

PROTECTING SENIORS FROM FRAUD

HEARING BEFORE THE SPECIAL COMMITTEE ON AGING UNITED STATES SENATE ONE HUNDRED SIXTH CONGRESS

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THURSDAY, AUGUST 10, 2000

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

The committee met pursuant to notice, at 2:10 p.m., in the Union Federal Southwest Pavilion, Indiana State Fair Grounds, Indianapolis, IN, Hon. Evan Bayh presiding.

Present: Senator Bayh.

OPENING STATEMENT OF SENATOR EVAN BAYH

Senator BAYH. Thank you all for coming, everyone. I would like to call this field hearing of the Senate, the Special Committee on Aging, to order.

Beau, do you want to sit up here with me? I guess I need to make some introductions. It's not very often you get a chance to do your two favorite jobs all in one day, but I get to do that here today. First, I'd like to introduce my wife, Susan, who is with me today, and my son Beau, and my son Nicholas is somewhere—oh, there he is. All right.

Well, they have been having a lot of fun at the Indiana State Fair as you can see. We went on some of the rides and had a chance to eat some along the midway.

I would like to thank everyone who has helped to make this hearing possible today, starting with my own staff who has worked so hard, and also the staff of the Aging Committee. And I would like to express my personal gratitude to Senators Grassley and Breaux for authorizing this hearing.

Also, to the Attorney General of Indiana, Karen Freeman-Wilson who will be joining us momentarily, and Katie Humphries who has served our State for a long time, the head of the Family and Social Services Administration, who will be with me at the end to answer your questions.

I think we have some forms here, ladies and gentlemen, that we have distributed. If you have questions during the hearing, please take them and pass them to the aisle. We will answer as many of them as we possibly can. If we run out of time, I assure you that we will answer in writing. Please include your address. We will answer in writing every question, even if we cannot answer them orally here today.

Also, this is very important. We are distributing packets of information today. A big part of the purpose of the hearing today is educational and informational. And we are passing out packets of information today to try to inform everyone here, and through you,

others who you know, about the risks of consumer fraud for seniors, and what we can do to protect the seniors of Indiana from being subject to these sorts of rip-off schemes and scam artists who have taken too much money from the seniors of the State of Indiana.

So I encourage all of you to take these packets, read the information yourself, and then share it with a friend or other family member. It really is very, very important.

Last year we had a hearing at the state fair. It was on the subject of long-term care. I would like to take 30 seconds and give you an update on that. I have introduced legislation in the U.S. Senate to provide for the full deductibility of insurance premiums for long-term care and have introduced legislation to the U.S. Senate to make the first \$3,000 of home care for a parent, grandparent, or other loved one qualified for a tax credit dollar for dollar up to \$3,000 a year.

We had a vote on this in the Senate. We got 46 votes, which is a pretty good first vote. I am confident that eventually we'll get more than 50 votes and get that passed to try and help families.

Perhaps some of you here have this experience where families are trying to help care for a senior, a parent or a grandparent, while at the same time caring for a child, providing for the child's future. Terrible financial strain this can present to families, and we would like to help ease those burdens by cutting taxes in ways that help provide for long-term care for Indiana seniors.

So we have made progress. We had a vote. We got 46 votes. I am hoping that by this time next year I can report to you that we have actually gotten enough votes to pass it out of the U.S. Senate.

What is going on, I am going to make some very brief comments today before we get to our panelists. So I want to thank them for their willingness to share some of their personal experiences with us. I think you will find that there are some really heart touching stories that we are going to hear today about people who have been victimized, seniors who have suffered significant financial and emotional loss because of some of these frauds artists. And we are going to get to them in just a second.

First, I would like to share with you an article in today's Washington Post about how the percentage of the American public that does qualify as senior citizens is increasing. We are going to have more and more senior citizens over the next several decades as we move forward. Seniors have saved money for retirement so seniors will have more money.

And a combination of both of those things, more senior citizens, and more seniors who have some resources, means that these people, the fraud operators out there, are increasingly targeting seniors for their activities.

Last year alone in Indiana, just last year, \$30 million was stolen from senior citizens across Indiana by telemarketing fraud operators and fraudulent sweepstakes operators. We are going to hear from our Attorney General in just a moment. Last year we had 8500 complaints filed with the Attorney General's office, people who had been victimized by fraud artists.

That is a 13 percent increase from just 5 years ago, and those are just the folks who call in to report that they have been swin-

dled. There are undoubtedly thousands of others out there across the State who have also been robbed, and we just have not heard from them because they do not know who to call. So this is a significant problem. It is a growing problem, and seniors are the ones who are too often being targeted.

What brings us together here today to do something about it? Two fold, first we need to inform people that this is going on and empower them to protect themselves, hopefully to prevent them from being swindled and defrauded in the first place.

Included in the package of information are these tips that we have provided for seniors across the State to hopefully enlighten them about how to protect themselves when someone calls.

The first thing is do not feel pressured to accept an offer immediately over the telephone. Take your time; think about it before you make an important decision about how to invest your money. Do not be afraid to hang up the phone if you feel that you are being pressured.

There is nothing that says you have to stay on the phone if you feel someone is giving you a pressure-filled pitch. Hang up the phone. Better to protect yourself. They will call back if they want to, give you a chance to think about it.

Do not provide your credit card, bank account, or other important financial information to someone if you are not actually paying for a purchase over the phone. They might take that information and use it in the ways that you would not be comfortable with. Same thing for your social security number. Do not lightly give out your social security number, and a variety of others things here.

I encourage all of you to read this tip sheet. Share this information with others. We work with the AARP, TRIAD organizations, and others to compile this information as a way of preventing this fraud from taking place in the first place.

The legislation I have introduced will provide a million dollars a year to the TRIAD organizations. We have eight of them across Indiana. There are hundreds of others across the country.

TRIAD are groups of volunteers who work with law enforcement agencies to inform senior citizens that the danger is out there, how to prevent yourself from being defrauded, and what to do about it if you think you have been the subject of fraud. So that is No. 1, prevent the problem in the first place.

No. 2, tougher law enforcement. My legislation will provide \$20 million per year to the Federal Trade Commission's Consumer Protection Division to work at the local level across Indiana and the other 49 states to crack down on these fraudulent operators.

We estimate that there are as many as 14,000 telemarketers alone who are targeting consumers with fraudulent schemes. Clearly we cannot tolerate that. And this legislation will empower the Federal Government to crack down on these scam artists before they have a chance to defraud Hoosier seniors.

Finally, tougher penalties. My legislation will provide stricter penalties for those who engage in mass advertising through television, direct mail, going door-to-door in an attempt to defraud seniors.

So prevention first, and tough law enforcement to hopefully deter these scam artists from targeting our seniors.

Having said all that, I would like to get on with our panel today, and again, thank our panelists for being with us. I really am grateful to you for taking your personal tragedy, and as my mother used to say, trying to take lemons and turn them into lemonade by helping others avoid a similar experience. So I am very grateful to you in that regard.

[The prepared statement of Senator Grassley follows:]

PREPARED STATEMENT OF SENATOR CHARLES GRASSLEY

Protecting senior citizens from fraud has been a priority of the Special Committee on Aging. During the past three years, under my chairmanship, we've heard testimony from many senior citizens and how they've suffered at the hands of scam artists. When the baby boom generation retires, there will be more senior citizens than ever to fall prey to these crimes. That is why it is more important than ever to educate individuals and family members about the nature and variety of these crimes perpetrated against the elderly.

Just last month, my committee held a hearing on living trust scams against the elderly. One witness described how her father-in-law was bilked out of thousands of dollars by a telemarketer for a living trust and annuities that he did not need. Although living trusts are a perfectly legal and useful tool for handling one's estate, there is a growing trend of selling unnecessary, incomplete, or even dangerous "one-size fits all" living trusts to the elderly. What scam artists may not tell senior citizens is that they may not need a will or a trust at all, if their estate is below \$675,000. The bottom line is that senior citizens need to be aware that these scams exist. Senior citizens and their families need to be educated to recognize living trust scams. It is important that senior citizens consult family, friends, and knowledgeable professionals BEFORE entering into these transactions. Simply stated, living trusts aren't for everyone.

Another committee hearing highlighted the misuse of Social Security benefits by organizations serving as the "representative payee" for seniors citizens who are no longer able to handle their affairs. The majority of these organizations provide much-needed help to beneficiaries without abusing their responsibilities. However, more and more instances of misuse of Social Security benefits are surfacing. The committee's hearing highlighted a West Virginia case where the representative payee pleaded guilty to using client benefits for his own purposes and agreed to pay back \$303,314. His actions left some people homeless and others without food and utilities. These abuses are unacceptable. The victims have fixed incomes and rely on a monthly benefit check to pay rent and buy groceries. To nip these abuses in the bud, before baby boomers start retiring, I introduced S. 2477, the Social Security Beneficiaries Act. This bill will require greater accountability from organizations that handle Social Security Benefits.

I commend Senator Evan Bayh for chairing this hearing in his home State of Indiana. He is deeply concerned about crimes against the elderly and is actively seeking solutions to the challenges faced. I thank him for his dedication toward protecting the nation's elderly, and for his efforts in educating them as well.

Owen, I would like to introduce you first, if that is OK. We will start with you, and I hope I am pronouncing your last name correctly, Saltsgaver.

Mr. SALTSGAVER. Right.

Senator BAYH. Owen Saltsgaver is from Indianapolis, IN. He was the victim of an investment scam operated by a man named Mr. Tully.

By the way, Mr. Tully is someone my staff interviewed. He is in prison, and he testified to us about the fact that they were targeting senior citizens here in Indiana for these kind of rip-offs.

He said that many seniors were much too trusting, that what they tried to do was to first win the confidence, and even affection, of the senior before, then, trying to convince them to turn over their money.

He even went so far as to say that even his own mother who is now in her 80's was a likely candidate for this kind of fraudulent scheme.

You were a victim of Mr. Tully, as I understand it, Owen, who is now serving 5 years in the penitentiary.

Mr. Saltsgaver sold his mutual funds and gave Mr. Tully approximately \$50,000.

Mr. SALTSGAVER. Right.

Senator BAYH. And I understand you have not seen any of that money back since; is that right, Owen?

Mr. SALTSGAVER. Right.

Senator BAYH. Please share with us your story, Owen. And again, I am very thankful for your willingness to be here and share the information. And particularly, if you can touch on what people in the audience and others who might be listening or watching us out here can do to protect themselves, I would be very grateful. Owen, thank you.

STATEMENT OF OWEN SALTSGAVER, INDIANAPOLIS, IN

Mr. SALTSGAVER. Well, I retired in March 1987, had my retirement in mutual funds invested through Prudential. I began viewing on Saturday nights, Channel 40, a program known as Charter Financial Guide with Bill Tully as president of Charter.

He advised that we get out of mutual funds, as this was a risky investment, and let his organization invest our money in programs that was rock solid.

Upon contact with Charter, they sent one of their salesmen, Donald Vauters, Jr., and he persuaded me to withdraw my money from Prudential and invest with them.

On February 23, 1990, I liquidated my mutual fund with Prudential and invested 50,000. And I was advised by Vauters that a bank in Tennessee would back my investment. Charter issued me indebitures showing that my investment would be in Bent Tree Resources.

On June 15, 1992, the Securities Exchange froze the assets of Bent Tree including their bank account. The Federal securities advised that Bill Tully nor his salesmen were not licensed to sell these indebitures.

This case was to go to trial on Monday, March 30, 1998. On the day the trial was to commence, William Tully plea bargained along with Don Vauters and his wife, Lena A. Tully. Tully is now serving, as you have heard, a 5-year sentence in the prison in Terre Haute.

The court has concluded that Bent Tree was nothing more than a financial shell. The U.S. Attorney's office only has approximately \$525,000 which will disburse once Judge Moody at Hammond, IN, determines the priority of the claims against the funds.

This was a scam operation from the beginning. I am a 75 year-old victim, and I have just lost my retirement savings of \$50,000. Thank you.

[The prepared statement of Mr. Saltsgaver follows:]

Statement of Owen L. Saltsgaver

I retired in March, 1987 and had my retirement money in Mutual Funds invested thru Prudential Insurance Company. I began viewing on Saturday nights Channel 40 a program known as Charter Financial Guide with Bill Tully as the president of Charter. He advised that we get out of Mutual Funds as this was a risky investment and let his organization invest our money in programs that was rock solid. Upon contact with Charter they sent one of their salesmen (Donald Vauters, Jr.) And he persuaded met to withdraw my money from Prudential and invest with them.

On February 23, 1990 I liquidated my Mutual Fund with Prudential and invested \$50,000 (which was my retirement savings) and invested with Charter. I was advised by Vauters that a bank in Tenn. Would back my investment. Charter issued me Indebentures showing that my investment would be in Bent Tree Resources.

On June 15th, 1992 the Securities Exchange froze the assets of Bent Trees including their Bank Account. The Federal Securities advised that Bill Tully nor his salesman were not licensed to sell these Indebentures. I then lost my retirement investment of \$50,000. This case was to go to trial Monday, March 30, 1998. On the day the trial was to commence William E. Tully plea bargained along with Donald Vauters Jr. & Lena A. Tully. Tully is now serving a 5 year sentence in te Prison at Terre Haute, IN.

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This was scam operation from the beginning and I am a 75 year old victim. I have just lost my retirement savings.

NOTE: I drew dividend checks for approximately 2 years. I received \$458.34 each month. The last check was June 1, 1992 and it was from Bent Tree Resources.

Senator BAYH. Owen, thank you for your testimony today. I am going to wait and ask questions of each of you, but I am going to wait until we've heard from each of you.

Again, thank you for your time and your willingness to share your story with us today.

Next is Brent Weil who is with us, and Brent is a Deputy Prosecutor from Evansville, IN, serving pro bono I might add; is that correct, Brent?

Mr. WEIL. Right.

Senator BAYH. Folks, that means without pay, so we should be very grateful to Brent for his willingness to do that.

Based upon his experience as a prosecutor, Brent has insight into how the criminal mind works, and he is with us to shed some light onto why and how Forrest Thompson, the owner of U.S. Mortgage Company, committed fraud against approximately 50 seniors totaling over \$2 million.

Brent, I want to thank you for being here with us. And if you could please share that information with us so people can get some idea about how they are targeted and can be abused by these people, we would be very grateful.

STATEMENT OF BRENT WEIL, DEPUTY PROSECUTOR, EVANSVILLE, IN

Mr. WEIL. Thank you, Senator. Elder fraud regardless of its nature is a despicable crime which robs seniors of their financial security and independence they build over a lifetime.

Senior citizens are often times the target of these schemes associated with home improvement and telemarketing, and they can lose a hundred or a few thousand dollars in those situations. And that may hurt you, but over the short run, it is not devastating.

Unfortunately, seniors are also targeted for more sophisticated investment scams which can cause them to lose their entire life savings, and that is what happened in our situation in Evansville.

I serve as the Deputy Prosecutor in Evansville. I mostly prosecute white collar crimes. I recently concluded the prosecution of three principal defendants who owned U.S. Mortgage Company. These three criminals, Forrest Thompson, here, John Pierce, and Ron Mounts, operated U.S. Mortgage, and they managed to borrow money from approximately 45 senior citizens totaling \$2 million as investment technique.

U.S. Mortgage, on its surface, operated as a mortgage brokerage firm. They replaced home mortgages. But that was only a very small part of the business. They also in turn, though, issued promissory notes to people and borrowed tens and tens of thousands of dollars from seniors which they were going to invest for them and make money.

They promised they would get 12 or 15 percent interest on these loans, and they paid interest payments on a monthly basis to a number of the investors. Unfortunately, when the money started running out and the investors started drying up, they were unable to keep making their payments, and that is when I got involved.

And on top of that, some of the senior investors decided, well, I can get by on Social Security. I don't need the interest payments right now, so I will reinvest the interest. Well, these people never

saw a dime in interest payments and ended up paying income tax on money they never even saw because they were being reported as having earned income on that money.

Now, many of these senior investors had personal relationships with principals, and they were very trusting. Mr. Thompson was a banker for a number of years, and they had done business with Mr. Thompson. He went to church with them. He grew up with them and went to school with them, as a matter of fact. And they preyed upon these seniors because they had trusting relationships with this individual.

I mean, in all the times when they would talk about where the money is going to, he talked about grand investment schemes, and whenever they would talk about wanting some money out of it, he would say, "Oh, why take the money out? You are getting such great interest rates on this. See, the money comes in every month." And so they did not take the money out.

Well, in 1996, they started running out of money, and at that point I got involved. The Securities Commission got involved also, and they entered into what is called a Consent Decree where they agreed to pay the money back, supposedly.

They made one payment of \$385,000 which was divided among some of the investors, and that was the last payment they made. When they did not follow through with their Consent Decree, it was referred to me for prosecution.

In April of last year, 1999, I filed 75 criminal charges against these three individuals. These were all Class C felonies in Indiana which can result in a four- to 8-year sentence potentially.

The defendants attempted to defend themselves. And I guess I was really committed to this because one of the investors, an older man that had \$100,000 invested, committed suicide when this came out this was all a sham.

I sort of dug my heels in and decided they are going to be convicted one way or the other of committing these crimes. They tried to defend themselves as businessmen and investment people. Their defenses failed, and just last month they pled guilty to multiple felony charges and were put on probation.

As you can see from the pictures, two of the three gentlemen were older themselves. They were in their early 70's or late 60's. They are serving probation sentences now, and these three individuals did pay back a total of \$120,000 to three of the investors. And on chart here, it shows that these three investors alone had almost \$700,000 invested, and they got back \$120,000 of that.

But very simply, the people had no further assets. These three gentlemen did not have any homes they could sell, did not have any money. We could not force them to sell. So that is all they could pay back.

But I would caution everybody to be very careful, because No. 1, people try to prey upon your trust. They become your friends; they become your friends at church, possibly. And they ask you for money, and they rely upon that special relationship to then take advantage of you.

Do not be afraid to talk to your children or talk to your other friends about an investment. Do not just get into it blindly and think you have to act now, as the Senator said. Take time to talk

to other people and get all sides of the story. And ask for documentation of what you are getting into. These gentlemen just had a lot of talk. They did not have any documentation.

And, you know, check with the Securities Commission in Indiana to see whether they are actually registered as security brokers, and whether these securities they are selling you, be it a promissory note, or be it an indebenture, or be it a royalty agreement, is actually registered as a security. Because if they' are legitimate, they will have documentation to back them up.

If they are not legitimate, then they will have no paperwork, and you should avoid them at all cost because it will lead to a situation like this.

With these three gentlemen, it came down to the fact they pled guilty. They are being punished to some extent for their crimes, but the money will not be repaid to these individuals because the money is gone.

The money was used to run U.S. Mortgage Company, to pay salaries to their employees, to pay rent for office space, and to pay other investors their interest. It was a pyramid scheme, basically, is what it came down to.

So bottom line is if the investment seems too good to be true, it probably is not true, and you should avoid it and rely upon conventional investments to make your retirement income safe and secure.

[The prepared statement of Mr. Weil follows:]

SENATE HEARING - ELDER FRAUD
August 10, 2000, Indianapolis, Indiana

Elder fraud, regardless of its nature, is a despicable crime which robs seniors of their financial security and independence that they built over a lifetime. Senior citizens are often times the target of schemes and scams associated with home improvement or telemarketing which can cost them a few hundred or a few thousand dollars. While the loss of a few hundred or a few thousand dollars can be damaging to a senior citizen's finances, it often times is not ruinous. Unfortunately, seniors, as one of the most vulnerable groups in our society, are also targeted for both simple and sophisticated investment scams which by their very nature can result in the loss of a senior citizen's life savings.

My name is Brent Weil, and I serve as a Deputy Prosecutor in Vanderburgh County, and I primarily prosecute white collar crimes. I recently concluded the prosecution of three principal Defendants from the U.S. Mortgage Company in Evansville, Indiana. These three criminals, Forrest Thompson, John Pierce, and Ron Mounts, between 1990 and 1997, managed to borrow money from approximately 45 senior citizens totaling almost Two Million Dollars. U.S. Mortgage, on its surface, operated as a mortgage brokerage company, but that aspect of their business was dwarfed by the millions of dollars in promissory notes that they gave to senior citizens in exchange for the senior's life savings. In return, the investors were promised interest rates between 12 and 15 percent, which at the time were two or three points above the going rate for similar investments. In return, most investors received monthly interest payments on the loans, which they relied upon to supplement their Social Security and/or pension incomes. Unfortunately, some of the investors who could support themselves on Social Security thought it prudent to re-invest their interest income and in turn increase the overall size of their investment.

These seniors had to pay income tax on interest they never received, and in some cases that even caused them to have to pay income taxes on their Social Security benefits because of their higher tax bracket.

Many of these senior investors had prior personal relationships and/or business dealings with one of the owners of U.S. Mortgage, Forrest Thompson. Mr. Thompson had been a bank officer at one of the local banks and through the years had built up a very trusting relationship with many of these senior citizens. Even though Mr. Thompson left the bank, many of them still viewed him as being a banker, and they relied upon his representations explicitly, regardless of how far-fetched they were. Mr. Thompson made repeated representations to the senior investors that their money was as safe as it was in the bank, and that they had more than enough money to return the investors' principal at any time, while implicitly also telling them, "Why would you want to remove money, since you are receiving this great rate of return on your investment?" Thompson, who is himself a senior citizen, routinely visited senior activity centers in search of investors.

In 1996, U.S. Mortgage started to run out of new investors to invest money in this scheme and when some interest payments were missed the investors became concerned and the Indiana Securities Commissioner became involved. Though a Consent Decree was entered into between the Indiana Securities Commission and U.S. Mortgage which resulted in an initial refund of some \$385,000.00 to some of the investors who requested refunds, no further refunds were made and the matter was referred to the Vanderburgh County Prosecutor's Office by the Securities Commissioner for prosecution.

I became involved in this matter in early 1999, and we filed over 75 criminal counts against the three Defendants in April of 1999, charging them with a number of Class C Felonies under state law. These felonies ranged from being unlicensed security brokers, to selling unregistered securities, to making fraudulent misrepresentations in the course of the sale of such securities. Shortly after the charges were filed, one of the senior investors who had more than \$100,000.00 invested committed suicide rather than face the loss of his investment. Due in part to both the suicide and the misery that the Defendants inflicted upon these seniors, I committed myself to securing felony convictions against the three owners of U.S. Mortgage.

The Defendants attempted to aggressively defend themselves as legitimate businessmen, and even attempted to use the Consent Degree that they entered into with the Indiana Securities Commissioner as a defense to the criminal charges. The Trial Judge struck their defenses and they eventually pled guilty to multiple felony charges in July of 2000 and received sentences which included two years' probation, house arrest, and community service, plus the three felons paid a total restitution of \$120,000.00 to the seven victims we named in the criminal charges. The restitution paid to those seven victims only represents about 15 percent of what they lost. Unfortunately, many of the victims would not originally cooperate with our criminal investigation because they still believed in the promises that were being made to them by the officers of U.S. Mortgage, but now all investors realize that their money is effectively gone. The money that was received by the Defendants went predominantly to pay interest to early investors in a classic pyramid scheme, and most of the remainder was used to pay office expenses and salaries to the employees and officers of U.S. Mortgage Company. Of the more than Two Million Dollars that was borrowed, we were only able to track approximately \$500,000.00 to a direct investment in a

sister corporation of U.S. Mortgage which was loaned to that Company at a specified rate of interest and repaid. When that loan was repaid, it went in part to make the first and only payment under the Consent Decree.

This type of loan scheme is only one of several investment scams that may be used to prey upon seniors in our state. These scams take many forms and may be simple business ventures or partnerships, shares of stock in corporations, the purchase of royalty interests in products, or business loans or investments. Seniors must be conscious of the fact that legitimate businesses register themselves or otherwise register their products or stock as securities, which may be verified through the office of the Indiana Securities Commissioner. Moreover, reputable investment counselors or brokers are licensed, and should be more than happy to provide documentation regarding their licensure or written prospectuses regarding the problems they are attempting to sell. If anyone fails or refuses to answer your questions about licensing or registration, it is probably because they have something to hide, and such investments should be avoided.

Seniors in our society want to be independent and self-sufficient and control the manner in which they invest or spend their life savings. Hopefully presentations such as this will increase the awareness among seniors of the fact that they are frequently targeted for investment scams, and I can only caution all investors to remember that, if an investment seems too good to be true, it probably is not true.

Senator BAYH. Brent, thank you, and thank you for your dedication of protecting the public.

Ladies and gentlemen, as you can see, it is not only a question of losing your life savings and your retirement security, but one man actually took his own life. So this is a serious problem, and one that we need to get information out to the public about so we can protect our senior citizens.

And when we catch people, make sure that prosecutors like Brent can put them away for a long, long time, which is exactly what they deserve.

We are going to hear from Georgeanne MaCurdy. And regretably, you, Georgeanne, were the victim of Mr. Thompson; is that correct?

Ms. MACURDY. Yes.

Senator BAYH. One of the men that Mr. Weil just prosecuted.

She, Georgeanne, had given him \$204,000 in return for the promise of interest payments at a rate of 10½ percent. She received interest payments for a short time, but they have stopped. And after litigation, unfortunately, you have only received a small portion of your money back; is that right, Georgeanne?

Ms. MACURDY. Uh-huh.

Senator BAYH. Making matters even worse, Ms. MaCurdy knew Mr. Thompson very well. In fact, they went to the same church.

Georgeanne, thank you for being with us here today. And, ladies and gentlemen, her story, in particular, is a very heart rending one, and perhaps we can all learn from it and help protect others by learning from this situation.

So, Georgeanne, thank you for sharing your experiences today.

STATEMENT OF GEORGEANNE MACURDY, WADESVILLE, IN

Ms. MACURDY. Well, first of all, I had known him. We had known each other all of our lives. And he started a mortgage company, and asked me if I would like to invest.

And I was skeptical at first, and then I decided that I would. He guaranteed that everything was on the up-and-up, even though it was not insured, that they had resources, assets, and plenty of money, and so I went ahead with it. And I had dealt with him since 1991.

And then in 1994, I reinvested for a 3-year period and was supposed to get my money back June 1, 1997. And I told him months before the time was up that I wanted to get out and wanted all my money back. Well, there would be no problem. I could have it back.

So when June 1, 1997, came, I did not get my money back, but I continued to get interest payments. And in January 1998, they had some kind of a power plant that they had sold to the Dominican Republic, so some of us got 23 percent of the money back. And then I continued to get interest rate—or I mean, interest payments until October—I mean, November 1998, and then that was it.

And then Brent got—well, in fact, my two sons I'll have to give the credit for saying, "Hey, this is just a scam," and we went to the bunko squad in Evansville and signed, you know, papers and all this. So just those of us who did this got any money back at all.

[The prepared statement of Ms. MaCurdy follows:]

Testimony of Georgeanne MaCurdy

August 10, 2000

Submitted to the United States Senate Special Committee
on Aging

“Protecting Seniors from Fraud”
Field Hearing held in Indianapolis, Indiana
Senator Evan Bayh

Testimony of Georgetanne MaCurdy

I am a widow living in the town of Wadesville, IN. In September I will be 74 years old. I invested \$204,695 in U.S. Mortgage Company owned by Forrest Thompson. He assured me that I would get my money back in three years. First of all I had no fear of investing with the U.S. Mortgage Corp. because Pres. Forrest Thompson was a life long friend neighbor, schoolmate, and member of the same church. Everyday he promised me I would get my money back.

Forrest Thompson worked at the local Cynthiana State Bank. He knew me and knew my account very well. I bought life insurance from him. One day he told me that he could get me more interest for my money than I was getting at the bank. He said I could get 10.5% interest if I gave him the money. He told me over again that it was safe and I would get my money back in three years. I cashed in my CDs from my inheritance and personal savings and got him cashier checks for \$204,695.00. He promised me monthly interest checks.

I was getting monthly interest checks until June 1, 1997. I had received a few thousand dollars in checks. The Indiana Securities and Exchange commission forced them to continue to get interest checks to me. But in Nov. 1998 those checks stopped too.

He sat at my home with my 2 sons present and said even though the money was not insured it was safe as being in the bank because they had money assets and resources. I am urging everyone to keep your money in the bank so you will not have it happen to you. The loss of income, pain and embarrassment has been nearly unbearable.

Everyday he called me and said the deal was going through and I would get my money, there was only six months left until I got y principal back. I wish I never did it.

Senator Bayh's bill will provide education to Seniors. Education is important so that other people know not to do this. Don't trust anyone with money, just keep your money in the bank. I wish I knew. This man lived in my community, I don't want this to happen to anyone else. We need to know our rights and what to be careful of. We need to check the background of everyone and not believe anybody when it comes to money. You will get cheated ut of your money.

The loss of income and money has prevented me from making repairs to my home and I just hold on to my money for insurance and taxes. It has ruined my life. I am embarrassed about it and it is all I think about. Why did I do it? I was brought up to believe a person's word - he just got a slap on the wrist, house arrest. After one month he will be able to have weekends free. It is the last thing I think about at night and the first thing I think about in the morning. It has ruined my life.

Senator BAYH. Georgeanne, thank you. If I could ask both you and Owen in turn, maybe you can share with the audience today, all of us, in retrospect, what do you think you can tell people to try and enable them to protect themselves from this kind of thing? Is there anything you have learned that you would share with others here so that it hopefully would not happen to them, too?

Ms. MACURDY. Just don't take your money out of the bank, out of savings. Even if it is a personal friend, no matter how well you think you know someone, keep it where it is safe, in the bank.

Senator BAYH. Some sort of well-known, reputable institution?

Ms. MACURDY. Yes, or you know—

Senator BAYH. With deposit insurance—

Ms. MACURDY. Yes.

Senator BAYH [continuing]. Of some kind—

Ms. MACURDY. Yes.

Senator BAYH [continuing]. Or at least somebody that is—

Ms. MACURDY. Yes.

Senator BAYH [continuing]. Regulated by the—

Ms. MACURDY. Yes. But like I said, he was—I had known him—we had known each other all of our lives, and went to the same school, and went to the same church, and—so you know, I had no fear.

Senator BAYH. Well, it is sad to say, ladies and gentlemen, but even when it comes to friends and perhaps even in some cases family, it is better to be safe than sorry when it comes to investing your life savings.

Ms. MACURDY. Sick, it made me.

Senator BAYH. Owen, how about you? Anything that you would like to share with the folks that you learned that maybe they could use to help protect themselves against this kind of thing?

Mr. SALTSGAVER. Well, if it sounds too good to be true—I went to my attorney after all this happened where I should have gone to him in the beginning, and he told me right then and there. He said, "This is not worth the paper that it is written on." So I had no choice in the matter.

Also, I would suggest that in things like indebentures, that you get in touch with the Securities Exchange to see where they stand. This particular case that they were not even there.

Senator BAYH. I think those are two excellent pieces of advice that Owen just gave us. First, if you have an attorney or an accountant or another trusted, longstanding financial adviser you have worked with over the years, run it by them before you take your money out and invest it with somebody else. Right?

Mr. SALTSGAVER. That is right.

Senator BAYH. Call the government. Call the Securities Commissioner's office. We have got a number right here to report suspected fraud. I hope everybody takes this down and share this number. Call AARP. Call some of the other organizations out there and get an opinion from them about whether it sounds like it makes sense, whether that individual or group you are dealing with has a good reputation, a bad reputation, that sort of thing.

Mr. SALTSGAVER. That is right.

Senator BAYH. That is kind of like going to the doctor to get a second opinion in some way, Owen; is that right?

Mr. SALTSGAVER. Yes.

Senator BAYH. I think those are two excellent pieces of advice. Brent, let me ask you, based upon your experience, how do these folks operate? Maybe you can tell the seniors in the audience here today how they go about being targeted by some of these scam artists that are out there, so that they can be on the lookout for the telltale signs of a fraudulent telemarketing scheme.

Mr. WEIL. Well, there are two techniques. No. 1, they use pressure. It has to be done now, today. If you miss the opportunity, you will never have this chance again. Well, let us be reasonable folks, no opportunity only comes along once and has to be done today.

Take the time to look at it, get it in writing, and call your state securities office, or call the Federal Trade Commission, the Securities Exchange Commission. Check with them and see whether these are registered documents, and whether these are registered individuals. If they are legitimate, they have licenses to sell securities.

No. 2 is the familiarity issue. A person is going to try and befriend you. He is going to try and establish a trusting relationship first, and then use that relationship to your disadvantage.

So in those two situations, watch out for pressure and watch out for someone that befriends you and tries to be your buddy and your friend because he wants to borrow money, probably. So watch for this.

Senator BAYH. So when it comes to investing your life savings, if somebody is putting pressure on you to act right away, it's better to just step back. With something as important as your life savings and your retirement, better to step back, take a deep breath. Think about it for a little bit, and get a second opinion. Do not be rushed into something. Better safe than sorry.

Mr. WEIL. Exactly.

Senator BAYH. What was it about Mr. Thompson that allowed him to defraud, what, 50 people? Now, in Georgeanne's case, they even had a personal relationship. What was his technique?

Mr. WEIL. Well, this is what I find especially despicable in this situation: Mr. Thompson knew some of these seniors. He used his friends to bring in other friends. He would go to the senior centers at lunch. He was a senior citizen himself. He was retired from the bank.

He would go have lunch with his friends, and then they would talk about what checks they got last month. "Oh, Mr. Thompson got us this great deal. Here is a check I got last month, see? He pays off." And they used this networking at senior centers, even, to go fishing, basically trying to fish for more money. And I found that especially troubling because you go to senior centers to be safe, to have friends there you can talk with, not to be scammed, basically.

And he was using the very place you go to be safe as a place to go get more investors from. And that was especially troubling in this situation.

So always be on guard. Do not take anything at face value. You have lived this long and accumulated thousands of dollars in savings. Do not part with it on a moment's whim. You know, look into

it very seriously because once you give it away, you do not get it back at that point.

Senator BAYH. And so the moral of that story is also even if a friend is recommending something to you, the friend might be a victim.

Mr. WEIL. Yes, exactly.

Senator BAYH. So take the time to check it out with a lawyer or accountant. Call the Securities and Exchange Commission. Call the securities office here, or the Secretary of State's office. Even if it is a friend, better safe than sorry.

Mr. WEIL. And the one gentleman that committed suicide, he was one of the early investors who had recommended this to his friends himself, and he took it very personally that he lost his money, plus he put his own reputation forward saying you ought to invest also. And he just could not accept that responsibility, and ended his own life at that point in time.

Senator BAYH. Well, thank you all, again, Georgeanne, Brent, and Owen. I am very grateful for your testimony here today. Not only has it helped those of us in the audience, but I am going to share your thoughts with the Senate Committee on Aging as we are still trying to move this legislation forward to hopefully keep people like Georgeanne and Owen from being victimized.

And, Brent, hopefully to help people like you take strong law enforcement action when fraud has occurred.

So, ladies and gentlemen, if you would join with me in expressing our appreciation to our first panelists, I would very much appreciate it. [Applause]

Thank you.

If I could ask our Attorney General to come forward and Rolando.

Ladies and gentlemen, we are fortunate to have on our second of three panels two very distinguished public servants. The first individual you may recognize is our Attorney General, Karen Freeman-Wilson, who is helping to lead the charge—let us express our thanks to Karen who is helping to lead the charge in the Attorney General's office to combat consumer fraud directed at all consumers, but particularly seniors. Not only telemarketing fraud and fraudulent sweepstakes that we are talking about here today, but other types of consumer fraud as well.

Karen, I want to publicly thank you for the wonderful job you are doing and the dedication you are bringing to protecting the interest of not only seniors, but all Hoosiers from unscrupulous operators out there. We are lucky to have you. Thank you very much.

And Rolando Berrelez is with the Federal Trade Commission out of Chicago. In fact, he has traveled all the way from Chicago to be with us here today. I want to thank Rolando for his work and the others at the Federal Trade Commission as they have been working very hard to coordinate across state lines to combat these scams that would take place not just within Indiana, but across state lines to defraud our seniors of their life savings.

And particularly, the FTC's Consumer Sentinel Program has been very successful, and the FTC is in need of additional resources to combat fraud, and that is why in our legislation, Rolando, we provide an additional \$20 million a year to help keep

up the kind of efforts that you are currently involved with to protect our seniors. So I want to thank you and just say that I am going to do everything I can to help further your efforts.

Mr. BERRELEZ. Thank you, Senator. We appreciate your efforts.

Senator BAYH. Attorney General Freeman-Wilson, why don't we begin with you. And again, I am grateful for your presence here today.

**STATEMENT OF KAREN FREEMAN-WILSON, ATTORNEY
GENERAL, STATE OF INDIANA**

Ms. FREEMAN-WILSON. Thank you. Thank you, Senator Bayh. It certainly is my pleasure to testify before the Special Committee on Aging.

As you addressed, it is an important issue. I would also like to commend you for your visionary efforts as you proposed the Protecting Seniors From Fraud Bill.

We found that most instances of senior fraud occur in the areas of telemarketing fraud and abuse, sweepstakes fraud, and home improvement, financial institution fraud, and certainly we have heard instances of all three of those—or two of those areas today.

Americans lose an estimated \$40 billion yearly due to the fraudulent sales of goods and services over the telephone. Seniors are disproportionately represented in this group. Additionally, we are aware that some businesses generate and exchange “mooch” or “sucker” lists of customers who may be more responsive to telephone solicitation.

We have developed a two-pronged approach to address this problem in the Attorney General's office. The first is to continue to support Do-Not-Call List Legislation which will allow citizens to register at no cost. That will give us an effective penalty to enforce for violations, and that will provide reasonable exemptions for charities and other appropriate businesses.

The second, and it is so important in the context of this forum today, is to educate seniors and their families on the unscrupulous business practices, and highlighting some of the businesses engaging in them.

We do this through brochures, through our consumer advisories that we put out when we find that there is a problem in a particular area of the state, and in appearances before senior groups like TRIAD and the AARP and the other groups that are represented here today.

Our seniors have also been targeted by the sweepstakes industry. These co-defendants often made promises they have no intentions of keeping. We have confronted these business practices by initiating lawsuits against Publisher's Clearinghouse, American Family Publishers, and United States Purchasing Exchange. And these lawsuits are aimed at getting these companies to change their business practices.

We want people to know that they do not have to make a purchase to enter sweepstakes contests, and that making a purchase will not enhance their chance of winning a million dollars, and that the odds of winning \$1 million through this process, or really any other process, is very unlikely.

During a national hearing sponsored by our office last year we learned about one woman who literally died waiting for Ed McMahon on Superbowl Sunday, and another lady who had thousands of dollars of useless items in her garage she had purchased from a sweepstakes company. Our battle against such practices continues.

Home improvement and financial fraud are also areas of great concern. Unreliable contractors travel from door-to-door applying their trade often at expensive and astronomical rates. Reverse mortgage companies, these are companies that tout money for seniors who are house rich and cash poor, and they often offer deals that are really too good to be true. Again, lawsuits and education are keys to protecting Indiana citizens from this risky business.

Most of us are taught as small children to revere our elders. They have worked hard to provide for their families, and they deserve our respect and protection in their twilight years. Anyone who sees the human frailty that our citizens sometimes experience in their later years as an invitation to take advantage must be punished to the full extent of the law.

We would welcome this new law that you propose to help to deter these problems, and pledge our full support in the enforcement process. And to ensure this commitment, we will have four analysts at our booth in the building adjacent to this after our hearing that will be supervised by our Consumer Chief Counsel, Lisa Avis, who is here today to take any complaints that you have about certain practices such as those that I have described here today, or any other practice that you may believe to be fraudulent.

We look forward to continuing to work with you, Senator, and along with the FTC and other branches of Federal and State government, as well as citizens' groups.

Thank you so much.

[The prepared statement of Ms. Freeman-Wilson follows.]

TESTIMONY OF ATTORNEY GENERAL KAREN FREEMAN-WILSON

I would first like to take this opportunity to thank Senator Evan Bayh for convening such an important forum and inviting us to participate. Senator Bayh, you are to be commended for your visionary efforts to protect American seniors through your proposed Protecting Seniors from Fraud Act designed to secure seniors from fraud. The conduct which the bill attempts to address involves areas that have caused great concern for us in the Indiana Attorney General's office for many years. I would like to share our experience briefly to underscore the urgency of this legislation for seniors in Indiana and beyond.

Seniors are disproportionately represented among those susceptible to deceptive business practice. They may also be more inclined to trust people; they have more time to respond to salespeople; they may be isolated and lonely; and they may be reluctant to seek advice or assistance because of the need to feel independent. This vulnerability is sometimes compounded by lower annual incomes, lower levels of educational attainment, and physical and mental infirmities that come with age.

Given these factors, we have observed an alarming number of businesses and individuals whose primary goal is to prey on our elders. Much of this activity is concentrated in three areas: telemarketing fraud and abuse, sweepstakes fraud, and home improvement/financial institution fraud.

Americans lose an estimated \$40 billion yearly due to the fraudulent sales of goods and services over the telephone. For most Americans telemarketing calls present an invasion of privacy. In addition, telephone sales calls often open the door for fraudulent activity. Businesses generate and exchange "mooch" or "sucker" lists of potentially susceptible customers. Many of the individuals on these lists are seniors. Seniors sometimes have difficulty distinguishing between legitimate and fraudulent telemarketers because of their physical, psychological or social status.

During the 1999 legislative session, our office supported a Do-Not-Call List Bill in the General Assembly. Such a law would allow consumers to place their name on a do-not-call list so that they could reduce the number of unwanted telemarketing calls to their homes. Although this bill was not successful during the 1999 session of the General Assembly we received calls and letters from more than 30,000 citizens who sought to be placed on the list and continue to receive calls daily. We believe this is an effective tool to help prevent fraud against senior Hoosiers and will fight for passage of the bill during the upcoming legislative session.

In February 1999, the Indiana Attorney General hosted a national hearing on sweepstakes issues. The hearings were held because Attorneys General throughout the country received complaints that citizens, especially seniors, had been deceived by the practices of sweepstakes companies. During the hearings, ten Attorneys General and their staff heard poignant testimony from senior consumers who wasted thousands of dollars and whose family relationships had been destroyed because of their participation in sweepstakes. The citizens believed that their repeat purchases from companies promoting sweepstakes would enhance their opportunity to win money and prizes. One woman stated:

"It [sweepstakes] broke our hearts, it destroyed family relationships, it destroyed our last memories of father. Even when he was dying and did not recognize his family, he was still asking about his sweepstakes."

Our office has filed suit against American Family Publishers (AFP) and Publishers Clearinghouse for sweepstakes practices that violate Indiana law. The lawsuit against AFP was settled and will result in payment of at least \$550,000 in refunds to Hoosiers. Recently, we entered into a settlement with United Purchasing Exchange that requires them to include Sweepstakes Facts in their solicitations to consumers.

Those Sweepstakes Facts must clearly state: 1. You Have Not Won; 2. You Can Enter for Free; 3. You May Enter as Often as You Like; and 4. Buying will not Help you Win. The lawsuit against Publishers Clearinghouse is still pending.

Seniors are often victimized by home improvement fraud. Such fraud is sometimes combined with fraudulent schemes by financial institutions. Sales people visit seniors and make specific recommendations about improvements to their homes. They also encourage them to enter into unfavorable financial relationships with mortgage or financial companies that may cause them to ultimately lose their property.

One of the best examples of such a practice in Indiana is the suit that the Attorney General's office brought against Senior Citizens Remodeling, Inc., Senior Income Reverse Mortgage Corporation and Senior Citizens Remodeling of Indiana. This company would make telemarketing calls to seniors who owned homes that might need repairs or improvements. The callers offered seniors the opportunity to make the home repairs without paying for the repairs out of their pockets thanks to a HUD insured reverse mortgage program. Sales people eventually visited the homes of seniors who expressed an interest and recommended repairs and further discussed the financing possibility. They led seniors to contract for unneeded repairs and convinced them to enter into reverse mortgages with Senior Citizens Reverse Mortgage Company as a financing resource.

In June 1999 the Attorney General's Office filed suit against the companies and the individual officers of the companies to send a message to businesses that engage in such schemes that our office will fight vigorously to protect the resources and integrity of senior Hoosiers.

Most of us are taught as small children to revere our senior citizens. They have worked hard to provide for their families and deserve our respect and protection in their twilight years. Anyone who sees the human frailties that our citizens sometimes experience in their later years as an invitation to take advantage should be punished to the full extent of the law.

Throughout the course of my public service, I have learned that citizens are best served when all branches of government and the private sector work together. The bill proposed by Senator Bayh would allow us all to utilize the resources of state and federal government in the interest of our most cherished citizens and their families. We pledge the full support of the Indiana Attorney General's Office on behalf of this initiative and all others that will aid in protecting our seniors. Again, thank you for the opportunity to participate in this important dialogue.

Senator BAYH. Thank you very much, Attorney General Freeman-Wilson. And I hope everyone heard that— [Applause.]

Yes, let us thank Karen for her remarks today.

I hope everyone heard that there are actually four members from the Attorney General's Consumer Protection Division who will be here today to take any complaints or concerns that any of you have.

Or if you have friends or relatives you think may have been defrauded, the Attorney General has staff members here today to actually take that information, and then follow-up with the appropriate procedures. So they will be adjacent to the—where will they be, Karen?

Ms. FREEMAN-WILSON. They will be in our booth that I believe is adjacent to this building.

Senator BAYH. If you need to know where they are, come up to us after the—

Ms. FREEMAN-WILSON. They will actually be at the table behind the podium.

Senator BAYH. They will be right over here when we are done, representatives from the Attorney General's office. If you, any of your friends, or relatives you think have been victimized by fraud, please let the Attorney General know, and I know she will follow up on it immediately.

Karen, thank you for all that you are doing to help protect the citizens of our State from this terrible, terrible problem that we have with people preying on particularly the elderly, but all citizens. So thank you.

Ms. FREEMAN-WILSON. Thank you, Senator.

Senator BAYH. Rolando, thank you for joining us again, coming all the way from Chicago, or as we would like to say, Chicago is a part of greater Indiana. So we appreciate your coming and sharing the thoughts of the Federal Trade Commission with us today.

STATEMENT OF ROLANDO BERRELEZ, FEDERAL TRADE COMMISSION'S REGIONAL REPRESENTATIVE ON CONSUMER PROTECTION, CHICAGO, IL

Mr. BERRELEZ. Thank you, Senator Bayh. I am pleased to be here before you today to present information about the Federal Trade Commission's activities with regard to fraudulent marketing practices that affect the elderly.

Before I begin my remarks, I am always required to note that my oral testimony here today is my own and does not necessarily represent the views of the commission or of any particular commissioner.

The Federal Trade Commission is the Federal Government's primary consumer protection agency with wide-ranging responsibilities over all segments of the economy.

In pursuing its mandate of protecting consumers, the commission enforces the Federal Trade Commission Act which broadly prohibits unfair and deceptive acts or practices, as well as more than 20 consumer protection statutes, and over 30 regulations.

I am sure many of you are familiar with some of our statutes that guard against predatory lending practices, door-to-door sales

practices, our telemarketing sales rule, and many other statutes that protect consumers in their everyday lives.

Combatting fraud has been a top priority for the commission for over a decade. In particular, the commission has committed significant resources in the war against telemarketing fraud which affects elderly consumers and frequently victimizes the elderly.

As Attorney General Wilson pointed out earlier, estimated losses from telemarketing fraud ranges anywhere from three billion to forty billion dollars, and in some cases up to 80 percent of the victims of these types of fraud are elderly victims.

Since 1995, the commission has led 56 cooperative enforcement efforts working not only with the Attorney Generals of Indiana and every other State in the United States, but also other state and local enforcement agencies to bring enforcement actions against these fraudulent telemarketers. These sweeps have comprised a total of over 1549 Federal and state enforcement actions and including 365 cases brought by the Federal Trade Commission alone.

Now, as most of you have heard today, many of the telemarketing abuses have taken place over the telephone, but as you probably know, a lot of telemarketing fraud is moving to the internet.

Many seniors are now using the internet for e-mail and for internet auctions, and of course, the FTC and many other consumer protection agencies are expecting the fraudulent telemarketers to move from the telephones to the computers.

The commission believes that it is important to address internet fraud now. And in the last several years has brought over a hundred enforcement actions against fraudulent telemarketers that are now using the internet for their scams.

Not only are we bringing enforcement actions, but the FTC has developed several different programs including what we call surf days in which we join with a number of state and local consumer protection agencies to surf the internet on particular designated days to look for particular types of fraudulent conduct.

And then what we do is we identify what we consider to be fraudulent activities, and we notify each of these individuals who are operating on the internet by sending them a letter or contacting them by e-mail, and letting them know that we do plan to take enforcement actions against them if they do not shut down their fraudulent internet sites.

A particularly vital program or part of our enforcement program is our consumer response center and our new consumer sentinel data base.

Our consumer response center responds to public inquiries and quickly forwards complaints of special concern to our investigators.

The consumer sentinel incorporates data from our consumer response center and several other sources and provides over 250 law enforcement agencies and Canadian law enforcement agencies with vast, secure access to provide data via the internet.

Much of the complaint data in the sentinel system comes directly from consumers such as yourselves. Consumers have toll-free access to the FTC's consumer response center through our consumer help line. Launched in July 1999, with additional funds appropriated by Congress, consumers can call 1-877-FTCHELP from

anywhere in the United States and report any type of fraudulent conduct or any type of suspicious conduct.

What we do is we input that information into our computer data base, and we use it to target individuals that are engaged in fraudulent conduct.

In addition, we also have established a website that consumers can use to file a complaint on-line. That website is www.ftc.gov.

As Attorney General Wilson mentioned earlier, consumer education is one of our prime defenses in preventing fraud, and the commission through its Office of Consumer and Business Education has published more than 84 publications last year, and distributed more than 8.6 million brochures to consumers.

Our goal in distributing this education material is to help you protect yourself, and to know what types of activities are suspicious, know when to hang up your telephone, and know when to protect yourselves from fraud.

The Federal Trade Commission and the state Attorney Generals are the places that consumers should go to if they do have problems with fraudulent operators, and again, we encourage all of you to contact our toll-free number and report fraudulent activities. Thank you.

[The prepared statement of Mr. Berrelez follows:]

PREPARED STATEMENT OF

**THE FEDERAL TRADE COMMISSION ON
"FRAUD AGAINST SENIORS"**

Before the

SPECIAL COMMITTEE ON AGING

UNITED STATES SENATE

Indianapolis, Indiana

August 10, 2000

I am Rolando Berrelez, Assistant Regional Director of the Midwest Region of the Federal Trade Commission. I am pleased to appear before you today to present information about the Commission's activities with regard to fraudulent marketing practices, especially those that affect the elderly.¹ The Federal Trade Commission is the primary federal consumer protection agency, with wide-ranging responsibilities over nearly all segments of the economy. In pursuing its mandate of protecting consumers, the Commission enforces the Federal Trade Commission Act,² which broadly prohibits unfair or deceptive acts and practices, and also enforces more than twenty-five other consumer protection statutes³ and thirty regulations⁴ that address such matters as consumer credit, telemarketing, and the sale of funeral goods and services. Combating fraud has been a top priority in fulfilling that mandate for over a decade. In particular, the Commission

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

² 15 U.S.C. §§ 41 et seq.

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

⁴ E.g., the Telemarketing Sales Rule, 16 C.F.R. Part 310, which defines and prohibits deceptive telemarketing practices and other abusive telemarketing practices; the Care Labeling Rule, 16 C.F.R. Part 423, which requires the provision of care instructions for wearing apparel; the Franchise Rule, 16 C.F.R. Part 436, which requires the provision of information to prospective franchisees; the Mail and Telephone Order Merchandise Rule, 16 C.F.R. Part 435, which gives consumers certain rights when ordering products through the mail; and the Funeral Rule, 16 C.F.R. Part 453, which regulates certain pricing and sales practices by funeral providers.

has committed significant resources to the war against telemarketing fraud -- a type of fraud that frequently victimizes the elderly.

Fraudulent marketing schemes change over time, but they share one thing in common: they all involve the use of deceptive or unfair practices to separate consumers from their money. Many fraudulent operations use the telephone as the primary means of communicating with their victims. Estimates of losses specifically caused by fraudulent telemarketers range from at least \$3 billion to as much as \$40 billion annually.⁵ The Commission's law enforcement experience shows that telemarketing fraud victimizes consumers of all ages, levels of income, and backgrounds. The elderly, however, constitute a disproportionate number of telemarketing victims, and in some scams, 80 percent or more of the victims are 65 or older. The elderly often are the deliberate targets of fraudulent telemarketers who take advantage of the fact that many older people have cash reserves or other assets to spend on seemingly attractive offers. Some older Americans seem especially susceptible to fraudulent offers for prize promotions and lottery clubs, charitable solicitations, and investment offers.⁶

⁵ See, Committee on Government Operations, *The Scourge of Telemarketing Fraud: What Can Be Done Against It?*, Fifteenth Report by the Committee on Government Operations (U.S. G.P.O.: 1991), at p. 7 ("Various estimates place losses to consumers each year from telemarketing fraud at \$3 billion to \$15 billion to \$40 billion and probably hundreds of millions of dollars to financial institutions.")

⁶ Recent survey research conducted on behalf of AARP shows that there is no ready answer explaining why a disproportionate number of telemarketing fraud victims are elderly. The research rebuts the notion that the elderly are vulnerable because they are socially isolated, ill-informed, or confused. The survey shows, however, that older people who fall for telemarketing scams tend to believe the pitches they hear -- that they have a good chance of actually winning the grand prize, and that the products touted are worth the price charged for them. Ninety percent of respondents report awareness of consumer fraud; yet two-thirds said it is hard to spot fraud when it is happening. The survey also shows that elderly victims find it

Sections 5 and 13(b) of the Federal Trade Commission Act⁷ provide the Commission with several important tools to combat various types of marketing fraud. These provisions authorize the Commission to file civil actions by its own attorneys in federal district court and to seek an immediate halt to illegal activity. The Commission also seeks to obtain restitution for injured consumers, if possible; if not, the Commission seeks disgorgement of defendants' ill-gotten monies to the U.S. Treasury. Where appropriate, the Commission seeks an *ex parte* temporary restraining order, asset freeze and the appointment of a receiver to halt ongoing fraudulent activities and preserve assets for consumer redress. This extraordinary relief results in the immediate cessation of fraudulent telemarketing or other fraudulent schemes. Every year the Commission pursues such law enforcement activities to prevent hundreds of millions of dollars in fraud losses, and in the past three years, has collected over \$61 million on judgments for consumer redress or disgorgement to the Treasury.

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

One very important feature of the Telemarketing Act is that it permits a joint federal-state

difficult to terminate telephone conversations, even when they say they are not interested in continuing a conversation. They are also reluctant to seek advice or assistance from others about financial matters in general.

⁷ 15 U.S.C. §§ 53(b) and 57b.

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

The Commission, working with its counterparts on the state level and its sister federal agencies, has developed a strategy of law enforcement "sweeps," in which multiple, simultaneous actions are filed all across the country against companies and individuals engaged in a particular type of fraud. Concentrating federal and state resources on a particular type of fraud to bring dozens of law enforcement actions at one time not only sends an emphatic warning to others engaged in the same fraud, it also provides a springboard to raise dramatically consumer awareness of that particular type of fraud. Since 1995, the Commission has led 56 cooperative law enforcement efforts focused upon the most prevalent types of fraud, including fraud that targets older consumers. These sweeps comprised a total of over 1,549 federal and state actions, including 365 cases brought by the Commission. I will describe some of these sweeps more specifically, as I discuss common varieties of marketing fraud.

Deceptive Prize Promotions and Lottery Clubs

One type of telemarketing fraud in which the victims are disproportionately elderly is the deceptive prize promotion. Typically, the consumer receives a call enthusiastically congratulating him or her on having been selected to receive a valuable award -- often described as thousands in cash, a car, a vacation, or jewelry. However, there is a "catch" that requires the

consumer to send payment, often by an overnight courier service, in order to receive the prize. Then, although the consumer sends the payment as instructed, he or she does not receive the promised valuable prize. If the consumer receives any award at all, it is generally an item of little or no value, such as inexpensive costume jewelry or a travel certificate that requires huge outlays of cash to redeem. Losses per consumer for telemarketed prize promotions generally range from a few hundred dollars to thousands of dollars. In some instances, consumers have lost their entire life savings to such scams. Although prize promotion telemarketers often ask for only a small amount initially, in a process referred to as "reloading," phone crooks request ever increasing amounts from consumers, promising ever more valuable awards. Once marked as receptive to this type of scam, a consumer often is bombarded with similar fraudulent offers from a host of scam artists. Prize and sweepstakes promotions remains one of the top five categories of complaints reported in the FTC's Consumer Sentinel - a multi-agency law enforcement investigative cyber tool.⁸ Accordingly, fraudulent prize promotions have been a frequent target of Commission enforcement efforts. Since 1996, the Commission has led sweeps against prize promotions operators that have resulted in 80 enforcement actions against 119 defendants in 26 states.⁹

Prize promotions are not conducted exclusively through the telephone. In many cases,

⁸ Consumer Sentinel is discussed *infra* at p. 14.

⁹ Project Prize Fighter, announced in July 2000, included 3 FTC actions and 11 criminal actions among the 21 actions brought by the U.S. Postal Inspection Service, Attorneys General from five states, and two local law enforcement authorities. In addition, the eight cases the Commission brought in connection with Operation Jackpot in 1996 resulted in the defendants paying more than \$550,000 in consumer redress or disgorgement to the U.S. Treasury.

direct mail is used to capture the attention of the consumer. The Commission has taken action against several direct mail prize promoters, and joined other agencies in "Project Mailbox," begun in October 1997. Project Mailbox includes all types of fraudulent direct mail solicitations, but many of the actions targeted prize promotions. Project Mailbox involves the combined efforts of the FTC, the U.S. Postal Service, the Securities and Exchange Commission, and 25 state Attorneys General and local law enforcers, and, thus far, has resulted in a total of approximately 500 law enforcement actions.

Telefundlers or Bogus Charities

Another type of telemarketing fraud, sometimes referred to as fraudulent "telefunding," targets consumers, often older citizens, willing to donate money to charitable causes.¹⁰ Fraudulent telefundlers, often employing prize promotions, either raise money for bogus charities, misrepresent the amount of donations that go to a bona-fide charity, or make other material misrepresentations about how the donor's money will be used. The Commission has brought several actions attacking alleged telefunding fraud and, again, has coordinated with other agencies to lead sweeps in this area.¹¹ To date, the effort has resulted in ten FTC cases and 86

¹⁰ The Commission examined demographic data on the victims of five telefunding operations the Commission sued in 1994 and found that out of 143 consumers interviewed, 85 percent were at least 65 years of age.

¹¹ See *FTC v. North American Charitable Services, Inc.*, Civil No. SACV 98- 968 LHM (EEx)(C.D. Cal. filed Nov. 9, 1988); *FTC v. Eight Point Communications, Inc.*, Civil No. 98-74855 (E.D. Mich. filed Nov. 10, 1998); *FTC v. Leon Saja, d/b/a Southwest Publishing*, Civil No. CIV 97-0666 PHX sm (D. Ariz. filed March 31, 1997); *FTC v. The Baylis Co.*, Civil No. 94-0017-S-LMB (D. Idaho filed Jan. 10, 1994); *FTC v. NCH, Inc.*, Civil No. CV-S-94-00138-LDG (LRL) (D. Nev. filed Feb. 14, 1994); *FTC v. International Charity Consultants*, Civil No. CV-S-94-00195-DWH (LRL) (D. Nev. filed Mar. 1, 1994); *FTC v. United Holdings Group, Inc.* (D. Nev. 1994); *FTC v. Voices for Freedom*, Civil No. 91-1542-A (E.D.

state enforcement actions. At the Commission's press conference announcing the Operation Missed Giving sweep in November 1998, AARP released the results of a national survey on charitable giving habits of Americans, distributed a new educational video about telephone fundraising fraud, and operated a "reverse boiler-room," -- a spin-off of the phone centers used by fraudulent telemarketers -- manned by volunteer callers warning consumers that they may be targeted by deceptive charitable fundraisers and providing them with information on how to protect themselves from scams.

Business Opportunity Fraud

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

Va. filed Oct. 21, 1991).

the business plan, he or she learns that the revenue projections of the telemarketer were highly inflated and that the only people who make money through the business opportunity are the telemarketers themselves.

Every year, the Commission brings numerous cases against purveyors of fraudulent business opportunities. In fact, the Commission's first major coordinated law enforcement initiative against fraud, "Project Telesweep," targeted such operations. Project Telesweep, launched in July 1995, used the combined efforts of the FTC, the U.S. Department of Justice, and several states to bring nearly 100 actions against alleged fraudulent business opportunities. The project was so successful that it served as a template for future telemarketing sweeps. Most recently, the Commission led "Project Bizillions", which was announced in January 2000. That sweep included 36 Commission cases and 33 state and local law enforcement cases.¹²

Recovery Scams

"Recovery" scams once plagued older consumers,¹³ but this type of scam now appears almost to have vanished, due to aggressive enforcement efforts and tighter regulations.¹⁴

¹² A number of the Commission's cases sought injunctions against the defendants' failure to comply with the Commission's Franchise Rule, 16 C.F.R. Part 436, which requires sellers of franchises and business opportunities to provide prospective purchasers with disclosures covering 20 specified material topics, including the names and addresses of current and former owners of the franchise or business opportunity.

¹³ In its investigation of one recovery room case, SCAT, Commission staff interviewed 43 consumers who were allegedly victimized or approached by SCAT telemarketers. Of these individuals, 81 percent were at least 65 years of age; 47 percent were at least 75; and 23 percent were at least 80. Similar percentages have been found in other recovery room cases.

¹⁴ The Telemarketing Sales Rule expressly prohibits telemarketers from requesting or accepting payment for "recovery" services until 7 business days after the promised goods, services, or cash have been recovered and delivered to the consumer. 16 C.F.R. § 310.4(a)(3).

Recovery scams were particularly egregious because they re-victimized consumers who had already fallen prey to one or more earlier scams. In a recovery scam pitch, the fraud operator offered to help the consumer obtain prizes promised in an earlier scam or to recover money lost in an earlier scam. After paying the fee for the recovery, the consumer never again heard from the recovery scammer – no refund, no prize, just the loss of more money. In some cases, the recovery scam operation was run by the very same individuals who previously defrauded the consumer. Losses per consumer victimized by recovery rooms ranged from a few hundred dollars to thousands of dollars.

Since the fall of 1994, the Commission has brought eight cases against recovery scam artists.¹⁵ These enforcement actions, combined with provisions in the Telemarketing Sales Rule tailored specifically to prevent this type of fraud, have led to a dramatic drop in the number of consumer complaints. The Commission's consumer complaint database shows that complaints about recovery scams plunged by 95 percent from their high point in 1995 to their current low level.

Credit Card Loss Protection

In yet another telemarketing scam, fraud artists try to get people to buy worthless credit

¹⁵ FTC v. Telecommunications Protection Agency, Inc., Civil No. CIV-96-344-5 (E.D. Okla. filed July 24, 1996); FTC v. Desert Financial Group, Inc., Civil No. CV-S-95-0151-LDG (D. Nev. filed Dec. 5, 1995); FTC v. Meridian Capital Corp., Civil No. CV-S-96-00063-PMP (D. Nev., transferred to D. Nev. Jan. 23, 1996, originally filed in D.D.C Aug 17, 1995); FTC v. USM Corp., Civil No. CV-S-95-0668-LDG (D. Nev. filed July 12, 1995); FTC v. PFR, Civil No. CV-S-95-000745-HDM (D. Nev. filed Jan. 25, 1995); FTC v. Thadow, Inc., Civil No. CV-S-95-00074-PMP (D. Nev. filed Jan. 25, 1995); FTC v. United Consumer Services, Civil No. 1:94-CV-3164-CAM (N.D. Ga. filed Nov. 30, 1994); FTC v. Richard Canicatti, d/b/a Refund Information Services, Civil No. CV-S-No. 94-859-HDM (D. Nev. filed Oct. 11, 1994).

card loss protection and insurance programs. The telemarketers, who prey on elderly and young adults, scare consumers with false stories, telling them that they are liable for more than \$50 in unauthorized charges on their credit card accounts; that they need credit card loss protection because computer hackers can access their credit card numbers through the Internet and charge thousands of dollars to your account, and that the telemarketer are from "the security department" and want to activate the protection feature on their credit card. This type of fraud affects senior citizens in particular. The National Consumer's League reported that a recent study of telemarketing fraud showed that 71 percent of the credit card loss protection plan complaints received by the National Fraud Information Center were made by consumers age 50 and older.¹⁶ To address this problem, the Commission, since September 1999, has led sweeps resulting in four Commission cases and seven state cases against this type of fraudulent operation, including a criminal action by Florida law enforcement authorities.

The Internet

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

¹⁶ The study, summarized in a comment submitted to the Commission that is available at www.ftc.gov/bcp/rulemaking/tar/comments/index.html, also stated that consumers age 50 and older accounted for 38 percent of their telemarketing fraud complaints across all categories.

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

The Commission believes it is important to address Internet fraud now, and in a manner that does not discourage legitimate commercial growth by undermining consumer confidence in the Internet as a safe mode of commerce. Toward that end, the Commission has filed more than 140 cases against 406 defendants whose alleged illegal practices involved the Internet. Most of the cases have involved old-fashioned scams dressed up in high-tech garb.¹⁷ For seniors and their families surfing the Web for health information, one area of particular concern are health-related scams; old-fashioned snake oil salesmen also have gone online. To combat this problem, the Commission launched Operation Cure.All in June 1999, an ongoing federal and state law enforcement and consumer education campaign targeting false and unsubstantiated health claims on the Internet - - focusing in particular on claims for serious diseases such as arthritis, cancer, diabetes, heart disease, AIDS and multiple sclerosis.¹⁸ To date, the FTC has filed seven actions,

¹⁷ For a comprehensive overview of the Commission's Internet law enforcement activities, including a list of cases, see *Five Years: Protecting Consumers Online*, available at www.ftc.gov/opa/1999/9912/fiveyearreport.htm.

¹⁸ As part of Operation Cure.All, in June 2000, the Commission announced a \$1 million settlement with Lane Labs USA, Inc., resolving allegations of false and unsubstantiated claims

sent more than 800 advisory letters to Internet companies making questionable health claims, and distributed tips to consumers on how to spot cyber health fraud and on how to find reliable health information online.

In addition to overall Internet-related law enforcement efforts, the Commission has developed comprehensive consumer and business education initiatives, including Surf Days to inform entrepreneurs about online problems and "teaser" pages to warn consumers about specific scams.¹⁹

Additional Approaches to Combating Fraud

Assisting Criminal Authorities

The Commission also combats telemarketing fraud by providing substantial resources to enforcement efforts coordinated by criminal authorities. The FTC assigned eight attorneys to the Chattanooga, Tennessee Telemarketing Fraud Task Force in 1995. Chattanooga had become a leading center of fraudulent telemarketing activity, particularly prize promotion scams. The

about the company's shark cartilage and skin cream marketed to consumers as cancer treatments (FTC v. Lane Labs USA, Inc., Civil No. CV-00-3174 (WGB) D. N.J. filed June 28, 2000). Other Cure. All cases include Michael D. Miller, d/b/a Natural Heritage Enterprises, Docket No. C-3941 (May 16, 2000); CMO Distribution Centers of America, Docket No. C-3942 (May 16, 2000); BHP Products, Docket No. C-3940 (May 16, 2000); Arthritis Pain Care Center, Docket No. C-3896 (Sept. 7, 1999); Body Systems Technology, Inc., Docket No. C-3895 (Sept. 7, 1999).

¹⁹ Knowing that many consumers use the Internet to shop for information, agency staff have developed "teaser" sites that mimic the characteristics that make a site fraudulent. Metatags embedded in the FTC sites make them instantly accessible to consumers who are using major search engines and indexing services as they look for products, services, and business opportunities. Within three clicks, the "teaser" sites link back to the FTC's site. There, consumers can find the practical information they need to learn to recognize fraudulent claims. The agency has developed 13 such "teaser" sites on topics ranging from health care products to scholarship services to vacation deals and investments, and feedback from the public has been overwhelmingly positive.

overwhelming majority of the victims of the Chattanooga operations were elderly. The FTC attorneys were cross-designated as Special Assistant U.S. Attorneys and brought criminal actions against telemarketers operating in the area. By the end of 1996, the Chattanooga Task Force had obtained fifty convictions and combined prison sentences against fraudulent telemarketers totaling over 1,695 months and restitution orders in excess of \$35 million.²⁰ Because the defendants targeted vulnerable victims, including the elderly, their prison sentences were enhanced.²¹

The FTC also participated in a cross-border project in Harrisburg, Pennsylvania where staff assisted in an ongoing crackdown on fraudulent telemarketing schemes based in Canada that targeted victims in the U.S. The defendants mainly telemarketed investments. Since 1995, 125 defendants, including 97 Canadian nationals, have been charged criminally, and more than \$4 million has been recovered for restitution to U.S. consumers. And in December 1998, FTC staff assisted a criminal prosecution of a recovery room operation. Many of the approximately 850 victims, who paid defendants more than \$1.6 million, were elderly. The owner was sentenced to 63 months in jail, the managers were sentenced to jail terms between 21 to 36 months, and the telemarketers were sentenced from 6 months home detention to 21 months in jail.²²

²⁰ In recognition of the FTC's contributions, the U.S. Department of Justice honored the FTC attorneys with its John Marshall Award for inter-agency cooperation in support of litigation in 1996.

²¹ See 18 U.S.C. § 2236 for enhanced penalties for any telemarketer convicted of victimizing ten or more persons over the age of 55 or targeting persons over the age of 65. The United States Sentencing Guidelines also increase sentences for any convicted criminal that targets victims according to age. See, USSG § 3A1.1.

²² *United States v. Jeffrey Jordan et al.*, CR-S-96-113-LRL (D. Nev. filed 1997; subsequently transferred to D.D.C.).

The Commission assisted in the recent prosecution of perpetrators of investment schemes based in New Hampshire, including the prosecution of a former U.S. Attorney who, in June 2000, was sentenced to 24 months in prison.²³ In one of these cases, the telemarketers convinced victims to switch their existing Individual Retirement Accounts to a worthless wireless cable investment.

In addition, the Commission participated in Operation Senior Sentinel, announced in December 1995, which, with over 400 arrests in 14 states, was the largest criminal crackdown ever on telemarketing fraud and focused specifically on scams targeting older Americans. Estimates indicate that nearly 80 percent of the victims in the underlying prize promotion and recovery room cases included in Senior Sentinel were older people. The FTC contributed valuable consumer complaint information to Senior Sentinel and also filed five civil cases in federal district court -- four against alleged fraudulent prize promotions and the fifth against an alleged recovery room.

Consumer Sentinel and the Consumer Response Center

The Commission realizes that coordination and information sharing are key to effective consumer protection law enforcement. *Consumer Sentinel*, a secure database developed by the FTC and now shared with over 250 law enforcement agencies in the U.S. and Canada, puts this concept to work. Currently containing more than 250,000 entries, the database allows law enforcement from local sheriffs to the FBI to identify companies and individuals engaging in fraud and to stop scams as they emerge. As the Internet makes cross-border transactions more

²³ For a description of the case, see "Ex-Regulator Sentenced in Telemarket Fraud," *The New York Times*, July 18, 2000 at C2.

commonplace, we have recognized the importance of global information sharing. Recently, the Commission entered into an agreement with our Australian counterpart, the Australian Competition and Consumer Commission, to share information through Sentinel, and cooperate in law enforcement efforts. The Commission intends to continue to recruit domestic and foreign consumer protection agencies as Sentinel partners, allowing all to use these resources efficiently and in concert.

Much of the complaint data in the Sentinel system comes directly from consumers who contact the agency. Consumers have toll-free access to the FTC's Consumer Response Center through a consumer helpline. Launched in July 1999 with additional funds appropriated by Congress, 1-877-FTC-HELP allows people from anywhere in the United States to call with questions or complaints and speak to trained counselors. Our Web site, www.ftc.gov, provides an online complaint form, and some complaints reach us through postal mail. The FTC now receives more than 10,000 consumer inquiries or complaints each week.

The agency's data collection and analysis function expanded in 1998 when Congress enacted the Identity Theft and Assumption Act. This law empowered the FTC to collect identity theft complaints, and refer them to law enforcement entities for prosecution. In response, we established the Identity Theft Data Clearinghouse, a component of Consumer Sentinel which contains consumer complaints about this rising crime. Calls to the dedicated identity theft hotline (1-877-ID THEFT) now exceed 1,000 a week, marking a steady increase since the hotline was launched in November 1999. Consumers who call this line are connected to counselors who are specially trained in the intricacies of identity theft and the credit laws. These counselors give pertinent information to callers, assisting them to repair the damage inflicted by the identity

thieves. The database now contains close to 15,000 entries, and is available to law enforcers through the secure Sentinel site.²⁴

Cooperative Efforts with Older Consumers

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

²⁴ The Consumer Sentinel complaint form does not ask for the caller's age. Identity theft callers have the option of providing age information. About 55% of victims calling the identity theft hotline report their age. Of these, 40% fall between the 30 and 44 years of age. Approximately 26% are between age 45 and 64, and another 25% are between age 19 and 29. About 7% of those reporting their ages are 65 and over; and slightly over 2% are age 18 and under.

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

Consumer Education

Consumer education is an effective protection against fraud. To leverage expertise and limited resources, the FTC has developed the Partnership for Consumer Education, a group of over 90 corporations, trade groups, consumer organizations, and federal agencies that works with us to distribute effective consumer education materials to fight fraud. With the assistance of our partners, the Commission has arranged for messages about fraud to appear in such diverse locations as sales catalogs, billing statements, classified advertising, and even on public transit buses.

It is especially important for older consumers to know their rights and learn how to assert those rights when dealing with telemarketers. To reach out to seniors in informal settings, the Commission's has coordinated local events with partners such as the Florida Attorney General's Office, AARP, local BBBs. The FTC's primary focus has been on southern states to reach retired seniors in particular. Since July 1999, the Commission has hosted or participated in seven such events, including an Elder Fraud Conference for consumer advocates, senior leaders and law enforcement in Florida, a consumer awareness forum for minority seniors, and a Consumer University discussing such topics as telemarketing fraud, identify fraud, charity fraud, door-to-door frauds, home repair, mail fraud and Internet fraud.

The Commission's creative and plain English consumer education publications -- most of which are available at the FTC's Web site ftc.gov -- provide advice and tips on a wide range of consumer topics. The publications advise that if a consumer does not wish to receive subsequent calls from a particular company, the consumer should ask to be placed on the company's "do-not-call" list. The publications further advise that it is an unlawful practice for a telemarketer to call a consumer who has indicated that he or she does not wish to receive calls from the selling organization. The Commission's consumer education materials also inform that the law requires telemarketers to disclose the seller's identity and that the purpose of the call is to sell goods or services. The materials state that consumers should be extremely wary whenever they receive a call from a telemarketer who does not promptly disclose this information. One theme that is stressed in the FTC's consumer education materials is that consumers should hang up on any telemarketer who tells them that they need to send in payment to receive an award or to participate in a prize promotion. The Commission attempts to get the message to consumers that they do not have to pay money to enter a sweepstakes or prize contest. Another important theme is that consumers should never divulge their credit card numbers or checking account numbers over the phone unless they have agreed to make a purchase and they understand the terms of the purchase. The only reason a company ever needs a consumer's credit card or checking account number is to bill the consumer for the purchase. Also, the Commission's consumer education materials note that whenever possible, consumers may wish to make purchases by credit card so that they will have the protections afforded to such transactions by federal law. If the company fails to deliver goods or services paid for by credit card, the consumer is entitled to dispute the charge with the organization that issued his or her credit card,

which is obligated to conduct an investigation of the consumer's complaint. Depending upon the result of that investigation, the consumer may be eligible for a credit or refund of the purchase price.

Another important point stressed in the Commission's consumer education materials is that consumers should be on the alert for high-pressure tactics or demands from a telemarketer for an immediate purchasing decision. The materials also advise consumers to consider carefully any offer, to review any written materials, and to seek out advice from family or friends before making an expensive purchase. If consumers are interested in reducing the number of solicitations they receive in the mail or by telephone, they may wish to contact the Direct Marketing Association ("DMA"), a private trade association that voluntarily maintains and supplies to its members lists of consumers who have indicated they do not wish to receive solicitations. Not all direct marketers use the DMA list to screen out consumers. Therefore, contacting DMA will not eliminate the receipt of mail and telephone solicitations, but it may help reduce the volume. The DMA's address is available via the Internet on the Commission's Web site or through the Commission's Consumer Response Center. Consumers can contact the Federal Trade Commission or the state Attorneys General if they lose money to a company engaged in fraud or even if they receive a solicitation which they believe is misleading or suspicious. Although the Commission does not intervene in individual disputes, consumer complaints provide vital information that the Commission uses in developing its enforcement agenda and in determining whether a particular company is engaged in a pattern of deceptive practices or fraud, making it a suitable target for legal action.

Conclusion

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

Senator BAYH. Thank you very much, Rolando. [Applause.]

Can you show us that—it is not an 800 number—the toll-free number that FTC has to report fraud or suspicious behavior, again?

Mr. BERRELEZ. Yes, once again, our toll-free number is 1-877-FTCHELP.

Senator BAYH. 877-FTC—

Mr. BERRELEZ. FTCHELP.

Senator BAYH [continuing]. HELP. So that is to report suspicious behavior to the FTC.

Mr. BERRELEZ. Correct.

Senator BAYH. The number we have up here is an AARP number. So feel free to call one or both if you feel that there has been some problem or you are seeking additional information.

I would like to ask the Attorney General my first question. Karen, are there patterns of behavior you have detected in some of these fraudulent schemes that you can share with people that will, perhaps, enable them to be a little on their toes when they get calls or solicitations through the mail, or see ads on TV, or through the internet as Rolando has mentioned, where a lot of us are going? Any common characteristics that people can be alert for and perhaps protect themselves?

Ms. FREEMAN-WILSON. Sure there are, Senator. One of the things that we find is that these operators go to areas where there may have been storm disasters or other weather-related disasters, or other problems that may require home improvements or home repairs more than others. And so they concentrate on these areas, and of course, then go door-to-door. And generally, you have seniors who are more likely to be home during the day, and so they prey on these individuals.

Another pattern that we often see is that they move around very frequently. You may see them in the South Bend area one part of the week, on Monday, and then on Friday they may be down in Jeffersonville. They are using the same number. In neither place do they have a permanent office. They may use a trailer. But they move around quite frequently.

Senator BAYH. Most of the time they request up-front payments for the work to be done, and then they just never reappear?

Ms. FREEMAN-WILSON. Absolutely. They will require a substantial down payment. And it may not even be the full cost of the repair, but it is substantial enough that if they go to a number of people in one day or 1 week, then they will have made pretty good money by defrauding individuals.

Senator BAYH. So the moral of the story is if you live in an area where there has been significant storm damage of some kind, and someone shows up unsolicited on your doorstep, be on your guard. Check with the Better Business Bureau. Check with other people in the community to make sure they have a solid reputation and have been around for a while.

Ms. FREEMAN-WILSON. Absolutely. Ask for references. Ask for licensing information. Most cities and towns or even counties have a licensing process, and you might want to contact that branch of government to make sure that the individual who is looking to make a repair is, in fact, licensed.

Senator BAYH. Rolando, what kind of education efforts do you think would be beneficial to seniors? If you could say two or three things here to allow people to protect themselves, Rolando, what would you say?

Mr. BERRELEZ. Well, as most of you know, we did distribute a packet of consumer educational materials that we encourage you to look through. I think one of the things that consumers can do to protect themselves is when they do get telephone solicitations from companies or individuals, to make sure that they do not give their credit card information over the telephone.

Never send checks or cashiers checks or personal checks using courier services or other types of payment—if somebody is demanding money up-front, that is a clear signal that it is probably a fraudulent operator.

Senator BAYH. Finally, just briefly, if you could, tell us about your Consumer Sentinel Program. Could you describe that for me?

Mr. BERRELEZ. Our Consumer Sentinel Program was set up to help law enforcement agencies to work together to develop coordinated enforcement programs. What we did is we established a national and even bi-national consumer data base where law enforcement agencies can access the data base via the internet and find out not only the types of complaints, but the level of complaints against—that are being perpetrated against consumers.

Senator BAYH. So through better coordination we do not let some of these fraud perpetrators slip through the cracks.

Mr. BERRELEZ. Right. So, for example, using our consumer sentinel information we can, for example, let the Attorney General of Indiana know what are the types of fraudulent practices that are occurring in the State of Indiana. We forward that information to her office, and she, then, could use that for enforcement activities in Indiana.

Senator BAYH. Well, again, Attorney General Freeman-Wilson, I want to thank you for being such a vigorous watch dog, protecting the consumers of our state.

And again, folks, our Attorney General will have four staff members over here when we are done to take any concerns that you might have about any suspicious activities.

Rolando, thanks to you for your good work. If I have my way, we are going to get you more resources to do more of what you are doing to help crack down on this kind of thing, helping our Attorney General and local law enforcement agencies, first, prevent the fraud. But if it happens, then, make sure it does not happen again.

Mr. BERRELEZ. We appreciate your efforts, Senator Bayh.

Senator BAYH. Thank you. Let us please thank our Attorney General and our representative from the FTC for being with us today. Thank you.

Senator BAYH. I can ask our final panel to come forward please. Our final panel today is comprised of two wonderful, wonderful human beings. First, Captain Edward Friend of the TRIAD of the South Bend area.

For those of you who are not familiar, TRIAD is a cooperative arrangement between local volunteers and law enforcement agencies that work to prevent fraud and crime perpetrated on seniors. We have eight TRIADs across Indiana. They work very well.

As I mentioned at the beginning, under my legislation, we provide an additional million dollars a year to expand the activities of efforts like the ones that Captain Friend is involved with that help to protect seniors across our State and country.

The second individual is Mary Jane Phillippe. Mary Jane, thank you folks, I am ordinarily opposed to human cloning, but in Mary Jane's case, I think I would make an exception. She is such a wonderful person. She has been involved and active with AARP for a long time now, and has firsthand experience combating fraud.

She has participated in the reverse boiler room, and has even appeared on NBC's Dateline a few years ago to highlight repair fraud perpetrated against seniors. She is truly one of the great senior advocates and watch dogs of the state looking out for the best interest of our senior citizens.

And, Mary Jane, it is just great to be with you again. We worked together during my years as Governor, and now, even though my hat has changed, we are still working together to help Indiana seniors.

Captain, maybe we can start with you, and hear your thoughts, and then Mary Jane, and then I will have a couple of questions for you.

STATEMENT OF CAPTAIN EDWARD FRIEND, TRIAD, SOUTH BEND, IN

Mr. FRIEND. Senator Bayh, citizens, and honored guests, it is a pleasure to be here today with all of you. And if you don't mind, I am going to stand when I talk about this. I cannot talk very well sitting down.

You are probably wondering who the honored guests are today. The honored guests, ladies and gentlemen, are all of you out there.

I really do not like the word "seniors"; I like the word "achievers" much better. When you think back over the past hundred years, what we have achieved in this century of mankind, it is mind-boggling.

Let me just run through some of the things that we like about achievers. In our lifetime and during the past one hundred years, our achievers have achieved victories in two world wars, led our kids through Vietnam, Korea, and Desert Storm, plus a bunch of ill-conceived political skirmishes; conquered the Depression; perfected penicillin and many other miracle drugs; conceived the automobile, the airplane, space shuttles, radio, television, computers, fuels, communications of all types; made medical miracles happen. The list is endless.

So don't you agree with me that you are all achievers? Give yourselves a big round of applause. [Applause.]

In 1988, TRIAD was formed. It was born to help educate and protect our achievers, our oldest and fastest growing population both nationally and worldwide. TRIAD embraces the theme of seniors and law enforcement together.

TRIAD is a consortium of law enforcement personnel, community resources personnel, and citizens from all walks of life, young and old, generating education against criminal acts which prey upon our older population, and also, we provide for a better quality of life.

My work as a law enforcement officer takes me into the trenches of mankind. I am a liaison to the Adult Protective Service, to the mental health work in our communities, and to the geriatric medical population.

Initially, TRIAD received grant funding through the Department of Justice, the AARP, the International Association of Chiefs of Police and the National Sheriff's Association. As of this date, August 10, 2000, TRIAD receives very little Federal funding.

The National Sheriff's Association is financially supporting TRIAD efforts until a stable Federal commitment of financial aid can be obtained.

What I want to tell all of you is what you have heard several times this afternoon. I see it firsthand. Schemes, scams, and frauds perpetrated against our older citizens are unfortunately commonplace in many of our communities. TRIAD has brought law enforcement and senior citizens together to help fight specific criminal conduct in various communities.

Fraudulent telemarketing schemes make older citizens prey. They make you easy prey since you were raised and I was raised—we were all raised not wanting to insult anybody by hanging up the telephone, not wanting to say no to anybody.

Alleged sweepstakes games confuse older people, and they entice our hunger for a few more dollars to survive on very limited frugal incomes. Bulk mail schemes that border on fraudulent schemes arrive daily in our achievers' mailboxes.

I could go on and on talking to you about schemes, scams, and frauds, but you have heard it today. It is in the Congressional minutes. It is in the Senatorial minutes. We are here at the Indiana State Fair, Senator Bayh, to ask that you, our senators, and other government officials keep a very rational, simple approach to crime-fighting action.

Ladies and gentlemen, without Federal funds, the Senator and I are deeply aware that TRIAD may not survive.

Most importantly, it must be realized that once an older citizen is a victim of a scheme, a scam, or a fraud, they are many times afraid to tell their children. The fear of retaliation from adult children is insurmountable. The fear of revictimization, embarrassment, and insults by your own children is well-known.

Many of our senior citizens, our achievers, have been able to call their local TRIAD, receive guidance, law enforcement assistance, and some solace that was not available prior to 1988.

Victims of any crime, especially our older citizens, lose the most cherished possession of life. That is dignity. Preserving a person's dignity cannot be measured in dollars and cents. Helping a person avert a crime after the offense has been committed is too late.

You must help to keep a person's dignity by preventing the crime, and helping them, heaven forbid, if they are victims.

Please, I ask you on behalf of our citizens of the State of Indiana, on behalf of law enforcement officers at the local, state, and Federal level, and on behalf of our firefighters who are involved with TRIAD, please keep this program alive.

I want to do two things in the last few seconds that I have. I want you to take this word back to your counties. If you don't have

TRIAD, contact me or contact the Attorney General, contact the Senator. We will tell you how your chiefs and sheriffs can start it.

And I want to leave you with these words from a man that we all revere. His name was Louis Armstrong. "I see trees of green, red roses, too. I see them bloom for me and you, and I think to myself, what a wonderful world." Ladies and gentlemen, Senator and your family, my dear, God bless you all.

[The prepared statement of Mr. Friend follows:]



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"Helping Keep Seniors Safe"

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 Administration

**The Testimony of Ed Friend
before the
Select Aging Committee on Aging
August 10, 1000**

Senator Bayh, fellow citizens and honored guests. It is a pleasure to greet all of you today and to be able to discuss such a valued topic as TRIAD.

You are probably wondering who I am referring to as honored guests. These are the folks with us who are **ACHIEVERS**. Commonly, these wonderful people are called 'seniors'. I do not like the word 'seniors'. It depreciates the true value of our over 55 citizens and most 'seniors' agree with me. I like the word **ACHIEVERS** much better. In our life time, and during the past one-hundred years, our **ACHIEVERS** have achieved victories in 2 world wars, led our kids through Vietnam, Korea and Desert Storm plus a bunch of ill conceived political skirmishes; conquered the Depression; perfected penicillin and many other miracle drugs; conceived the automobile, the airplane, space shuttles, radio, television, computers, fuels, communications of all types; made medical miracles happen...the list is endless! So, don't you agree with me that **ACHIEVERS** is more appropriate for these wonderful and valued citizens?

In 1988, TRIAD was born to help educate and protect our 'achievers', our older and fastest growing population, both nationally and world-wide. TRIAD embraces the theme of Seniors and Law Enforcement Together. TRIAD was and is a consortium of law enforcement personnel, community resources personnel and citizens from all walks of life, young and old, generating education against criminal acts which prey upon our older population and also providing for a better quality of life in many communities.

Nationally, TRIAD efforts are alive and well in over 750 counties in our nation and also exist in Canada and England. In the state of Indiana, we have TRIAD groups in eight (8) counties and are working collectively on our efforts this year.

Initially, TRIAD received grant funding from the Department of Justice through efforts of The National Sheriff's Association (N.S.A.), The American Association of Retired Persons (A.A.R.P.) and The International Association of Chiefs of Police (I.A.C.P.). As of this date, August 10th, 2000, TRIAD receives very little federal funding. The National Sheriff's Association is financially supporting the TRIAD efforts until a stable federal commitment of financial help can be obtained.

Schemes, scams and frauds perpetrated against our older citizens are unfortunately common place in many of our communities. TRIAD has brought law enforcement and senior citizens together to help fight specific criminal conduct in various communities. Fraudulent telemarketing schemes make older citizens easy prey since they were raised trusting people and not wanting to insult anyone by 'hanging up the telephone' after saying "no" to the caller. Alleged 'sweepstakes' games confuse older citizens and entice their hunger for a few more dollars to survive on their limited incomes. Bulk mail offers that border on fraudulent schemes arrive daily in our 'achievers' mail boxes. Identity theft and fraud is a growing concern!

For example, the St. Joseph County, Indiana TRIAD telephone 'concern line' receives calls asking for advice in legal matters and questions, contract problems, frauds and scams, bulk mail concerns and other areas of concern to our older citizens. All calls are referred to appropriate resources so that qualified information and answers may be received by the callers, if possible.

TRIAD awareness efforts, educational programs, team investigations with local, state and federal law enforcement agencies have all generated some degree of success in the past twelve years. Further, the efforts of TRIAD, with the exception of some funding from the Bureau of Justice Assistance and the Office for Victims of Crime, (a modest investment of \$300,000 per year) have cost the taxpayers very little.

Now, it appears that The National Association of Triads, Incorporated must ask for federal assistance. That is why we are here today!

We are here at the Indiana State Fair, on Senior Day, 2000, to ask that you, our senators and other government officials, keep a very rational, simple approach to crime fighting active. Without federal funds, TRIAD may not survive!

TRIAD in Indiana has promoted such efforts as anti-fraudulent telemarketing programs called 'Reverse Boiler Rooms' where thousands of citizens, whose names appeared on telemarketer's 'mooch lists' have been warned about fraudulent telemarketers. Bulk mail research by seniors has yielded some amazing questions about the bulk or so called 'junk mail' we receive each day. Hundreds of pounds of bulk mail were gathered, sorted and delivered to the Indiana Attorney General's office. Some of the mailings received were very questionable. Senior forums and Senior Expos and educational Uniform Fashion Shows have been presented.

Most importantly, it must be realized that once an older citizen is the victim of a scheme, scam or fraud, they are many times afraid to tell their children. They fear retaliation from their adult children. They fear revictimization, embarrassment and insults by their own children. They have been able to call their local TRIADS, receive guidance, law enforcement assistance and some solace which was not available prior to 1988. Victims of any crime, especially our older citizens, lose a most cherished possession of life...that is their dignity.

Preserving a person's dignity cannot be measured in dollars and cents. Helping a person avert a crime or helping them after the offense has been committed helps to preserve or restore dignity. TRIAD is aware of this human need and fulfills some of that need.

Please, on behalf of our citizens of our State of Indiana, on behalf of our law enforcement officers at the local, state and federal levels and on behalf of our firefighters who are involved with TRIAD, keep this program alive and infuse the funding that it needs to continue.

Senator BAYH. Thank you, Captain. [Applause.]

Thank you very much, Captain, for those wonderful eloquent words.

Mary Jane.

STATEMENT OF MARY JANE PHILLIPPE, MEMBER, NATIONAL LEGISLATIVE COUNCIL, AARP

Ms. PHILLIPPE. My name is Mary Jane Phillippe, and I am a member of the AARP National Legislative Council. On behalf of the association, I thank you, Senator, for inviting us to this hearing to offer testimony on the problems that older Americans face in dealing with fraudulent telemarketers and deceptive sweepstakes mailings.

I will also provide you a summary of some of the activities in which AARP has engaged to offer consumers needed protection from working to shield them from potential fraud.

Finally, AARP will comment on the legislation that you plan, Senator, to introduce next month entitled "Protecting Seniors from Fraud Act." Telemarketing fraud is a major concern for AARP because of the severe effects it has on older Americans who are victimized in disproportionate numbers as we have heard here repeatedly today.

In 1996, the association launched a campaign against telemarketing fraud that has involved research examining older victims and their behavior, partnerships with enforcement and consumer protection agencies, and repeated delivery of a consistent message.

That message is, and I trust you all will get the message, fraudulent telemarketers are criminals. Please, don't fall for a telephone line.

This slogan came into being after AARP qualitative research revealed that although older consumers knew telemarketing fraud was wrong, they found it hard to believe it was a crime. Our research suggests that older consumers must be convinced that fraudulent telemarketers are indeed criminals before they will exercise a greater caution.

In 1993, extensive undercover FBI operations found that older consumers were the single largest group of individuals specifically targeted by fraudulent telemarketers. And again, you have heard that repeatedly from this podium—or this platform today. We older folks are a larger in number of victims of fraudulent telemarketers.

Two years later, AARP sponsored the first large-scale survey of telemarketing fraud victims to learn more about how this crime truly affects older Americans. Our study, our AARP study, affirmed that older people are victimized much more frequently than younger ones. More than half of the victims of telemarketing fraud are over the age of 50. And that is only 36 percent of the population of this age group.

We found that older Americans, and by the way, ladies, men as well as women, who fall for telemarketing schemes seem to believe the story the telemarketer is pitching at the other end of the line.

They find it hard to tell a telemarketing pitch from a fraudulent one, and often lack the skills to end the call. You have heard that

today, also. They feel pressure from the person at the other end of the line.

As a means to eradicate this problem, AARP partnered with FBI, the National Association of Attorneys General, the U.S. Postal Inspection Service, and others to launch a unique activity advising consumers that they might be targeted by illegal telemarketers.

AARP and its partners turned the criminal's own tactics against them, and created the nation's first reverse boiler room. It was called "Operation Unload." AARP volunteers called more than 2,000 people nationwide and advised them that their names had been found on what we know as the "mooch" list which was seized from fraudulent telemarketers.

I participated in that program here in Indianapolis, and I want to tell you that I was astonished to find the confidence level that seniors have in the person at the other end of the line.

Since that initial effort, AARP has:

(1) Continued efforts with our partners. The Department of Justice, the FBI, the Attorneys General, the postal service, local law enforcement agencies, and the Administration of Aging which is sponsoring this, and state and local units on aging.

(2) We have fortified our message that telemarketing fraud is a crime with suggestions on how to plan ahead to respond to fraudulent calls through—and to spread the message through public service announcements and through editorial coverage.

(3) With supported volunteers like yourselves to work for legislation and regulation that establish acceptable telemarketing standards. I also have participated in this at the general assembly.

(4) We have supported litigation relating to telemarketing fraud.

(5) We continue to train volunteers who can in turn present fraud-fighting training in your own communities.

For the many reasons cited above, sweepstakes and other forms of deceptive mailings have also been a major concern to AARP. The aforementioned research into telemarketing fraud and fraudulent charitable solicitations which are closely tied to direct mail fraud has identified sweepstakes as a prime area of concern. Our follow-up research found that 40 percent of older Americans have received sweepstakes solicitations and responded to that.

Now, is not that alarming? 40 percent of us have received sweepstakes information, and we have responded to them. What was distressing, however, was finding that 4 out of 10 do not believe the statement—remember, they all say no purchase necessary. Four out of ten don't believe that.

We were, therefore, very pleased with your support, Senator Bayh, for the Deceptive Mail Protection and Enforcement Act on which AARP worked very actively and which was signed into law late last year.

Provisions in this law ensure consumers will be protected with more information regarding the unlikely chance of winning a prize, as well as enhancing civil penalties and requiring the mailing houses to maintain a Do-Not-Mail list.

While this law is a significant step in the right direction, we commend you, Senator, for recognizing that more needs to be done.

AARP has taken a number of steps that educate our members and the public at large as to how to differentiate between legitimate offers and misleading, deceptive, or fraudulent ones.

Our goal continues to be reduction in fraud and deception in telemarketing and mail solicitations. We are active participants in Operation Mailbox, a coordinated effort undertaken with the Federal trade communication, Federal and state law enforcement agencies to identify fraudulent mail.

In cooperation with these agencies which formed the Operation Mailbox Task Force, AARP identified more than 5,000 pieces of mail that might require legal action. This material generated over 150 state and enforcement actions against the sponsors of this mailing.

Senator Bayh, your legislation, the Protecting Seniors from Fraudulent Acts, builds upon the relationships that groups like AARP have with law enforcement agencies. Particularly commendable is the bill to reauthorize the TRIAD program. We have been partners in that and worked with those folks a long time which does provide—as the gentleman indicated, it disseminates information about how to guard against it.

AARP welcomes, Senator, your efforts to enact legislation designed to put an end to telemarketing and—fraudulent telemarketing; we do not want to end all of it—and sweepstakes along with other harmful practices.

The Protecting Seniors from Fraud Act is indeed a well-crafted effort to reach that goal.

On behalf of AARP, I want to thank you, again, for providing us this forum to discuss telemarketing fraud, and to comment on your legislation. AARP stands ready to work with you and to reduce the impact fraud has on some of America's most vulnerable citizens. Thank you, Senator.

[The prepared statement of Ms. Phillippe follows:]



TESTIMONY OF

MARY JANE PHILLIPPE

MEMBER, NATIONAL LEGISLATIVE COUNCIL

Regarding

Senior Fraud Prevention Legislation

At a

U.S. Senate

Special Committee on Aging

Field Hearing

August 10, 2000

Indiana State Fairgrounds

Indianapolis, IN

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Senator Bayh:

My name is Mary Jane Phillippe and I am a member of AARP's National Legislative Council. On behalf of the Association, I thank you for inviting us to this hearing to offer testimony on the problems older Americans face in dealing with fraudulent telemarketers and deceptive sweepstakes mailings. I will also provide a summary of some the activities in which AARP has engaged to offer consumers needed protection from the general nuisance of telemarketing while working to shield them from potential fraud. Finally, AARP will comment on the legislation you plan to introduce next month, the "Protecting Seniors from Fraud Act."

Telemarketing fraud is a major concern for AARP because of the severe effects it has on older Americans, who are victimized in disproportionate numbers. In 1996, the Association launched a campaign against telemarketing fraud that has involved research examining older victims and their behavior, partnerships with enforcement and consumer protection agencies, and repeated delivery of a consistent research-based message. That message is: "Fraudulent telemarketers are criminals. Don't fall for a telephone line." This slogan came into being after AARP qualitative research revealed that although older consumers knew telemarketing fraud was wrong, they found it hard to believe that it was a crime. Our research suggested that older consumers must be convinced that fraudulent telemarketers are criminals before they will exercise greater caution.

In 1993, an extensive undercover FBI operation found that older consumers were the single largest group of individuals specifically targeted by fraudulent

telemarketers. Two years later, AARP sponsored the first large-scale survey of telemarketing fraud victims to learn more about how this crime affects older Americans. Our study affirmed that older people are victimized much more frequently than young people are. More than half of the victims of telemarketing fraud are over age 50, although only 36% of the population is in this age group.

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

As a means to eradicate this problem, AARP partnered with the FBI, National Association of Attorneys General (NAAG), U.S. Postal Inspection Service and others to launch a unique activity advising consumers that they might be targeted by illegal telemarketers. AARP and its partners turned the criminals' own tactics against them and created the nation's first "reverse boiler room," called "Operation Unload." AARP volunteers called more than 2,000 people nationwide, advising them that their names had been found on "mooch" lists seized from fraudulent telemarketers.

Since that initial effort, AARP has:

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

- Fortified our message that telemarketing fraud is a crime with suggestions on how to plan ahead to respond to fraudulent calls, and spread that message through public service announcements and editorial coverage;
- Supported volunteers working for legislation and regulations that establish acceptable telemarketing standards;
- Supported litigation related to telemarketing fraud; and
- Continued to train volunteers who can in turn present fraud fighter training in their own communities.

For many of the same reasons cited above, sweepstakes and other forms of deceptive mailings have also been a major concern to AARP. The aforementioned research into telemarketing fraud and fraudulent charitable solicitations, which are closely tied to direct mail fraud, has identified sweepstakes as a prime area of concern. Follow-up research found that 40% of older Americans who receive sweepstakes solicitations, respond to them. What was distressing, however, was the finding that 4 out of 10 participants don't believe the statement, "No purchase necessary to win!" We were, therefore, very pleased with your support for the "Deceptive Mail Prevention and Enforcement Act," on which AARP worked actively and which was signed into law late last year. Provisions in this law ensure that consumers will be provided with more information regarding their unlikely chance of winning a prize as well as enhancing civil penalties and

requiring that mailing houses maintain a “do not mail” list. While this law is a significant step in the right direction, we commend the Senator for recognizing that more needs to be done.

AARP has taken a number of steps to educate our members and the public at large as to how to differentiate between legitimate offers and misleading, deceptive or fraudulent ones. Our goal continues to be a reduction in fraud and deception in telemarketing and mailed solicitations. We were active participants in Operation Mailbox, a coordinated effort undertaken with the Federal Trade Commission (FTC) and federal and state law enforcement agencies to identify fraudulent mail. In cooperation with these agencies, which formed the Operation Mailbox task force, AARP identified more than 5,000 pieces of mail that might require legal action. This material generated over 150 federal and state enforcement actions against the sponsors of these mailings.

Senator Bayh, your legislation, the “Protecting Seniors from Fraud Act,” builds upon the relationships that groups like AARP have with law enforcement agencies. Particularly commendable are provisions in the bill that reauthorize the Triad program, provide for a mass dissemination of material to educate seniors about fraud, and direct the Attorney General to conduct a study relating to crimes against seniors. AARP welcomes your efforts to enact legislation designed to put an end to fraudulent telemarketing and sweepstakes along with other pernicious practices. The “Protecting Seniors from Fraud Act” is a well-crafted effort to accomplish that goal.

On behalf of AARP, thank you again for providing us with this forum to discuss deceptive telemarketing practices and to comment on your legislation. AARP stands ready to work with you in reducing the impact fraud has on some of America's most vulnerable citizens.

Senator BAYH. Thank you, Mary Jane. [Applause.]

I have one question for both of you, and then I'll take some questions from the audience.

Well, we have the cards. Please, if you have questions, fill them out.

And my question to first the captain and then Mary Jane, just very briefly, in just a few sentences, what can we tell our seniors here today, what should they be on the lookout for to protect themselves from becoming the victim of this sort of fraudulent activity?

Mr. FRIEND. Do you want to answer that, and then I will follow? The lady is always first.

Ms. PHILLIPPE. Well, first, I think we should contact people in our family, our legal advisors, to know whether or not the offer being made to us as was presented here earlier is truly a bona fide offer.

And so far as the telemarketers, my own personal way of dealing with that is say, "I am sorry," and hang up, because if somebody really wants to contact me, they can do it in a different way than calling me. That is my personal way of dealing with that.

Senator BAYH. Mary Jane, is your experience the same as ours? Do these people always seem to call during dinner?

Ms. PHILLIPPE. Always call during dinner.

Senator BAYH. That is what—either that or when we are trying to get the boys put down to bed, one or the other.

Ms. PHILLIPPE. Right. Well, they know we are home.

Mr. FRIEND. And they do not have—it does not have to be an out-of-town group. In the past week, I have had a call from Ameritech and also from another telephone company, and it is very aggravating to get these calls during dinner. I will stand again, briefly, if I may, Senator.

I did a television show a few months ago, and I explained that a criminal does not need a weapon in this day and age. You do not need a sidearm. You do not need any type of weapon except a telephone, a pad of paper and a pencil.

We have thousands of people out in our society living off your greed to try and get a little richer. The ability is to be able to say no. And these people are calling on the phone.

They have every line in the world that you can imagine. They are posing as bank examiners, credit card examiners. Do not give any numbers out over the phone. Say no and slam it down.

And thank you for the opportunity to say that.

Senator BAYH. Thank you, Captain.

Ms. PHILLIPPE. Senator, just within the last 10 days, in my community a group was calling and saying they represented the policemen fund, and the police quickly got out information that no, it had nothing to do with them.

Mr. FRIEND. Well, I will probably get a lot of law officers and FOPs mad at me, but when you get calls for the police and fire funds and other things, turn around and give the money to your church or favorite charity if you are not sure who it is, because a lot of law enforcement groups hire telemarketers to do their soliciting, too.

They are legitimate, but be careful who you are giving the money to, and do not feel that because you say no there is going to be

somebody at your door who is mad at you, or that you are going to get a ticket the next time you go out to drive your car. You're not.

Just be able to say no. If you want to give it to your local police department or fire department, go down and give them a check personally.

Senator BAYH. Good idea, Captain.

Captain and Mary Jane, thank you again. Let us express our appreciation for our final panelists here today. [Applause.]

Katie, would you like to come forward at this time? Do you have the questions?

Ms. HUMPHRIES. We have a number of good questions here.

Senator BAYH. By the way, let me again introduce Katie Humphries. She is the head of our largest department in State government, the Family and Social Services Administration that is in charge of a wide variety of programs including those affecting seniors in our State. She has been just a wonderful dedicated public servant for many years.

And, Katie, I appreciate your taking time to be with us here today. You get to play the role of Regis Philbin here today.

Ms. HUMPHRIES. Right.

Senator BAYH. You get to ask the questions.

Ms. HUMPHRIES. We have a number of good questions here. The first question, Senator Bayh, to you is what is the most important thing to remember if I want to invest?

Senator BAYH. Oh, that is a very good question, and again, I am not an authorized or certified financial planner, so I would say just get, you know, a wide variety of opinions. I think you have heard some of the suggestions up here today. And also, get this tip sheet that we have here about things to do and not to do when it comes to responding to solicitations.

I would talk to your lawyer. Talk with an accountant. Talk to immediate members of your family. Take your time. Do not be pressured into anything. Get two or three opinions. We are talking about your life savings here, your financial security. Don't be in a hurry.

As I think you heard a couple of our panelists say, if it sounds too good to be true, it probably is too good to be true. So take a little time. Get two or three opinions. Slow but steady, that is usually the best way to go. That would be my advice.

But, you know, seek out people. Call the authorities, too. Find out who is licensed with the state, you know, who has a good track record, who does not have a lot of complaints filed against them in terms of people who offer financial advice, things of that nature. That would be my at least initial advice to you.

Ms. HUMPHRIES. Another question. Where can I go to get more information to protect myself from these scams?

Senator BAYH. Well, let us see. Is Mary Jane still here? We have got our AARP number right here that those of you can copy down here.

I encourage you to call the AARP, 1-800. It does not cost you anything. It is a free phone call. If you are worried about someone who has contacted you, if you think you may have been a victim, if you want additional information, we have got the packets here

today. I encourage you to read, share with loved ones, family members, friends, neighbors. Call AARP.

Previously, if Rolando is still here, we shared the FTC number. If you think you have been a victim, again, they are the law enforcement authorities.

Call the Attorney General's office. If you think you have a concern, Attorney General Freeman-Wilson is going to have four staff people here to take any complaints that you might have about people who have called you on the phone and solicited you for these sweepstakes contests, repair fraud, showed up at your door to repair your home, have not done the work they promised they would do, those sorts of things.

So start with AARP, general information. If you think you have been a victim, we have got the Attorney General right here. The FTC's toll-free number we gave you earlier. I think those are three good places to start.

Ms. HUMPHRIES. Another question that perhaps the Attorney General would like to answer. Why cannot there be a law against one company selling your name to others so they can call you and send junk mail to you?

Senator BAYH. I will let our Attorney General share her thoughts on that, and then I will perhaps offer a few of my own.

Ms. FREEMAN-WILSON. Certainly, there could be a law, and that is a continuous area of concern. We all know that we have probably been the victim of that at one time or another, and companies make a lot of money selling and buying lists. And certainly if you have an interest in that, you can call your Members of Congress, and we have the Senator here today, or you can talk to your State legislators.

Senator BAYH. That is right. And there is currently legislation proposed. This is a whole new area of the law that is rapidly expanding. It is the whole protection of your privacy, protection of your social security number, protection of your phone number, protection of your bank records, other personal financial information, where you make your purchases, things of that nature, your credit history.

And there is legislation currently being offered before the Congress that would allow you to protect yourself from these unwanted solicitations, people trafficking in your information. It takes a variety of forms, but I would encourage you to let people like me know, your Congressman or Congresswoman know what your interests are in this.

You would automatically be protected unless you gave them approval to share your information. Others would allow you to contact them, and tell them you do not want them sharing your information. That is called opting out.

So there are a variety of ways to do this. But I would basically say let people like me know, and others, if you are interested in this. I am supportive of this sort of legislation that would protect your privacy, particularly with the advent of the internet, it is something that has become much, much more important.

We do not want your bank records, where you have done your shopping, what you have bought. That should not be out there free for others to have or to sell unless you give your approval. And I

am hopeful that we can get legislation like that enacted in Congress probably next year.

Ms. HUMPHRIES. The last question, because I know we are running out of time, are you speaking at the Democratic Convention? I am glad you did not take the VP spot because your place is No. 1 at a later date.

Senator BAYH. Oh, is not that nice. Thank you. [Applause.]

Well, I appreciate the question. No, I am not going to be speaking. I will be at the convention in Los Angeles but only as a delegate. I am not speaking. You know, 4 years ago, I gave the keynote address, and having done that, I thought I had done enough speaking at the convention.

But I am going to have Susan and the boys with me, and judging by the boys' behavior today, they may have more to say at the convention than I do. You never know.

But I do appreciate your question. I was honored to be considered for that, but I do love my current job. I did not ask to be considered. They had asked if I was willing to do that, and I said I was willing, but I was not looking to change my job.

I love representing the people of our state. This is our home. This is where we love, where we are from. And so I appreciate the question, but I am going to be keeping a low profile at the convention except running around after our boys.

Having said all that, I would like to thank again all of you for being in attendance today. I would like to thank the officials for the Indiana State Fair for their wonderful hospitality.

Again, I am privileged to represent you on the Committee on Aging, and I hope to have these hearings every year I am on the committee at the state fair to protect the interests of senior citizens, and in this case, to protect you against fraud and abuse from unscrupulous telemarketers.

Thank you for joining me today. I very much appreciate your presence. This hearing is now concluded.

(Whereupon, at 3:35 p.m., the committee adjourned.)

