can have devastating consequences for consumers in general. It is important to understand the motivation of telemarketing fraud victims if we are to develop an ineffective means of intervention to prevent increasing numbers of older telemarketing fraud victims.

The AARP survey utilized marketing analysis to look at several factors like age, income, and social activities. AARP also conducted in-depth interviews conducted in a group discussion format around the country. These focus groups demonstrated that older Americans' experience with telephone solicitations are numerous and diverse.

Their ideas of telemarketing fraud are nonetheless remarkably similar. Most say it is difficult to recognize. They are reluctant to call it a serious crime or to call the fraudulent telemarketer a criminal. They underestimate the occurrence of telemarketing fraud. Whether they have been victims of telemarketing fraud or not, many are willing to listen to people who call them on the telephone offering a prize, selling products or asking for donations. Even if they suspect the business to be illegitimate, victims especially find it difficult, if not impossible, to hang up on telemarketers.

Because of the complex nature of the telemarketing industry and the special vulnerability of older Americans, there is a continuing need for active oversight at both the Federal and State levels. And, to this end, the AARP urges Federal and State legislators to give law enforcement and other agencies adequate authority and resources to police the market place thereby ensuring integrity, fairness, accuracy and compliance with existing laws and regulations.

The AARP recommends that Federal law enforcement agents be encouraged to continue their investigation and aggressive prosecution of fraudulent telemarketing operations. The combined efforts of the Department of Justice, the Federal Trade Commission and others aggressively pursuing fraudulent telemarketers across the State and international borders should effectively deaden the growth of this type of fraud.

Further, the AARP recommends that in addition to any existing penalties, telemarketing fraud criminals should be subjected to forfeiture of their ill-gotten gains. This crime is motivated by greed and if the criminals can't keep money, they take from other older

victims they may be less likely to engage in this type of the activity in the first place.

It is also important for this committee in its oversight capacity to look ahead to the new technologies and anticipate fraud before the criminals do. The Internet represents a potential breeding ground for new types of fraud. Indeed, cyberfraud could have a large impact on older consumers who are already surfacing the net in unexpected numbers, I might add. These numbers are likely to increase as the population ages.

Aggressive prosecution of telemarketing fraud cases does not diminish the importance of educating older consumers about the risk of telemarketing fraud. AARP has committed significant resources to continued research on how best to inform our membership about these issues. We want to share our works so that Federal, State, and local educational efforts are the best they can be.

We recommend that consumer education regarding the risks of telemarketing fraud be identified as a priority for the Department of Justice, the Federal Trade Commission and other agencies who deal with consumers in the market place.

Finally, the AARP commends the committee for its aggressive and farsighted efforts to call attention to this issue. We believe that increased public and private partnerships, along with Federal and State action will make an important difference in the lives and financial security of millions of older Americans.

We thank you for this opportunity to present AARP's views on the important issue, and before I turn this over I want to say I hurried and that's why it wasn't perfect because I knew you were late and I was doing it for you. [Laughter.]

The CHAIRMAN. Actually, I was smiling because as you were pronouncing some of those words, I kept thinking back to years ago when so many of us had trouble pronouncing the word specificity. Everyone of us had a hang up on that, and we stumbled in front of the cameras over certain words. So I was smiling to myself not at all trying to demean what you were saying, but rather knowing that my tongue gets tripped every once in a while and I was pushing you, and you will take it out on me tomorrow when you come to my office.

Ms. JOHNSON. No, I did it for you. I really did it for you. You did not push me, but I did eliminate one word because I was uncertain about it, and it is a-n-e-c-d-o-t-a-l. I rehearsed it and rehearsed it, and I thought, oh, I better not. [Laughter.]

The CHAIRMAN. It sounds like anecdotal. I think I know what it is.

Ms. JOHNSON. But you know that I can do it better, much better.

The CHAIRMAN. I do indeed. Thank you for trying to accommodate me. I appreciate it very much.

[The prepared statement of Ms. Johnson follows:]



Bringing lifetimes of experience and leadership to serve all generations.

**STATEMENT OF THE
AMERICAN ASSOCIATION OF RETIRED PERSONS
ON
TELEMARKETING FRAUD AND OLDER CONSUMERS**

The American Association of Retired Persons (AARP) appreciates this opportunity to testify on telemarketing fraud and the older consumer. The Association commends the committee for its examination of this complex problem. As part of our statement, AARP is submitting consumer research conducted over the past two years that attempts to reveal more about victims' behavior, attitudes, and values with regard to telemarketing fraud.¹ It is our hope that this research will move us closer to effective prevention methods and messages.

Law enforcement officials, AARP research, and even anecdotal evidence from telemarketers themselves confirm the belief that older Americans are being targeted by fraudulent telemarketers. The Federal Bureau of Investigation (FBI) documented this pattern of victimization in its recent successful telemarketing investigation "*Operation Senior Sentinel*," which used AARP members and others to obtain undercover tapes of conversations with fraudulent telemarketers. The information obtained during that lengthy investigation indicated that more than 78% of the targeted victims were older.² Given the expected growth in the nation's elderly population, the number of consumers considered vulnerable to telemarketing fraud will likely increase in the future.

The Federal Trade Commission (FTC) recently promulgated a new Telemarketing Sales Rule which took effect on January 1 of this year.³ It corrects many telemarketing abuses and was designed to send a clear message to consumers and the industry that some telemarketing abuses will not be tolerated. A participant in the FTC's rulemaking proceeding, AARP believes the FTC's rule takes great strides forward in protecting consumers. The Association was particularly pleased to see a joint federal-state enforcement mechanism put in place.

¹ See *Telemarketing Fraud and the Older Consumer: An AARP Survey* (the Survey Report), AARP, Washington, DC, 1996, and *Telemarketing Fraud and the Older Consumer: A Report of Focus Group Discussions* (the Focus Group Report), AARP, Washington, DC, 1996.

² U S Department of Justice, Federal Bureau of Investigation, *Senior Sentinel Telemarketing Fraud*, Washington, DC December 5, 1995. In that report, older consumers are defined as those over 55.

³ 60 Fed. Reg. 30,406 to 30,428 (1995).

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Eugene I. Lehrmann *President*

Horace B. Deets *Executive Director*

AARP was disappointed, however, that the FTC did not establish a *bright line* delineating permissible and non-permissible activities. In attempting to reduce the burden of rule compliance upon legitimate telemarketers, the FTC has also reduced the likelihood that consumers will be able to distinguish between legitimate and fraudulent telemarketers.

Under the FTC's rule, telemarketers cannot make misrepresentations about a limited number of telemarketing activities that they are required to disclose. Since disclosures are not mandated on the full range of issues consumers will likely confront in telemarketing transactions, the FTC has placed the burden on consumers to ask all of the right questions and to rely upon answers provided to determine legitimacy. This is something most older consumers admit they are unable to do.

In addition, while prohibiting some unfair and abusive practices, the FTC chose not to curtail other troublesome practices, like sending a courier to pick up a payment or allowing telemarketers to access a consumer's checking account via bank draft. These practices, permitted under the FTC's new rule, are used predominately by unscrupulous and illegal telemarketers to bilk countless numbers of victims out of their hard-earned money. Had the FTC curtailed these practices or provided disclosures alerting consumers to the fact that these payment practices might be risky, consumers would have been better off. Indeed, a *bright line* would have helped consumers better understand marketplace hazards. As the FBI recognized, "the best method of combating telemarketing fraud is an educated consumer who recognizes...telemarketing fraud."⁴

AARP encourages its members to protect themselves against fraudulent telemarketers targeting older consumers. They need to know that being curious enough to listen to a telemarketer's pitch is analogous to walking down a dark alley late at night or leaving the front door unlocked -- it invites trouble. Some older victims are plagued by telephone calls for contests, sweepstakes, products and charitable solicitations. Some victims report receiving as many as three calls a day. Half of the respondents to the AARP survey discussed below reported that they tried to break off the conversation or asked for more time to consider the offer. Despite their best efforts to resist these fraudulent calls, however, some older consumers continue to fall victim to smooth-talking con artists. These fraudulent telemarketers have been known to change their sales pitches or become psychologically abusive to "close the deal."

Telemarketing fraud is a pernicious problem affecting all Americans, particularly older people who are disproportionately victimized. As Congress has recognized, estimates of loss due to telemarketing fraud run as high as \$40 billion a year. Tragically, because it is part of the nation's underground economy, the real cost of telemarketing fraud will never be known. As a result of multiple, recurring scams (sometimes called recovery rooms), public confidence in the legitimacy and reliability of this industry is

⁴ US Department of Justice, Federal Bureau of Investigation, White-Collar Crimes Section, *Telemarketing Fraud*, Washington, DC [undated].

low. In fact, most telemarketing fraud victims (75%) have generalized their experience to include all telemarketers. These victims say they believe organizations contacting people about prizes or sweepstakes take advantage of people like them.⁵ And, almost 50% of the general population say most telemarketers try to take advantage of consumers.⁶

AARP SURVEY

AARP research includes a survey of almost eight hundred victims of telemarketing fraud. Victims were identified by state and local prosecutors and interviewed at length about their experiences. The major findings of the survey paint a surprising picture of victims. They seem to lack the skills needed to end telephone conversations when they feel some pressure from the person on the other end of the line. Further, many victims will not tell anyone about the fraudulent transaction, even when they are unhappy with the results. Thus, older consumers are truly in need of protection against fraudulent telemarketers.

Despite common misperceptions, victims of telemarketing fraud tend to be well educated, have higher than average incomes, and are socially active members of their communities. This profile stands in stark contrast to the prevailing view of older victims, based on anecdotal evidence, as socially isolated, ill-informed, confused, and committed to old-fashioned ideas about how one should treat strangers on the telephone. Victims of telemarketing fraud express many of the same attitudes about telemarketers as those held by people who do not fall prey to fraudulent schemes.

Perhaps the most compelling insight gained from AARP's research is that even though 90% of older fraud victims surveyed say they have read or heard about cases of telemarketing fraud, almost 70% say it is difficult to identify fraud when it is happening. What's more, fully 40% of the older population as a whole cannot distinguish between a legitimate and a fraudulent telemarketing sales call. This inability to distinguish a legitimate sales pitch from a fraudulent one can have devastating consequences for consumers in general. Older consumers are particularly vulnerable to harm since it may be nearly impossible for many to make up a lifetime's worth of savings.

It is important to understand the motivations of telemarketing fraud victims if we are to develop an effective means of intervention to prevent increasing numbers of older telemarketing fraud victims. AARP's survey utilized marketing analysis to look at several factors (like age, income, and social activities). The following different types of fraud victims were identified:

⁵ Survey Report at page 10.

⁶ See *AARP Report on the 1993 Survey of Older Consumer Behavior*, AARP, Washington, DC, 1993.

Open to Anything 37%

Victims belonging to the largest group are very social. While skeptical about telemarketers, most will participate in a contest or sweepstakes if it doesn't cost too much. Members of this group are more likely to seek advice from family and friends on financial matters. They are younger than other victims, more likely to be married, and are relatively affluent.

You Can't Fool Me 30%

Victims of this group are wary of telemarketers and are determined to ignore sales pitches by mail and telephone. Still, they are unable to resist sending money off to fraudulent telemarketers. Perhaps because of their inaccurate self-perception as someone who can't be fooled, they think they are better protected against fraud than they really are. They are more likely to be isolated and private, with limited social activities. They are also less likely than other victims to seek the advice of friends or family members when they have a problem.

Polite and Vulnerable 14%

These victims are the most likely to have recently experienced some trauma in their lives, like the death of a spouse. They are significantly more likely than other victims to listen to the telemarketers. Their sense of loss combined with a feeling that it is not okay to hang up on a telemarketer makes them more welcoming to telemarketers than other victims.

Likes to Buy 11%

This group is the oldest and the least likely to be married. Most are women, many of whom live alone. They admit they are confused about telemarketing fraud and can't detect it when it is happening. This confusion is coupled with an eagerness to buy and spend, making them particularly vulnerable to fraud.

Naive 8%

This smallest group of telemarketing fraud victims believes that telemarketers are not out to defraud them despite their experiences. Only 10% are skeptical of most people selling products by telephone. Many more, 62%, deny they are victims as compared with the other victims in study, who deny it at the rate of 17%.

AARP FOCUS GROUPS

AARP also conducted focus groups (in-depth interviews conducted in a group discussion format) around the country. The results provide better understanding of consumers, victims as well as non-victims.

These focus groups demonstrated that older Americans' experiences with telephone solicitations are numerous and diverse. Their perceptions of telemarketing fraud are, nonetheless, remarkably similar. Most say it is difficult to recognize. They are reluctant to call it a serious crime, or to call the fraudulent telemarketer a criminal. They underestimate the occurrence of telemarketing fraud. Whether they have been victims of telemarketing fraud or not, many are willing to listen to people who call them on the telephone offering a prize, selling products, or asking for donations -- even if they suspect the business is illegitimate. Victims, especially, find it difficult, if not impossible, to hang up on telemarketers.

Even those victims who claim to be suspicious of telemarketers are inquisitive and like to try new things. 'Irene', a focus group participant from Philadelphia, expressed this idea when she described her own motivations:

If you are a very curious person like I am -- and I'm a very curious person -- and I'll say 'what have I got to lose.'...I really want to hear what they have to say.

This insight into the victim of telemarketing fraud is invaluable. Now we know we must convince someone like Irene that curiosity can be costly and that she does have a lot to lose.

As noted previously, AARP's survey demonstrated that older victims have difficulty recognizing telemarketing fraud when it is occurring. (Fully 40% of older consumers stated that they simply don't know the surest way to tell if a telemarketing call is fraudulent.) This skill deficit, coupled with the finding that almost 60% of those surveyed receive at least one telemarketing call a week, makes it clear that consumers need help in sorting out fraudulent from legitimate calls.

CONCLUSION

Because of the complex nature of the telemarketing industry and the special vulnerability of older Americans, there is a continuing need for active oversight at both the Federal and State levels. To this end, AARP urges Federal and State legislators to give law enforcement and regulatory agencies adequate authority and resources to police the marketplace, thereby ensuring integrity, fairness, accuracy, and compliance with existing laws and regulations.

⁷ Focus Group Report, page 3.

AARP recommends that federal law enforcement agencies be encouraged to continue their innovative investigation and aggressive prosecution of fraudulent telemarketing operations. The combined efforts of the Department of Justice, the Federal Trade Commission, and others, aggressively pursuing fraudulent telemarketers across state and international borders, should effectively deter the growth of this type of fraud. Further, AARP recommends that in addition to existing penalties, telemarketing fraud criminals should be subjected to forfeiture of their ill-gotten gains. This crime is motivated by greed, and if the criminals can't keep money they take from older victims, they may be less likely to engage in this type of activity in the first place.

It is also important for this Committee in its oversight capacity to look ahead to the new technologies and anticipate fraud before the criminals do. The Internet represents a potential breeding ground for new types of fraud. Indeed, *cyber fraud* could have a huge impact on older consumers who are already 'surfing the net' in unexpected numbers. These numbers are likely to increase as the population ages.⁸

Aggressive prosecution of telemarketing fraud cases does not diminish the importance of educating older consumers about the risks of telemarketing fraud. AARP has committed significant resources to continuing research on how best to inform our membership about these issues. We want to share our work so that federal, state, and local educational efforts are the best they can be. We recommend that consumer education regarding the risks of telemarketing fraud be identified as a priority for the Department of Justice, the Federal Trade Commission, and other agencies who deal with consumers in the marketplace.

Finally, AARP commends the Committee for its aggressive and far-sighted efforts to call attention to this issue. We believe that increased public and private partnerships, along with Federal and State action, will make an important difference in the lives and financial security of millions of older Americans. Thank you for this opportunity to present AARP's views on this important issue.

⁸ See *Personal Computers and Older Persons: Use and Ownership Trends and Projections*, AARP, Washington, DC, 1995.

The CHAIRMAN. Mr. Parker, if you could summarize please. You are the last, but not the least, and you are, unfortunately, at the very tail end of the committee hearing. But if you could summarize your testimony, it would be very, very helpful.

STATEMENT OF JOHN BARKER, DIRECTOR, NATIONAL FRAUD INFORMATION CENTER, WASHINGTON, DC

Mr. BARKER. Thank you very much, Mr. Chairman.

I can hear rumbling tummies behind me so I will be brief today.

Mr. Chairman, our report to you today on the nature, extent and pervasiveness of telemarketing fraud is a relatively optimistic one for a change. New statutes are on the books, good laws which provide our Nation's law enforcement officers with the tools to investigate and prosecute the crooks who prey on older Americans. And, for that, we have you to thank.

We also have new regulations in effect, which if rigorously enforced, will make it clear to all that this crime won't pay. We have new technologies which enable us to identify, track, locate and investigate the estimated 8,500 illegal operations, which only 2 or 3 years ago had a free ride. And we are making headway in tackling the important job of creating the right consumer education messages for senior citizens, which will give them more control over their contact with telemarketers and free them once and for all of the terrible humiliation, embarrassment, and heartbreak caused by crooks who prey on their good manners, politeness, vulnerability, and willingness to accept.

In discussing with the committee the current state of fraud, I think it is important to recognize the significance of the Federal Trade Commission's new telemarketing sales rule. In many respects, this rule meets the standards set in Public Law 103-297. It establishes guidelines for legitimate telemarketers and serves notice on the criminal that Federal and State authorities will prosecute violations of the rule. It can play a positive role in curtailing this criminal activity.

On the other hand, Mr. Chairman, we see serious flaws in the regulations and fear that the TSR—that's what it's called—if not modified, may simply legitimize many practices which the Congress thought to curtail. The telemarketing sales rule has been in effect for only 60 days and it is clearly too early to call it a success or failure, but organizations such as mine which deal with victims and enforcement issues are not convinced that Public Law 103-297, as incorporated into Federal regulation, is going to make any headway at all in solving the problem.

We are already concerned, Mr. Chairman, that regulatory language, which provides consumers with a way to opt out of telemarketing calls places an undue burden on the person receiving the call. In theory, a consumer can put an end to unwanted telemarketing calls by requesting a telemarketer to put his or her name on a "do not call" list. If the telemarketer fails to do so and the calls persist, the telemarketer is subject to a fine.

What happens in practice is that the consumer has great difficulty in identifying the telemarketer. Many telephone sales persons refuse to disclose their name and business location or even

their telephone number, and this makes it impossible to track a call and pursue persistent unwanted sales calls.

This may seem like a small matter, but when you consider that our first line of defense for consumers is the ability to restrict unwanted calls, it becomes apparent that the telemarketing sales rule fails to provide this elementary but vital protection to our citizens. It also happens to be a specific requirement of the act.

Other disclosure requirements and prohibitive practices outlined in the rule are vague and allow too much discretion to the telephone sales representative. The rule's language covering prize awards offers no real signals for consumers to use to spot fraudulent offerings.

The Commission also failed to provide consumers with adequate protection against crooks who sweet talk their victims into giving out their checking account numbers and then clean out their savings.

The Commission's approach on enforcing the telemarketing sales rule is also causing great concern among many in and out of Congress who hoped that the TSR would provide a new get tough approach toward the crooks who are bilking the Nation's elderly and their adult children out of \$60 billion a year.

The Commission's strategy, however, seems to emphasize consumer education initiatives aimed at reinforcing the legitimate telemarketing industry and its practices as opposed to a clear warning to crooks that the Commission is taking a no prisoners approach based on tough, new regulatory authority. We believe that the Commission is spending too much time reassuring industry and not enough time engaged in the enforcement and regulatory practices it is charged with.

Regarding Canada, the National Fraud Information Center has tracked the growth in Canadian-based telemarketing operations for some time now, and believes that many operations are moving to Canada because of improved enforcement efforts here in the United States. The number of suspect Canadian operations in our data base, Mr. Chairman, now exceeds 320 companies, and you can see over here on this chart the amazing growth in Canadian-based fraud ever since August 16, 1994, when the President signed the Telemarketing Sales Act into law. The "Saber Tooth Tiger" over there on the right has some dips in it, but clearly we have a much bigger problem than we used to, and most of these companies are located, Mr. Chairman, in Montreal, Toronto, and Vancouver. Canadian authorities are receiving our reports on these boiler rooms, and their reports include sweepstake operations, recovery rooms, work-at-home schemes, advanced fee, loan operations, lotteries, and credit report schemes, all of which are regulated or prohibited under the telemarketing sales rule, and which you can see in the chart over on the left—very much the same types of schemes that are operating and have been operating in the United States are now moving on a wholesale basis across the border into Canada.

These telephone solicitations often do not make it clear that the calls originate outside the United States, and many people do not realize that United States rules do not always apply abroad—credit card dispute resolution procedures, criminal enforcement and 3-day cooling off periods.

I also wish to bring to the committee's attention, Mr. Chairman, the widespread use of alternate payment and transaction technologies by fraudulent telemarketing operations. The days of cash, check, or money order are clearly gone. In their place are a sophisticated range of electronic and paper debit technologies, which are used to extract payment from a victim and put it in the pocket of a criminal at record speed.

The *Crime Control Act* of 1994 was instrumental in making one such practice clearly illegal. It is no longer plausible for fraudulent telemarketers to use private courier services to receive funds from victims, and that practice is now a violation of the mail fraud statute.

Nevertheless, new tricks are being applied. Many criminals now use wire transfer services such as Western Union to get money quickly and anonymously. Criminals engaged in telemarketing fraud now ask a victim to call Western Union, and using their credit cards, wire money instantly to any one of thousands of convenience store outlets around the country where it can be claimed with little or no difficulty.

Other criminals use negotiable paper drafts or electronic funds transfers to secure payment, and these payment mechanisms are widely used by telemarketing operations, which either have no official merchant status with one of the major credit card affiliates or who deal with customers who generally do not have credit cards.

Many older Americans are asked for their checking account numbers to pull withdrawals from their accounts without realizing what they are doing or the fact that once proffered the numbers can be used again and again or sold to other telemarketing operations.

The use of telephone billing statements to process charges other than long distance and local telephone calls is also on the rise, and the National Fraud Information Center now processes many incident reports where the victim has been charged on a telephone bill for services or merchandise which were never purchased.

The telemarketing sales rule and other Federal regulations cover many of these transactions, but it is important for the committee to understand that many older Americans do not understand the technology, the way these payments are processed or the potential for abuse which exists when dealing with sophisticated electronic payment systems. They often fall prey to criminals who count on confusion to extract funds from unwitting victims.

Finally, Mr. Chairman, I would like to brief the committee on the growing problem of fraudulent commercial transactions on the Internet.

You might think that this is a problem generally restricted to younger Americans, but, on the contrary, many older Americans are now surfing the net, taking advantage of a wide variety of electronic information, entertainment and merchandising promotions available on the Worldwide Web.

The National Fraud Information Center has begun tracking commercial fraud on the Internet. We have established a network for reporting fraud on the Internet, which includes the Federal Trade Commission and the National Association of Attorneys General. We started our own web site on the Internet early in February, and

received approximately 500 inquiries the first week or so. Last week we received 5,000, and the number of reports we received are escalating rapidly. In fact, Mr. Chairman, I fully expect that within a few weeks we will handle as heavy a caseload on Internet-related fraud as we do on telephone-based fraud.

What is out there? So far commercial fraud on the Internet closely mirrors telemarketing fraud. We see hundreds of get rich quick schemes, prize offers, offers to set people up in business on the Internet, investment and securities fraud, loans, scholarships and the like. These scams duplicate the telephone scams we have always seen with two major differences: they are purely electronic and they are worldwide in scope.

It used to be that we got excited when we heard from a consumer in Hawaii. Now a typical day at our fraud hotline brings 30 or so inquiries from Hong Kong and half a dozen from Russia. The Internet users disclosing credit card numbers do so at their peril. We have seen web sites which looked innocuous and perfectly straightforward, but on closer examination it turned out that those who furnished credit card information to the site sponsor got nothing, and the location of the web site involved was in India. Not only did they fail to get what they paid for, but they put their credit card account number into play big time.

The National Fraud Information Center has full-time personnel engaged in tracking and monitoring fraud on the Internet. We are reporting cases now daily to Federal and State authorities. It is our view that the Internet presents a tempting and lucrative host for a variety of fraudulent activities, and if unchecked, could soon make telemarketing fraud look like nothing more sinister than cheating at monopoly.

I want to thank you again, Mr. Chairman, for giving us the opportunity to testify here today. You and your committee have an impressive record of concern for the problems of the elderly. While this issue cuts across generations and affects all Americans, it is especially difficult for older Americans to endure. We must all recognize that what we are dealing with is serious, pervasive, intrusive and psychologically destructive to its victims. It is clearly a case of elder abuse—or, to put it bluntly, financial rape. With your support and with your help, we can ease that burden.

Thank you very much.

[The prepared statement of Mr. Barker follows:]

TESTIMONY OF JOHN F. BARKER

Mr. Chairman and members of the committee: National Consumers League and its National Fraud Information Center wish to thank you and the members of the committee for giving us the opportunity to brief you on trends and emerging topics in telemarketing fraud as well as our assessment of the current status of enforcement efforts and other initiatives to reduce the financial and social cost of this growing problem in American society.

I have just returned, Mr. Chairman, from a 4-day working meeting with many of the nation's leading experts in gerontology, financial psychology, social marketing, telemarketing fraud, and consumer protection. Our objective was to begin to focus our collective expertise and energies on the problem of fraud and the elderly. It has been clear to us for some time now that older Americans have not been responding to our warnings about what can happen when they pick up the phone and talk to strangers. More than 60 percent of the fraud victims contacting our national fraud hotline for assistance are individuals age 65 or older. Their losses, Mr. Chairman, total, not in the millions, but in the billions.

You will hear today about recent survey research and other information on senior citizens' response to telephone solicitations—that many are unable to tell the difference between legitimate and fraudulent telemarketing; that the majority of senior citizens will not hang up on callers because they do not want to appear to be rude; and that more and more senior citizens are falling prey to fraudulent solicitations. The excellent research work performed by the American Association of Retired Persons gives us an increasingly accurate picture of what we face in dealing with fraud and the elderly. Most important, the new data compiled by AARP has identified the "triggers", so to speak, which are at the heart of older persons' willingness to agree to fraudulent telephone offers.

What emerged from our working group on fraud and the elderly were two major concerns: first, that we must begin to treat elderly fraud victims—not as isolated cases which together add up to huge losses—but as an emerging social problem which must be addressed in same manner as other problems which take an unacceptably heavy toll on resources and self-esteem. The second is that we must convince senior citizens that the person on the other end of the phone who is taking our money is not just a clever con artist, but a crook. Third, we must provide families with the tools to understand and work together to deal with the behavioral patterns which contribute to vulnerability. And we must all recognize that what we are dealing with is serious, pervasive, intrusive, and psychologically destructive to its victims. It is a clear case of elder abuse—or, to put it bluntly, financial rape.

The Congress, Mr. Chairman, has recognized the seriousness of the problem. In 1964, it enacted landmark legislation under *The Crime Control Act* imposing stiff penalties on felons who prey on older victims. The Congress continued this work by enacting *The Telemarketing and Consumer Fraud and Abuse Prevention Act of 1994* (P.L. 103-297). This legislation established authority for the Federal Trade Commission to regulate all telemarketers and to impose stiff civil penalties on the estimated 10 percent or so who engage in systematic misrepresentation, deception, and harassment. The Act resulted in promulgation of the Telemarketing Sales Rule on January 1 of this year.

In discussing with the committee the current state of fraud, I think it is important to recognize the significance of the Federal Trade Commission's new rule. In most respects, this rule clearly meets the legislative mandate of Congress. It establishes clear guidelines for legitimate telemarketers and serves to warn the criminal that Federal and State authorities will prosecute infractions of the rule. It can play a positive role in curtailing this criminal activity.

On the other hand, Mr. Chairman, we already see some serious flaws in the regulations and fear that the "TSR", if not modified, may simply legitimize many practices which the Congress sought to curtail. The Telemarketing Sales Rule has been in effect for only 60 days and it is clearly too early to call it a success or a failure. But organizations such as mine, which deal with victims and enforcement issues, are not convinced that Public Law 103-297—as incorporated into Federal regulation—is going to make headway in solving the problem.

We are already concerned, Mr. Chairman, that regulatory language which provides consumers with a way to opt out of telemarketing calls places an undue burden on the person receiving the call. In theory, a consumer can put an end to unwanted telemarketing calls by requesting a telemarketer to put his or her name on a "do not call" list. If the telemarketer fails to do so and the calls persist, the telemarketer is subject to a fine. What happens in practice is that the consumer has great difficulty in identifying the telemarketer. Many telephone sales persons refuse to disclose their name and business location—or even their telephone number. This makes it impossible to track the call and pursue persistent, unwanted sales calls.

Other disclosure requirements and prohibited practices outlined in the rule are vague and allow too much discretion to the telephone sales representative.

The Commission's general policy about enforcing the Telemarketing Sales Rule is also causing great concern among many in and out of Congress who saw in the TSR a new "get tough" approach toward the crooks who are bilking the nation's elderly and their adult children out of \$60 billion each year. The Commission's strategy, however, seems to emphasize consumer education initiatives aimed at reinforcing the legitimate telemarketing industry and its practices—as opposed to a clear warning to crooks that the Commission is taking a "no prisoners" approach based on tough new regulatory authority.

The Congress, Mr. Chairman, clearly intended to put crooks on notice that fraudulent acts against senior citizens and others would no longer be tolerated and would be prosecuted to the full extent of the law. It did not intend this as a public relations campaign aimed at validating the telemarketing industry. The telemarketing industry does an excellent job of this itself. We must not lose sight of why Congress

has acted forcefully to protect our senior citizens. It is to put crooks out of business and criminals behind bars.

Congress has granted Federal and State authorities sweeping new powers to combat fraud. And the Federal Trade Commission is publicly committed to fair and vigorous enforcement of the Telemarketing Sales Rule. But the rule itself is flawed in many respects and does not fully convey the intent of Congress in curtailing illegal practices such as misrepresentation, deception, and outright theft. We urge the Congress to exercise its oversight authority to monitor closely how effectively the Federal Trade Commission embraces its statutory mandate.

I dwell on the Telemarketing Sales Rule, Mr. Chairman, simply because it is the key to Federal and State enforcement efforts aimed at curtailing telemarketing fraud. It provides new authority for State law enforcement agencies to go after illegal operations targeting their citizens. It also takes aim at the ability of illegal telemarketers to move quickly to avoid detection and investigation.

I am pleased to report to you that, generally speaking, the enforcement climate is much better today than it was even a year and a half ago. Federal and State agencies are working together to combat fraud; Federal and State agencies are working together with consumer protection agencies and organizations like the National Fraud Information Center to promote joint efforts to target and remove illegal operations preying on elderly victims.

The technology of detection is greatly enhanced by new systems which enable us to identify, locate, and report illegal operations—not in weeks, not in days, not in hours, but in minutes after initial reports are received. Our National Fraud Information Center handles approximately 350 fraud cases each day. The information we receive is forwarded automatically to appropriate jurisdictions and agencies usually within 3 minutes of the time a call is received here in the office.

Late last year, for example, an 86-year-old woman in Fort Lauderdale, Florida, learned through an article in *The Miami Herald* that Canadian boiler rooms were ripping off U.S. victims. She realized that she had just been taken. The afternoon before she had received a call from Toronto urging her to send \$2,000 in cash to recover funds she had lost to previous telemarketing scams. The Toronto operation—a recovery room, as it is called—convinced her to send the money by overnight carrier. She called the NFIC hotline immediately and reported the incident. The NFIC FraudNet system immediately relayed her report to the Metropolitan Toronto police. Police officers identified the location of the operation from the NFIC report, dispatched officers to check it out, and saw a courier approaching the recovery room with an envelope. They seized the envelope, identified it as coming from the woman in Fort Lauderdale. They opened it, took out the woman's cash, and called her to report the recovery. The woman took it all in stride. Thanks, she replied, and hung up the phone. All this took 1 hour and 20 minutes.

Now, this does not happen every day. But it does illustrate the success we are having in identifying and tracking illegal operations. Unfortunately, it also illustrates a growing trend: the removal of boiler rooms to Canadian locations.

The National Fraud Information Center has tracked the growth in Canadian-based telemarketing operations for some time now and believes that many operations are moving to Canada because of the Telemarketing Sales Rule. The number of suspect Canadian operations in our data base now exceeds 320. They are located in Montreal, Toronto, and Vancouver. The exodus began shortly after President Clinton signed Public Law 103-297 into law on August 16, 1994.

Canadian authorities are receiving our reports on these boiler rooms. The reports include sweepstakes operations, recovery rooms, work at home schemes, advance fee loan operations, lotteries, and credit repair schemes—all of which are regulated or prohibited under the Telemarketing Sales Rule.

We expect to see this trend continue.

I urge the committee to consider this problem in light of the heavy toll it takes on elderly victims. The telephone solicitations often do not make it clear that the calls originate outside the United States. Many do not realize that U.S. rules do not always apply abroad: credit card dispute resolution procedures, criminal enforcement, and 3-day cooling off periods. There is legislation currently before the U.S. House of Representatives which would impose heavier penalties on those who use foreign-based telemarketing operations to victimize U.S. citizens. But it will be difficult to bring such perpetrators within our jurisdiction in order to prosecute them.

I also wish to bring to the committee's attention, Mr. Chairman, the widespread use of alternative payment and transaction technologies by fraudulent telemarketing operations. The days of "cash, check, or money order" are gone. In their place are a sophisticated range of electronic and paper debit technologies which are used to extract payment from a victim and put it in the pockets of a con artist at record speed.

The Crime Control Act of 1994 was instrumental in making one such practice clearly illegal. It is no longer possible for fraudulent telemarketers to use private courier services to receive funds from victims. That practice is now a violation of the Mail Fraud Statute.

Nevertheless, new tricks are being applied. Many criminals now use wire transfer services such as Western Union to get money quickly and anonymously. Criminals engaging in telemarketing fraud now ask a victim to call Western Union and, using their credit cards, wire money instantly to any one of thousands of convenience store outlets around the country where it can be claimed with little or not difficulty.

Other criminals use negotiable paper drafts or electronic funds transfer to secure payment. These payment mechanisms are widely used by telemarketing operations which either have no official merchant status with one of the major credit card affiliates or who deal with customer who generally do not have credit cards. Many older Americans are asked for their checking account number and approve withdrawals from their accounts without realizing what they are doing or the fact that, once proffered, the number can be used again and again or sold to other telemarketers.

The use of telephone billing statements to process charges other than long distance and local telephone calls is also on the rise. The National Fraud Information Center now processes many incident reports where the victim has been charged on a telephone bill for services or merchandise which were never purchased. This is in addition to the manageable, but nonetheless troublesome, reports we still receive on 900 number pay-per-call services.

The Telemarketing Sales Rule and other Federal regulations cover many of these transactions. But it is important for the committee to understand that many older Americans do not understand the technology, the way these payments are processed, or the potential for abuse which exists when dealing with sophisticated electronic payments systems. They often fall prey to criminals who count on confusion to extract funds from unwitting victims.

Finally, Mr. Chairman, I would like to brief the committee on the growing problem of fraudulent commercial transactions on the Internet. You might think that this is a problem generally restricted to younger Americans. On the contrary, many older Americans are surfing the net, taking advantage of a wide variety of electronic information, entertainment, and merchandising promotions available on the worldwide web.

The National Fraud Information Center has begun tracking commercial fraud on the Internet. We have established a network for reporting fraud on the Internet which includes the Federal Trade Commission and the National Association of Attorneys General. We started our own web site on the Internet early in February and received approximately 500 inquiries the first week or so. Last week, we received 5,000 inquiries. The number of reports we receive daily on Internet fraud is escalating rapidly. In fact, Mr. Chairman, I fully expect that, within a few weeks, we will handle as heavy a caseload on Internet-related fraud as we do on telephone-based fraud.

What's out there? Our experience indicates that commercial fraud on the Internet closely mirrors telemarketing fraud. We see hundreds of "get rich quick" schemes; prize offers; offers to set people up in business on the Internet; investment and securities fraud; loans; scholarships; and the like. These scams duplicate the telephone scams we have always seen—with two major differences. They are purely electronic and they are worldwide in scope.

Internet users disclosing credit card numbers do so at their peril. We have seen web sites which looked innocuous and perfectly straightforward. On closer examination, however, it turned out that those who furnished credit card information to the site's sponsor got nothing. And the location of the web site was in India. Not only did they fail to get what they paid for, but they put their credit card account number into play—big time.

The National Fraud Information Center has full time personnel engaged in tracking and monitoring fraud on the Internet. We are reporting cases daily to Federal and State authorities. It is our view that the Internet presents a tempting and lucrative host for a variety of fraudulent activities and, if unchecked, could soon make telemarketing fraud look like nothing more sinister than cheating at Monopoly. The committee should be aware that the problem is growing and growing fast.

Happily, we are tracking it. We are reporting it. Federal and State law enforcement agencies are on top of it. We are developing and building resources to combat it.

Unlike other major new areas of fraudulent activity, we feel that we have this type of fraud clearly in our sights at a very early stage.

We wish to commend the Special Committee on Aging, Mr. Chairman, for its interest and its concern. Our report to you on the nature, extent, and pervasiveness of telemarketing fraud is a relatively optimistic one, for a change. New statutes are on the books, good laws which provide our nation's law enforcement officers with the tools to investigate and prosecute the crooks who prey on older Americans. For that we have you to thank. We also have new regulations in effect which, if rigorously enforced, will make it clear to all that this crime won't pay. We have new technologies which enable us to identify, track, locate, and investigate illegal operations which only 2 or 3 years ago had a free ride. And we are making headway tackling the important job of creating the right consumer education messages for senior citizens will give them more control over their contact with telemarketers and free them once and for all of the terrible humiliation, embarrassment, and heart-break of elder abuse caused by crooks who prey on their good manners, politeness, vulnerability, and willingness to accept.

Thank you very much.

The CHAIRMAN. Thank you very much, Mr. Barker and Ms. Johnson for accelerating your presentations to accommodate the committee. No law that we pass is going to be perfect in any form, and, as we pass the laws, we find that there are changes that have to be made, changes not only in the laws themselves but in the regulations promulgated pursuant to those laws.

So it is an ongoing process, and it will always be such, and the testimony that we received this morning is going to be helpful to us to constantly update the law and to make sure that we try to stay not one step ahead of the criminals, but at least one step behind in the never-ending pursuit of those who are criminally minded. But your testimony is very helpful, and, hopefully, we will be able to expand on this either by written answers to some of the questions I might have or to a personal meeting in the future.

Thank you all very much.

Mr. BARKER. Thank you, Mr. Chairman.

Ms. JOHNSON. Thank you.

The CHAIRMAN. The committee will now stand adjourned.

[Whereupon, at 12:46 p.m., the committee adjourned, to reconvene at the call of the Chair.]

A P P E N D I X

U.S. DEPARTMENT OF JUSTICE,
Las Vegas, NV, April 30, 1996.

Hon. WILLIAM S. COHEN,
322 Hart Senate Office Building, Washington, DC.

DEAR SENATOR COHEN: Thank you very much for the opportunity to appear before your committee to discuss the serious problems of fraudulent telemarketing. I greatly appreciate your concern, particularly for the elderly, in this matter of national importance.

Since my testimony in early March, I have learned that criminal defendant Edward Gould, who also testified before you, misled the committee on the matter of Nevada state regulation of telemarketing. He testified that the State of Nevada currently licenses and approves the scripts of telemarketers. In fact, I learned that the State discontinued licensing telemarketing operations several years ago; it now requires telemarketers to *register* with the State. Current State law also requires telemarketers to file marketing scripts with the State, if they use a written pitch. However, the State *does not approve* those scripts. They are simply on file for public review. Furthermore, telemarketers are clearly advised that the State does not approve the pitches.

Registration of telemarketing operations can be compared to other kinds of regulations that do not necessarily endorse or approve the specific conduct of the registrant. For example, legislative lobbyists and representatives of foreign governments may be subject to registration of their affiliations. A purpose of registration may simply be to identify for the government certain business operations or activities that may demand scrutiny. Similarly, telemarketing scripts are required to be filed, but are not approved, just as certain securities filings are made without any actual approval.

My testimony, responsive to Mr. Gould's allegations, reflected outdated information stemming from the time that the State attempted to regulate telemarketing through an administrated licensing procedure. Bitter experience proved that telemarketing entities are often permeated with fraud and cannot be "regulated." Therefore the State created a Telemarketing and Consumer Fraud Unit to criminally prosecute fraudulent telemarketers. I would be grateful if my corrected testimony could include the above explanation of the present State of Nevada law.

Thank you again for the opportunity to present my views on fraudulent telemarketing.

Sincerely,

KATHRYN E. LANDRETH.



**Statement of Mr. John P. Ferry
American Privacy Watch
Senate Special Committee on Aging
Hearing on March 6, 1996**

**“Tele-Scams Exposed:
How Telemarketers Target the Elderly”**

My name is John Ferry. I am Chief Executive Officer of American Privacy Watch. American Privacy Watch is a Division of Credentials Services International, which was acquired from TRW Inc. approximately two years ago. Credentials Services currently has well over one half million members and provides services to inform and protect citizens, particularly about financial and credit reporting information. American Privacy Watch is a membership organization whose purpose is to protect and safeguard the privacy and Constitutional rights of its members and the American public.

Mr. Chairman, on behalf of American Privacy Watch, Credential Services, and our members, I want to applaud you and the members of this Committee for holding this very timely hearing. Over the years, this committee has investigated various schemes to prey on senior citizens, and I commend you for your efforts to protect the public from con artists and criminals. Due in large part to this committee's activities, the U.S. Government has restricted the times when telemarketers may call and what they may say, as well as imposed tougher penalties on telemarketers who target senior citizens for fraudulent sales pitches. Privacy Watch shares your concerns and supports your actions to protect and educate senior citizens about this appalling and despicable form of fraud.

I also want to commend law enforcement officials, as well as the American Association of Retired Persons (AARP), for their individual and collaborative efforts to make telemarketing fraud of the elderly a high priority. AARP has been cited by federal, state and local law enforcement officials as being instrumental in the apprehension of telemarketing criminals through “Senior Sentinel”, a major covert investigation employing AARP volunteers.

AARP's efforts to protect and educate its membership about the dangers of telemarketing fraud are well founded. Its research provides compelling evidence that older consumers are targeted and victimized by fraudulent telemarketers and require both personal education about telemarketing fraud and active oversight by federal, state and local enforcement agencies. American Privacy Watch shares Chairman Cohen's belief that "increased public and private partnerships, along with Federal and State action, will make an important difference in the lives and financial security of millions of older Americans."


Mr. Chairman, in your opening statement, you noted that consumer education is a major weapon in the war against telemarketing abuses. We, too, believe that one of the primary defenses against telemarketing fraud is an informed and shrewd consumer who can recognize and thwart a fraudulent approach.

American Privacy Watch shares your view that the government cannot -- and should not -- prohibit legitimate and beneficial telemarketing activities. After all, the telemarketing industry employs several million people nationwide, creates consumer spending of several hundred billion dollars per year, and is an indispensable vehicle for many worthy non-profit and charitable organizations. Because losses due to telemarketing fraud are substantial, however, it is imperative to forge a more vigorous private and public partnership to combat it.

We believe the direct marketing industry can -- and should -- play a leading role in stamping out fraud aimed at the elderly and other vulnerable elements of society. As a matter of both public interest and self-interest, the industry should intensify its efforts at self-scrutiny and self-regulation -- and move urgently to refer illegal, as well as unethical, activity to appropriate industry organizations and outside authorities.

American Privacy Watch stands ready to work with this committee, the Congress, Executive Branch and other interested parties in combating fraud and protecting the privacy rights of American consumers. We will remain alert to public and private actions which might either enhance or inhibit those rights. If actions would serve to enhance those privacy rights, we will support them; if they would inhibit those rights, we will object.

Again, we want to express our strong support for the Committee's action in holding this hearing and exposing these particular abuses to public scrutiny and condemnation. Thank you for this opportunity to present American Privacy Watch's views on this important issue.



PUBLISHERS CLEARING HOUSE,
Port Washington, NY, April 2, 1996.

Hon. WILLIAM S. COHEN,
322 Hart Senate Office Building, Washington, DC.

DEAR SENATOR COHEN: As a leader in the sweepstakes and direct marketing industry, Publishers Clearing House applauds the Senate Special Committee on Aging for its recent hearing on telemarketing fraud aimed at the elderly. We work closely with the law enforcement community to combat such activities, especially where the scam artists fraudulently use the name and reputation of Publishers Clearing House to perpetrate their criminal schemes.

Because we are proud of our consumer protection efforts, we are troubled to learn that inaccurate statements concerning Publishers Clearing House were made by a witness during the Special Committee's hearing.

During his testimony, Edward Gould, a convicted scam artist, asserted that anyone could easily purchase customer lists from Publishers Clearing House, and that he had done so himself. Both of these statements are untrue.

As a matter of policy, Publishers Clearing House does not rent, exchange or sell its domestic mailing lists to any outside individual, company or entity.

Some years ago, selected Publishers Clearing House domestic mailing lists were available for commercial use, but only under rigorous controls that assured that the user was known to us as a reputable member of the direct marketing community and that we had final approval of the mailing piece. Our lists were kept in a secure environment, and we maintained a sophisticated decoy system that would immediately identify any misappropriation or misuse of our lists.

Under no circumstances could a person such as Mr. Gould have obtained our mailing lists for his criminal purposes, or used them without our knowledge. All outside commercial use of our domestic mailing lists has since been discontinued.

Accordingly, I respectfully request that this response to Mr. Gould's inaccurate statements about Publishers Clearing House be made a part of the hearing record. It is my understanding, based upon information provided by your staff, that the hearing record remains open for such purposes until April 5, 1996.

Thank you for your consideration in this matter. If the Special Committee conducts further hearings of this nature, we would welcome the opportunity to appear and explain the steps we have taken on our own and in cooperation with the law enforcement community to educate and protect senior consumers from fraudulent sweepstakes and other illegal scams.

Very truly yours,

ROBIN B. SMITH.

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