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SWINDLING SMALL BUSINESSES: TONER-PHONER SCHEMES AND OTHER OFFICE SUPPLY SCAMS

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE

ONE HUNDRED SIXTH CONGRESS

SECOND SESSION

MARCH 28, 2000

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SWINDLING SMALL BUSINESSES: TONER-PHONER SCHEMES AND OTHER OFFICE SUPPLY SCAMS

TUESDAY, MARCH 28, 2000

UNITED STATES SENATE,
COMMITTEE ON SMALL BUSINESS,
Washington, D.C.

The Committee met, pursuant to notice, at 9:43 a.m., in room SD–562, Russell Senate Office Building, the Honorable Christopher S. Bond (Chairman of the Committee) presiding.

Present: Senator Bond.

OPENING STATEMENT OF THE HONORABLE CHRISTOPHER S. BOND, CHAIRMAN, SENATE COMMITTEE ON SMALL BUSINESS, AND A UNITED STATES SENATOR FROM MISSOURI

Chairman BOND. Good morning. The hearing will come to order. Unfortunately, my colleague and Ranking Member, Senator Kerry, has a Commerce Committee hearing in which he is deeply involved, so he will not be able to join us.

Last fall this Committee commenced a series of hearings on deceptive or unfair trade practices that are particularly harmful to the small business community. Our first hearing focused on slotting fees, a method that large companies use to preclude competition from small businesses getting onto supermarket shelves. The Committee then followed up with a hearing on unscrupulous web site creators cramming unauthorized charges onto the telephone bills of unsuspecting small businesses.

Today's hearing is the third in this series. This morning we will address another scam targeting small businesses; the fraudulent telemarketing of office suppliers, particularly copier and printer toner. While the fraudulent telemarketing of toner cartridges may at first glance seem to be "no big deal," I am here to tell you that it is actually an extraordinarily widespread problem, and to be this high on our agenda it has to be. The Committee has received estimates that this type of fraud victimizes businesses up to $250 million per year.

The toner cartridge in my hand is the tool scam artists use to ensnare small businesses. This is what is being sold, and these cartridges are usually of very inferior quality and are sold at very inflated prices.

The FTC has several ongoing investigations of companies that deceptively cold-call businesses to sell toner cartridges. According to the FTC, the offers are rife with fraudulent statements and mis-

representations. The bottom line on these types of scams is that small businesses and non-profit entities are shipped low-quality office supplies that they did not order at grossly inflated prices, sometimes up to 20 times conventional prices.

Our witnesses today will testify about the many different methods these scam artists use to persuade small businesses to accept shipments of vastly overpriced toners. In many cases, the telemarketers will expressly or implicitly represent that they are associated with the business' regular supplier of photocopier toner or the photocopier manufacturer. The telemarketers may also represent that they are calling to confirm an order placed by an employee's predecessor when no order had been previously placed.

In addition, the companies may call a business to receive the name of an employee and then ship unordered merchandise and an invoice containing that particular employee's name. It is not uncommon for telemarketers to send a free gift to employees with whom they have spoken so that the employees feel obligated to pay the invoice they receive.

One of the most common practices is for telemarketers falsely to claim that prices have or are about to increase, but as a courtesy—what a courtesy—an order has been reserved for the business at the "regular" price. It would be more appropriate to state that the prices are highly "irregular." As some of our witnesses will testify today, the prices of the toner cartridges sold by telemarketers are substantially higher than prices for similar products available from reputable suppliers.

Once the telemarketer has scammed a business into agreeing to accept the delivery of the toner, it may use several other methods to coerce businesses into paying. Typically, invoices are sent a week following the unordered merchandise as the inflated price is not as obvious after the merchandise has been stocked and there is a reasonable chance that it has already been used.

Moreover, the fraudulent telemarketers usually spend significant time and energy on collection efforts including, drafting invoices containing unenforceable contract terms to coerce businesses into paying; stamping "Past Due" on first-time invoices; resorting to bogus or real collection agencies; threatening legal action; negotiating lower prices; or claiming that if the items are to be returned, the company will be charged a "restocking fee."

Finally, if the telemarketer finds a business that is willing to pay for the overpriced toner, a telemarketer will "reload" and send unordered merchandise and invoices as long as the business continues to pay.

While the FTC and certain States' attorneys general have been active in prosecuting businesses engaged in deceptive office supply sales, they have limited resources. To be successful in putting these scam artists out of business it is imperative that the Federal Government act as an information clearinghouse. We must ensure that small businesses and small not-for-profits are aware of the scams, and inform them how they can protect themselves. That is why we are holding the hearing today.

We do not need to change existing law to provide the authority to Federal law enforcement agencies to prosecute fraudulent telemarketers. The FTC already has the authority to seek civil pen-

alties. The Department of Justice has the authority to prosecute criminally bad actors. The FBI and the Postal Inspection Service also have the authority to investigate the fraudulent sale of office supplies.

The FTC has been particularly active in bringing enforcement actions in this type of fraud, and their efforts are ones we commend. Nevertheless, it appears that even companies that are successfully prosecuted often simply change their business name and continue the same fraudulent activities. The Committee is interested in hearing about what the FTC and other agencies are doing to decrease recidivism, and what Congress can do to assist in their efforts. My personal view is that that might begin to border on the criminal responsibility side.

Additionally, the Committee has learned that many States' attorneys general may not have appropriate statutory authority to seek civil penalties. While most States have "Little FTC Acts," which prohibit deceptive business practices, some of these acts may not apply to sales of business to business. Accordingly, we intend to work with States through their legislatures, Governors, and attorneys general to suggest to them that this business-to-business scam merits their attention as well.

The FTC has been extremely helpful in providing the Committee with background information on this problem and their enforcement actions. I am especially grateful for the extraordinary effort of FTC Chairman Robert Pitofsky, and FTC staff members Elaine Kolish, James Reilly Dolan, Elena Paoli, and Matthew Downs.

[An attachment to the statement of Senator Bond follows:]

Kit's 10 Tips to Avoid Office-Supply Fraud

1. **Be suspicious of telemarketers' claims if they are not your regular supplier.**

2. **Don't give out information about your office equipment.**

3. **Be wary of price-increase warnings on toner and office supplies.**

4. **Understand the terms of the offer and get them in writing.**

5. **Don't buy from telemarketers who won't give you their name, address, and phone number.**

6. **Use caution in giving your credit card or bank account information to an unknown telemarketer.**

7. **If you receive merchandise you didn't order, you may keep it as a gift.**

8. **Keep careful records on all purchases from a telemarketer.**

9. **If you suspect a telemarketer, contact your local Better Business Bureau, your state attorney general, the Federal Trade Commission (FTC) — 1-800-FTC-HELP, or your local consumer protection agency.**

10. **If you are harassed by a telemarketer, promptly notify your local Better Business Bureau, your state attorney general, local law enforcement authority, the FTC, or your nearest FBI field office.**

Chairman BOND. We are fortunate to have four panels this morning. Our first panel consists of representatives of two small businesses, and a non-profit organization that were targeted by fraudulent telemarketers. Our second panel is an ex-employee of a telemarketing company who will give us a look inside as to how these operations work. The third panel consists of a representative of the ISC, and a reputable small office supply firm. Finally, a fourth panel, a representative of the FTC who will give us the results of its recent enforcement actions and a new grass roots education initiative. We look forward to hearing from and working with each of our witnesses.

Accordingly, to begin the hearing I would like to call as the first panel Ms. Joan Bailey, administrative assistant, Brownstone Real Estate Company, Hershey, Pennsylvania; Mrs. Linda Easton-Saunders, data base and LAN administrator, Prospect Associates, Silver Spring, Maryland; and Mr. George Everding, communications coordinator, Feed My People, St. Louis, Missouri.

As you come forward I am going to submit for the record a statement from Senator Coverdell.

[The prepared statement of Senator Coverdell is in the APPENDIX:]

Chairman BOND. I also submit for the record a statement from the Xerox Corporation in Rochester, New York; and a statement from the Postal Inspection Service in Washington, D.C.

[The statements are in the COMMENTS FOR THE RECORD:]

Chairman BOND. Good morning and welcome. Ms. Bailey, would you care to begin?

STATEMENT OF JOAN BAILEY, ADMINISTRATIVE ASSISTANT, BROWNSTONE REAL ESTATE COMPANY, HERSHEY, PENNSYLVANIA

Ms. BAILEY. Thank you. First off, I want to introduce our firm. I am with Brownstone Real Estate Company, an independent real estate brokerage firm in Hershey, Pennsylvania. We have been in business since 1971. I joined the firm in 1995 and have acted as the administrative assistant since 1998. My responsibility include ordering and monitoring inventory of office forms, supplies, and items for computers, fax machines, and our copiers.

At this time I would like to explain my recent experience with a distribution company that solicited us for business. On July 7, 1999 I received a phone call. As per standard practice I identified myself and asked the caller how I could be of assistance. A female responded, "Hi, Joan, I am calling about your Lanier copier. What is the serial number on your copier?"

My initial response was, "Why do you need that?"

I was told there was a pending price increase on toner and the caller wanted to get me under the old pricing of $549. I asked how much of a price increase and was quoted a ridiculously high amount like $800—a very drastic difference.

I told the caller I would have to verify this offer with our accountant and asked her to please hold. I explained this offer, as I understood it, to our accountant—toner prices were about to increase for our Lanier copier, but if we acted immediately we could still get the old pricing. The accountant and I compared the offer

with our most recent purchase of similar toner which we purchased on May 18, 1999. At that time we had paid $695 for one case of four toner bottles. So this was a natural assumption on my part that this was a case. We were not in dire need of toner at the time, but given the price, both my accountant and I felt that it would be beneficial to make this purchase at this time.

When I returned to the person who was on hold, who I believed to be a Lanier representative, I informed her we would take advantage of the offer. I, of course, gave her my name and complete mailing address.

I did not give another thought to this purchase until the next day, July 8, when a gentleman called identifying himself as "Bill." He told me he was calling to verify my toner purchase, which I did confirm. Again, I did not think anything of this out of the ordinary because Bill is the name of our copier repairman with Lanier. Coincidence? I do not know. I do remember thinking it a bit odd that Bill was calling in reference to a toner order, but maybe Bill made a job change. I do not know.

A week later, about July 19, I received another call from Lanier—this one from our representative, Brooks Bracken, who I had spoken with many times. She wanted to know if we needed anything in the way of supplies, particularly toner. I asked, "How many times is Lanier going to call wanting to know if we need toner? How many copies do you think we make in a week?"

She informed me this was her first call she had made in this current quarter, and furthermore, she was the only one to contact me for an order. My first red flag went up.

She immediately wanted to know who had called and how they represented themselves. I repeated the chain of events ending with how I purchased the toner. This was when I first heard the term "Paper Pirates." I was furious, embarrassed to think I was swindled by this fast-talking rep, but our only consolation at this time was the fact that we had not yet received it and we were not out of any money. Now my true Lanier representative faxed me completed details educating me on what I had just fallen victim to. With her help and per enclosed instructions I began to prepare for when this toner finally arrived.

That was on or about July 20, 1999. I was shocked to find the box contained only one bottle of toner, not the case of four I had expected. The enclosed packing slip was not from Lanier, but rather Global Distribution Center located in Marina Del Rey, California.

Chairman BOND. This is what you received?

Ms. BAILEY. Right. An invoice was not included. I have since learned that is part of the scam—hoping that you would open the package, use it, and then, of course, feel obligated to pay. Thanks to Lanier that was not going to happen. I made a copy of the toner label and the packing slip; packed the toner back up and waited for the invoice to arrive.

On or about August 2, 1999, 13 days later, the invoice arrived separately. I was appalled at the charge of $549 for this single bottle of toner. In addition there were $60.40 in shipping charges that were never disclosed in our original conversation. August 5, per Lanier's instructions, I sent a brief but direct letter to Global Dis-

tribution Center. Basically stating, "You misrepresented the sale." Get your things within 30 days or we are going to get rid of it. "We do not want it." But I did forget in my haste to send it certified.

On that same day I sent a copy of this letter, all the pertinent information: packing slip, invoice, and toner label, to the names and organizations on the list I received from Lanier which was part of this. So to get rid of this I just made a file, "Information" and filed it.

August 9 we received an invoice for $609.40. I told the accountant, forget it, we are not paying it. Disregard it. August 12 our accountant received a call from Kelly Glen of Global Distribution Center regarding payment of this toner. Our accountant informed her we sent her a letter and we had no intention of paying it. Ms. Glen claimed Global had not received it. We asked for the fax number and said we would gladly fax that letter over, at which time she informed me according to terms and conditions we had 15 days. We were past that 15 days. We told her basically, end of discussion. The toner is here. You come get it. We are not paying for it, and we are not paying anything else.

When she received this fax Kelly Glen responded with a letter dated August 12 very different to the events that occurred, basically outlining they were up front, they always identify themselves, they made it clear how many it was. Not the case. August 16, a United Parcel service tag was issued and the toner was finally picked up. On that same day however we did receive another invoice for $609.40 and we figured it just crossed in the mail. August 26, we received a final invoice stamped past due. We responded on August 27, by remailing everything we had sent, a copy of our letter, Kelly Glen's letter, and again stating we are not paying this. We are done.

Basically we thought that was the end, and as far as that company, it was. But it was not the end of the calls from the toner-phoners. To this day I receive many calls. Again they do not identify themselves or they will just give a first name, but do not give a company name. They use similar lines, we want to call about your copier, do you have that number? And all we have to basically say is, "Don't you have it? You would if you were my representative." What I have learned is, it is very easy to really get rid of them. You ask what their name is, they hang up. "Who are you with?" They hang up.

So I feel lucky that Lanier educated us, and that we were not taken by this. There are similar incidents that have happened, not just toner-phoner. In conclusion, I would like to express my need for the continued investigation, not only of the toner-phoner and office supply scams but all who are constantly trying to swindle small businesses. This heightened distrust of business relationships has a severe impact on the workplace environment. Basically, can we not trust anyone?

Thank you.

[The prepared statement and attachment of Ms. Bailey follow:]

Testimony of Ms Joan Bailey, Administrative Assistant
Brownstone Real Estate Company, 1106 Cocoa Avenue, Hershey, PA 17033
Presented before The United States Senate Committee on Small Business

Hearing entitled
"Swindling Small Businesses: Toner-Phoner Schemes and Other Office Supply Scams."
March 28, 2000

Mr. Chairmen and Members of the United States Senate Committee on Small Business, thank you for allowing me to testify at your hearing, "Swindling Small Businesses: Toner-Phoner Schemes and Other Office Supply Scams."

Let me introduce you to my firm: Brownstone Real Estate Company is an independently owned real estate brokerage firm, which has provided service to Central Pennsylvania since 1971. I joined Brownstone in 1995, and have acted as the Administrative Assistant since 1998. My responsibilities include ordering and monitoring inventory of office forms, supplies, and items for computers, fax machines and copiers.

At this time I'd like to explain my recent experience with a distribution company that solicited us for business.

On July 7, 1999 I received a phone call. As per standard practice, I identified myself and asked the caller how I could be of assistance. A female responded: "Hi Joan, I'm calling about your Lanier copier. What is the serial number on your copier?"

My initial response was, "Why do you need that?"

I was told there was a pending price increase on toner and the caller wanted to get me under the old pricing of $549.00.

I asked how much of a price increase and was quoted a ridiculously high amount like $800.00—a drastic difference.

I told the caller I would have to verify the offer with our accountant and asked her to hold. I then explained the offer as I understood it to our accountant—toner prices were about to increase for our Lanier copier, but if we acted immediately we could still get the old pricing. The accountant and I compared the offer with our most recent purchase of similar toner on May 18, 1999. At that time, we had paid $695.00 for one case of four toner bottles. In my industry, when we refer to "one toner" it means one case of four toner bottles. This was a natural assumption on my part. We were not in dire need of toner at the time, but given the price, both my accountant and I agreed it would beneficial to make the purchase. When I returned to the person whom I believed to be a Lanier representative, I informed her we would take advantage of the offer. I gave my name and complete mailing address.

I didn't give the purchase another thought until the next day, July 8, 1999 when a gentleman called, identifying himself as "Bill." He told me he was calling to verify my toner purchase, which I then confirmed. Again, I didn't think anything out of the ordinary, because "Bill" is the name of our copier repair man. Coincidence? I don't know. I do remember thinking it a bit odd that Bill was calling in reference to a toner order. Hey, maybe he wanted a change.

A week later on July 19, 1999, I received another phone call from Lanier—this one from our usual representative, Brooks Bracken. She wanted to know if we needed anything in the way of supplies, particularly toner. I asked: "How many times is Lanier going to call wanting to know if we need toner? How many copies do you think we make in a week?"

She informed me this was the first call she'd made in the current quarter, and furthermore, she was the only one who would contact me for an order.

Uh Oh! Red Flag!! She immediately wanted to know who had called and how they'd presented themselves. I repeated the chain of events as they occurred, ending with how I had placed an order for toner. This was when I first heard the term "Paper Pirates." I was furious and embarrassed to think I had been swindled by fast talking reps—my only consolation the fact that we still had not received the toner and thus were not out the money. My true Lanier representative then faxed me complete details educating me on what I'd just fallen victim to. With her help and per inclosed instructions, I began preparing for when the toner finally did arrive.

That was on or about July 20, 1999. I was shocked to find the box contained only one bottle of toner, not the case of four I had expected. The enclosed packing slip was not from Lanier, but rather a "Global Distribution Center," located in Marina Del Rey, California. An invoice had not been included. I've since learned this is part of the scam, counting on the fact I would open and use the toner and feel obligated to pay for it. Thanks to Lanier, that wasn't going to happen. I made a copy of the toner label and packing slip; packed the toner back up and waited for the invoice to arrive.

On or about August 2, 1999, thirteen days later, the invoice arrived separately. I was appalled at the charge of $549.00 for a single bottle of toner. In addition there were $60.40 shipping charges which were never disclosed in my original conversation.

August 5, 1999—per Lanier's instructions, I sent a brief but direct letter to Global Distribution Center. In my haste to put this to an end, however, I neglected to send it certified mail.

Also on August 5th I sent a copy of this same letter along with copies of pertinent information; packing slip, invoice, and toner label, to the names and organizations on the list I received from Lanier.

Eager to put all of this behind me, I compiled my information and filed it.

On August 9, 1999, our office accountant received an invoice from Global Distribution Center for $609.40. I told her to disregard it.

On August 12, 1999, our accountant received a phone call from Kelly Glen, of Global Distribution Center regarding payment for our toner purchase. Our accountant informed her of the letter that had been sent, and made it clear we had no intention of paying the invoice. Ms. Glen claimed Global had received no such letter. Our accountant acquired her fax number and faxed the letter.

Upon receiving this fax, Kelly Glen responded immediately with a letter dated August 12, 1999, explaining their side of the story. Very different to the actual events as they occurred.

August 16, 1999—a United Parcel Service call tag was issued and the toner was finally picked up.

Also on August 16, 1999 we received yet another invoice—on the same day an UPS call tag was issued. Commonly referred to as "crossed in the mail."

August 26, 1999—we received one final invoice stamped PAST DUE. We responded on August 27, 1999 by re-mailing a copy of my original letter of dissatisfaction, plus a copy of Kelly Glen's letter of misunderstanding. That was finally the end of our involvement with Global Distribution Center.

Sadly, it was not the end of phone calls from "Toner-Phoners." To this day I still receive calls from people who do not identify themselves or their company. Some use the same line as my first encounter; some are more inventive. All in all it's not hard to pick them out, now that I know what too look for. It doesn't take much effort to determine whether or not they're legitimate. When I ask for a name or the name of the company they represent, they hang up. When they want the serial number for my Lanier copier, I now reply: "If you were my representative, you would have that already," at which point they hang up.

I truly felt this entire experience had made me conscious of scams. I believed I was educated to the point I would not become a victim again. I honestly thought I could pick a scam out a mile away. Yet I now realize that isn't the case. One of my additional responsibilities at Brownstone is advertising. While in the process of preparing my testimony for this hearing, I received a call regarding advertising placement—a routine call in the course of my day. The caller identified herself by name and informed me her publication ran a special feature once a year for local professionals and businesses. This year they wanted to showcase Brownstone Real Estate. The ad was to appear in a local paper and would feature Brownstone exclusively. The caller even read a sample of what she'd place in the ad, to which I contributed pertinent facts, embellishing it further. I was very impressed.

As I needed to submit the ad to my Manager for final approval, I asked the caller to fax me a sample copy. She agreed. Along with the copy she faxed, was a statement reflecting the cost of $249.50 for a "3 X 5" column ad. That part was never disclosed over the phone. Again, in advertising, when a paper offers to run a "feature ad," that customarily means "no charge." The caller did contact me again the following day, but because the paper was not within our main market area., my Manager declined. I thanked the caller for her interest.

I never thought anything about the call until the editor of the same publication phoned about another ad I was preparing. I asked him about the feature ad, wanting to verify that typically it's free of charge. When he confirmed it was, I told him about the offer. He then explained how anyone can purchase a full page in the newspaper, but the publication can't dictate the advertising copy. Thus a purchaser can turn around, phone local businesses, imply the paper endorses the ad space, then resell it at a much higher cost than originally paid. That same "3 X 5" column ad would normally only cost $60.00 if purchased directly from the publication. I couldn't believe it—yet another scam!

In conclusion, I would like to express the need for continued investigation—not only of "toner-phoner and office supply scams," but all who are constantly trying to swindle small businesses. This heightened distrust of business relationships has a severe impact on the workplace environment. Can't we trust anyone?

GLOBAL DISTRIBUTION CENTER
333 W. Washington Blvd. - Suite 126
Marina Del Rey, CA 90292
Phone (310) 448-1362 or (800) 639-5188
Fax (310) 448-1364 or (800) 639-9188

Invoice

Number: **303065**

Date: **July 08, 1999**

Bill To:

Brownstone Real Estate
Attn: Accounts Payable
1106 Cocoa Ave
Hershey, PA 17033

Ship To:

Brownstone Real Estate
Attn: Joan Bailey
1106 Cocoa Ave
Hershey, PA 17033

PO Number	Terms	Customer #	Phone	Ordered By	Ship
VBL	Net 30	303065	717-533-6222	Joan Bailey	UPS 7/8/99

Item #	Description	Quantity	Price Each	Tax	Amount
3M6755T	Lanier 6755 Toner	1.00	549.00		549.00
Z0000	S & H		0.00		60.40
				Sub-Total	**$609.40**
				State Tax 8.25% on 0.00	0.00
				Total	**$609.40**

FEDERAL TAX ID# 77-0498374
Thank you for you order from Global Distribution Center which is unaffiliated with any other supplier, manufacturer, authorized distributor or any seller, lessor, or servicer of equipment. Prices may be unrelated to any price previously paid or otherwise available. No returns after fifteen (15) days. All returns must have prior authorization. Fifteen (15%) percent restock on all returns. No cash refunds.
FOR TOLL FREE CUSTOMER SERVICE OR TO RE-ORDER, PHONE 1-800-550-9660 ~ 7:00AM - 2:00PM PST.

0 - 30 days	31 - 60 days	61 - 90 days	> 90 days	Total
$609.40	$0.00	$0.00	$0.00	$609.40

TERMS AND CONDITIONS

SOLE AGREEMENT

This invoice constitutes the entire agreement between the parties named hereto, and may be changed or amended only by a written document by both parties hereby. Each party acknowledges that such party has no representations, warranties, conditions or provisions which are not expressly set forth in this invoice.

APPLICABLE LAW

This invoice, and all matters relating to the performance hereof regarding the purchase of merchandise, shall be governed by the laws of the State of California. This invoice is entered into and is effective in the County of Los Angeles, State of California. The parties hereto expressly submit to the jurisdiction of the courts located in the County of Los Angeles, State of California, for the purpose of resolving any disputes that may arise pertaining to your purchase of merchandise. The parties hereto agree that any litigation concerning any rights or duties regarding this invoice, and all matters relating to the performance hereof and to the purchase of merchandise, shall be filed and heard in the courts of the County of Los Angeles, State of California.

PRODUCT WARRANTY

All merchandise is guaranteed to be free from material defects at the time of delivery of such merchandise to your location. Any merchandise that is defective at time of delivery will be replaced at no charge if within 60 days from the date the merchandise was received at your location: (a) **Global Distribution Center** receives notification of such defect; and (b) the merchandise is returned to **Global Distribution Center** within such 60 day period. **RIGHT TO CANCEL** – You may cancel this order for any reason whatsoever within three (3) business days from your receipt of this order. You may call **Global Distribution Center** at the telephone numbers indicated on the front side of this invoice to make arrangements for the return of the merchandise. You will not be obligated for any shipping charges, restocking charges, or any other charges. Time for cancellation will be extended for good reason.

RETURN OF MERCHANDISE

Any merchandise can be returned to **Global Distribution Center** within 15 days. All Returns must have prior authorization. Fifteen percent (15%) Re – Stocking fee may be charged to you for return of merchandise. No cash refunds.

SHIPPING & HANDLING CHARGES

Charges indicated on the front side of this invoice for Shipping and Handling are determined solely by **Global Distribution Center**. Shipping and Handling charges include the common carrier cost of shipping the merchandise to your location plus the cost of handling, packaging, repackaging, and related services provided by **Global Distribution Center**. Shipping and Handling charges may be higher than you have paid or are available elsewhere.

MERCHANDISE CHARGES & PACKAGING

Charges indicated on the front side of this invoice for merchandise are determined solely by **Global Distribution Center**. Merchandise charges may be higher than you have paid or are available elsewhere. **Global Distribution Center** does not make any claim about the prices stated in comparison with prices elsewhere. Units per carton may be different from units per carton available elsewhere.

ATTORNEY'S FEES

In the event of a dispute between the parties hereto regarding the terms, conditions, or obligations of this invoice; or any matters relating to the performance hereof; or the purchase of the merchandise, the prevailing party to such dispute shall be entitled to recover the attorney's fees, court costs, disbursements and all other costs of collection incurred in connection therewith.

DISCLAIMER: **Global Distribution Center** is an independent supplier of office supply products, and is not affiliated with any other company. **Global Distribution Center** is not the manufacturer or seller of your equipment. Prices may be unrelated to any price previously paid or otherwise available.

Chairman BOND. Thank you very much, Ms. Bailey. Thank you for going through the steps with us and outlining how your real supplier was very helpful. We congratulate you on standing up to them.

Ms. Linda Easton-Saunders.

STATEMENT OF LINDA EASTON-SAUNDERS, DATABASE/LAN ADMINISTRATOR, PROSPECT ASSOCIATES, SILVER SPRING, MARYLAND

Ms. EASTON-SAUNDERS. Good morning. I am Linda Easton-Saunders and I have been employed with Prospect Associates for the past 5 years. I am the data base/LAN administrator in the Information Technology department. As part of my job I cost and purchase computer and printer hardware, software, and supplies for the company.

On approximately October 3, 1997, I received a telephone call from a female from WorldTech Computers selling toner cartridges. I recall that the female was very rude after I told her that we did not buy toner from phone calls. She said, "What kind of manager are you? Don't you want to save your company money?" I again told her that we were not interested.

A day or so later I was paged while I was in a meeting to answer a phone call from a man from the same company. I told him that I was in a meeting and that we only buy authentic HP toner, not remanufactured. A man identifying himself as Sam Million, office manager, called back later. I told him that we only buy HP and that I did not appreciate his salespeople and their attitudes. He said that he did not train their people that way and would talk to them.

He then said they were working with HP on a pilot program with a new type of toner which would produce more copies since it had 300 grams instead of 100 grams. Also the drum was longer lasting and he was willing to invite us to try it saying, "How can we sell it if you do not try it?" He said that if we did not like it after trying it we could send it back and owe nothing. He also offered to send a promotional gift, a clock radio, along with the toner, that I could keep whether we kept the toner or not. I then said, go ahead, just to get rid of him.

Not being sure that this was an HP promotion I went on the Internet to the HP site to see if I could find out anything about this new pilot program. Finding nothing on this, I called HP to ask them about it and was told that this was not an HP program.

HP put me in contact with Thomas G. Byrne, an investigator with M. Morgan Cherry & Associates, who told me to accept the toner cartridge and call him when it arrived. I received the Laserjet 5Si MX toner cartridge on October 16, 1997, via UPS and called Mr. Byrne. I recall meeting Mr. Byrne and talking to him about my experience and at some point giving him the toner, but I do not have the dates when this occurred documented.

I was sent a fax on October 20, which gave me the e-mail address and fax information for Toni Berria, HP's supplies operations person. On October 21, I sent an e-mail to Toni advising her that I had received the invoice from WorldTech for $297.50. This price was double the price that I normally pay for the same toner. I men-

tioned in the e-mail that there were a couple of sentences on the back of the invoice that I could raise an objection with. One of them is the SOLE AGREEMENT which is on the terms and conditions up here on the exhibit.

I also told Ms. Berria that WorldTech had represented the toner as being HP toner and not remanufactured toner and on the front of the invoice it said, "LASERJET means high remanufactured quality." I felt that this was something that I could object to as I did not agree that the invoice supersedes anything told to me over the phone.

On October 27, I called and talked to Paul Derek who claimed to be the general manager of WorldTech. I informed him that I was not happy and wanted to talk to Sam Million, office manager, to tell him that he had misrepresented their product. Mr. Derek informed me that he was Mr. Million's boss. I let him know that Mr. Million had told me their product was HP toner and it was not remanufactured, as I had informed Mr. Million that we only buy HP toner and do not purchase remanufactured toner.

I also informed him that Mr. Million had stated that WorldTech was selling these toners under a pilot program approved by HP. Mr. Derek appeared to be upset stating that Mr. Million cannot do this as it is illegal. He went on to state that he was going to reprimand Mr. Million today and Mr. Million would be suspended.

I asked Mr. Derek to explain further about the toner. He said that the parts are remanufactured, the drum has been recoated and is stronger than HP's, which makes it last longer. They put 300 grams of microfine toner, approved by HP, in their cartridges instead of the 150 grams which is put in HP's cartridges. Comparing apples to apples, HP toner will render 11,000 to 12,000 copies while their toner will render around 30,000.

He stated that they have been in business for over 20 years and HP approves their product. He even told me to check with HP. He asked that I try the product and offered to lower the price to $240 including shipping and handling. He also stated that if I liked the product he would keep the $240 for future orders.

On October 30, 1997, M. Morgan Cherry & Associates sent Prospect a check for $240 to cover the cost of the toner cartridge that was received. Prospect in turn cut a check to WorldTech Computers to pay for the toner.

On November 18, 1997, I received a call from WorldTech. The man on the other end said he was my toner representative. He mentioned receiving our check and something about closing out the account, which confused me. He then said that WorldTech was going to send me five cartridges because they have a minimum order and that the one we received was only a trial. This statement angered me and I said, "NO, we do not want any more cartridges." He restated that they have a minimum order. In my anger, I was extremely rude and said some bad words and said that I did not care about his minimum order. I do not want any more cartridges. Take us off of your list. Do not call me any more. He was taken aback and then hung up.

I did not hear from WorldTech again until about a year ago. The person said she was from WorldTech and she wanted to know what type of printer we had. The name rang a bell and I immediately

said that I had dealings with them before and that I did not want to buy any toner from them. The person hung up.

I receive many phone calls from people trying to sell toner cartridges. Most of them use similar tactics as WorldTech's. Some are quite creative and change how they approach their caller. Some will talk as if they are a long-standing supplier, when in fact you have never heard of them. Many will start out saying they had a gift they want to send and ask which one you would prefer, like the computer cleaning supply vendor that said she had a sports cap and which team did I want on it. When I told her I have never done business with her company before and did not plan to, all of a sudden the niceness went away. She was no longer my long lost buddy, and hung up.

I have learned to tell these people that we have a contract with a vendor already and do not wish to purchase any from them. Unfortunately, not all small businesses are aware of the scams out there and get caught by these companies. They are cunning and continually changing their tactics to catch the consumer unaware.

These companies have been doing this for over 30 years that I can recall going back to when I was an office manager at a small plastics plant back in Michigan. I do not know what you can do to stop these people but I hope you will continue to look into this problem and come up with a solution.

Once again, thank you for the opportunity to testify before your committee today.

[The prepared statement and attachment of Ms. Easton-Saunders follow:]

Testimony of Mrs. Linda Easton-Saunders, Database/LAN Administrator
Prospect Associates, Silver Spring, Maryland 20901
Presented before The United States Senate Committee on Small Business

Hearing entitled
"Swindling Small Businesses: Toner-Phoner Schemes and Other Office Supply Scams."
March 28, 2000

Mr. Chairmen and Members of the United States Senate Committee on Small Business, thank you for allowing me to testify at your hearing, "Swindling Small Businesses: Toner-Phoner Schemes and Other Office Supply Scams."

Prospect is a health sciences research and communications firm with approximately 120 employees. We provide both communications and scientific support to help clients combat and solve foremost health problems in areas such as communicable diseases; family planning/population/ maternal and child health; cancer; heart, lung, and blood diseases; diabetes and other chronic diseases; mental disorders; women's health; and the health of the aging population. We are currently located in Silver Spring, Maryland.

I have been employed with Prospect Associates for the past five years and am the Database/LAN Administrator in the Information Technology department. As part of my job I cost and purchase computer and printer hardware, software, and supplies for the company.

On approximately October 3, 1997, I received a telephone call from a female from WorldTech Computers selling toner cartridges. I recall that the female was very rude after I told her that we did not buy toner from phone calls. She said, "What kind of manager are you? Don't you want to save your company money?" I again told her that we did not want to order any toner.

A day or so later I was paged while in a meeting to answer a phone call from a man from the same company. I told him that I was in a meeting and that we only buy authentic HP toner, not remanufactured. A man identifying himself as Sam Million, Office Manager, called back later that day. I hold him that we only buy HP and that I did not appreciated his sales people. He said they did not train their people that way and would "talk to our people." He then said they were working with HP on a pilot program with a new type toner which would produce more copies since it had 300 grams instead of 100 grams. Also, the drum was longer lasting and he was willing to invite us to try it, saying "how can we sell it if you don't try it?" He said that if we didn't like it after trying it, we could send it back and owe nothing. He also offered to send a promotional gift, a clock radio, along with the toner that I could keep whether we kept the toner or not. I then said go ahead, just to get rid of him.

Not being sure that this was an HP promotion, I went on the Internet to the HP site to see if I could find out anything about this new pilot program. Finding nothing on this, I called HP to ask them about it and was told that this was not an HP program.

HP put me in contact with Thomas G. Byrne, Investigator with M. Morgan Cherry & Associates. Ltd., who told me to accept the toner cartridge and call him when it arrived. I received the Laserjet 5Si MX toner cartridge on October 16, 1997 via UPS and called Mr. Byrne. I recall meeting Mr. Byrne and talking to him about my experience, and at some point giving him the toner, but I do not have the dates when this occurred documented. I was sent a fax on October 20, 1997, which gave me the e-mail address and fax information for Toni Berria, HP's LaserJet Supplies Operations person.

On October 21, 1997 I sent an e-mail to Toni Berria advising her that I had received the invoice from WorldTech for $297.50. This price was double the price I would normally pay for the same type toner. As I had promised to turn over the toner cartridge to Ms. Berria, I was unsure if I should try to get the price lowered, as I was concerned that they might tell me to return the cartridge. I mentioned in the e-mail that there were a couple of sentences on the back of the invoice that I could raise an objection with:

"Each party acknowledges that such party has made no representation, warranties, conditions or provisions which are not expressly set forth in this invoice. You acknowledge that any representations made by the Company with respect to the purchase of the merchandise are superseded by this invoice and that this invoice constitutes the sole understanding as to the terms and conditions of the purchase of the merchandise."

I also told Ms. Berria that WorldTech had represented the toner as being HP toner and not remanufactured toner and on the front of the invoice it said, "LASERJET means high remanufactured quality." I felt that this was something that I could object to as I did not agree that the invoice supersedes anything told to me over the phone.

Ms. Berria e-mailed me back and stated, "I find the statement on their invoice about LaserJet means high quality remanufactured very offensive." She also advised me as to how I should handle the situation and what questions to ask.

On October 27, 1997, I called and talked to Paul Derek, who claimed to be the General Manager of WorldTech. I informed him that I was not happy and wanted to talk to Sam Million, Office Manager, to tell him that he had misrepresented their product. Mr. Derek informed me that he was Mr. Million's boss. I let him know that Mr. Million had told me their product was HP toner and it was not remanufactured, as I had informed Mr. Million that we only buy HP toner and do not purchase remanufactured toner. I also informed him that Mr. Million had stated that WorldTech was selling these toners under a pilot program approved by HP. Mr. Derek appeared to be upset, stating that Mr. Million cannot do this as it is illegal. He went on to state that he was going to reprimand Mr. Million today and Mr. Million would be suspended.

I asked Mr. Derek to explain further about the toner. He said that the parts are remanufactured. The drum has been recoated and is stronger than HP's, which makes it last longer. They put 300 grams of microfine toner, approved by HP, in their cartridges instead of the 150 grams which is put in HP's cartridges. Comparing apples to apples, HP toner will render 11,000 to 12,000 copies while their toner will render around 30,000 (because they put more toner

in the cartridge). He stated that they have been in business for over 20 years and HP approves their product. He even told me to check with HP. He asked that I try the product and offered to lower the price to $240, including shipping and handling. He also stated that if I liked the product, he would keep the $240 price for future orders.

On October 30, 1997, M. Morgan Cherry & Associates, Ltd., sent Prospect a check for $240 to cover the cost of the toner cartridge that was received. On November 3, 1997, I, in turn, then requested that Prospect cut a check to WorldTech Computers to pay for the toner. As requested, I asked accounting to flag the payment to assure that when we received the canceled check that we made a copy of it and sent it to the lawyer.

The check was mailed to WorldTech on November 11, 1997. On November 18, 1997, I received a call from WorldTech. The man on the other end said he was my toner representative. (I neglected to write down his name as I was in the middle of something when he called and my defenses were down.) He mentioned receiving our check and something about closing out the account, which confused me. He then said that WorldTech was going to send me 5 cartridges because they have a minimum order and the one we received was only a trial. This statement angered me and I said, "NO! We do not want any more cartridges." He restated that they have a minimum order. In my anger I was extremely rude and said, "I don't give a [explitive] about your minimum order. I do not want any more cartridges. Take us off of your list. Don't call me any more." He was taken aback and then hung up.

I did not hear from WorldTech again until about a year ago. The person said she was from WorldTech, and she wanted to know what type of printer we had. The name rang a bell, and I immediately said that I had dealings with them before and that I did not want to buy any toner from them. The person hung up.

I receive many phone calls from people trying to sell toner cartridges. Most of them use similar tactics as WorldTech's. Some are quite creative and change how they approach their caller. Some will talk as if they are a long-standing supplier, when in fact you have never heard of them. Many will start out saying they have a gift they want to send and ask which one you would prefer. Like the computer cleaning supply vendor that said she had a sports cap and which team did I want on it. When I told her I have never done business with her company before and did not plan to, all of a sudden the niceness went away, she was no longer my long lost buddy, and hung up.

I have learned to tell these people that we have a contract with a vendor already and do not wish to purchase any from them. Unfortunately, not all small businesses are aware of the scams out there and get caught by these companies. They are cunning and are continually changing their tactics to catch the consumer unaware. These companies have been doing this for over 30 years that I can recall, going back to when I was an Office Manager at a small plastics plant back in Michigan. I do not know what you can do to stop these people, but I hope you will continue to look into this problem and come up with a solution.

Once again, thank you for the opportunity to testify before your committee today.

WORLDTECH COMPUTERS, INC.

16161 VENTURA BOULEVARD, #683, ENCINO, CALIFORNIA 91436
(818) 379-2400 • FAX (818) 379-2424 • (888) 484-8600

INVOICE

PAGE NO.	INVOICE NUMBER	INVOICE DATE	CUSTOMER NO.
	018837	10/03/97	21541

WAREHOUSE ADDRESS
15769 VENTURA BLVD., A-14
ENCINO, CALIFORNIA 91436

WORK ORDER NO.	S.O.
018837	

SOLD TO
PROSPECT ASSOCIATES
ATTN: LINDA EASTON
1801 ROCKVILLE PIKE
ROCKVILLE, MD 20852

SHIP TO
PROSPECT ASSOCIATES
ATTN: LINDA EASTON
1801 ROCKVILLE PIKE
ROCKVILLE, MD 20852

DATE SHIPPED	PURCHASE ORDER NO.	DATE REQUESTED	SHIP VIA	F.O.B.
10/03/97	VERBAL	10/03/97	PREPAID	ENCINO, CA

BUYER	TELEPHONE	TERMS	SALESMAN	TERR.	STATE
L EASTON	301-468-6555	NET 30 DAYS	PAUL YOUNG	EC	MD

ITEM NO.	DESCRIPTION	QUANTITY ORDERED	QUANTITY BACK ORD.	QUANTITY SHIPPED	TAX	UNIT PRICE	EXTENDED AMOUNT
	LASERJET 5 SI MX	1		1	N	250.00	250.00
	PER EA						
	HANDLING & INSURANCE				N		47.50
	SHIPPING CHARGE						
	PROMOTIONAL ITEM ENCLOSED						

Paul Oserk

WORLDTECH COMPUTERS, INC., hereinafter referred to as the "Company", is not the manufacturer of the merchandises you have purchased. Under **DESCRIPTION: OEM** means original brand and **LASERJET** means high remanufactured quality. Please see reverse side for important information on prices, exchanges, cancellations and other terms.

340.00

PLEASE REMIT THIS AMOUNT — TOTAL 297.50

ORIGINAL INVOICE — *Thank You* — INVOICE NO.

TERMS AND CONDITIONS

ORDERING IS EASY: Call by telephone, 5 days per week from 6:00 a.m. to 2:00 p.m. West Coast Time (888) 484-8600 Nationwide or (818) 379-2400 within California.

PRODUCT WARRANTY, 100% GUARANTEE, AND RETURN POLICY: All merchandise is guaranteed by the Company to be free from material defects at the time of delivery of such merchandise to your location. Any merchandise that is defective at time of delivery will be replaced by the Company at no charge if within sixty (60) days from the date the merchandise was received at your location: (a) the Company is notified of such defect(s) and (b) the merchandise is returned to the Company within such sixty day period. The Company will absorb expenses for returning such merchandise by issuance of Call Tags initiated by the Company.

EXCHANGE POLICY: Certain items may be exchanged up to two (2) years after your order is placed. Ask your Customer Service Representative about our 2-Year Exchange Policy Guarantee.

RIGHT TO CANCEL: You may cancel this order for any reason whatsoever within three (3) business days from your receipt of this order. You may call the Company Customer Service Department at the numbers listed on the front of the invoice to make arrangements for return of the merchandise at the Company's expense. You will not be obligated for any shipping charges, restocking charges, or any other charges. Time for cancellation will be extended for good reason.

RETURN OF MERCHANDISE: Except as set forth above, no merchandise may be returned to the Company without return merchandise authorization number (RMA) to be issued by Customer Service Department. For returns, please send merchandise to our Warehouse address: **Worldtech Computers, Inc., 15760 Ventura Blvd., Ste A-14, Encino, CA 91436.**

MERCHANDISE CHARGES AND PACKAGING: Charges on the front side of this invoice for merchandise are determined by you and your sales representative at point of sale. Merchandise charges may be higher than you have paid or are available elsewhere. The Company does not make any claim about the prices stated in comparison with prices available elsewhere. Units of packaging may differ from units of packaging available elsewhere.

SHIPPING AND HANDLING CHARGES: Charges indicated on the front side of this invoice for Shipping and Handling are determined by the Company and include the common carrier cost of shipping the merchandise to your location plus the cost of Handling, Packaging and Repackaging and related services provided by the Company. Shipping and Handling Charges may be higher than you have paid or are available elsewhere.

SHELF LIFE GUARANTEE: Ask your Customer Service Representative about our Shelf Life Guarantee. Certain items that are ordered in quantity may be replaced at no charge to you within a five year period of time should they prove to be defective when used.

SOLE AGREEMENT: This invoice constitutes the entire agreement between the parties named hereto, and may be changed or amended only by a written document signed by both parties hereby. Each party acknowledges that such party has made no representations, warranties, conditions or provisions which are not expressly set forth in this invoice. You acknowledge that any representations made by the Company with respect to the purchase of the merchandise are superseded by this invoice and that this invoice constitutes the sole understanding as to the terms and conditions of the purchase of the merchandise.

APPLICABLE LAW: This invoice and all matters relating to the performance hereof and to the purchases of the merchandise shall be governed by the laws of the State of California. This invoice is entered into and is effective in the County of Los Angeles, State of California. The parties hereto expressly submit to the jurisdiction of the courts located in the County of Los Angeles, State of California, for the purpose of resolving any disputes that may arise pertaining to your purchase of merchandise. The parties hereto agree that any litigation concerning any rights or duties regarding this invoice, and all matters relating to the performance hereof and to the purchase of the merchandise, shall be filed and heard in the courts of the County of Los Angeles, State of California.

ATTORNEY'S FEES: In the event of a dispute between the parties hereto regarding the terms, conditions and obligations of this invoice, or any matters relating to the performance hereof, or the purchase of the merchandise, the prevailing party to such dispute shall be entitled to recover the attorney's fees, court costs, disbursements and all other costs of collection incurred in connection therewith.

DISCLAIMER: Worldtech Computers, Inc. is a completely independent Supplier of Business Data and Office Products. Worldtech Computers, Inc. is not the Manufacturer or Seller of your Equipment. **All items are unconditionally guaranteed.**

Chairman BOND. Thank you very much for providing us that story, Ms. Easton-Saunders, and thank you for being strong with those people. Unfortunately, a few bad words apparently is not enough to discourage them.

Now let us turn to Mr. Everding. Welcome.

STATEMENT OF GEORGE EVERDING, COMMUNICATIONS COORDINATOR, FEED MY PEOPLE, ST. LOUIS, MISSOURI

Mr. EVERDING. Thank you, Mr. Chairman, for allowing me to testify at this hearing. My name is George Everding and I live in St. Louis, Missouri. I retired from the U.S. Navy after having served over 32 years of active duty as an officer and enlisted man.

For almost 15 years I have been a volunteer at Feed My People, a charity organization located in St. Louis County. Feed My People is dedicated to feeding the poor and hungry, and to helping them become independent, self-supporting citizens. In addition to food, clothing and help with utility bills, we provide budget and job search counseling and a variety of other services. Our board of directors is made up of representatives from over 25 churches of various denominations.

I am the communications coordinater at Feed My People. Among my duties is the maintenance and support of computers, copiers, and other office equipment. Feed My People has over 300 volunteers and only five paid employees, so we have different volunteers at the reception desk each day. Sometime in 1997 our volunteer receptionist received a call from a representative of Ikon Supply Service. He asked our receptionist what kind of office copier we were using. She looked at our copier and told him the make and model number which was printed on the side of the machine.

When he asked who did the ordering of office supplies she transferred the call to me. He started the conversation by saying that there would soon be a price increase in the cost of the Xerox dry toner cartridges we used in our copier. Since he seemed to be familiar with our equipment I assumed that he was from Ikon Office Solutions, a supplier with an office in our local area.

The caller offered a special price of $329 if four toner cartridges were ordered. His implication was that the $329 was for the box of four toners. This would have resulted in a price of about $80 per cartridge, a price somewhat less than we had been paying. Since we were in need of toner at that time I consented to order four cartridges.

Shortly after this I went into the hospital for emergency repair of an aortic aneurysm. When I returned a month or so later Shirley Beeson, Feed My People treasurer, said she had been receiving several collection calls from Ikon Supply Service in California demanding payment for toner cartridges. She had no record of having received an invoice or a bill from them so I asked Ikon to fax a copy of the invoice. We received an invoice for two dry ink cartridges at $329 each. None of our volunteers could remember having received a package from Ikon but I found two cartridges in our storeroom so I told Shirley to pay the bill. First mistake.

In March or April 1998 Shirley began to receive calls from a Steve Nelson asking for payment for four cartridges supposedly shipped in December 1997. This time I asked for a UPS receipt as

well as a copy of the invoice. We received invoice number 98775 for four cartridges at $329 each for a total of $1,316, and a UPS receipt. The UPS receipt indicated that a package had been delivered on December 10, 1997, but did not indicate the weight or size of the package. And it was a copy of a copy and illegible in some places. I now believe that that UPS receipt was for the two cartridges we had received earlier. But at the time we considered the UPS receipt proof that we had received the package and no way of proving that we had not received the cartridges, so we mailed them a check. Second mistake.

Several months later Shirley started to receive calls from an Ikon representative claiming that we had ordered 12 cartridges and asking for payment of $987 for three cartridges he claimed were shipped. He became rude and threatening, probably thinking that he could frighten her into sending another check.

I then addressed a letter to the CEO of Ikon Supply Service stating all the things that I have just mentioned here and ended it by writing: "We are a charitable organization operating on a very limited budget and supported solely on donations by individuals and small companies. We cannot understand why you would want to take advantage of someone like us. By copy of this letter we are asking the Los Angeles County District Attorney's Office to investigate this situation for us and to determine why we were billed $1,964 for six cartridges worth at the most $360. A copy of this letter is being sent to the Better Business Bureau and the Conoga Park Chamber of Commerce."

The Los Angeles County District Attorney referred my letter to the Postal Inspection Service. On September 10, 1999, I received a phone call from Mr. C.F. Dudley, a postal inspector. In response to his questions I repeated most of what I have already said here. He said they were taking action against Ikon. Apparently they had swindled others.

I have since learned from a news article dated March 16, 2000, that William H. Chatham, the owner of Ikon Supply Service, was sentenced to 300 hours of community service and ordered to pay $7,500 in fines and $20,428 in restitution to the Naperville, Illinois office of Hartford and Feed My People, thanks to the investigative service. Now we have not seen any of this money. The two checks we sent to Ikon were endorsed by William H. Chatham. If Mr. Chatham is looking for a place to perform his community service, Feed My People is, as always, looking for volunteers to help us meet our goals. I have got several jobs I can think of for him.

Chairman BOND. I was going to suggest that that would be a great place. We could use him on some of the heavy lifting.

Mr. EVERDING. We certainly could use him.

Thank you, Mr. Chairman, for permitting me to testify before this Committee.

Chairman BOND. Thank you very much, Mr. Everding. It is disgusting when we see people preying on not-for-profits that are operating to do very, very important work using volunteers. This is, unfortunately, an occurrence when we talk about scams affecting small business. In the cramming hearing we had representatives from churches talking about how they had been abused by these unscrupulous operators. Thank you so much for telling your story

and we hope that your example will serve as a warning to not-for-profits, charities, churches and others that they too can be victimized by these frauds.

Mr. EVERDING. Yes, sir. We passed that information around to all of our fellow charities around the St. Louis area.

Chairman BOND. We appreciate that and I hope that your story and your experience will be taken to heart by others.

This is a busy day with other hearings. If you have further thoughts, as you hear from the other witnesses who are here, we would ask that you submit your questions or your further comments in writing within a week. Thank you very much for taking the time to come and tell your story, and we very much appreciate your being here.

Now we will call Mr. Peter Grosfeld of Miami, Florida. Thank you, Mr. Grosfeld, and welcome.

STATEMENT OF PETER GROSFELD, MIAMI, FLORIDA

Mr. GROSFELD. Thank you. Good morning, Mr. Chairman. Thank you for allowing me to testify at your hearing, "Swindling Small Businesses: Toner-Phoner Schemes and Office Supply Scams."

I began working for ABC telemarketing in June 1997. I was hired to be their telemarketing manager and was placed in charge of their main phone room. My job was training all the new hires and making sure that the FTC-approved phone presentation was the only one being used. Before I was hired, the FTC had shut this company down. Prior to being allowed to resume business they had to place a performance bond and the FTC had to approve their phone presentation. I was hired to make sure that the telemarketers were complying with this new phone presentation.

This company's main product was copier toner. They sold toner to schools, religious institutions, daycare centers, banks, and basically any type of small business. Any business could fall victim to their sales practices. The size of the business was not important. Having enough leads for the telemarketers to call on a daily basis was.

The phone presentation being used by the employees that were hired before the FTC sanctions implied that the call was being made by the customer's normal supplier. For example, "Hi, this is Peter and I am just calling to double-check the model number of the photocopier." The key words here are, double-check. They imply that we know the model number of the photocopier and thus we are your normal supplier.

Once this model number was given, the telemarketer was trained to name the machine. For example, the person would come back and say model number 2020. The telemarketer would say, "That is your Xerox machine; that checks." Again leading the person to believe that the caller was their normal supplier. The rest of the phone script would continue that it was time again for their yearly sale and that we would be shipping your order a little bit ahead of when you would normally get it so that you would be able to take advantage of it. As a handshake they would ask the person to spell their last name.

The mistaken shipment pitch was also being used by former employees that returned after the sanctions and it started the same

way. After the model number was established the telemarketer would tell a story about another company close by that had the same machine, and that they were sent toner before it was realized that they had switched machines. Since this company was just down the road, would it be possible if we sent their toner over to them a little bit ahead of when they would normally call to order it?

As a new person in the phone room learned the approved phone presentation they would be moved closer to the older employees where they would learn the different variations of the pitch. The only printed copy of the phone script was the approved one. Every once in a while I would find a handwritten copy of a non-approved phone presentation but everyone was told to keep those out of the building. They had learned from their previous FTC raid what not to have in the phone room.

Since this phone call's real objective was to trick a person into placing an order, the price was never discussed. The telemarketers were never trained in the prices of the toner they were selling. Not only was the price of the toner not discussed; the amount of toner being shipped was never discussed either. Technically, a sale had not been made. The price and quantity of toner had not been established. The following day is when the sale was made. The day after the original call was placed, a confirmation sales call was made. This call was taped and most of the information about the sale was disclosed.

For example, "Hi, my name is Peter and I am calling from the ABC company on a recorded line about the toner that you ordered yesterday with Sally. I am calling back today to go over the shipping and billing information so that we can get this toner over to you. The order called for eight, but we are only shipping four boxes of toner at 250 a box for a total of 10 54 98. Your address is 1410 West Main Street, on and on."

If the person objected, the tape was stopped. If the objection was overcome, the tape would be resumed. If not, the tape would be rewound for the next call.

The amount of toner that was ordered was important to get on tape because it enabled the shipping of future toner. This second call was made as soon as the first payment was received. "Hi, this is Peter from ABC telemarketing and just letting you know that the second half of your order is on the way to you. You remember, last month's toner was for eight boxes but we only shipped you four. We just shipped the remaining four boxes of toner and they are on the way out to you; we will call you next month when your regular order goes out."

From then on a call was made every single month notifying that this month's regular order just went out and we would call next month when the regular order was to be shipped. This would continue until someone questioned the price or noticed that they should not be paying for toner.

After working for this company for approximately 2 months I started catching on to what was happening. As the new employees left my direct control they would start learning variations of the phone pitch. This enabled them to have more orders, thus earn larger bonuses. I brought this to the attention of the owner and he

assured me that he would look into it and fix the matter. I kept bringing it up at all meeting for about 3 weeks. I was then taken out of the main phone room and placed into the confirmation sales room.

It was during my time in the confirmation phone room that I learned the true nature of the business that I was working for. The 50-plus telemarketers in the main phone room were really only looking for people who either were new at their job or just plain did not care. The first call was set up for the confirmation call. The confirmation call was geared only to get the person on tape so that their company could be sent a bill for about $1,000. Then just wait and see who paid, keep on sending toner and charge outrageous amounts of money until someone noticed.

In conclusion, I would like to express the need for much stiffer penalties for any company or their owners that are caught and convicted of telemarketing fraud.

Thank you for the opportunity to testify before this Committee.

[The prepared statement of Mr. Grosfeld follows:]

Peter Grosfeld
Director of Admissions
American Flyers
Florida

Good morning Mr. Chairmen and Members of the United States Senate Committee on Small Business, thank you for allowing me to testify at your hearing, "Swindling Small Businesses: Toner-Phoner Schemes and Other Office Supply Scams"

I began working for ABC telemarketing in June of 1997. I was hired to be the telemarketing manager and was placed in charge of the main phone room. My job was training new hires and making sure that the FTC approved phone presentation was the only one being used.

Before I was hired the FTC had shut this company down. Prior to being allowed to resume business they had to put up a performance bond and, the FTC had to approve the phone presentation that was going to be used. I was hired to make sure that all the telemarketers were complying with the phone presentation and were only using the approved phone script.

The ABC company's main product was copier toner. They sold toner to Schools, Religious Institutions, Day Care Centers, Banks and all kinds of small businesses; any business office could fall victim to their sales practices. The size of the company was not important, having enough leads for the telemarketers to call, was.

The phone numbers that were being called could be purchased from any List broker. If someone wanted to buy a list, a good one is readily available called Pro Phone CD. This CD can be purchased for under $100 at any large office supply store. The list categorizes companies by location and US Agriculture Dept. Business classifications. All of lists that we were using categorized companies by employee size. The larger the company the more likely you would get someone on the phone that might help you. Smaller companies were a hard sale, but still very much targets.

The phone presentation being used by employees that were hired before the FTC sanctions implied that the call was being made by the customer's normal supplier. Hi this is Peter and I am just calling to double check the model number on the photocopier. The key words are double check, they imply that we do in fact know the model number thus we are your supplier.

Once the model number was given to the telemarketer they were trained to name the machine.(example: model # 2020 the telemarketer would say: "that's your Xerox that checks," again leading the person to believe that the caller was their normal supplier). The rest of phone script would continue "that it was time again for our yearly sale in the month of...(current month) and that we would be shipping out your order a little head of when you would normally order it,. OK". They would then ask the person to verify the spelling of their last name.

The mistaken shipment pitch was also being used by the former employees that returned after the

FTC sanctions, it started the same way. Hi this is..... After the model number was established the telemarketer would tell a story about another company close by that had the same machine, and that they were sent toner before it was realized that they had switched machines. Since, this company was just down the road from them would it be possible if we sent them the toner a little ahead of when they would normally call and order it?

As a new person would learn the approved phone presentation they would be moved closer to the older employees where they would learn all the different versions of the pitch. The only printed copy of the phone script was the approved one. Every once in a while I would find a hand written copy of one of the variations; everyone was told to keep them out of the building. ABC had learned from the first FTC raid what not to have in their phone room.

Since the first phone call's real objective was to trick the person into placing an order, the price was never discussed. The telemarketers were never trained in the prices of the toner they where selling. Not only was the price of the toner not discussed, the purchaser did not know how many cartridges were going to be shipped.

Technically the sale had not been made yet, the price and quantity of the toner had not been established. The following day is when the sale was made. The day after the original call was placed a confirmation sales person would call back and confirm the order. This call was taped and most of the information was disclosed and a sale was made. Hi my name is Peter and I am calling from ABC company on a recorded line about the order that you placed with SALLY yesterday, I'm just calling back today to go over all the shipping and billing information so we can get this order over to you. The order called for 8 but we are shipping 4 boxes of the toner at 2 50 a box for a total of 10 54 98, your address is 1410 West Main St..... If the person objected the tape was stopped. If the objection was overcome the tape would be resumed, if not, the tape was rewound to the end of the last order.

The amount of toner ordered was important to record on tape because it enabled the shipping of future toner. This second call was made as soon as the first payment was received. Hi this is Peter From ABC just letting you know that the second half of your order is on the way to you. You remember last months toner order was for 8 boxes but we only shipped 4, we just shipped the other 4 boxes and they are on the way out there; we will call you next month when your regular order goes out.

From then on a call was made every month notifying that this months regular order just went out and we would call next month when their regular order was shipped. This would continue until someone questioned the price or noticed that they should not be paying for toner.

Once the order was on tape it was shipped. If the company called back and stated that they never ordered toner the tape recording was played back. If the order was returned there would be a 20% restocking fee, if they kept the order a price could be negotiated.

The pricing as I understood it was simple, if the cost of the toner was less than $15 the sale price

This price is in most cases was 15 or 20 times what some one might pay at their local supplier.

After working for this company for about 2 months I started catching on to what was happening. As the new employees left my direct control they would start learning the variations of the phone pitch. This enabled them to have more orders thus earn larger bonuses. I brought this to the attention of the owner he assured me that he would look in to the matter and fix it. I kept bringing this fact up at all meetings for about 3 weeks, I was then placed in the confirmation sales room.

It was during my time in this confirmation phone room that I learned the true nature of the company I was working for. The 50 plus telemarketers in the main room were really only looking for people who were new at their jobs or just did not care. The first call was only a set up for the confirmation call. The confirmation call was geared only to get this person on tape so that their company could be sent a bill for $1000. Then wait and see who paid, keep sending toner and charge an outrageous amount of money until someone noticed.

In Conclusion, I would like to express the need for stiffer penalties for any company and their owners that are caught and convicted of telemarketing fraud.

Thank you for the opportunity to testify before your committee.

Chairman BOND. Mr. Grosfeld, ABC telemarketing obviously is a supposed company name. Was this a single person—who was the real brains behind this operation?

Mr. GROSFELD. I was told not to answer any specific questions at this hearing, Mr. Chairman.

Chairman BOND. All right. Do you know how much he collected in checks.

Mr. GROSFELD. Yes, I do. I can tell you that every Monday morning there would be a little party at about 10 o'clock when the checks totaled over $250,000. And that was every single Monday morning.

Chairman BOND. Just thinking generally without getting into the specifics here, what kind of enforcement actions would be effective to take the man behind ABC telemarketing and people of his ilk out of the field permanently? Do we need criminal sanctions?

Mr. GROSFELD. I do believe that they do border on criminal practices. But I believe the money is what they are after, so one of the main things that has to be done is taking their money away. Most of the fines that I am reading about or hearing are basically slaps on the wrist, and it is the cost of their doing business.

Chairman BOND. Three hundred hours of community service is not much of a deterrent unless they show up at Feed My People. I want to be there to watch that community service. But I think that that might be a problem.

Do you have any information regarding whether your former employer is continuing to engage in similar activities?

Mr. GROSFELD. As of right now, no, I do not.

Chairman BOND. Thank you very much, Mr. Grosfeld. As I said earlier, we will have additional questions for the record. We very much appreciate your coming to be with us and giving us an inside look at how these scams operate.

Mr. GROSFELD. Thank you, Mr. Chairman.

Chairman BOND. Thank you, sir.

Now I would like to call Mr. William R. Duffy, president and chief executive officer, Imaging Supplies Coalition for International Intellectual Property Protection Inc. of Lexington, Kentucky, and Ms. Tricia Burke, vice president of Office Equipment Company, Inc., Louisville, Kentucky on behalf of Independent Office Products and Furniture Dealers Association of Alexandria, Virginia.

This has got to be a major headache for your business. Let me now call on Mr. Duffy to begin the presentation.

STATEMENT OF WILLIAM R. DUFFY, PRESIDENT AND CHIEF EXECUTIVE OFFICER, IMAGING SUPPLIES COALITION FOR INTERNATIONAL INTELLECTUAL PROPERTY PROTECTION INC., LEXINGTON, KENTUCKY

Mr. DUFFY. Thank you, Mr. Chairman. I am delighted to have the opportunity to speak to you today regarding the toner phoner schemes that are swindling small businesses and costing manufacturers an estimated $125 million annually at manufacturer's cost and also causing significant damage to their brand reputation and loyalty.

The Imaging Supplies Coalition is a non-profit trade association made up of original equipment manufacturers of consumable sup-

plies such as toner, toner cartridges, ink cartridges, and ribbons, and also the equipment in the printer, copier and fax industry. The members of the coalition are Brother International, Canon, Epson, Konica Business Technologies, Katun, Lexmark, OKI, and the Xerox Corporation.

The mission of the coalition is to protect our members' customers from misrepresented products and services by seeking worldwide protection of intellectual property and related assets of the imaging supplies industry's distributors, suppliers, and manufacturers. This is accomplished by training and education in counterfeit product identification, methods of product security, techniques for avoiding telemarketing fraud—the focus of today's hearing—and by promoting laws and their enforcement.

Since you have already heard this morning about these scams I will focus my testimony on the scope of the problem that has been plaguing our industry for approximately 20 years. I will also discuss the trends we see and what the ISC members and other OEM's have done and actions we plan to take to curtail the fraudulent telemarketing of copier and printer toners and cartridges.

A 1999 survey of original equipment manufacturers in the industry estimated that intellectual property violations exceed $1 billion at retail per year on a worldwide basis. Telemarketing fraud was reported as the second largest problem; second only to product counterfeiting.

The revenue impact is almost double what was reported in our 1997 survey. Twenty percent of the respondents reported a significant increase in telemarketing fraud, 30 percent a moderate increase, and 30 percent said that it had remained the same. The survey also revealed that 90 percent of the companies' complaints regarding telemarketing fraud came from their end user customers, while 10 percent came from authorized dealers and companies' own employees.

Xerox alone receives over 5,000 complaints a year. Of the complaints received, 39 percent report being victimized while 61 percent reported attempted solicitations. This ratio of attempts versus swindles has improved since our 1997 survey which I would like to think is a direct result of our various education programs and the anti-telemarketing fraud programs by the FTC and others.

Revenue impact and lost profits are only part of the problems manufacturers must contend with as a result of this illegal activity. Perhaps even larger than the financial loss is the damage done to the company's brand and customer loyalty. OEM's spend virtually hundreds of millions of dollars in product development and manufacturing to ensure that their customers receive the highest quality printed output from their printers, copies, and fax machines. In cases where the telemarketing fraudsters do deliver the product it is often of lower quality resulting in poor output and can also cause damage to the machines.

This results in technical support hotline calls, service calls, and dissatisfied customers. Customers look to the manufacturer to solve these problems and the OEM's do address them at considerable expense since they want to ensure customer satisfaction and continued brand loyalty which certainly affects future hardware and supplies purchases.

Additional problems are created for the legitimate hardware and supplies resellers. Many of them are small, independent businesses who invest in sales and service training, product inventories, and sales, service, and marketing expense. They must compete with these scam artists, and like the manufacturers, lose revenue, profits, and must service the customers once the fraud is discovered. State, local, and Federal Governments lose when legitimate jobs are lost and taxes are not paid. Basically everyone loses but the scam artist.

Recognizing all of these problems and wanting to ensure customer satisfaction, the OEM's have undertaken various programs to educate their employees, resellers, service providers, and end users. The Imaging Supplies Coalition has developed and implemented a telemarketing incident reporting process for the OEM's who did not already have one in place. This closed-loop process ensures that complaints are captured, reported, and most importantly, that the customer is satisfied. Since our inception in 1994, we have published numerous articles on the subject in various industry trade publications which are targeted at the manufacturers and resellers in the industry. We have also published a number of end user articles.

As part of our efforts to educate our resellers, we speak at industry seminars sponsored by various industry trade associations such as BTA, the Business Technology Association, what was formerly BPIA, now known as the Independent Office Products and Furniture Dealers Association, as well as conferences sponsored by various resellers.

We publish a quarterly newsletter. We have established a web site. It describes how to spot a scam, the FTC Telemarketing Sales Rule, and links to the FTC web site and various consumer protection agencies, as well as the OEM's. We even provide a list of all 50 States' attorneys general offices and fraud contacts so that consumers can report these scams. All of this information, including our 1999 survey, is published and can be downloaded by our customers.

We run an annual conference and in the past we have had representatives from the Federal Trade Commission and the manufacturers speak. We had Steve St. Claire from Iowa, a member of Attorney General Tom Miller's staff, discuss how his State has successfully dealt with fraudulent telemarketing including toner phoners. We have heard cases where telemarketing fraud boilerrooms post "Do not call Iowa" on the wall. This shows that measures can be effective and it is our goal to have all 50 States on the do not call list. In 1999, we had both a keynote speech and telemarketing fraud seminar conducted by investigative reporter and the author of "Scam School," Chuck Whitlock.

Last year, the Imaging Supplies Coalition was awarded an Association Advance America Award from the American Society of Association Executives for our telemarketing fraud process and education. In our short history, we have done a great deal to help combat these scams.

The manufacturers are committed to continue to battle these crimes that so adversely impact their companies and their customers. You will hear later about Project BOSS, Banish Office Sup-

ply Scams, from the Federal Trade Commission. The members are committed to supporting that by distributing the materials from the FTC, linking to the web sites, and getting the word out to their customers.

In summary, we have been battling these crimes for many years and we are making progress. The manufacturers have and will continue to spend considerable resources, both time and money, in the fight to stop this illegal activity. We believe by working together and utilizing all available Government resources we can have success in stopping these crimes and protecting our customers.

I thank you for your time today and welcome any assistance you can provide us in our fight against telemarketing fraud.

[The prepared statement of Mr. Duffy follows:]

UNITED STATES SENATE
COMMITTEE ON SMALL BUSINESS

HEARING-MARCH 28, 2000

"Swindling Small Businesses: Toner-Phoner Schemes and Other Office Supply Scams"

William R. Duffy
President and C.E.O.
IMAGING SUPPLIES COALITION
for International Intellectual Property Protection Inc.

Testimony

IMAGING SUPPLIES COALITION TESTIMONY

Mr. Chairman and Members of the Small Business Committee, I am delighted to have the opportunity to speak to you today regarding Toner Phoner Schemes that are swindling Small Businesses and costing Manufacturers an estimated **$125 Million** at manufacturers cost and causing significant damage to their brand reputation and loyalty.

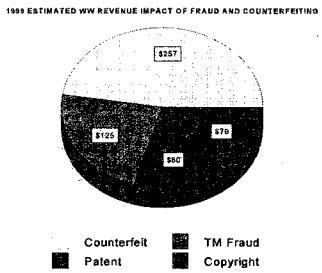
The Imaging Supplies Coalition is a non-profit trade association made up of Original Equipment Manufacturers of consumable supplies such as toner, toner cartridges, ink cartridges and ribbons, and equipment in the Printer, Copier and Fax Industry. The members of the Coalition are Brother International Corporation, Canon USA, Incorporated, Epson America, Incorporated, Konica Business Technologies, Katun Corporation, Lexmark International, OKI, and Xerox Corporation.

The Mission of the Coalition is to protect our members's **customers** from misrepresented products and services by seeking worldwide protection of intellectual property and related assets of the Imaging Supplies Industry's distributors, suppliers, and manufacturers. This is accomplished by training and education in counterfeit product identification, methods of product security, techniques for avoiding telemarketing fraud, the focus of today's hearing, and by promoting laws and their enforcement.

Since you have heard or will hear this morning about these scams from victims and a small business reseller and service provider and how they are victimized by these illegal operators, I will focus my testimony on the scope of the problem that has been plaguing our industry for approximately twenty years. I'll also discuss the trends we see, and what the ISC Members and other OEM's have done and actions we plan to take to curtail the fraudulent telemarketing of copier and printer toners and cartridges.

A 1999 Survey of Original Equipment Manufacturers in the Industry estimated that intellectual property violations exceed $1 Billion at retail per year on a worldwide basis. Telemarketing fraud was reported as the second largest problem, second only to product counterfeiting.

At Manufacturer Costs



The revenue impact is almost double what was reported in our 1997 survey. Twenty percent of the respondents reported a significant increase in telemarketing fraud, thirty percent a moderate increase and thirty said it has remained the same. The Survey also revealed that ninety percent of the Companies' complaints regarding telemarketing fraud came from their end user customers, while ten percent came from authorized dealers and the companies' own employees. Xerox alone receives over 5000 complaints a year. Of the complaints received thirty nine percent reported being victimized while sixty one reported attempted solicitations. This ratio of attempts versus swindles has improved since our 1997 survey which I'd like to think is a direct result of our various education programs and anti-telemarketing fraud programs.

The survey also showed that all of the companies responding felt that telemarketing fraud had a high impact on their products and that addressing these problems is very important to their supplies business, their company and the industry.

Revenue impact and lost profits are only part of the problems manufacturers must contend with as a result of this illegal activity. Perhaps even larger than the financial loss is the damage to the company's brand image and customer loyalty. OEM's spend virtually hundreds of millions of dollars in product development and manufacturing to ensure that their customers receive the highest quality printed output from their printers, copiers and fax machines. In cases where the telemarketing fraudsters do deliver product it is often of low quality resulting in poor output, and can also cause damage to the machines since the products do not have the system matched materials that the original products use. This results in technical support hotline calls, service calls and dissatisfied customers. We also find that the counterfeiters utilize these channels to get their illegally trademarked product into the end user. We see trade dress violations as well. Customers look to the manufacturer to solve these problems and the OEM's do address them at considerable expense since they want to ensure customer satisfaction and continued brand loyalty which effects future hardware and supplies purchases.

Additional problems are created for the legitimate hardware and supplies resellers. Many of these are small independent businesses who invest in sales and service training, product inventories, and sales, service and marketing expense. They must compete with these scam artists and like the manufacturers lose revenue, profits, and must service the customers once the fraud is discovered.

State, local, and the federal governments lose when legitimate jobs are lost and taxes are not paid. Basically everyone loses but the Scam Artist.

Recognizing all of these problems and wanting to enure customer satisfaction, the OEM's have undertaken various programs to educate their employees, resellers, service providers and end user customers.

The Imaging Supplies Coalition has developed and implemented a telemarketing incident reporting process for the OEM's who didn't already have one in place. This closed loop process ensures that the complaints are captured, reported and most importantly that the customer is

satisfied. Since our inception in 1994, we have published numerous articles on this subject in various industry trade publications which are targeted at the manufacturers and resellers in the industry. We've also published articles in end user publications, such as *Purchasing Magazine, Purchasing Management, Association Management* and others.

As part of our efforts to educate our resellers we have spoken at Industry seminars sponsored by the various industry trade associations such as BTA, the Business Technology Association, BPIA, the Business Products Industry Association, as well as conferences sponsored by various Resellers.

We publish a quarterly Newsletter which is mailed to our various constituents and each Newsletter has included valuable information on telemarketing fraud. We have established and maintain a website which includes a section on Telemarketing Fraud. It describes how to spot a scam, the FTC Telemarketing Sales Rules, and links to the FTC website and various consumer protection agencies, as well as the OEM's. We even provide a list of all fifty states Attorney General Offices and fraud contacts so that consumers can report these scams. All of this information including our 1999 survey is published and can be downloaded for use by the customers, resellers, and manufacturers. For those who do not have web capabilities we also send the complete package via fax or mail. We have been an FTC Partner in Consumer Education for a number of years.

Since 1996 we have been conducting an annual Conference on Counterfeiting and Fraud in the Imaging Supplies Industry. At each of these Conferences we have spent time educating the participants on how to deal with telemarketing fraud. We have had speakers from the FTC, and the Manufacturers. In 1998 we had Steve St. Claire from Iowa, a member of Attorney General Tom Miller's staff, discuss how his state had successfully dealt with fraudulent telemarketers including "Toner Phoners". We have heard cases where telemarketing fraud boiler rooms post "Don't call Iowa" on the wall. This shows that measures can be effective and it's our goal to have all fifty states on the don't call list. In 1999 we had both a keynote speech and telemarketing fraud seminar conducted by Investigative Reporter and Author of *Scam School*, Chuck Whitlock.

Last year the Imaging Supplies Coalition was awarded an "Association Advance America Award" from the American Society of Association Executives for our Telemarketing Fraud Process and Education.

In our short history we have done a great deal to help combat these scams. The manufacturers are committed to continue to battle these crimes that so adversely impact their companies and their customers.

The ISC and the manufacturers have committed to continue the fight and are once again partnering with the Federal Trade Commission on their **Project BOSS** (Ban Office Supply Scams). The ISC will issue a press release, add the FTC Banner Ad to our website and distribute FTC educational material to manufacturers, resellers and others on our mail list. Each of our member companies is linked to our website and the FTC. The Members of the ISC as well as

other OEM's will distribute educational material to their various constituents. Several are also including the material in their own internal publications and distributing the FTC brochures to their employees. Some will mail the brochures to their customers and resellers with a cover letter, others will include them with invoices and product shipments. One Company, Xerox Corporation, has produced a seven minute video aimed at educating their employees, resellers and end user customers. The video which addresses counterfeiting and fraud has been copied onto CD ROM and distributed to the Xerox sales forces so that they can show the video on their laptop computers to their customers.

In summary, we have been battling these crimes for many years and we are making progress. The manufacturers have and will continue to spend resources, both time and money in the fight to stop this illegal activity. We believe that by working together and utilizing all the available government resources we can have success in stopping these crimes and protecting our consumers.

I thank you for your time this morning, and welcome any assistance you can provide in our fight against telemarketing fraud.

Chairman BOND. Thank you very much, Mr. Duffy.

Now, Ms. Burke.

STATEMENT OF TRICIA BURKE, VICE PRESIDENT, OFFICE EQUIPMENT COMPANY, INC., LOUISVILLE, KENTUCKY, ON BEHALF OF INDEPENDENT OFFICE PRODUCTS & FURNITURE DEALERS ASSOCIATION, ALEXANDRIA, VIRGINIA

Ms. BURKE. Mr. Chairman, thank you for allowing me to testify today before you at today's hearing on this very important issue affecting small businesses like mine. I am here testifying as a small businesswoman and on behalf of the Independent Office Products and Furniture Dealers Association. Before I tell you about our association and what we are doing to combat this problem, let me first tell you about my business.

I am Tricia Burke, vice president of OEC, Office Equipment Company, in Louisville, Kentucky. We are family-owned and -operated and we were founded in 1907 by A.E. Meffert. My grandfather bought the company in 1934. Office Equipment Company has been in our family for three generations. OEC is a small family-owned company with 35 employees that sells office products and furniture, toner being one of our key products. OEC does about $8 million a year in sales and we lose roughly $25,000 a year in business due to telemarketing scams.

Now that I have told you a little bit about myself and our company, let me focus the rest of my comments on how telemarketing scams are affecting my business and what we and the association are doing to combat this problem in our industry.

Each year the office products industry loses $225 million to telemarketing scams. This is a staggering figure for companies like mine to comprehend. Not only are these scams having a detrimental impact on my industry, it is estimated that each year consumers lose roughly $40 billion to telemarketing scams.

OEC receives about 60 complaints a year having to do with this issue. You might not think this is a significant number of complaints for a business to receive each year, but for one issue a small business like ours, OEC, this is a significant amount. My goal as vice president of OEC is to make sure that our company is competitive in today's marketplace while ensuring quality service to our customers. I am not able to focus on this goal when I am spending valuable time each day trying to figure out how we can fix the problem brought on by unscrupulous telemarketers.

When I am focusing on how to handle ramifications on our business brought on by these types of scams that means there is less time for me to focus on our business and the customers we serve. This is a tremendous burden for small businesses like mine. We need to focus our attention and energy on our business, making sure they are profitable, that we are serving the customer, and not combating abuse by those trying to scam customers.

Let me tell you a personal story of how telemarketing scams have affected my business and my relationship with my customers. Back in March 1995 a gentleman by the name of "Terry Sullivan" was making phone calls to office products dealers throughout the States of Indiana and Kentucky letting them know that he was running a contract operator service for Ameritech pay phones and

he was setting up a local office in the area. Mr. Sullivan was extremely knowledgeable of the office products industry. He told dealers that when his company orders from dealers his company has a policy that they pay their bills off statement at the end of the month and that a check would be cut within 5 days. We liked that.

Mr. Sullivan proceeded to tell the dealer that he was in the market to buy transcribers and recorders. He bought four of each. An office products dealer in Indiana proceeded to deliver the merchandise to Mr. Sullivan's company. When the dealer went to collect at the end of the month, Mr. Sullivan was nowhere to be found. In fact, the bill was never paid, the phone was disconnected, and when the dealer went to the address given by Mr. Sullivan to see what was going on, all that was found was an empty office with empty transcriber and recorder boxes. That means he did get his merchandise.

This was not an isolated incident, but happened to a number of small businesses in the Indiana and Kentucky areas. I hate to say it, but OEC was one of those small businesses that fell victim to Mr. Sullivan's illegal telemarketing scam. Our company received a call from "Terry Sullivan" back in 1995 where he proceeded to tell our customer service representative a similar story. However, instead of ordering transcribers and recorders from OEC, he ordered a Panasonic microcassette recorder worth $300. When we followed up in our credit check process we discovered that the information Mr. Sullivan provided was false.

As vice president of OEC, I do everything I can to make sure our employees are trained to catch these type of scams. But the sad reality is, until an individual actually experiences it firsthand or is knowledgeable about these type of scams, you do not know what signs to look for. Looking back I wish we would have done some things differently, as I can imagine everyone who has been scammed does. But unless something is done to seriously crack down on telemarketing scams, small businesses are going to continue to be a target. Today is the first step, but small business owners like myself need to be provided with the tools that will help us recognize the signs of these scams before we are bilked out of thousands of dollars.

Now let me give you another example of how these scams not only hurt my business, but more importantly, my relationship with a customer. In the spring of 1998, a gentleman began calling companies in the Louisville area telling them that he was in the copier business and could provide them quality service at an inexpensive price. The gentleman proceeded to ask the companies he called for the model number of their copiers so that he could send them toner.

When asked what company he was calling from, the gentleman informed the dealer he was calling from none other than OEC, Office Equipment Company. Shortly thereafter, we received a call from an OEC customer who had been contacted by this gentleman. The customer asked me if we called earlier trying to sell them copier products, and if so, why did OEC need their copier model numbers? I assured this customer, who has been doing business with us for years, that we were not making these calls and that we only sell them the products they order. We informed our OEC employees

about this situation and let them know that someone was out there misrepresenting us. We wanted them to be aware of the incident and to keep us informed of any additional complaints.

As a company, we may only receive 60 complaints a year from customers dealing with scams, but OEC receives dozens of calls a week from those trying to scam our company out of money or products. These scams range from selling us advertising in publications we have never publicized in or even heard of, to selling us light bulbs, janitorial products, copier toner and supplies. The caller will ask to talk to the person in charge of a particular department, the general office, maintenance, marketing, copy room, then proceed to use a hard sell approach. Those involved in these criminal activities hurt companies like mine who are legitimate resellers of office products and "play by the rules."

Our association, the Independent Office Products and Furniture Dealers Association is working hard to combat it. We have come up with a brochure that we make available to our customers to be able to send out to their customers informing them of the situation.

Chairman BOND. If you do not mind, we would like to have copies of that for the members of the Committee and for the record.

Ms. BURKE. Sure. We have hundreds for you.

Chairman BOND. I do not need hundreds, but thank you.

[Laughter.]

Ms. BURKE. This has been a wonderful opportunity for me to come before you and tell you how telemarketing scams are affecting my business. I would like, before I leave, just to offer a couple suggestions.

Telemarketing scams are a problem in this country not just for businesses like mine but for businesses large and small. According to the FBI there are 14,000 illegal telephone sales operations bilking consumers in the United States every day. It is sometimes hard to distinguish between reputable telemarketers and criminals who are using the phone for fraudulent purposes. But if you know what to look for you can identify the "red flags of fraud." This is why the best thing that the Government can do for businesswomen and men in this country is to provide them with educational tools and resources that will help them avoid being taken advantage of by telemarketing scams.

Mr. Chairman, thank you for this opportunity and we would be happy to work with you on a solution to this problem, and we will answer any questions you might have.

[The prepared statement and attachment of Ms. Burke follow:]

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Statement of

Tricia Burke

Vice President of Office Equipment Company, Inc.

Louisville, Kentucky

On Behalf of the

Independent Office Products & Furniture Dealers Association

Senate Small Business Committee

Tuesday, March 28, 2000

Mr. Chairman and Members of the Committee, thank you for allowing me to testify before you at today's hearing on this very important issue affecting small businesses like mine.

I am here testifying as a small businesswoman and on behalf of the Independent Office Products & Furniture Dealers Association. Before I tell you about what our association is doing to combat this problem, let me first tell you a little about my business.

My name is Tricia Burke and I am Vice President of Office Equipment Company, Inc. located in Louisville, Kentucky. OEC is a family-owned and operated company founded in 1907 by A.E. Meffert, and then purchased by my grandfather William P. Kelly in 1934. Office Equipment Company has been in our family for 3 generations. OEC is a small family-owned company with 35 employees that sells office products & furniture. OEC does about $8 million dollars in sales per year and loses roughly $25,000 a year in business due to telemarketing scams.

Now that I have told you a little bit about myself and our company, let me focus the rest of my comments on how telemarketing scams are affecting my business and what we and the association are doing to combat this problem for our industry.

Each year the office products industry loses $225 million to telemarketing scams. This is a staggering figure for companies like mine to comprehend. Not only are these scams having a detrimental impact on my industry, it is estimated that each year consumers lose roughly $40 billion to telemarketing scams.

OEC receives about sixty complaints a year having to do with telemarketing scams. You might not think this is a significant number of complaints for a business to receive each year, but for a small business like OEC, this is a significant amount for me to handle. My goal as Vice President of OEC is to make sure that our company is competitive in today's marketplace while ensuring quality service to our customers. I am not able to focus on this goal when I am spending valuable time each day trying to figure out how OEC can fix the problems brought on by unscrupulous telemarketers. When I am focussing on how to handle ramifications on our business brought on by these types of scams means there is less time for me to focus on our business and the customers we serve. This is a tremendous burden for small businesses like mine to bear. We need to be able to focus our attention and energy on our businesses, making sure they are profitable, and not on combating abuse by those trying to scam consumers.

Let me tell you a personal story of how telemarketing scams have affected my business and my relationships with my customers.

Back in March of 1995, a gentleman by the name of "Terry Sullivan" was making phone calls to office products dealers throughout the states of Indiana and Kentucky letting them know that he was running a contract operator service for Ameritech pay phones, and that he was setting up a local office in the area. Mr. Sullivan was extremely

knowledgeable of the office products industry. He told dealers that when his company orders from dealers that his company has a policy that they pay their bills off of the statement at the end of the month and that a check would be cut within 5 days. Mr. Sullivan proceeded to tell the dealer that he was in the market to buy transcribers and recorders. He bought four of each. An office products dealer in Indiana proceeded to deliver the merchandise to Mr. Sullivan's company. When the dealer went to collect at the end of the month, Mr. Sullivan was nowhere to be found. In fact, the bill never was paid, the phone was disconnected and when the dealer went to the address given by Mr. Sullivan to see what was going on, all he found was an empty office with empty transcriber and recorder boxes. This was not an isolated incident, but happened to a number of small businesses in the Indiana and Kentucky areas. I hate to say it, but OEC was one of those small businesses that fell victim to Mr. Sullivan's illegal telemarketing scam. Our company received a call from "Terry Sullivan" back in 1995, where he proceeded to tell our customer service representative a similar story. However, instead of ordering transcribers and recorders from OEC, he ordered a Panasonic Micro-cassette recorder worth $300.00. When we followed up in our credit check process, we discovered that the information Mr. Sullivan provided us was false. When we went to collect, we too found that Mr. Sullivan had disappeared.

As Vice President of OEC, I do everything I can to make sure our employees are trained to catch these types of scams, but, the sad reality is, until an individual actually experiences it first hand or is knowledgeable about these types of scams, you don't know what signs to look for. Looking back, I wish we would have done things differently, as I can imagine everyone who has been scammed does, but unless something is done to seriously crack down on telemarketing scams, small businesses are going to continue to be a target. Today is the first step, but small business owners like myself need to be provided with the tools that will help us recognize the signs of these scams before we are bilked out of thousands of dollars.

Now let me give you another example of how these scams not only hurt my business, but also more importantly, my relationship with a customer. In the spring of 1998, a gentleman began calling companies in the Louisville area telling them he was in the copier business and could provide them quality service at an inexpensive price. The gentleman proceeded to ask the companies he called for the model number of their copiers so that he could send them free samples to try. When asked what company was he calling from, the gentleman informed the dealer he was calling from Office Equipment Company. Shortly thereafter, we received a call from an OEC customer who had been contacted by this gentleman. This customer asked me if we called earlier trying to sell them copier products, and if so, why did OEC need their copier model numbers? I assured this customer, who we have been doing business with for years, that we were not making these calls and that we only sell them the products they order. We informed our OEC employees about this situation and let them know that someone was out there misrepresenting us. We wanted them to be aware of the incident and to keep us informed of any additional complaints.

As a company, we may only receive sixty complaints a year from customers having to do with telemarketing scams, but OEC receives dozens of calls a week from those trying to scam our company out of money or products. These scams range from selling us advertising in publications we have never publicized in or even heard of, to selling us light bulbs, janitorial products, copier toner and supplies. These people are slick and often times know exactly what they're doing. The caller will ask to talk to the person in charge of a particular department i.e. the general office, maintenance, marketing, copy room, etc. then proceed to use a hard sell approach. Those involved in these criminal activities hurt companies like mine, who are legitimate resellers of office products and "play by the rules".

Office Equipment Company, Inc. works hard to earn its customers' trust. Those involved in telemarketing scams can destroy that trust and relationship you have spent years developing in the matter of minutes if they can link your company's name to these types of criminal transactions. It is extremely important to small business that company's take the necessary steps to set up effective and efficient procurement methods that will not permit these telemarketing scam company's to succeed.

Now that I have told you my story, I would like to tell you a little bit about the Independent Office Products & Furniture Dealers Association (IOPFDA) and what we are doing to help our members deal with this problem.

The Independent Office Products and Furniture Dealers Association is the trade association of 2,000 independent dealers of office products and office furniture. The association is comprised of two membership divisions: NOPA, the National Office Products Alliance, representing office products dealers and their trading partners; and the OFDA, the Office Furniture Dealers Alliance, representing office furniture dealers and their trading partners.

Formerly The Business Products Industry Association (BPIA), the Independent Office Products and Furniture Dealers Association is dedicated to serving independent dealers and working with their trading partners to develop programs and opportunities that help strengthen the dealer position in the marketplace.

First and foremost, IOPFDA is educating its members on these unscrupulous practices. We have developed a brochure entitled "Don't Be The Victim of an Office Products Telemarketing Scam" which I have brought with me and would be happy to share with you. The biggest thing we can do as an association, is educate our members on these practices and how they can avoid becoming a victim. We are also in the process of developing educational programs that we will be able to offer to our members that will give them tips on how to safeguard their business against these types of unethical practices. Our association is taking a proactive approach to educating our members on this issue and will continue to do so.

This has been a wonderful opportunity for me to come before you and tell you how telemarketing scams are affecting my business. I would also before I leave today, like to offer you some suggestions.

Telemarketing scams are a problem in this country not just for businesses like mine, but for all businesses large and small. According to the FBI there are 14,000 illegal telephone sales operations bilking consumers in the United States everyday. It's sometimes hard to distinguish between reputable telemarketers and criminals who are using the phone for fraudulent purposes. But, if you know what to look for, you can identify the "red flags of fraud." This is why the best thing that the government can do for business men and woman in this country is to provide them with the educational tools and resources that will help them avoid being taken advantage of by these types of telemarketing scams.

Businesses in this country need to take some responsibility in this area, I know our company has. At OEC we train our employees on what to look for when taking calls from customers. It should be the responsibility of every business in this country to train its employees on how to catch these types of scams. I don't want to lay the blame on business because as I said earlier, unless you have actually gone through it, the signs that you are being scammed are hard to identify. These criminals are good at what they do. If they weren't, they wouldn't be succeeding in bilking consumers out of $40 billion annually. OEC is taking a proactive approach to combating this problem because we cannot afford to lose the amount of employee time and money trying to figure out where we went wrong. Today's hearing should be a wake up call for business and consumer's alike to wake up and educate themselves on this problem before they experience what OEC and other companies like mine have.

With that said, I would like to add, whatever Congress decides to do after today's hearing, I urge you to act cautiously and think about the effects any action you take will have on those honest telemarketers in this country. Many of IOPFDA's members use what you would consider to be telemarketers and do so in a very professional and ethical manner. These people are in some cases very valuable employees, especially for small businesses trying to compete against the giants of their industry.

I agree with everyone in this room that telemarketing scams are a real problem in this country, but urge caution in our efforts to enact any law, rule or regulation that would have a devastating impact on the honest telemarketers in this country, including those used by our industry. I would hate to see honest, hard-working people penalized while criminal's continue to flourish. Education not legislation may be the solution to this problem.

Mr. Chairman, I thank you and the Committee for this opportunity and would be happy to work with you on a solution to this problem and will answer any questions you have for me today.

Don't Be
The Victim
of an Office
Products
Telemarketing
Scam

Here are some tips to safeguard your business:

Educate your purchasing people.
Make sure anyone who answers the telephone or who provides maintenance or support services for your organization knows how to respond when the phone rings with a telemarketing call. Most telemarketing calls come from perfectly legitimate businesses, but if your purchasers get calls from unfamiliar sources, advise them to answer, "I'm not authorized to order merchandise." If you want to see something, you must speak with a buyer and get a purchase order. If employees are pressured to make quick buying decisions over the phone, train them to ask for a merchandise list or catalog before buying anything. And make sure all purchases are made using a purchase order.

Know your rights under the law.
Federal law makes it illegal for sellers to send you bills or dunning notices for unordered merchandise or to ask you to return it, even if the seller offers to pay shipping costs. If you receive merchandise you did not order, the Federal Trade Commission says you may keep it as a gift. Furthermore, if the seller sends you merchandise that differs from your order in brand name, type, quantity, size or quality without your prior express agreement, you may be able to treat the merchandise as unordered merchandise.

In addition, Federal regulations require telemarketers to tell you it's a sales call–and who's doing the selling–before they make their pitch. They must tell you the total cost of the products or services they're offering, any restrictions on getting or using them and let you know if a sale is final or non-refundable before you pay.

Document orders.
Make specific individuals responsible for ordering all supplies. For each order, the designated buyer should issue a written purchase order on a standard, multiple-copy order form with an authorized signature and a purchase order number.

Your order form should instruct the seller to put the P.O. number on the invoice and bill of lading. The buyer should send a copy of every purchase order to the person or department responsible for paying the bills.

Don't pay any bill unless it matches your documentation.
Refuse any merchandise that doesn't conform to the bill of lading or if the bill of lading doesn't conform to the purchase order. If the merchandise and the paperwork are in order and as ordered, the receiving employee should send a copy of the bill of lading to the bill-paying person or department.

No member of the bill-paying department should pay a supplier's invoice unless the invoice has the correct purchase order number and the information on the bill, the purchase order and the bill of lading match.

Don't pay for or return unordered merchandise.
If you are satisfied that you have received merchandise you did not order (i.e., if the seller cannot produce evidence of your order and you do not believe the seller has made an honest mistake), do not pay for or return the merchandise. You may keep and use unordered merchandise.

Report the incident immediately to your State Attorney General, local consumer protection agency and the Better Business Bureau. You may also call the consumer hotline at the National Fraud Information Center at 1-800-876-7060.

To good to be true

The phone rings. It's a salesman with an offer of rock bottom prices on office supplies. His uncle owned a store and just died. You used to be a customer and these special prices are designed to get you back ... he offers fantastic pricing on special closeout merchandise.

[redacted]

If it all sounds to good to be true, chances are it is. Unscrupulous boiler room operations use phony invoicing schemes, misrepresentations and downright lies to dupe the public with shoddy merchandise at inflated prices. Any company is potentially vulnerable, but you can make sure you don't fall victim to this threat by taking a few simple precautions.

Brought to you as a public service by your independent office products dealer and the National Office Products Alliance.

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BPIA's OFFICE PRODUCTS DEALERS
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Chairman BOND. Thank you very much, Ms. Burke. Let me ask very briefly first, Mr. Duffy, can you give us any idea of why the frequency of this type of fraud seems to have increased so significantly? From your standpoint do you see any reason why this should be so much more prevalent now?

Mr. DUFFY. I think there are really a couple of basic reasons. First of all, there is dynamic growth in the industry. The industry is roughly a $25 billion industry in the United States growing at $28 billion in the next couple of years. There are some 52 million machines that use imaging supplies installed in millions of establishments in the United States. The compound growth rate over the last decade has been about 10 percent year to year. So the industry is growing.

I think that the penalties are low. They are not a deterrent to these telemarketing fraudsters. And frankly, I think we see the impact has doubled in our survey because, I think, we see better reporting of it. We see better reporting from our various constituencies.

Chairman BOND. So it has been there but we are just now beginning to see the extent of it?

Mr. DUFFY. Right. I believe it is just the tip of the iceberg.

Chairman BOND. That is scary. You have indicated some of the steps your members are taking. Are these fraudulent operators getting products from the original equipment manufacturers, from your people, or are they just dealing in the aftermarket? Do your individual members have a means of cutting off supplies to these fraudulent operators?

Mr. DUFFY. Typically, they do not buy from the manufacturer. There, of course, is a very legitimate aftermarket business in office supplies that many reputable companies represent. Typically, these people would buy the product offshore. In many cases it also involves trademark violations, certainly tradedress violations. You can see that on some of the examples up here today using the HP trademarks on the invoices, for example, and on the material itself.

So there are some suppliers outside the United States that these people would buy the raw product from. Typically they repackage it, put their own labels on it, and as I mentioned there are other intellectual property crimes involved in it also.

Chairman BOND. There are not, in your view, sufficient penalties to discourage those frauds?

Mr. DUFFY. I think as the previous witness said, it is a cost of doing business. It is a slap on the wrist. In my view, the only penalty that will work is some criminal action and jail time.

Chairman BOND. Thank you. Ms. Burke, you said that you needed to get some additional tools to help prevent this kind of unfair competition which is not only a scam and a fraud on your customers, either potential or actual customers, but obviously a great loss to them. Are there any other tools that you would suggest? What kinds of things specifically do you need besides the information that you put out in your bulletins and other sources?

Ms. BURKE. I think the best opportunity to address this issue is, to educate consumers as much as we can. I know brochures are one way, but to keep talking about it; the whole idea of top-of-mind awareness. I know with our company when there are buyers of

product, it is very important that people have effective procurement methods—that there really are designated people at a company who are the one and only who can make those purchases. Usually those folks, after week two of being in that position are extremely assertive at saying, "No" on the phone, and they know that those things are not legitimate.

But where there is danger is when people go on vacations and things like that and there is the temporary assistant person who is just doing it this week. I would encourage companies to have a game plan. We all have game plans when it comes to fire drills. Let us have a game plan when it comes to procurement so that there are designated buyers. When you do orientation of employees, people are made aware of this issue and that is enforced within a company.

So I think the more education—I realize there is discussion here too regarding additional laws and things like that. I want to say that there are legitimate telemarketers out there, and in the office products industry there are very legitimate people who are calling and sell by phone. But to deal with the scam artist, it is very important to just say, "No;" to come up with methods.

Chairman BOND. Is your association working with local, State, and Federal law enforcement agencies? Do you have a game plan for getting these people turned over to the law enforcement community?

Ms. BURKE. I know we are involved with coming up with more educational processes. But to be honest, I do not know that—awareness has been our key goal, but working with the different law enforcement agencies, I do not know at this point if we are.

Chairman BOND. Thank you very much, Ms. Burke. Mr. Duffy, again we will have questions from the rest of the Committee. We thank you very much for your time and being here today.

Now I would like to call the fourth panel, Ms. Jodie Bernstein, the director of the Bureau of Consumer Protection in the Federal Trade Commission. Again, welcome, Ms. Bernstein. Glad to have you back with us to discuss another fun and interesting area of fraud.

STATEMENT OF JODIE BERNSTEIN, DIRECTOR, BUREAU OF CONSUMER PROTECTION, FEDERAL TRADE COMMISSION, WASHINGTON, D.C.

Ms. BERNSTEIN. Thank you, Mr. Chairman. It is a great pleasure for us to appear at your hearings, which are especially valuable to us because they help to call attention to the particular issues that we have to face today. Nothing is better than making people aware of these scams so they can prevent them. Again, I will summarize the Commission's full statement, if I may.

Chairman BOND. Your full statement will be made part of the record and we hope to have that avilable for the media and others, and I appreciate your making some summary comments.

Ms. BERNSTEIN. Thank you. I wanted to point out also, of course, that the Commission wants to thank you, Mr. Chairman, and the Committee again for holding these hearings.

The FTC has had a long tradition of protecting consumers and businesses against fraud, including office supply fraud, and we ap-

preciate the chance to discuss them with you and the Committee. In just the last 4 years the Commission conducted three law enforcement sweeps targeting office supply fraud, Operation Copycat, Operation Clean Sweep, and Operation Misprint. During these sweeps the Commission filed 19 Federal court actions against more than 45 companies and individuals. States and other Federal agencies participated in the sweeps by filing 17 additional cases of their own.

Office supply fraud cases have a common pattern that starts, as you know and have heard from other witnesses, with the scammers placing an unsolicited telemarketing call to a small business or not-for-profit organization and they pitch, most always, copy machine or printer toner, hence the designation "toner-phoner fraud." Generally the callers make the recipients feel as if they are dealing with their regular supplier.

Sometimes the telemarketers try to get the name of the employee, or the brand or serial number of the copier the office uses under the guise that they are verifying existing records. At other times the caller merely asks the employee if the business wants to get a free gift or a sample. The bottom line is that through these false pretenses, the caller seemingly gets somebody's consent to ship office supplies or makes it appear as if the consent or the authorization has been given.

Shortly after that, the business or the organization receives its supplies, sometimes, usually a smaller quantity and a lower quality than expected, and separately from the supplies, always an inflated bill. These bills usually contain information like an employee's name or the brand of copier machine that makes the bills really look legit.

These sales practices are illegal and violate Federal laws like the Telemarketing Sales Act. The Telemarketing Sales Rule prohibits misrepresentations and requires up-front disclosure of the purpose of the call and the material conditions of the offer. We prosecute defendants to stop these practices, impose bans and bonding requirements on specific types of telemarketing, and obtain redress to give money back to the victims of the fraud. That is always our principal goal, to get redress and get the money back to the businesses that have been victims.

As a result of settlements in several sweep cases and other FTC law enforcement actions, the Commission soon will be giving more than $4 million in redress to small businesses and not-for-profit organizations that lost money to these scams. The Commission is pleased to announce that it obtained the largest-ever civil penalty under the Telemarketing Sales Rule, $500,000, as part of a recent settlement in an Operation Misprint office supply case.

Unfortunately, office supply scammers, as you have also heard, continue to prey on small business and others despite our and other's enforcement and education efforts. One reason is that the pool of potential victims seems to grow larger every year. That is why the Commission is announcing what we call Project BOSS. That stands for Banish Office Supply Scams. It is a new grass roots education campaign that seeks to stop fraud before it starts.

Because of the tremendous growth in the number of new small businesses each year—and we are delighted with that figure—edu-

cating new employees and volunteers to be aware of and on the lookout for office supply fraud must be an ongoing effort. Project BOSS builds on the past FTC education campaigns with expanded industry and business association partnerships and new materials for small business to use to banish office supply scams.

With the help of our industry, business association, and Government partners, the Commission hopes to distribute educational materials to thousands of small businesses through mailings and web site links. We recently forged a new partnership with the National Association of Secretaries of State through which participating Secretaries of State will distribute BOSS materials to prospective new businesses at the time that they register in the State to do business. Hopefully, they will become aware of the problem by reaching them before they become victims.

In addition, the Commission has created a page for small businesses on our web site that provides information about various office supply frauds and how to avoid them. The Small Business Administration, the Better Business Bureaus, Independent Office Products and Furniture Dealers Association, the National Federation of Independent Business, the Yellow Pages Publisher Association, the U.S. Chamber of Commerce, and others have created or will create links on their web site to ours.

We also have a new animated and attention-grabbing public service banner ad for web sites that companies and organizations may use on their sites to link to the FTC web site, and a new tip sheet designed to look like a page from an employee manual that employers may post or give to new employees as part of training on office procedures. The Imaging Supplies Coalition, Business Technology Association, the International Sanitary Supply Association, and the Office Products Wholesalers Association all have agreed to distribute these and other educational materials to their members, reaching more than 4,000 manufacturers, distributors, and wholesalers of office products.

In addition, the Commission will distribute a new Powerpoint and speech package that many people will be able to use to spread the message, which we hope will be effective. Our partners have helped us form this information chain, and hopefully as the chain grows and is implemented it will reach those who might fall victim to the fraud.

The Commission is going to continue to attack office supply fraud in the courts as well. Through campaigns like Project BOSS, the Commission will continue to spread the message and take innovative measures in this effort to avoid fraud in the first place.

Mr. Chairman, thank you again for giving the FTC the opportunity to testify on our efforts, and hopefully together we can bring more awareness to the American people about this very damaging practice. Thank you and I will be glad, of course, to answer your questions.

[The prepared statement and attachments of Ms. Bernstein follow:]

PREPARED STATEMENT

OF THE FEDERAL TRADE COMMISSION

ON OFFICE SUPPLY FRAUD

Before the

COMMITTEE ON SMALL BUSINESS

UNITED STATES SENATE

Washington, D.C.

March 28, 2000

Office Supply Fraud Testimony
Ms. Jodie Bernstein
Director, Bureau of Consumer Protection
Federal Trade Commission

I. Introduction

Mr. Chairman, I am Jodie Bernstein, Director of the Bureau of Consumer Protection at the Federal Trade Commission.[1] I am pleased to be here today to testify about office supply fraud. I want to thank the Committee for holding this hearing and drawing public attention to these scams. Such scams cost victims of office supply fraud, typically small businesses and non-profit organizations, an estimated $200 million a year.[2]

Office supply scams have been around for at least 20 years[3] and show little signs of abating despite aggressive and continuous law enforcement efforts by the FTC and other federal and state agencies. In just the last nine years, the FTC has brought 25 office supply fraud cases. One of the most common forms of office supply fraud occurs when businesses receive bills for merchandise that they never ordered, shipments that were never authorized, or bills for products that were never received. These scams succeed because the bills the scammers send look just like the legitimate invoices that arrive at a small business every day, and the products they receive are ones they regularly order. And, the incredible growth in the number of small businesses in the past few years provides a steady supply of potential new victims.[4]

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[1] The views expressed in this statement represent the views of the Commission. My responses to any questions you may have are my own.

[2] Imaging Supplies Coalition. The ISC is a non-profit trade association; its members are 10 major manufacturers of consumable imaging supplies. The ISC combats counterfeiting, telemarketing fraud and other illegal activities that affect its members and their members' customers. A 1999 ISC survey estimates that telemarketing fraud causes $125 million in losses to imaging supply manufacturers annually, which, when adjusted for dealer mark-up, results in higher losses for the end-users. The ISC data underestimate the total amount of fraud because figures are not available for other office and cleaning supply industries.

[3] The Business Technology Association reports that it began to assist law enforcement efforts against toner fraud in the late 1970s. The BTA is an international organization with 3100 members who are primarily independent dealers of office supplies and business equipment.

[4] According to the U.S. Small Business Administration, new business formation reached a record level in 1998 (the most recent year for which statistics are available), up 1.5% from 1997, with an estimated 898,000 new companies opening their doors.

I am pleased to announce today recent law enforcement successes in this area and the launch of an extensive, grass-roots based business education campaign called **Project BOSS** (Banish Office Supply Scams). Through new and expanded partnerships, Project BOSS will reach companies at inception and provide existing organizations with new educational tools to assist them in detecting and avoiding office supply scams.

II. Background

The FTC is the federal government's primary consumer protection agency. Congress has directed the FTC, under the Federal Trade Commission Act,[5] to take action against "unfair or deceptive acts or practices" in almost all sectors of our economy and to promote vigorous competition in the marketplace. The FTC Act authorizes the Commission to halt deception through administrative cease and desist actions and equitable actions filed by FTC attorneys in federal district court.[6] Typically these civil actions seek preliminary and permanent injunctions to halt the targeted illegal activity, as well as redress for victims. Where redress is impracticable, the Commission obtains disgorgement to the U.S. Treasury of defendants' ill-gotten gains or, in certain situations, uses the money to conduct educational campaigns to prevent further fraud.

The Commission attacks office supply fraud in several ways. Because almost all fraudulent office suppliers use the telephone, the Commission typically alleges violations of the Telemarketing Sales Rule. The Rule defines and prohibits deceptive telemarketing practices and allows the Commission (and the states) to seek injunctive relief, redress and/or civil penalties for Rule violations.[7] In prosecuting office supply scams, the Commission also uses its broad authority under Section 5 of the FTC Act, which prohibits unfair or deceptive practices, to charge that scammers misrepresented their identities, the purpose of their calls and the goods and services they sold.[8] The Commission typically prosecutes office supply fraud cases as civil actions in federal court, and seeks ex parte temporary relief such as asset freezes (to ensure that money will be available for victims when the proceeding is over), and permanent injunctive relief, such as bans on telemarketing, and redress or disgorgement.

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[5] The Commission also has responsibilities under more than 40 additional statutes.

[6] 15 U.S.C. §§ 45(a) and 53(b).

[7] 16 C.F.R. Part 310. The Telemarketing Sales Rule does not generally apply to business-to-business sales calls. The Commission's enforcement experience with office supply scams, however, led it to create an exception in the Rule for telephone calls "involving the retail sale of non-durable office or cleaning supplies." 16 C.F.R. § 310.6(g).

[8] On occasion, the Commission also may allege violations of the "Unordered Merchandise Statute," 39 U.S.C. § 3009 of the Postal Reorganization Act, which prohibits mailing unordered merchandise and billing for it and makes such conduct a violation of Section 5 of the FTC Act.

III. Office Supply Frauds

Office supply scams involve the deceptive sale of non-durable, or consumable, products that are used in the course of business and purchased on a regular basis. The fraud is committed through misrepresentations over the telephone and by direct mail. By far, the most prevalent product pitched by fraudulent office suppliers is copier machine or printer toner, and is known throughout the industry and law enforcement as "toner-phoner fraud."[9]

A. How the Fraud Works

No matter the product, office supply scams generally operate the same way. Most fraudulent office supply companies use generic, common names, such as "Central Supplies," "Industrial Chemical, Inc.," "United Wholesalers," and "Regional Copier Supply" to avoid standing out.[10] Operating out of boilerrooms furnished with dozens of desks and telephones, telemarketers arm themselves with lists of businesses and non-profit groups and their telephone numbers (e.g., all the car dealerships or churches in one area). Then, the telemarketers call.[11] Sometimes they try to obtain the name of an employee, or the brand or serial number of the copier the office uses under the guise that they are verifying existing records. They make the recipients feel as if they are dealing with their regular supplier. At other times, the caller merely asks the employee if the business wants to receive a free gift or sample. Either way, through false pretenses the caller seemingly obtains someone's consent to ship office supplies or makes it appear as if consent had been given.

Some time after that easily forgotten telephone call, toner cartridges or cleaning supplies or light bulbs arrive. They are likely to be overpriced and not the brand, quantity, quality, size or type that the office usually orders.[12] A short while later, armed with information they obtained

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[9] Other products, such as light bulbs and maintenance supplies, are also "consumables."

[10] These are names of some of the companies the Commission has sued.

[11] In some Commission cases, consumers report that they did not get a phone call but received unordered merchandise and a bill, nonetheless. This scenario is more common to unordered services, rather than unordered merchandise, schemes. For example, in *FTC v. AKOA, Inc.*, 97-7084 (C.D. Cal. 1997), organizations received bills, but no phone call, for unordered computer maintenance contracts. Some victims, such as churches, didn't even own a computer.

[12] For example, in *FTC v. Commercial Electrical Supply, Inc.*, 96-1982 (D.Md. 1996), a church in Arizona received 120 unordered light bulbs costing more than $3 each. An associate pastor stated that the church would never buy that many light bulbs from a company in Maryland when they could be bought for .55 cents each locally, without any shipping costs. Similarly, a Jewish Community Center in Florida received 120 unordered incandescent light bulbs; it didn't even have any fixtures that used such bulbs.

during their calls (e.g., an employee's name, the copier brand), telemarketers send invoices that make it appear that they are the business' regular supplier. The invoices typically range from a couple hundred dollars up to $1,000. Based on our recent law enforcement experiences, the initial invoice scammers send averages $550 for toner and $160 for cleaning or maintenance supplies. If the initial bill is paid, the business continues to receive more unordered and unwanted supplies and ever higher bills for them.

B. Why Office Supply Scams Work

Office supply scams succeed for several reasons. First, the scam invoices appear to be legitimate and can easily blend in with other invoices an organization receives. Second, the organization may not have a well-established protocol for purchasing goods, or employees or volunteers at small organizations may be handling bill payment duties sporadically or for short lengths of time. Thus, they may only have limited knowledge about who are the regular vendors and suppliers and how much office supplies should cost. Third, the person who receives the goods and the person who receives the invoice often are different people so the high price charged for the inferior goods may not get noticed. Fourth, even if an employee realizes that the business has been tricked, the employee may feel that he or she consented to the order or started using the supplies before realizing that the business has been scammed. Thus, the employee believes that the company is obliged to pay. Fifth, if an employee becomes aware of the scam, he or she may try to get the sender to cancel the invoice and accept return of the product. In those instances, the scammer typically tries to persuade the caller to keep the goods for a "lower price,"[13] refuses to accept the returned merchandise, or charges a substantial "restocking fee" before accepting return of the unordered merchandise. If the business pays to return the product, agrees to pay "restocking fees," or is convinced to pay a lower price, the scam has succeeded because the fraudulent company has made a profit or has the product back so that it can be shipped to another victim. Above all, the fraudulent companies purposefully create confusion over the invoice or goods and exploit the fact that often new or inexperienced personnel may be handling these matters.

The problem doesn't stop with the phony invoice. Despite listing toll-free "customer service numbers" on their invoices, fraudulent office supply telemarketers give consumers the run-around, harass them into paying, question their honesty, and almost never give refunds. Complaint letters go unanswered, and many victims give up.[14] For many businesses, and even some non-profit organizations, the hassle of dealing with these fraudulent companies is not worth the effort. In those situations, the telemarketers have won.

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[13] In reality, this "lower price" is still much higher than the company's true supplier's price for the amount shipped.

[14] Often a company issues a refund if a complaint is filed with the Better Business Bureau or a state Attorney General's office to ward off attention from law enforcement authorities.

C. The Extent of the Problem

Understandably, it is difficult to quantify the extent of the office supply fraud problem. From 1995 through 1999, the Commission logged in nearly 4,000 complaints regarding toner-phoner fraud and nearly 1,000 complaints about other types of office supply fraud.[15] As with other frauds, these numbers undoubtedly underestimate the number of victims. In one Commission case where we were able to determine the number of victims, we found that a medium-sized fraudulent toner operation victimized 23,000 small businesses and non-profit organizations in a four-year period.[16]

The complaints and our prior law enforcement actions indicate, however, that there are many office supply boilerrooms doing business on a relatively small scale compared to other frauds. For example, in Operation Misprint, our most recent law enforcement initiative, the 1999 annual gross sales of the twelve targeted companies totaled approximately $34 million. The average annual gross sales per company, therefore, were about $2.8 million. At the extremes, however, the twelve companies had annual sales ranging from $200,000 to $11 million. These numbers and the fact that we receive complaints about dozens of companies (usually only a few for each one) strongly suggest that there are many small boilerrooms that understandably do not always attract law enforcement attention, but nonetheless cause significant financial harm and annoyance to thousands of small businesses and other organizations.

D. The Growth of Small Businesses

Office supply fraud persists in part because the pool of potential victims grows larger every year. There are about 24 million small businesses in the United States, representing 99% of all U.S. businesses. This past decade has seen a great increase in the rate of new business formation with small businesses providing virtually all of the nearly 20 million new jobs added to the economy since 1992.[17] Most small businesses have copiers and printers and need maintenance and cleaning supplies, so all are potential victims of unscrupulous telemarketers.

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[15] These figures are from Consumer Sentinel, the first Internet-based, binational computerized consumer fraud database in North America. Consumer Sentinel receives complaints from consumers via email, telephone calls and letters that are processed through the FTC's Consumer Response Center. Other public and private consumer organizations, including Better Business Bureau offices, the National Fraud Information Center and Project Phonebusters in Canada, also submit data to Consumer Sentinel. In addition, companies such as Xerox, which receives many complaints about toner-phoner fraud, contribute complaints to Consumer Sentinel.

[16] *FTC v. Michael Chierico*, 96-6671 (S.D. Fla.).

[17] The Small Business Administration's Advocacy Office provided data on small businesses.

Individual stores and franchisees, even though they may be part of very large corporations, also are susceptible to office supply fraud. Likewise, charitable organizations, places of worship, government offices, college sororities and fraternities, even congressional offices, are victimized.

IV. The FTC's Law Enforcement Response

The Commission has a tradition of tackling all types of fraud regardless of whether the victims are individuals or small businesses.[18] In fact, some of the earliest hard-core fraud cases brought by the Commission in federal courts in the mid-1980s were toner-phoner frauds. Since 1986, the Commission has prosecuted 28 office supply fraud lawsuits involving nearly 60 corporations and 60 individual defendants.[19]

Many of the Commission's office supply fraud cases were brought as part of law enforcement "sweeps." A sweep is a coordinated, multi-agency effort to target a particular type of fraud nationwide or frauds located in a particular geographic area.[20] Sweeps involve the filing of many cases at the same time by federal, state and local government authorities and the launching of consumer and business education campaigns aimed at preventing future losses. The Commission brought its first sweep involving office supply fraud, called "Operation Copycat," in 1996. At that time, the Commission filed five cases, and the U.S. Postal Inspection Service, the States of Illinois, Indiana, Iowa, Pennsylvania and local authorities in Ventura County, California, and Aurora County, Colorado filed twelve others. The five Commission cases resulted in court orders banning certain practices, requiring performance bonds to be posted and awarding $13.7 million in redress. In February 1999, the FTC, U.S. Postal Inspection Service and the States of Illinois and Indiana brought four cases as part of "Operation Clean Sweep," which targeted cleaning and janitorial supply fraud. Thus far, court orders entered in those cases ban individuals from telemarketing office and cleaning supplies and award nearly $200,000 in

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[18] Besides office supply fraud, small businesses also are the targets of other fraudulent schemes. For example, on October 25, 1999, Bureau of Consumer Protection Director Jodie Bernstein addressed this Committee about Web Site Cramming, the practice of causing unauthorized charges for Web site services to appear on small businesses' telephone bills. The Commission also has prosecuted unordered advertising in illegitimate phone directories ("Yellow Pages" scam), and fund-raising on behalf of nonexistent charitable or civic groups.

[19] Court-ordered redress in the 28 cases totals $11,000,000. *See* Attachment 1 for a summary of the FTC's cases and education programs since 1986.

[20] Since 1995, the Commission has participated in 50 law enforcement sweeps.

redress. In December 1999, the FTC announced "Operation Misprint," with the FTC filing twelve cases and the State of Illinois filing two.[21]

The Commission is pleased to announce that recent settlements and completed collection efforts in prior cases will return more than $4.2 million to office supply fraud victims in the near future. In *United States v. Ultra Ribbons, Inc.*, an Operation Misprint case, a consent decree requires the company to pay an estimated $100,000 in redress and $500,000 in civil penalties for Telemarketing Sales Rule (TSR) violations, the largest TSR civil penalty ever.[22] In *FTC v. National Maintenance Supply*,[23] a case filed as part of Operation Clean Sweep, the FTC and the co-plaintiff State of Illinois obtained a court order on February 8, 2000, awarding $80,000 in consumer redress and imposing a ban on telemarketing office supplies on the individual defendant. Finally, the Commission soon will commence redress programs resulting from five cases that will return approximately $4 million to small businesses and non-profit organizations.[24]

The Commission also has taken action to ensure compliance with court orders. For example, after a federal court ordered it to stop deceptive telemarketing practices and to pay $1 million in redress, a Florida toner-phoner continued to mislead small businesses into paying for unordered toner. As a result, the Commission sought and obtained an order finding the

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[21] In addition, as part of Operation Misprint, the Boilerroom and Telemarketing (BAT) Task Force executed search warrants at eight locations to gather evidence of possible wire fraud. BAT Task Force members include state and local California law enforcement authorities and several federal agencies.

[22] The Ultra Ribbons settlement has been referred, as required by the FTC Act, to the U.S. Department of Justice, Office of Consumer Litigation, for filing on the FTC's behalf. Located in Southern California, Ultra Ribbons was an unusually large boilerroom, employing more than 700 telemarketers. It sold computer ribbons, printer cartridges and other supplies.

[23] *FTC v. National Maintenance Supply*, 99C-1057 (N.D. Ill.) (alleged deceptive sale of fluorescent light bulbs and urinal deodorizers).

[24] Those five cases are: *FTC, State of New Jersey and State of Michigan v. Sparta Chem*, 96-3228 (D.N.J.) ($305,000; alleged deceptive sale of unordered cleaning and maintenance supplies); *FTC v. National Business Distributors*, 96-4470 (C.D. Cal.) ($200,000; alleged deceptive sale of office supplies); *FTC v. MTK Marketing*, 96-230 (C.D. Cal.) ($1.5 million; alleged deceptive sale of toner); *FTC v. North American Supply*, 95-4264 (C.D. Cal.) ($826,000; alleged deceptive sale of toner); *FTC v. United Wholesalers*, 94-8620 (S.D. Fla.) ($1.3 million; alleged deceptive sale of cleaning supplies). In *MTK Marketing*, the Commission also obtained the proceeds of a bond that the company posted to comply with California's Telemarketing registration law. The bond proceeds, $100,000, also will be returned as redress to injured business victims.

defendants in civil contempt of court, resulting in a ban from telemarketing for the defendants and an order to pay additional redress.[25] This matter is currently on appeal.

V. Project BOSS (Banish Office Supply Scams)

Preventing fraud in the first place obviously is preferable to prosecuting scam artists. Because of limited resources, the FTC and state and local officials can only detect and prosecute a portion of the fraud that is occurring, and even then, full redress for all victims is rarely obtained. Consequently, the FTC routinely alerts businesses and consumers about ongoing frauds and how to detect and avoid them. For example, for many years the Commission has published educational brochures about office supply fraud and has distributed them to associations representing businesses and non-profit groups that are frequently the targets of such scams.

Today the Commission announces "Project BOSS," its largest, grass-roots based business education initiative to date regarding office supply fraud. Project BOSS is a multi-faceted partnership to help the people who work at small businesses or non-profits spot and dodge fraud. Project BOSS involves extensive outreach efforts to organizations through new or expanded partnerships and new and traditional mediums. It includes issuance of new tools such as a Public Service Banner Ad for the Web, new training materials, and distribution of an existing brochure, "Avoiding Office Supply Scams," initially issued in 1996 and revised in March 2000.

Grass Roots Components

- **Gateway For New Businesses.** The FTC and the National Association of Secretaries of State (NASS) have established a new partnership. Participating states will provide information on office supply and other business-oriented scams to new businesses that register with the state and provide links from their Web sites to the FTC.

- **Employee/Volunteer Training Assistance.** The FTC has prepared a tip sheet for organizations to distribute to staff or volunteers.

- **Industry Partnerships**
  - **Trade Associations.** The *Imaging Supplies Coalition*, the *Business Technology Association*, the *International Sanitary Supply Association*, which represents 4,100 manufacturers and distributors of cleaning and maintenance supplies used in commercial settings, and the *Office Products Wholesalers Association*, which represents 100 office supply wholesalers, have all agreed to distribute Project BOSS materials. The BTA and ISC will supplement their ongoing business

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[25] *FTC v. Michael Chierico*, 96-1754 (S.D. Fla.) (In 1998, the court ruled defendants in contempt of the 1996 stipulated final judgment).

education efforts by disseminating the Commission's brochures and other materials to their members and to their members' customers. In addition, some ISC members are taking extra steps to spread the word. Xerox, for example, has created a short video on telemarketing fraud that its sales force can play for customers from a laptop computer. The ISSA and OPWA, which are new Commission partners, will send email and fax alerts to their members and print materials for redistribution to retail customers.

- **Business Newsletters**. In December 1999, at the FTC's suggestion, the American Chamber of Commerce Executives featured an article in its bi-monthly electronic newsletter to members and established a link to the FTC Web site.

- **Non-Profit Outreach**. To supplement prior outreach, the FTC will do a mass mailing of Project BOSS materials targeted to non-profit and religious organizations.

- **The New Road Show**. The FTC has prepared a Power Point presentation and speech package on detecting and avoiding office supply scams, which can be presented by FTC staff, state and local officials, or industry groups at meetings of organizations such as Chambers of Commerce and Rotary Clubs.

Other Initiatives

- **Cyber Tools**
  - **Dedicated FTC Web Page**. The FTC has created a new campaign page on the FTC Web site devoted to educating the public about frauds targeting small businesses, with links and information on where to file complaints with the Commission and other agencies and organizations. Go to: *www.ftc.gov/bcp/conline/edcams/supplies/index.html*
  - **A New Public Service Banner Ad**. The FTC has created a PSA on office supply fraud for use on industry and association Web sites; it allows visitors to link directly to information and educational materials on the FTC's Web site.
  - **Web Links**. The Small Business Administration, Better Business Bureaus, Independent Office Products and Furniture Dealers Association, the National Federation of Independent Business, the Yellow Pages Publishers Association, the U.S. Chamber of Commerce and others have created or will create links on their Web sites to the FTC's Web site.

- **Media Education**. The FTC will mail 5,000 copies of the "Avoiding Office Supply Scams" business education brochure to media contacts to encourage stories about this fraud and its effect on local businesses.

VI. Conclusion

The Commission greatly appreciates the Committee's support and its putting the spotlight on this chronic and pervasive problem. The Commission has battled office supply fraud for many years in the courts and has undertaken substantial efforts to educate businesses on how to recognize and avoid the scam. Office supply fraud, however, continues to be a thorn in the sides of small businesses and non-profits and, thus, continues to be of concern to the Commission. We hope that our new grass-roots based campaign and today's hearing will help prevent more small businesses from becoming victims. Thank you for your assistance and for providing the Commission the opportunity to explain its work.

Attachment 1

FTC Actions Against Fraudulent Office Supply Telemarketers

1986

July

FTC v. Copy Data Systems, Inc., and Ira J. Seaver, No. 87-0495 (E.D. Va. filed July 1986)
- Toner in Culver City, California
- Targeted small businesses and non-profit groups
- Settlement in May 1987 provided $300,000 in redress

FTC v. North American Office Systems, Inc., National Copy Supply, Inc., United Photo Supply, Inc., Data/Mark Industries, Inc., and KG Industries, Inc., William H. Keller and Christopher Greenberg, No. 3-86-1850-G (N.D. Tex. filed July 1986)
- Boiler rooms in Alabama, California and Texas
- Toner and other office supplies
- Settlement in April 1987 included $60,000 payment

1987

October

FTC v. Mytel International, Inc., and Gilbert Michaels, No. 87-07259 JMI (GHKx) (C.D. Cal. filed October 1987)
- d/b/a District Distribution Center
- Scheme involved toner supply company and its telemarketing boiler rooms
- Settlement agreement filed November 1988
- Defendants agreed to pay $250,000
- Civil contempt action filed against Michaels for violating 1988 decree

1991

April

FTC v. Mark Crittenden, Regional Supply Co., Regional Supply Center, Regional Copier Supply, United Supply Co., and Jamie Reiber, No. CV 91-2019 JGD (Tx) (C.D. Cal.)
- TRO granted April 1991
- Case involved toner supply company and separate telemarketing boiler rooms
- Toner
- Settlement agreements filed July 1992
- Crittenden required to post $200,000 performance bond
- $240,000 in redress distributed to 860 businesses and non-profit groups

1994

July

FTC v. Main Distribution Center, Inc., Corporate Business Products, Inc., Authorized Distribution Center, Inc., et al., No. 94-4467-SVW (SHx) (C.D. Cal.)
- TRO granted July 5, 1994
- Four individuals named as defendants
- Toner
- Settlement filed in court January 1995
- Individuals liable for almost $1,200,000 in redress
- Three defendants barred from telemarketing

October

FTC v. Central Supplies, Inc., Hitronics, Inc., and David C. Ashley, Civ. No. 94 C 6391 (N.D. Ill.)
- TRO granted Oct. 25, 1994
- Defendants targeted churches and other non-profit groups
- Light bulbs, urinal deodorant blocks and cleaners
- Final order entered July 1995
- Individual required to post $400,000 performance bond prior to telemarketing
- Almost $44,000 in uncashed checks returned to consumers

November

FTC v. United Wholesalers, Long Life Industries, International Research Corporation and Innovators of Success, Civ. No. 94-8620-CIV-Moore (S.D. Fla.)
- TRO granted November 1994
- Four individuals named in complaint
- Defendants had three boiler rooms, 2 in Florida and 1 in New Jersey
- Final settlement agreement filed in court January 1996
- Defendants pay $1.3 million to FTC in redress
- Individuals required to post $500,000 performance bonds prior to telemarketing
- Cleaning supplies

1995

June

FTC v. North American Supply and American Computer Industries, Inc., No. CV-95-4264 LGB (AJWx) (C.D. Cal.)

- TRO granted June 1995
- Three individuals also named as defendants
- Toner, computer supplies, and other office supplies by allegedly misrepresenting existence of prior relationship and offering 30-day no-risk trial period
- Court entered final order settling case in November 1995
- Redress judgment set for $1.8 million, with $900,000 due immediately

1996

March

FTC v. MTK Marketing, Inc., et al., Civ. No. 96-230 LHM (EEX) (C.D. Cal.)

- TRO granted March 1996
- Complaint named 7 corporations and 8 individuals
- d/b/a District Supply Center, Central Supply Center and National Supply Center
- Copier toner
- Court entered final order against all individuals and 1 corporation in August 1996
- Redress to consumers totaled $865,000
- Two defendants banned from telemarketing
- Six other individuals required to post bonds

Consumer/Business Education Publication: *Avoiding Office Supply Scams*

June-July

"Operation CopyCat" Sweep

FTC v. Michael Chierico, Teri Chierico, American Business Supplies, Inc., Interstate Office Systems, Inc., Nationwide Office Products, Inc., and Creative Business Consultants, Inc., No. 96-6671-CIV-Moore (S.D. Fla.)

- TRO granted June 28, 1996
- Sold copier machine toner by allegedly misrepresenting the existence of a prior relationship, among other deceptive sales practices
- Court entered final order November 1996
- Defendants paid $1 million in redress
- Michael Chierico and wife must obtain performance bonds before engaging in telemarketing
- ***1988 CIVIL CONTEMPT ACTION Chierico II***
- Individuals banned from telemarketing
- Performance bond forfeited
- Approximately $4.8 million in redress ordered

FTC v. National Business Distributors Co. Inc., Raphael Ralph Azari and Deborah L. Azari, No. CV 96-4470 JGD (Mcx) (C.D. Cal.)

- TRO granted June 25, 1996
- Computer ribbons, packaging tape and other office supplies
- Court entered final order November 1996
- Individual defendants required to pay $200,000 in consumer redress, relinquish rights to assets of the corporation and to each obtain a $200,000 performance bond prior to telemarketing

FTC v. Commercial Electrical Supply, Inc., and Michael C. Spence, No. WMN 96-1982 (D. Md.)

- TRO granted June 26, 1996
- d/b/a Commercial Distributors, Kemtech Industries, Crown Electrical Supply and American Industrial Supplies
- Light bulbs, cleaning supplies and other office supplies to small businesses and non-profit organizations
- Court entered final order November 1996
- Individual defendant required to post a $100,000 bond before engaging in telemarketing

FTC, State of New Jersey and State of Michigan v. Sparta Chem, Inc., Compu-Kleen, Inc. and Dennis J. Saccurato, Civ. No. 96-3228 (AMW) (D. N.J.)

- TRO granted July 1, 1996
- Industrial and office supplies, including cleaning solutions, oil absorbent and concrete cure
- Final settlement entered November 1996
- Commission obtained $305,000 in redress
- State of New Jersey awarded $50,000 in costs

FTC v. Michael McGowan, Industrial Chemical, Inc., and Amna Medical Products Corp., Civ. No. 96-3227 (AMW) (D. N.J.)

- TRO granted July 1, 1996
- d/b/a National Safety & Supply, Med-Amna Products and First Aide Care
- First-aid kits, rock salt and other office supplies to small businesses based on misrepresentations
- U.S. Postal Service filed complaint concurrently with FTC
- Settlement filed April 1997; bans McGowan from Telemarketing and imposes suspended judgment of $317,000

1999

February

"Operation Clean Sweep"
Telemarketing Fraud Cases

FTC and State of Illinois v. National Maintenance Supply and Jack Nugent, 99C-1057 (N.D. Ill.)
- Illinois files suit
- FTC joined Illinois lawsuit July 1999
- Fluorescent light bulbs and urinal deodorizers
- $80,000 in redress
- Barred from selling office supplies

FTC v. Southern Maintenance Supplies and Don Ashley, 99C-0975 (N.D. Ill.)
- TRO granted February 1999
- Light bulbs and pine cleaner
- Court entered final order August 1999
- Defendants barred from telemarketing
- $110,000 in redress

Consumer/Business Education Publication: *Avoiding Office Supply Scams* (Revised)

December

"Operation Misprint"
Telemarketing Fraud Cases

FTC v. Business Services Center, Inc., Central Imaging Systems, Thomas Ford and Prudence Ford, SACV99-1513 (C.D. Cal.)
- TRO granted December 1999
- Toner-phoner

FTC v. David Moreno, 99-12837 (C.D. Cal.)
- *dba* Continental Business Systems, United Products,
- TRO entered December 1999
- Toner

FTC v. General Supply Centers, Inc. and Mark E. Gershick, 99-12827 (MMM) (RZx) (C.D. Cal.)
- TRO entered December 1999
- Toner-phoner

FTC v. International Business Network, Inc., Danny Yahalom and Oren Ben Elkanah, 99-12831 (C.D. Cal.)
- TRO entered December 1999
- Toner-phoner

FTC v. International Supply Center, Inc., 99 Civ 12163 (Sweet) (S.D.N.Y.)
- Complaint seeking Preliminary Injunction filed December 20, 1999
- Toner

FTC v. Laser Express of Tennessee, Ltd., and Jeff Richfield, No. 3:99-1135 (M.D. Tenn.)
- *dba* Laser Express Limited, Data Supply International, Cartridge Express Limited, International Cartridge Supply, International Data Supply Co., International Supply Co.
- Temporary restraining order entered December 1999
- Toner-phoner

FTC v. Modern Concept Marketing, Inc., 99-13003 (C.D. Cal.)
- *dba* Central Data Supply
- TRO entered December 1999
- Toner

FTC v. National Supply & Distribution Center, Inc., Data Distribution Services, Steve Rayman, Larry Ellis, Lee Siegel and Scott Earl, 99-12828 HLH (AJWx) (C.D. Cal.)
- TRO entered December 1999
- Toner-phoner

FTC v. Nationwide Industrial Technologies Co., Inc., 99C-8164 (N.D. Ill.)
- TRO entered December 1999
- Cleaning supplies

FTC v. Quality Maintenance Supplies, 99C-7946 (N.D. Ill.)
- TRO entered December 1999
- Cleaning supplies

FTC v. United Maintenance of Illinois Corp., 99C-8163 (N.D. Ill.)
- *aka* Maintenance Supplies, Inc.
- 3 individuals
- TRO entered December 1999
- Cleaning supplies

United States v. Ultra Ribbons, Allstate Imaging, Inc., Russel Leventhal, Stuart Leventhal, Frank Montelione and Alan Jurick
- Settlement agreement provides $500,000 under Telemarketing Sales Rule
- Approximately $100,000 in redress
- Computer ribbons, printer cartridges
- 4 individuals

Business Alert

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

Five Steps to Avoiding Office Supply Fraud

Businesses, churches, and fraternal and charitable organizations are losing millions of dollars to bogus office supply firms. Any organization that lacks adequate purchasing controls can become a victim of an office supply scam. The Federal Trade Commission suggests a few simple precautions to protect organizations from paying for goods and services they didn't order, from labels to light bulbs, toner to toilet paper. We've also attached a tip sheet — **Inter-Office Memo: Don't Get Bilked by an Office Supply Scam** — that you can adapt to your organization and distribute to staff.

1. Know your rights.

If you receive supplies or bills for services you didn't order, don't pay. Don't return the unordered merchandise, either. Treat any unordered merchandise you receive as a gift. It's illegal for a seller to send you bills or dunning notices for merchandise you didn't order or ask you to send back the merchandise — even if the seller offers to pay the shipping costs. What's more, if the seller sends you items that are different from your order in brand, type, quantity, size, or quality — and hasn't gotten your approval first — you may treat the substitutions as unordered merchandise. Treat unordered services the same way. At the same time, you should consider the possibility that the seller has made an honest mistake.

The FTC's Telemarketing Sales Rule offers other protections in business-to-business sales of non-durable office or cleaning supplies and most sales of goods or services to individuals, groups or associations. According to the Rule, telemarketers must tell you it's a sales call — and who's doing the selling — before they make their pitch. And before you pay, they must tell you the total cost of the products or services they're offering, any restrictions on getting or using them, and whether a sale is final or non-refundable. In addition, it's against the law for telemarketers to misrepresent any information about the goods or services they're offering.

2. Assign designated buyers and document your purchases.

Designate certain employees as buyers. For each order, the designated buyer should issue a purchase order to the supplier that has an authorized signature and a purchase order number. The purchase order can be electronic or written. The order form should tell the supplier to put the purchase order number on the invoice and bill of lading. The buyer also should send a copy of every purchase order to the accounts payable department, and keep blank order forms secure.

3. Check all documentation before you pay the bills.

When merchandise arrives, the receiving employee should verify that the merchandise matches the shipper's bill of lading and your purchase order. Pay special attention to brands and quantity, and refuse any merchandise that doesn't match up or isn't suitable for your equipment. If everything is in order, the receiving employee should send a copy of the bill of lading to the accounts payable department. Reconcile bills for services the same way. That is, don't pay any supplier unless the invoice has the correct purchase order number, and the information on the invoice matches the purchase order and the bill of lading.

4. Train the staff.

Train all staff in how to respond to telemarketers. Advise employees who are not authorized to order supplies and services to say, "I'm not authorized to place orders. If you want to sell us something, you must speak to _____ and get a purchase order." Establish a team that includes the employees who buy and receive merchandise or services, and those who pay the bills, and develop some standard operating "buying procedures." For example, buy only from people you know and trust. Be skeptical of "cold" or unsolicited calls and practice saying "no" to high pressure sales tactics. Legitimate companies don't use pressure to force a snap decision. Finally, consider asking new suppliers to send a catalog first.

5. Report fraud.

Report office supply scams to the FTC, or your state Attorney General, local consumer protection office or Better Business Bureau. In addition, consider sharing your experiences with other businesses in your community to help them avoid similar rip-offs.

File a complaint with the FTC by contacting the Consumer Response Center (CRC) by phone: toll-free 1-877-FTC-HELP (382-4357); TDD: 202-326-2502; mail: Consumer Response Center, Federal Trade Commission, 600 Pennsylvania Ave, NW, Washington, DC 20580; or online: use the complaint form at **www.ftc.gov**. Although the Commission cannot resolve individual problems for consumers or businesses, it can act against a company if it sees a pattern of possible law violations.

For more information about office supply scams, order **Avoiding Office Supply Scams** from the FTC or read it at **www.ftc.gov**.

INTER-OFFICE MEMO:
DON'T GET BILKED BY AN OFFICE SUPPLY SCAM

We need your help to make sure we don't become a victim to costly office supply fraud. This is a nationwide problem affecting businesses, churches, and fraternal and charitable organizations; altogether, organizations like ours lose millions of dollars to bogus office supply firms.

The Federal Trade Commission has a number of suggestions that we can follow to help us avoid paying for goods and services that we didn't order, from labels to light bulbs, toner to toilet paper. We need to be cautious in our dealings with telemarketers and implement and follow good purchasing control practices. Please review and follow these suggestions.

✏ Get to know our designated buyers.

Our buyers are _____ and can be reached at _____. All purchase orders should go through these employees. If someone calls you about ordering supplies, say, "I'm not authorized to place orders. If you want to sell us something, you must speak to _____ and get a purchase order." If someone calls asking for the manufacturer and model of our copiers, refer them to our designated buyers. Be skeptical of "cold" or unsolicited calls and practice saying "no" to high pressure sales tactics. Legitimate companies don't use pressure to force a snap decision.

✏ Check all documentation.

When merchandise arrives, verify that it matches the shipper's bill of lading and our purchase order. Pay special attention to brands and quantity, and refuse any merchandise that doesn't match up or isn't suitable for our equipment. If everything is in order, send a copy of the bill of lading to _____ in Accounts Payable.

✏ Exercise our rights.

If we receive supplies or bills for services we didn't order, don't pay. Don't return the unordered merchandise, either. If you're reasonably confident that there has not been a legitimate mistake about the order, we can treat any unordered merchandise we receive as a gift. It's illegal for a seller to send us bills or dunning notices for merchandise we didn't order or ask us to send back the merchandise — even if the seller offers to pay the shipping costs. What's more, if the seller sends us items that are different from our order in

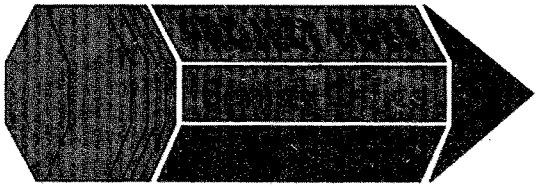
brand, type, quantity, size, or quality — and hasn't gotten our approval first — we may treat the substitutions as unordered merchandise. We can treat unordered services the same way. But always consider the possibility that the seller has made an honest mistake.

The FTC's Telemarketing Sales Rule offers us other protections in business-to-business sales of non-durable office or cleaning supplies and most sales of goods or services to individuals, groups or associations. According to the Rule, telemarketers must tell us it's a sales call — and who's doing the selling — before they make their pitch. And before we pay, they must tell us the total cost of the products or services they're offering, any restrictions on getting or using them, and whether a sale is final or non-refundable.

➪ **Report fraud.**

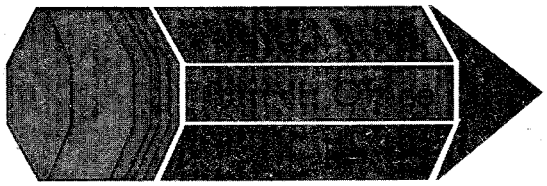
If you think we've been scammed, contact _____ in our office at _____. We will report the fraud to the FTC, or our state Attorney General, local consumer protection office or Better Business Bureau.

If you have questions about these procedures, please contact _____ at _____. If you'd like to learn more about business-related frauds and ways you can help protect our organization, visit the FTC online at **www.ftc.gov**.



Grass Roots Components

- **Gateway For New Businesses** – FTC partnership with the National Association of Secretaries of State. Getting information to newly incorporated or registered businesses.
- **Employee/Volunteer Training Assistance** – FTC materials to help businesses train staff on proper purchasing procedures and handling telemarketing calls.
- **Non-Profit Outreach** – FTC mailing to targeted non-profit and religious organizations.
- **The New Road Show** – FTC Power Point presentation and speech package on detecting and avoiding office supply fraud. Use at meetings of local business organizations.
- **Dedicated FTC Web Page** – New FTC Web page devoted to educating the public about frauds against small businesses.
- **New Public Service Banner Ad** – FTC PSA for use on industry and association Web sites. Provides direct link to FTC information.
- **Media Education** – FTC mailing to 5,000 media contacts to encourage stories.
- **Web Links** – Partners to link to FTC site for quick access to office supply fraud information.



Partners

- American Chamber of Commerce Executives
- Better Business Bureaus
- Business Technology Association
- Imaging Supplies Coalition
- Independent Office Products and Furniture Dealers Association
- International Sanitary Supply Association
- National Association of Secretaries of State
- National Federation of Independent Business
- Office Products Wholesalers Association
- Small Business Administration
- U.S. Chamber of Commerce
- Yellow Pages Publishers Association

Facts for Business

Avoiding Office Supply Scams

Federal Trade Commission	Toll-free 1-877-FTC-HELP
www.ftc.gov	For the Consumer

March 2000

Could your organization be a victim of an office supply scam? If you don't have adequate purchasing controls, probably so. Businesses, churches, and fraternal and charitable organizations are being bilked out of millions of dollars by bogus office supply firms. You can protect yourself by learning to recognize the scams and understanding your rights.

The typical office supply scam involves goods or services that you routinely order: copier paper, toner and maintenance supplies, equipment maintenance contracts, or classified advertising. When fraudulent telemarketers call, they often lie to get you to pay for items you didn't order, or to get you to pay more than you agreed to. How? The caller may falsely claim to be your "regular supplier" or to tell you that the offer is "special" or "good for a limited time only." Con artists take advantage of holes in your organization's purchasing procedures or of unsuspecting employees who may not be aware of office practices. What's worse, the office supplies peddled by these bogus firms often are overpriced and of poor quality; the services usually are worthless.

The Scams

Office supply scam artists generally use three ways to take your money — the phony-invoice, the pretender, and the gift-horse.

Phony-invoice Scams

The goal of the phony-invoice scam is to get the name and address of an employee so your organization can be shipped and billed for unordered goods or services. The invoice includes the employee's name as the "authorized" buyer. Scam operators use various ploys to get an employee's name. They may call asking for help completing an order, claiming that "the accounting department lost the name of the person we should send these supplies to," or they may ask for the name of the person in charge of your Yellow Pages advertising.

Once the con artist has an employee's name and address, he'll ship the unordered merchandise. The phony invoice arrives a week or so after — for two reasons: First, the inflated price — as much as 10 times what you'd pay for the same goods from a legitimate supplier — is less obvious if the invoice arrives after the merchandise has been received and stocked. Second, the chances are good that you've used the merchandise before the invoice arrives. Many organizations mistakenly believe that they must return unordered merchandise or pay for unordered merchandise if they've used it.

A twist on this approach may have the fraudulent seller timing a phony invoice to match your purchase of legitimate services from another vendor. For example, the seller sends you a bill for unordered classified advertising soon after your ad runs in a legitimate publication. The scam operator hopes you'll be confused and pay his bill instead of, or in addition to, the one from the legitimate company.

The Pretender Scam

In the pretender scam, the caller may pretend to be your regular or previous supplier, a replacement, or an "authorized" supplier. By convincing you that the goods or services and prices offered are the same as before, the caller hopes you won't bring up prices, quantities, and brands. Even if you do, the seller may try to brush you off by saying, "We've supplied you in the past, but it's been a while," or "The price is the same as last time." If you insist on a price quote, the seller may give a price that sounds reasonable for one carton but is actually for a single unit, such as "$19.95 in a carton of 10." Translation: the carton price is 10 times $19.95 — or $199.50.

In one variation on this scam, the caller misrepresents the quality, quantity, type, price, or brand name. For example, the ribbons for your IBM typewriters may not be IBM brand ribbons, or the toner for your Xerox copier may not be Xerox brand toner. Some scam artists try to duplicate brand name packaging; others sell half a carton of merchandise at the full-carton price. Similarly, sellers of Yellow Pages advertising may actually represent fly-by-night outfits that distribute few, if any, telephone directories.

In another twist, the caller uses high pressure tactics to rush your purchase decision and dodge questions about price, quantity and brand names. The seller may falsely claim that prices are going up soon, someone was forced out of business, a warehouse is overstocked, or a limited inventory of government surplus is available. Or that a computer glitch delayed notification of a price increase, but, as a courtesy, an order has been reserved for you at the "regular" or "old" price.

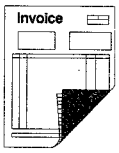
Or, the seller may misrepresent the purpose of the call, saying that he's calling to send you a promotional item such as a cordless screwdriver, free samples, or a catalog so you'll "think of him next time you order." Or the seller may claim that he's conducting a survey of office equipment or updating company records, leading you to believe that he's the regular or previous supplier. Before hanging up, the caller may mention — in passing — actual merchandise. "I'll send that screwdriver to you right away ... and while I'm at it, I'll throw in a few deodorant blocks." Soon, a shipment arrives, followed by the bill.

The Gift-Horse Scam

The gift-horse scam tries to create mistrust within an organization. The scheme starts when the caller tricks an employee into accepting a gift — a free promotional item — with a passing reference to merchandise or services. You receive overpriced unordered merchandise, followed by an invoice with the employee's name. When the organization questions the employee, the fraudulent seller is betting that the employee will be nervous about the gift when he denies placing the order. The hope is that the organization will doubt the employee. When this scheme works, the organization believes that the employee blundered into ordering something that must be paid for.

After the Invoice Arrives

Scam artists spend significant time and energy on collection efforts. They send as many invoices as it takes to get your money. Invoices often are stamped "Past Due." In extreme cases, they'll resort to real or bogus collection agencies and threats of legal action.



An organization that pays for unordered goods or services also may be targeted for additional scams. This practice is called "reloading." For example, the seller may send a second shipment of "back ordered" merchandise and another bill, or bills for service upgrades. Additional invoices follow as long as you continue to pay. The con artist also may sell your organization's name to other scam operators, or move to another bogus operation and target you with a new scheme.

The Brush-Off

When organizations complain that they didn't order the merchandise or services or that the price is too high, the scam seller reacts in some predictable ways:

- **Bullying.** The seller argues if you express any uncertainty about whether the supplies or services were ever ordered: "They were ordered. We have a recording of Mr. Jones. If you don't pay, we can take you to court."
- **Negotiating.** Here, the seller agrees to accept a lower price. After all, the goods and services are so grossly overpriced that almost anything the seller gets is profit. If you complain about price, the seller may say, "You were charged what? They must not have given you the discount for ...." The seller then tries to negotiate "a better deal." Sometimes, the seller appeals for sympathy: "We really need the business. I'll let you have it for...."
- **Charging for returned merchandise.** The seller claims you can return merchandise if you pay a "restocking fee." In fact, the fee is often more than the goods are worth. Similarly, the seller may try to get you to pay shipping charges to return the items.

Protect Your Organization

You can protect your organization from paying for unordered goods and services. Here's how:

1. **Know your rights.** If you receive supplies or bills for services you didn't order, **don't pay**, and don't return the unordered merchandise. You may treat unordered merchandise as a gift. By law, it's illegal for a seller to send you bills or dunning notices for unordered merchandise, or ask you to return it — even if the seller offers to pay for shipping. Further, if the seller sends you items that differ from your order in brand name, type, quantity, size, or quality — without your prior express agreement — you may treat the substitutions as unordered merchandise. Unordered services are treated the same way. However, first consider the possibility that the seller made an honest mistake.

The FTC's Telemarketing Sales Rule offers additional protections in business-to-business sales of non-durable office or cleaning supplies and most sales of goods or services to individuals, groups, or associations. The Rule requires telemarketers to tell you it's a sales call — and who's doing the selling — before they make their pitch. They must tell you the total cost of the products or services they're offering, any restrictions on getting or using them, and that a sale is final or non-refundable **before you pay**. It's illegal for telemarketers to misrepresent any information, including facts about the goods or services being offered.

2. **Assign designated buyers and document your purchases.** For each order, the designated employee should issue a purchase order — electronic or written — to the supplier with an authorized signature and a purchase order number. The order form should instruct the supplier to note the purchase order number on the invoice and bill of lading. The buyer should send a copy of every purchase order to your accounts payable department. Keep blank order forms secure.

3. **Check your documentation before paying bills.** When merchandise arrives, the receiving employee should verify that it matches the shipper's bill of lading — paying special attention to brands and quantity — and your purchase order. Refuse merchandise that doesn't. If everything's in order, the employee should send a copy of the bill of lading to your accounts payable department. Bills for services should be reconciled the same way. A supplier should not be paid unless the invoice has the correct purchase order number and the information on the invoice, the purchase order and the bill of lading match.

4. **Train your staff.** Train everyone in how to respond to telemarketers. Advise employees who are not authorized to order supplies and services to say, "I'm not authorized to place orders. If you want to sell us something, you must speak to _____ and get a purchase order."

Buy from people you know and trust. Authorized employees should be skeptical of "cold" or unsolicited calls and feel comfortable saying "no" to high pressure sales tactics. Legitimate companies don't pressure you to make a snap decision. Finally, consider asking new suppliers to send a catalog first.

Where to Complain

Report office supply scams to the Federal Trade Commission, your state Attorney General, local consumer protection office, or Better Business Bureau. In addition, you may want to share your experiences with other businesses to help them avoid a rip-off.

To learn more about your rights or to file a complaint with the FTC, contact the Consumer Response Center by phone, toll-free at 1-877-FTC-HELP (382-4357); TDD: 202-326-2502; by mail: Consumer Response Center, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580; or by e-mai use the complaint form at **www.ftc.gov**.

Although the FTC generally does not intervene in individual disputes, the information you provide may indicate a pattern of possible law violations requiring action by the Commission.

Your Opportunity to Comment

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards collect comments from small business about federal enforcement actions. Each year, the Ombudsman evaluates enforcement activities and rates each agency's responsiveness to small business. To comment on FTC actions, call 1-888-734-3247.

Chairman BOND. Thank you very much, Ms. Bernstein. As I think we have mentioned to you before, a little over 30 years ago I was chief counsel of the consumer protection office in the Missouri Attorney General's Office, and you know some things never change. The technology is new, the scams are new, but the same old fraud are used. When you mentioned the sending out of the free gift, that was a red flag 30 years ago; it still works. An operating rule that I advised our citizens at the time was, if an offer sounds too good to be true, it is. Is that still operative today?

Ms. BERNSTEIN. It certainly is, Mr. Chairman. Unfortunately, these folks seem to be with us forever, and they do use new technologies and new techniques. So I guess the challenge to all of us is to try to use those techniques and new ways of catching them and preventing them in the first place. But certainly, if it sounds too good to be true, it is.

Chairman BOND. I thank you for your great information efforts, and we are going to work with you and with the associations and with the witnesses we have had here today. But let us go to the law enforcement side of it.

During the time we were investigating the problem the Committee uncovered two instances of individuals who were subject to enforcement actions by the FTC and the Postal Inspection Service for deceptively selling toner cartridges apparently engaging in the same activity several years later, merely using different company names. How large a problem is this recidivism? I get the sense that these people just take a fine or a requirement for community service as a cost of doing business and gear up and keep going. What is your assessment of the repeat offender situation?

Ms. BERNSTEIN. We believe that it is a problem, and a couple of years ago we really began to focus on it, on the recidivism, because we were seeing the same thing that you identified, Mr. Chairman. So we made a concerted effort to target some, slightly at least, different approaches to begin to deal with the recidivist particularly. First of all, we did bring 50 sweeps initially, and then we went back and looked at those to see if we could identify people who were engaged in the same activities.

So we started first of all looking for stronger provisions in our orders. We are imposing bans and bonds, and that has not always been the case, significantly strengthening the Commission's orders.

Then we began an operation we call Operation Scofflaw, which was really to bring attention and prioritizing our review, and monitoring and following up, on Federal court orders. In the past our orders had been administrative orders. Now for the first time the Commission has shifted to the Federal courts and we made a determined or dedicated effort to following those up.

The increased penalties that we seek there are, of course, different than administrative cases. That is, we can seek civil and criminal contempt. And we have. So we have not had a huge number of people that have been subject to criminal contempt, but we have had some, and some jail sentences have been imposed on recidivists. So we are going to continue that effort. We are trying to work with the Justice Department and others to make that a more effective effort.

Chairman BOND. That was going to be my second question, but you have answered it. It seems to me that when you go through the mill the first time, you can enter an order and they pay a fine. Having the additional order, having the court order I guess is essential to bringing a much higher penalty action against a subsequent involvement because once they go through the motions, having that extra noose around their neck would seem to me to be very effective. About how many of those actions have you taken? Are these usually brought against just the top individual in the company, or do you catch a number of people typically?

Ms. BERNSTEIN. Certainly we go after the top one. As you know, as a former prosecutor, of course, we have to have direct evidence of employees that might have been involved in it. We have brought cases against at least eight recidivists, criminal contempt actions. And to the extent that we can develop evidence—and of course, it is easier to get civil contempt than criminal, but we are really focusing on criminal contempt now. We will try to get as many of the others who were involved in the operation as we can. Principally, we have gone after the main operator.

Chairman BOND. Mr. Grosfeld testified earlier that his ex-employer was obtaining lists of businesses to call from commercial list providers. Again, Ms. Burke mentioned the fact that there are many legitimate telemarketers so you do not want to crack down on them. But are there any circumstances in which FTC has brought action against list providers who were working in concert with the toner-phoner fraud perpetrators?

Ms. BERNSTEIN. It is a tough one to say but it does kind of summarize what the whole thing is about. Yes, we have tried to focus on list providers, and as you know, the standard for going after a list provider who is a third party would be "assisting and facilitating," the legal standard, and to the extent that they knew that they were facilitating and assisting in the basic fraud—we have done that.

We have actually pursued one list enterpriser by itself and actually brought a lawsuit under the Telemarketing Sales Act for those violations. That resulted in a considerable recovery. To the extent that we can include in our orders prohibitions on obtaining lead lists where we have found them to be abused in the past, we are also doing that. Then we can monitor that as we go forward.

I meant to mention one other thing which I think may be effective in connection with recidivists, Mr. Chairman. That is, we are imposing in our orders requirements that the convicted or the defendant notify us of a change in employment and tell us where they are working if it is a new job or new opportunity so that we can monitor those activities. That should be helpful too in terms of following up on those people who seem to go from one enterprise to another.

Chairman BOND. I will discuss with you later some ideas on how to follow up with them. I know that that is an interesting challenge.

Let me ask one final question. Are there steps that we in Congress can take to help you minimize this deceptive activity, and particularly the repeat activities that seem to be hitting so many small businesses and not-for-profits?

Ms. BERNSTEIN. One thing that I have just briefly been thinking about is the extent of our penalties are $11,000 per violation. Now as you know, Mr. Chairman, that is an old statutory provision, and perhaps it has not kept pace.

Chairman BOND. Mr. Grosfeld said $250,000 a week. You could clear a nice amount of money and still pay $11,000 a day if you are raking in $250,000 a week. That is not bad.

Ms. BERNSTEIN. That is right. And I mention it because I really think it has not kept pace with what Congress has imposed in other similar kinds of violations of various statutes. I thought perhaps in the future that might be increased substantially. It would help us a good deal, although as I said before, redress is where we get the big bucks, if we can locate the money.

I suppose finally, the FTC is still pretty small for dealing with this extensive fraudulent operation. I know you have been supportive of us in the past in terms of helping us out with our resource needs.

Chairman BOND. It all comes back to appropriations.

Ms. BERNSTEIN. Usually.

Chairman BOND. Ms. Bernstein, my sincere thanks to you and to all our witnesses today. As I said, the record will be kept open for a week for any comments from the witnesses, or those who are here either in the audience or watching us by means of TV coverage. We will be asking Committee Members to review the record and submit any questions. We would ask that you reply to those as promptly as possible.

And with our best wishes to everybody who is working to focus attention on this fraud, to help identify it and drive it out of business, our sincere thanks. The hearing is adjourned.

[Whereupon, at 11:08 a.m., the Committee was adjourned.]

APPENDIX MATERIAL SUBMITTED

PREPARED STATEMENT OF SENATOR PAUL COVERDELL
Senate Committee on Small Business
Committee Hearing entitled
"Swindling Small Businesses: Toner-Phoner Schemes and Other Office Supply Scams"
March 28, 2000

Mr. Chairman, I appreciate your leadership in holding this hearing on toner-phoner schemes and other such office supply scams. Many small businesses struggle simply to survive their first few years. During that period, it is essential that every dollar earned by the firm be used to maximum advantage. Even after a small business becomes established, expenditures for everyday needs must be monitored carefully.

When these small businesses become targets for fraudulent scams, I believe our whole economy suffers. Fledgling enterprises that could evolve into the next Microsoft or Wal-Mart are crippled and stripped of much needed capital by these cons. In addition, these schemes could bring down a small business that is a cornerstone of a local community.

Testimony this morning hopefully will illustrate where the need for attention or enhanced enforcement of existing anti-fraud methods should focus. We must look at the facts and develop strategies that help protect small business concerns from these dangers.

Again, Mr. Chairman, thank you for your leadership.

Statement by John F. Kerry, Ranking Member
Committee on Small Business
Hearing entitled
"Swindling Small Business: Toner-Phoner Schemes and Other Office Supply Scams"
March 28, 2000

Thank you, Chairman Bond for scheduling this hearing today, and I would also like to thank the witnesses that will be testifying before the committee. I appreciate the time and effort that all of the witnesses have taken to be here and inform our Committee, your peers in the business world and the nation about predatory business practices being undertaken by unscrupulous individuals and firms.

Under the Chairman's leadership this session, this Committee has begun to take a close look at the state of small business in this country and has shed new light on the hazards that small businesses are faced with. It is a difficult enough proposition to create and maintain one's own business, and people who prey on small firms make running one's own business even harder.

So-called "toner-phoner fraud" is a growing problem according to the Federal Trade Commission and the Imaging Supplies Coalition for International Intellectual Property Protection Incorporated. These groups estimate that this fraudulent business practice, which involves the sale of wildly overpriced toner cartridges sold under false pretenses to unsuspecting firms, cost businesses over $250 million dollars per year.

Today, we are scheduled to hear testimony from small business owners who have fallen victim to these schemes, a former employee of a firm that engaged in toner fraud, and a representative from the FTC who will discuss enforcement actions taken against "toner-phoners," and also discuss steps a small business can do to protect itself. I am sure that this information will prove to be invaluable to us all.

It is my hope that this hearing will inform and educate small businesses, and I thank the witnesses again for taking time out to address this committee.

COMMENTS FOR THE RECORD

UNITED STATES POSTAL INSPECTION SERVICE

CONGRESSIONAL AND PUBLIC AFFAIRS

STATEMENT SUBMITTED BY THE

UNITED STATES POSTAL INSPECTION SERVICE

SENATE SMALL BUSINESS COMMITTEE

MARCH 28, 2000

The Postal Inspection Service is the criminal investigative arm of the U.S. Postal Service. We are responsible for protecting postal employees, the mail, and postal facilities from criminal attack, and for protecting consumers from being victimized by fraudulent schemes or other crimes involving the mail. We also work to rid the mail of drug trafficking and money laundering; mail bombs; and perhaps one of the most despicable crimes: child exploitation. The Postal Inspection Service, which employees about 2,200 Postal Inspectors, 1,400 Postal Police Officers and 900 professional, technical and support employees, has performed many of these duties for over 200 years and is one of the oldest federal law enforcement agencies.

A number of statutes enable us to take action against fraudulent practices involving the use of the mail. Our primary weapons include two statutes originally enacted over 125 years ago: the criminal mail fraud statute and the civil false representations and lottery statute. The public policy that underlies these statutes remains valid today: *The postal system created by Congress to serve the American public should not be used to conduct schemes that seek to cheat the public.*

The nation's mail service was designed to ensure a reliable, efficient, affordable, and secure means of communication for its citizens. A recent Harris Poll affirmed that the American public feels significantly more confident about the security of mail than they do with telephone or Internet communications. Even in a world of advanced technology and instant communications, the people and businesses of this land feel more secure with a hard copy delivery system. Our mission is to prevent unscrupulous promoters from damaging that confidence.

475 L'ENFANT PLAZA SW ROOM 3416
WASHINGTON DC 20260-2175
TELEPHONE: 202-268-5400
FAX: 202-268-3990

The Postal Inspection Service has been fighting all types of fraud against businesses, government agencies, and postal customers since the mail fraud statute was enacted in 1872. While some schemes may change, cor artists take advantage of economic trends and current events and plan their schemes accordingly. With today's fast-paced society and modern technology, the magnitude of mail fraud schemes is much greater and impacts more people than ever before.

Our investigations focus on a variety of schemes conducted through the mail in an effort to maintain its integrity, and to ensure the confidence and trust all postal customers place in the Postal Service. Because of their complexity and far-reaching implications, mail fraud investigations are often conducted jointly with other local and federal law enforcement agencies to take advantage of the expertise of each agency and to maximize our resources. Postal Inspectors also work with other law enforcement agencies and consumer groups in prevention efforts designed to raise public awareness of ongoing fraud schemes. The Postal Inspectior Service currently has approximately 300 Postal Inspectors assigned to investigate mail fraud. During fiscal year 1999, the Inspection Service responded to approximately 70,000 consumer fraud complaints and conducted a total of 3,247 mail fraud investigations.

While the Postal Inspection Service works hard to identify and prosecute promoters of mail fraud, we also recognize our ability to lessen the impact of fraud upon the public through various prevention campaigns. In a surve commissioned by the Postal Inspection Service, it was revealed that 48 percent of respondents who were victims of fraud did not report the crime often citing they did not know where to go for help.

In an effort to educate consumers, the Postal Inspection Service in November 1999 joined forces with several federal, state and private agencies, including the Department of Justice, Federal Bureau of Investigation, Federal Trade Commission, Securities and Exchange Commission, National Association of Attorneys General, AARP and Better Business Bureau to launch project KNOW FRAUD. This initiative is the largest consumer protection effort ever undertaken, designed to connect the public with those agencies that can help and provide consumers with new resources to stop telemarketing and mail fraud. Every household in America received an easy-to-read postcard with tips and practical guidelines to prevent telemarketing and mail fraud. A toll-free number and a KNOW FRAUD Web site were also established to provide consumers wit additional fraud prevention information and to link them with law enforcement officials who would share the information.

Protecting Businesses Against Mail Fraud

Postal Inspectors devote considerable resources to protecting our business community from being victimized by mail fraud. During fiscal year 1999, Postal Inspectors conducted 1,393 investigations related to fraud against businesses that resulted 548 arrests and 522 convictions. The Postal Inspection Service leads three proactive industry groups established to reduce theft and specific types of fraud conducted through the mail and targeting the business community: Credit Card Mail Security, Rebate Fraud Task Force, and the Mail Order Task Force.

While the Postal Inspection Service investigates numerous mail fraud schemes that victimize businesses, two schemes of particular concern deal with office supplies and "Yellow Pages" invoices. Following are descriptions of these types of schemes.

Office Supply Schemes

Businesses are conned out of millions of dollars each year by bogus office supply firms. Typically, the schemes involve goods or services that are routinely ordered by businesses: copier paper, toner, maintenance supplies, equipment maintenance contracts, or advertising. Con artists take advantage of businesses' inadequate purchasing procedures or of unsuspecting employees who may not be aware of office practices. Often, office supplies peddled by con artists are overpriced and of poor quality; services are usually worthless.

The Postal Inspection Service advises businesses to protect themselves from office supply scams by doing the following:

- Requiring that all requests for information about the business be made in writing.
- Training employees to refuse to purchase supplies from unknown office supply companies without first verifying the reliability of the company.
- Instituting strict accounting controls so that the handling of invoices is centralized and authorizations closely reviewed.
- Alerting all employees to office supply scams.
- Watching out for calls asking for verification of the office manager's name or any other employee likely to purchase office supplies.

Yellow Pages Schemes

The Postal Inspection Service cautions businesses to watch out for invoices for yellow pages advertisements designed to look like they are from local telephone directory publishers. The invoices are almost always bogus. Charges for genuine yellow pages advertising appear on local telephone bills. Invoices may bear the "walking fingers" logo and the yellow pages name. It should be noted that neither the name nor logo is protected by federal copyright or trademark registration. Additionally, most misleading invoices include disclaimers required by postal regulations to distinguish the solicitation from an invoice. However, recipients who do not read the fine print may be misled by the names of the soliciting companies, which can resemble those of well-known business directory distributors, and by the familiar logo. Misleading invoices may be stamped "Renewal" or "Amount Due," and may warn that businesses failing to pay promptly will be left out of the next telephone directory. It is important for businesses receiving invoices for a yellow pages listing to scrutinize them carefully. With few exceptions, charges for legitimate directory listings are included in advertisers' monthly phone bills, not billed separately.

Toner Fraud Schemes

Postal Inspectors are currently investigating 14 firms involved in the questioned sale or distribution of office toner. In one investigation, con artists fraudulently opened boxes at commercial mail receiving agencies (CMRAs) located across the country and mailed bogus invoices for toner to businesses nationwide. Payments were directed to the CMRA boxes and later forwarded to unknown destinations. Businesses scammed by the con artists indicated they never ordered the subject supplies and refused to pay for them. Instead, victims reported the incidents to the Postal Inspection Service for review and appropriate attention. This scheme is described as a direct mail solicitation and often involves an effort by con artists to legitimize the bogus invoice by including a microscopic disclaimer, such as "This is not a bill, this is a solicitation." In most instances, however, the disclaimer fails to meet postal regulations that require disclaimers to meet specific requirements for type size and boldness and must be placed on the solicitation where it will catch the reader's eye.

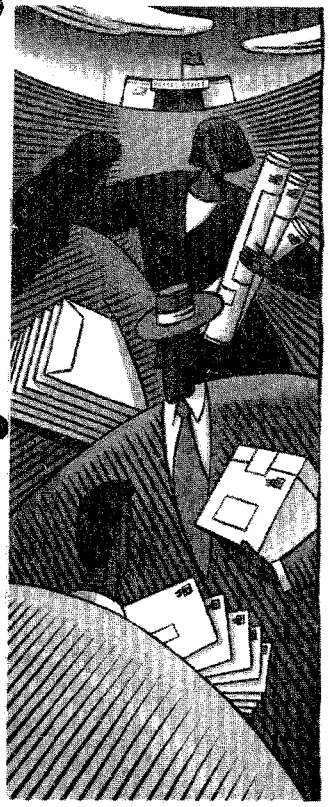
In another false billing scheme, Postal Inspectors nationwide joined forces to halt a scheme that targeted businesses throughout the United States with mailings of fraudulent invoices for toner and computer supplies. Postal Inspectors identified approximately 54 CMRA addresses used in the scam. Most of the mail going to the addresses was being forwarded to bank accounts outside of the United States, and losses exceeded $1 million.

Other toner fraud schemes may be classified as **telemarketing** schemes. In those instances, suspects often establish a telephone "boiler room," wherein callers contact customers nationwide and represent themselves as a customer's regular supplier. The caller might then falsely represent that was a price increase for the product, and suggest a timely order. At other times, the caller may allege that a customer's "order" actually consisted of multiple shipments, and advise the customer that he or she was required to accept and pay for all additional shipments. The products (if any) supplied by fraudulent telemarketers may be priced several times higher than comparable items.

The Inspection Service has also investigated cases involving telemarketers that provide gifts or bonuses to purchasing agents at the time of the initial sale. Subsequently, bonus payments are escalated to the point where the purchasing agent is made to feel that he or she has become part of the scheme. The purchasing agent is then persuaded to continue accepting shipments of the grossly inflated product. In fiscal year 1999, Postal Inspectors investigated 100 false billing cases, which resulted in 28 convictions.

In an effort to further assist consumers and businesses, the Postal Inspection Service prepared a brochure entitled *Consumer & Business Guide To Preventing Mail Fraud*, which is being offered today. You may also wish to visit our Web site for additional information at www.usps.gov/postalinspectors. We hope you find the brochure and Web site informative and helpful.

Contact: Dennis Jones, Postal Inspector
Congressional & Public Affairs
202-268-5088



Consumer & Business Guide To

Preventing Mail Fraud

Publication 300-A, July 1996

UNITED STATES POSTAL SERVICE

United States Postal Inspection Service

Publication 300-A July 1999

Consumer & Business Guide to Preventing Mail Fraud

1. **Purpose.** This booklet was prepared by the U.S. Postal Inspection Service to help consumers and businesses identify different types of mail fraud. Every year, thousands of people and businesses are victimized by mail fraud schemes. The booklet is full of tips and ideas on how not to become a victim. The protection of the U.S. Mail and the mail system is the responsibility of the Postal Inspection Service. As a law enforcement arm of the U.S. Postal Service, the Postal Inspection Service is a highly specialized, professional organization performing criminal investigations, security, and crime prevention functions. The U.S. Postal Inspection Service investigates violations of federal mail fraud laws. Consumer complaints are the primary basis for investigation by Postal Inspectors.

2. **Requisition.** To obtain a copy of this booklet, postal employees must submit Form 7380, ***MDC Supply Requisition***, to the Topeka Material Distribution Center. Private citizens and businesses also must contact the Topeka Material Distribution Center Customer Service office at 1-800-332-0317 or by facsimile at 785-861-2939.

3. **Questions and Comments.** Check the back of the booklet for Postal Inspection Service locations and contact numbers. If you would like to make suggestions or comments about this booklet, please send them to:

   INSPECTOR IN CHARGE
   CONGRESSIONAL & PUBLIC AFFAIRS
   US POSTAL INSPECTION SERVICE
   475 L'ENFANT PLAZA SW RM 3620
   WASHINGTON DC 20260-2175

4. **Cancellations.** This booklet replaces Publications 300 and 301.

5. **Effective Date.** This publication is effective upon receipt.

K.J. Hunter

K.J. Hunter
Chief Postal Inspector

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What is Mail Fraud?

It's a scheme to get money or something of value from you by offering a product, service, or investment opportunity that does not live up to its claims. Prosecutors must prove the claims were intentionally misrepresented and that the mail was used to carry out the scheme.

Although most mail-order companies are honest and stand behind their products and services, unfortunately there are a few rotten apples who give direct mail advertisers a bad name. They cheat people by peddling worthless products, medical quackery, and get-rich-quick schemes. Some fly-by-nights take your money and send you nothing.

Unscrupulous businesses don't mind taking advantage of an unwary customer. "Let the buyer beware" is their motto — and you might be the buyer.

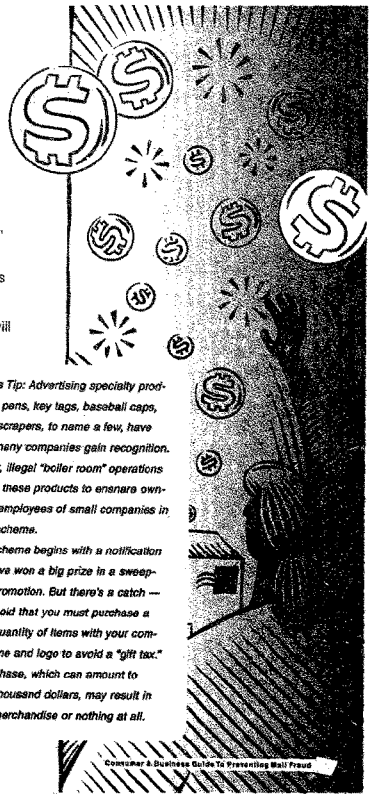
Mail fraudsters frequently rely on the same old tricks. You may even be familiar with some of them. The following pages include some of the more common mail fraud schemes and other common consumer problems. Watch out for them!

Sweepstakes and "Free" Prizes

It happens every day. Thousands of people are notified by mail that they have won a free prize. Usually, it's a postcard that says your prize will be one of four or five "valuable" items — like a new car, a color television, or a $1,000 savings bond.

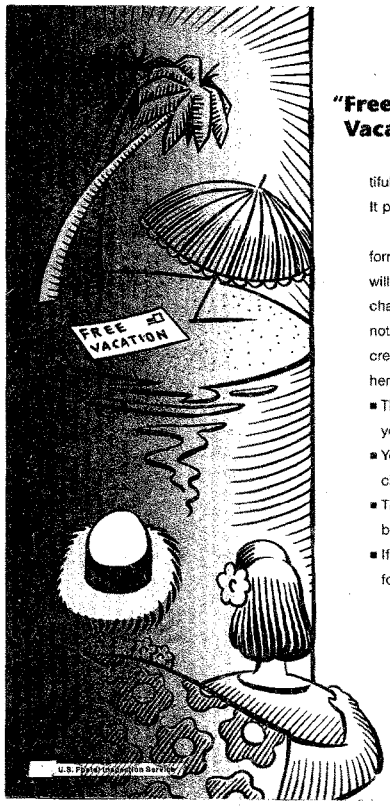
Typically, con artists whose sole purpose is to rip you off mail these notices. When you contact the company by phone to claim your prize, the scam artist will tell you that you are required to pay a "processing fee" and pressure you to give out your credit card number. Don't do it! The con artist may make thousands of dollars in unauthorized charges to your account. If you refuse to give out your credit card number, beware of the con artist's other scam — convincing you to cover the processing fee by sending a check for hundreds of dollars by overnight courier.

Either way, you can be certain that your prize will cost you more than it's worth, will be worthless junk — or it may never arrive at all.



Business Tip: Advertising specialty products like pens, key tags, baseball caps, and ice scrapers, to name a few, have helped many companies gain recognition. However, illegal "boiler room" operations also use these products to ensnare owners and employees of small companies in a fraud scheme.

The scheme begins with a notification that you've won a big prize in a sweepstakes promotion. But there's a catch — you are told that you must purchase a certain quantity of items with your company name and logo to avoid a "gift tax." The purchase, which can amount to several thousand dollars, may result in inferior merchandise or nothing at all.

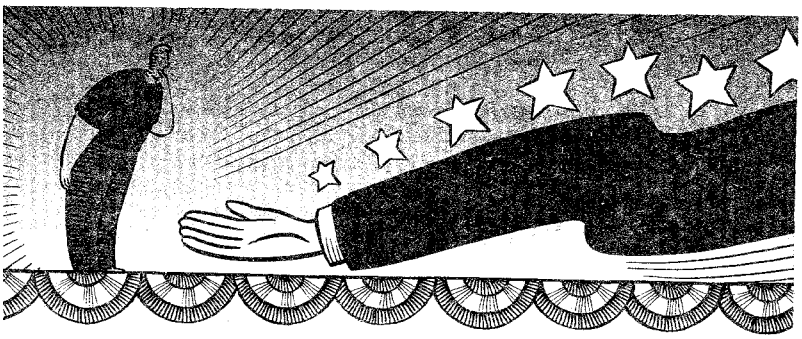


"Free" Vacations

"Congratulations! You have won a free vacation for two in beautiful, sun-drenched Bermuda." Sound too good to be true? It probably is.

There's always a catch. In the most common form of this scam, to be eligible for the free vacation you will either be required to pay a service charge or to purchase a membership in a travel club. Don't pay it. And do not, under any circumstances, give the company your credit card number or even its expiration date. If you do, here's what you can expect:

- There will be many restrictions on when you can take your trip.
- You may be required to pay an additional handling charge to book your reservation.
- The travel dates you prefer will very likely be unavailable.
- If you complain, you may be offered an upgraded plan for still another additional fee.



Government Look-Alike Mail

That brown envelope in your mailbox looked so official you thought it was from a government agency. Even the name, return address, and seal looked official. Such mailings can be deceptive and confusing, and are sometimes illegal. They typically contain sweepstakes solicitations or requests for donations to political causes. Such mailings are no longer allowed unless:

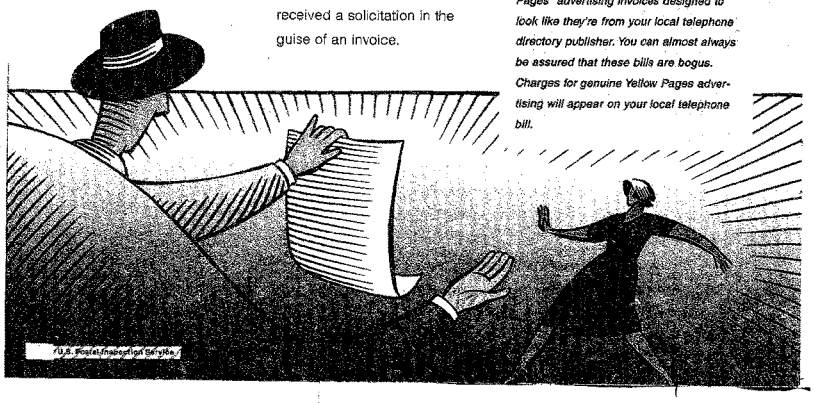
- The entity actually has a government connection, approval, or endorsement.
- The mail and its envelope bear a notice by the U.S. Postal Service that disclaims such connection, approval, or endorsement.
- The material is contained in a publication purchased or requested by the addressee.

Carefully read the material inside the envelope to determine if it really is from a government agency.

Invoices get you to order goods or services by mailing solicitations that look like invoices. The unscrupulous individuals who mail these know that some unsuspecting individuals will be fooled by their appearance and will automatically pay, thinking they may have placed an order but forgot about it.

Some solicitations disguise their true nature. Others identify themselves as solicitations, but only in the fine print. In either case, withhold payment until you have verified whether you actually ordered and received the goods or services reflected on the document. If not, do not pay. You may have received a solicitation in the guise of an invoice.

Business Tip: Watch out for "Yellow Pages" advertising invoices designed to look like they're from your local telephone directory publisher. You can almost always be assured that these bills are bogus. Charges for genuine Yellow Pages advertising will appear on your local telephone bill.

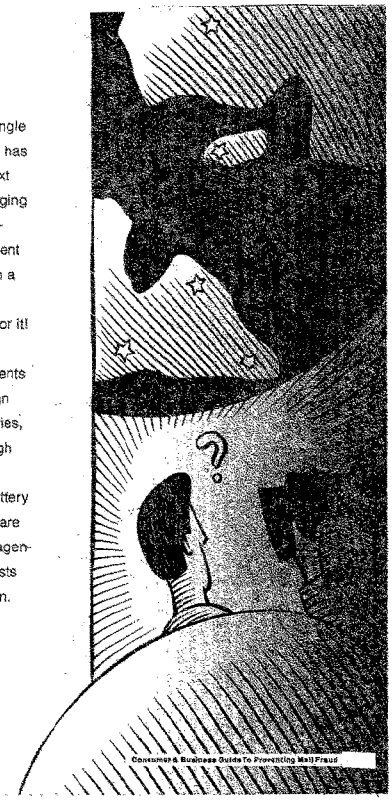


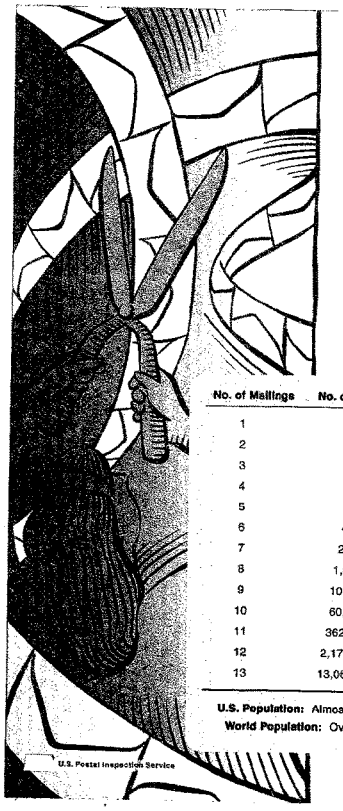
Foreign Lotteries

You hear the state lotto jingle on the radio. The jackpot has been raised to $10 million. You've got lotto fever! Next thing you know there's a brochure in your mailbox urging you to participate in some foreign country's lottery — maybe one in Australia or Canada — via the convenient mail-order purchase of lottery tickets, or of a share in a pool of lottery tickets.

We've got a hot tip for you: Don't fall for it! Here's why:

- It's illegal. A federal statute prohibits mailing payments to purchase any ticket, share, or chance in a foreign lottery. Except for state-owned and -operated lotteries, federal law prohibits sending lottery material through the mail.
- It's probably a scam. Most — if not all — foreign lottery come-ons sent to U.S. addresses through the mail are bogus. They don't come from foreign government agencies or licensees. Instead, they come from con artists who take your money and give you nothing in return.





Chain Letters

Have you ever received a chain letter or e-mail message guaranteeing you'll "earn big $$$$" with one small investment? All you have to do is send $10 to everyone on the list, place your name at the bottom of the list and mail it to 10 friends. Then just sit back and watch the checks fill your mailbox.

Don't waste your money. Chain letters don't work. What's more, if you mail chain letters, you could be committing a federal crime. The same law that prohibits lotteries covers chain letters as well.

Look at the chart. You can see that more participants are required than there are people in the entire world! The first investor in the chain may receive some money, but later participants rarely get even their original investments back.

No. of Mailings	No. of Participants
1	6
2	36
3	216
4	1,296
5	7,776
6	46,656
7	279,936
8	1,679,616
9	10,077,696
10	60,466,176
11	362,797,056
12	2,176,782,336
13	13,060,694,016

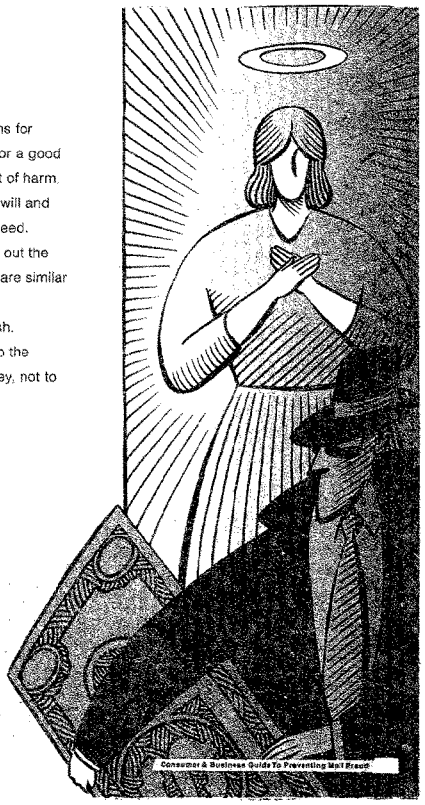
U.S. Population: Almost 300 Million
World Population: Over 4 Billion

Charity Fraud

Most mail solicitations for charitable contributions are legitimate appeals for a good cause. Some are phony. Charity fraud does a lot of harm. The swindler takes advantage of people's good will and takes their cash — money meant for people in need.

Give to charities you know. Check out the ones you have never heard of, or whose names are similar to well-known charities. Also:

- Be suspicious of charities that accept only cash.
- Always make out your check or money order to the organization to which you want to donate money, not to an individual.

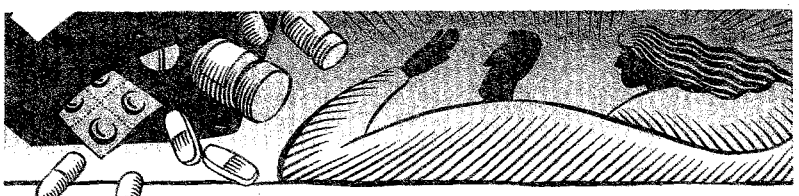


Insurance Fraud

Slick operators who run insurance policy schemes will try to sell you anything in the insurance line, regardless of your existing coverage or need. The premiums far exceed those charged by reputable insurance firms. Watch for these scam-related tricks:

- A request for cash payments.
- A request for lump-sum payments as far as a year in advance.
- An offer of last-chance insurance bargains.
- A request that you sign a blank insurance form.

When purchasing insurance, be sure to read all the fine print on documents and purchase only the insurance coverage you need. Discuss the offer with an attorney or a knowledgeable friend or relative before signing any document.



Medical Fraud

For years medical quacks have sold powders, pills, lotions, and other gimmicks through the mail to people seeking cures for baldness, obesity, or sexual dysfunction. Recently, tremendous medical advances have made the successful treatment of such conditions a reality. Despite such legitimate medical breakthroughs in these areas, snake-oil merchants continue to peddle their worthless potions, offering "miracles" like:

- Instant cure for arthritis!
- Lose weight overnight!
- Look years younger!

The gadgets and gimmicks advertised are not tested by competent medical authorities, and some are downright dangerous, so:

- Don't trust your health to a salesperson.
- Don't believe claims of a secret cure or miracle drug. (All such advances make big news worldwide.)
- Be suspicious of claims of excessive weight loss.
- Don't believe exaggerated claims of regained youth or the perfect figure.

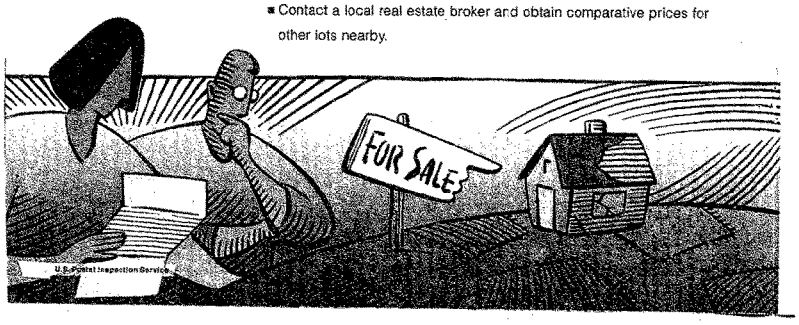
Protect your health and your pocketbook. Before purchasing any cure-alls, consult your family physician.

Land Fraud

Whether you're looking for a vacation home, a place to retire, or an investment, you need to exercise caution before buying a piece of land. Attractive real estate brochures in the mail may indicate the land is in a warm and hospitable climate with recreation and conveniences nearby. However, if you don't personally see the land, you may later discover too late that it is in the middle of nowhere, far away from utilities and other amenities, and cannot be resold for even a fraction of the price you paid.

Before buying real estate, a wise and cautious investor should:

- Visit the property before deciding whether to buy.
- Get any verbal promises and guarantees in writing.
- Obtain a property report from the salesperson or developer.
- Contact your local Better Business Bureau to determine if there have been any complaints against the developer.
- Contact a local real estate broker and obtain comparative prices for other lots nearby.

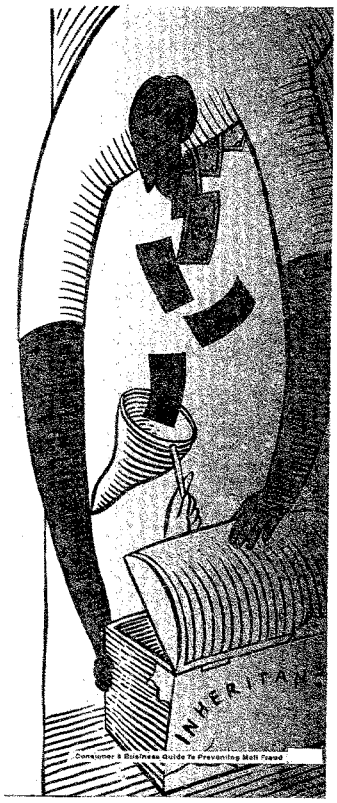


Phony Inheritance Schemes

Wouldn't it be nice if you unexpectedly came into an inheritance from a long-lost relative or friend? It rarely happens. If you receive a notification in the mail from an "estate locator" saying that there is an unclaimed inheritance waiting for you, beware! You could be the target of a slick con artist.

These unscrupulous white-collar criminals also call themselves "research specialists" — but they didn't find you by doing research. You are one of thousands across the nation who are targeted in mass mailings. Many of these recipients are lured into mailing a fee — sometimes $30 or more — for an "estate report." All the individuals on the mailing list receive the same information, so chances are almost zero that you are the heir.

You can protect yourself by checking other sources before sending funds in response to an estate-locator solicitation. Those who have been named to distribute estate funds to rightful heirs normally do not request you to pay a fee to find out about your share of the estate.

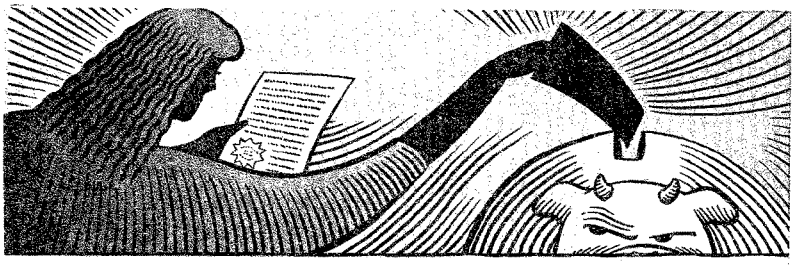


Home Improvement and Home Repair Frauds

Because home repairs and improvements are expensive, con artists and thieves have entered the industry to rip you off. Be careful if someone mails you a brochure offering to do an expensive job for an unusually low price. Once you sign the contract, you will learn why the price is so low: The firm never delivers the service you paid for in advance.

Free inspections by con artists turn up plenty of expensive repairs you don't need. Some shady operators offer to do the work on the spot. However, when they leave, you may be left with a large bill and a faulty repair job. Here are some precautions you can take to make an informed decision:

- Always get several estimates for every repair job.
- Verify the company's name and address.
- Ask for references and check them out.
- Contact your local Better Business Bureau to check the company's reputation before you authorize work or pay any money.
- Make sure you understand the details of a contract before you sign.
- Inspect the finished product before you pay, and never pay in cash.



Investment Fraud

Whether they're selling bogus securities, commodities, or oil wells, fraudulent investment promoters try to get you to invest money — lots of it. They will promise you either a large increase in the value of your investment, higher-than-market interest on your capital, or both.

Investment schemers market by mail and by telephone, armed with high-pressure and sophisticated selling techniques. Some swindlers surround themselves with the trappings of legitimacy — rented office space, a receptionist, investment counselors, and professionally designed color brochures describing the investment.

You may be dealing with an investment swindler if you can answer "yes" to the following:

- Does the salesperson make it sound as if you can't lose?
- Are you promised an unusually high rate of return or interest payment on your capital?
- Are you pressured to make a decision because new investment units "are selling fast"?

Fees Charged For Normally Free Services

Many services are available free of charge from the government or other organizations. A recent come-on involves offering such services for a fee in the hope that you are unaware the services are available at no cost elsewhere. Beware of mail solicitations that try to get you to pay a fee for such services as:

- Child support collection assistance.
- Unclaimed income tax refunds.
- Property tax exemptions.

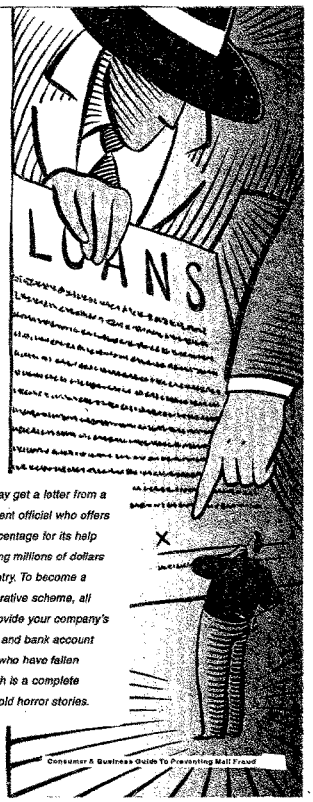
Contact the federal, state, and local agencies responsible for these services, and chances are you'll get the information and assistance you need free of charge.

A similar scheme preys on those whose loved ones are missing. If you have missing relatives or friends, be cautious about people who contact you to offer information on the whereabouts of your loved ones for a fee. If you receive such a solicitation, contact law enforcement authorities.

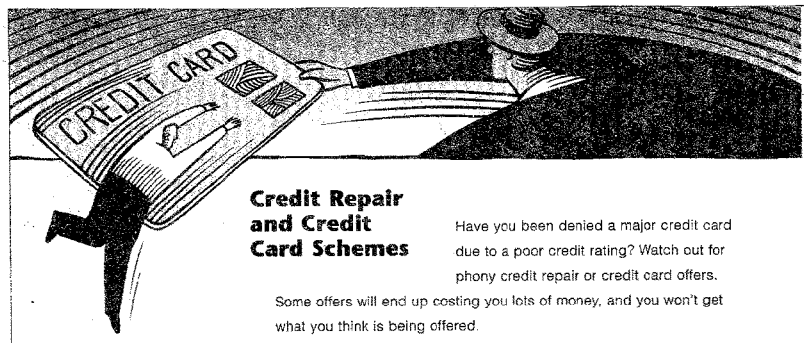
Advance Fee Loans

Have you had difficulty obtaining a personal or business loan through normal sources? If so, you may become the target of an advance fee loan scheme, where a con artist offers you a "guaranteed" loan for a fee paid in advance.

The swindler claims to be able to obtain a loan for you with ease from a legitimate lending institution, such as a savings and loan association. However, the swindler has no ability to secure a loan for you. Instead, the swindler steals your fee and either disappears or remains in the area to bilk other unsuspecting victims while stalling you with excuses as to why your loan has not been funded. Protect yourself! Know you're with a legitimate lending institution before entering into a negotiation for any loan, and be certain you understand the terms before you sign on the dotted line.



Business Tip: You may get a letter from a mysterious government official who offers your company a percentage for its help in secretly transferring millions of dollars out of a foreign country. To become a participant in the lucrative scheme, all you have to do is provide your company's letterhead, invoices, and bank account number. Executives who have fallen for this pitch — which is a complete fabrication — have told horror stories.



Credit Repair and Credit Card Schemes

Have you been denied a major credit card due to a poor credit rating? Watch out for phony credit repair or credit card offers. Some offers will end up costing you lots of money, and you won't get what you think is being offered.

Scam artists may offer you credit repair services. After paying a large fee, all you receive is a list of banks that offer a secured Visa or MasterCard. "Secured" cards are issued after you deposit enough money to cover any charges you make and are offered by many banks. Save your money and look up these banks in your local Yellow Pages.

Scam artists may also offer a "major credit card" for a fee. But when your card arrives, it can only be used with a specific store or catalog that also happens to be owned by the company that issued your credit card. "Single-use credit cards" are not a new concept, but scam artists misrepresent them as being all-purpose bank credit cards. It can get worse when the merchandise in the catalog from which you must choose your purchases is either inferior or grossly overpriced.

If you have poor credit, be careful when responding to an offer for credit. If you are not satisfied with the information provided in the offer, do not pay any fees up front. Otherwise, you may become a victim.

U.S. Postal Inspection Service

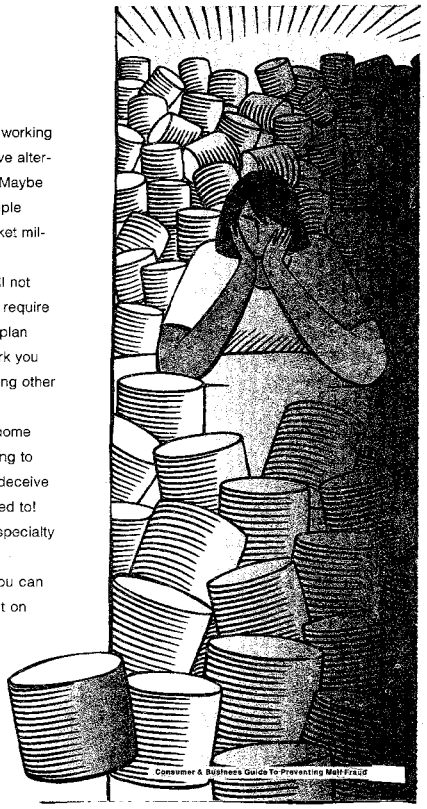
"Work-at-Home" Offers

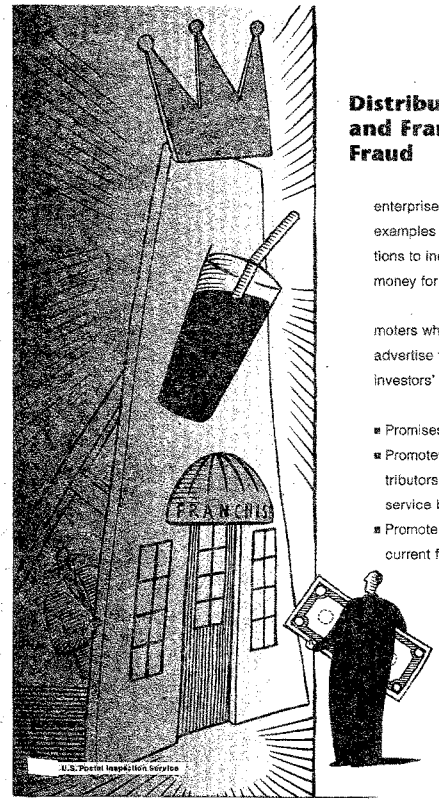
Con artists know that working at home is an attractive alternative for many. That's why they place such ads. Maybe you've even responded to one. Thousands of people have, helping these unscrupulous promoters pocket millions of victims' hard-earned dollars.

Beware! Work-at-home schemes will not guarantee regular salaried employment. They will require you to invest your money before you learn how a plan works or before you are sent instructions. The work you are asked to do often continues the fraud by getting other victims involved.

The most common type of work-at-home fraud is envelope stuffing. Typically, there is nothing to stuff. Instead, you receive instructions on how to deceive others by placing an ad like the one you responded to! Other schemes require you to assemble gift and specialty products for which there is little or no market.

Always suspect any ad claiming you can earn unusually high income with little or no effort on your part.





Distributorship and Franchise Fraud

Distributorships and franchises can be legitimate and often profitable forms of business enterprises. Fast food and quick-printing franchises are examples of opportunities offered by national organizations to individuals willing to invest a substantial amount of money for the right to operate such businesses.

Unfortunately, there are some devious promoters who use the cover of legitimate businesses to advertise fraudulent opportunities. They take their investors' money and quietly go out of business.

Watch for these warning signs:

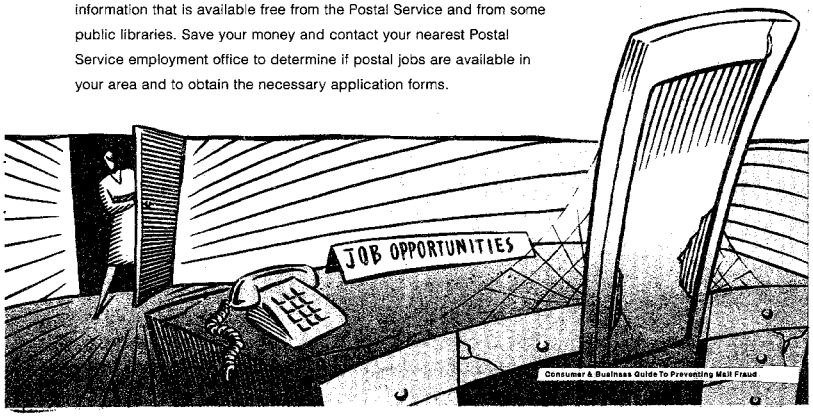
- Promises of unrealistic profits.
- Promoters who seem more interested in selling their distributorship or franchise than they are in the product or service being offered.
- Promoters who are reluctant to let you contact current franchisees.

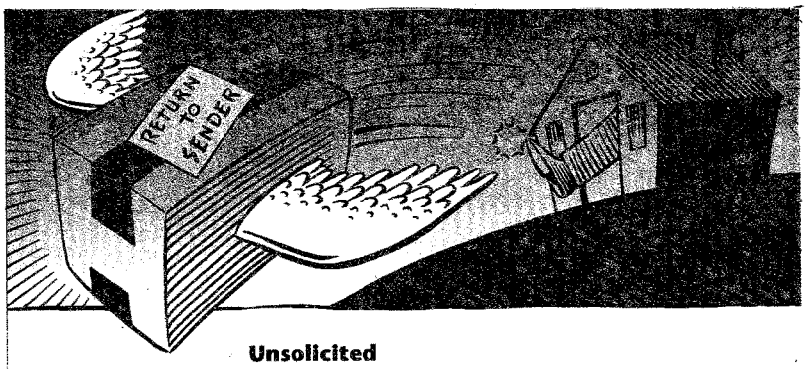
Phony Job Opportunities

Beware of advertisements that make unbelievable claims about job opportunities. The ads misrepresent wages and the number of jobs actually available, and you must always pay a fee to receive more information. You should beware of job opportunity pitches that:

- Guarantee placement in a job.
- Claim no experience or special skills are needed to qualify.
- Offer too-good-to-be-true wages.
- Offer overseas employment.

Especially be wary of ads that promise to get you a job with the U.S. Postal Service. In return for your money, you may only get generic information that is available free from the Postal Service and from some public libraries. Save your money and contact your nearest Postal Service employment office to determine if postal jobs are available in your area and to obtain the necessary application forms.





Unsolicited Merchandise

A company sends you a gift in the mail — a tie, a good luck charm, or a key chain. You didn't order it. What do you do? If you're the kind of person they are looking for, you'll feel guilty and pay for it. But you don't have to. What you do with the merchandise is entirely up to you.

- If you have not opened the package, mark it "Return to Sender." The Postal Service will send it back at no charge to you.
- If you open the package and don't like what you find, throw it away.
- If you open the package and like what you find, keep it — *free*. This is a rare instance where "finders, keepers" applies unconditionally.

Whatever you do, don't pay for it — and don't get conned if the sender follows up with a phone call or visit. By law, unsolicited merchandise is yours to keep.

U.S. Postal Inspection Service

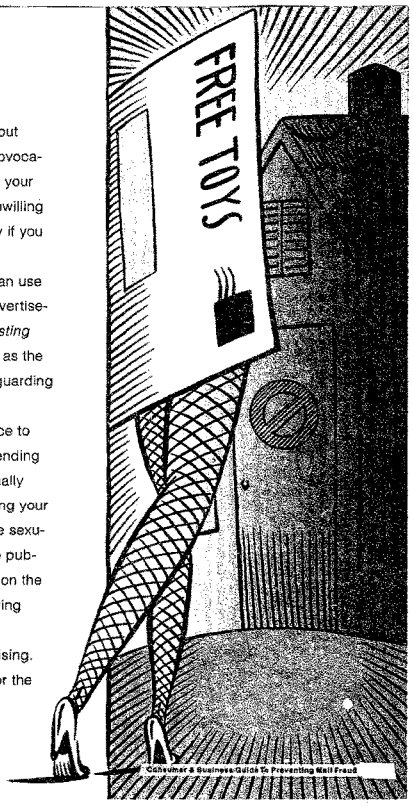
Sexually Oriented Advertisements

Are you concerned about unsolicited sexually provocative material coming to your home? It happens. You shouldn't have to be the unwilling recipient of such explicit publications — especially if you have children.

There is a Postal Service form you can use to stop delivery of unsolicited sexually oriented advertisements to your home, Form 1500, *Application for Listing and/or Prohibitory Order.* The form was developed as the result of a law passed by Congress aimed at safeguarding you and your family from undesirable mail.

The form authorizes the Postal Service to issue an order prohibiting a specific mailer from sending you ads that you think are erotic, arousing, or sexually provocative. It will also give you the option of adding your name to a list of people who do not want to receive sexually explicit ads from any mailer. By law, those who publish explicit material must exclude people who are on the list. Failure to do so could be a federal crime carrying stiff penalties.

Take action to stop unwanted advertising. To get Form 1500, ask a clerk at your post office for the Sexually Oriented Advertising (SOA) Consumer Protection Packet.



How to Contact the Postal Inspection Service

For assistance with postal-related problems of a law enforcement nature, please contact the nearest Inspection Service Division.

Florida Division
3400 Lakeside Dr 6th Fl
Miramar FL 33027-3242
954-436-7200
Fax: 954-436-7282

Gulf Coast Division
PO Box 1276
Houston TX 77251-1276
713-238-4400
Fax: 713-238-4460

Michiana Division
PO Box 330119
Detroit MI 48232-6119
313-226-8184
Fax: 313-226-8220

Mid-Atlantic Division
PO Box 3000
Charlotte NC 28228-3000
704-329-9120
Fax: 704-357-0039

Midwest Division
1106 Walnut St
St. Louis MO 63199-2201
314-539-9300
Fax: 314-539-9306

New York Metro Division
PO Box 555
New York NY 10116-0555
212-330-3844
Fax: 212-330-2720

Newark Division
PO Box 509
Newark NJ 07101-0509
973-693-5400
Fax: 973-645-0600

Northeast Division
425 Summer St 7th Fl
Boston MA 02210-1736
617-464-8000
Fax: 617-464-8123

Northern California Division
PO Box 882528
San Francisco CA 94188-2528
415-778-5800
Fax: 415-778-5822

Northern Illinois Division
433 W Harrison St Rm 50190
Chicago IL 60669-2201
312-983-7900
Fax: 312-983-6300

Northwest Division
PO Box 400
Seattle WA 98111-4000
206-442-6300
Fax: 206-442-6304

Philadelphia Metro Division
PO Box 7500
Philadelphia PA 19101-9000
215-895-8450
Fax: 215-895-8470

Rocky Mountain Division
1745 Stout St Ste 900
Denver CO 80202-3034
303-313-5320
Fax:-303-313-5351

Southeast Division
PO Box 16489
Atlanta GA 30321-0489
404-608-4500
Fax: 404-608-4505

Southern California Division
PO Box 2000
Pasadena CA 91102-2000
626-405-1200
Fax: 626-405-1207

Southwest Division
PO Box 162929
Ft. Worth TX 76161-2929
817-317-3400
Fax: 817-317-3430

Washington Metro Division
PO Box 96096
Washington DC 20066-6096
202-636-2300
Fax: 202-636-2287

Western Allegheny Division
1001 California Ave Rm 2101
Pittsburgh PA 15290-9000
412-359-7900
Fax: 412-359-7682

Postal Inspection Service Assistance for Businesses

The U.S. Postal Inspection Service can provide more information about establishing a secure mail center, detecting mail bombs, and protecting your business against mail fraud schemes or any other postal crimes. Contact your nearest Postal Inspection Service location for details.

Inspectors can perform on-site security surveys for larger firms and assist your firm in giving security training presentations. Inspectors can also provide guidance or assistance in the investigation and prosecution of dishonest mail-center employees who may be stealing company mail or funds intended for mailing.

Xerox Corporation
100 Clinton Avenue South
Xerox Square -138
Rochester, New York 14644

COMMENT FOR THE RECORD BY XEROX CORPORATION BEFORE THE SENATE COMMITTEE ON SMALL BUSINESS AT A HEARING ENTITLED "SWINDLING SMALL BUSINESS: TONER-PHONER SCHEMES AND OTHER OFFICE SUPPLY SCAMS"

Telemarketing fraud is perpetrated in the Imaging Supplies Industry by a cast of characters referred to as toner phoners. They operate from telemarketing centers known as "boiler rooms", and either ship orders themselves or contract with fulfillment houses to ship orders. These toner phoners have a profound effect upon Xerox Corporation and its customer base. They falsely represent themselves as Xerox Sales Representatives, and use a variety of untoward practices to sell Xerox products at prices up to six times the price available to the customer direct from Xerox. The frequency with which this happens and the dollars involved are a testament to the command toner phoners have of such qualities as deception, intimidation and larcenous intent.

Xerox Corporation receives about 5,000 toner phoner complaints each year from its customer base, which involve supplies for copy machines. Many of these calls come from small businesses, nonprofits, and varying sized religious institutions. The toner phoner will prey upon the multi-tasked employee oftentimes found in these venues, and take advantage of the employee's lack of specific knowledge pertaining to the ordering of supplies for their copy machine. The copy machine may have been purchased, leased, or rented. It may be on a cost per copy contract or a sold contract. The cost of supplies to operate the machine may be included in the cost of the machine or be the separate responsibility of the customer. All these variables lend themselves to the complexity of the issue, which in turn favors the toner phoner with his smooth well rehearsed deception. The result in about 18% of the reported instances is a very costly fraud perpetrated on an unsuspecting victim, which inflicts serious financial consequences on the small business and may even jeopardize the continued employment of the person placing the order.

The usual approach that a toner phoner takes is an initial call to a business wherein the caller may simply pose as someone seeking information for a study they are conducting. The purpose of this call is to identify the make and model of the copier at the location, and the identity of the person responsible for ordering supplies for it. Filler conversation relative to the performance of the copier will also be included, and the conversation will end with a heartfelt

thank you for taking the time to answer the questions. Armed with this information the customer is now set up for a call from a person identifying themselves as the customer's new Xerox Sales Representative, who has just reviewed their account and discovered that they were not notified of the latest price increase. Since this was a mistake on the part of the Sales Representative and not the customer, the Sales Rep is willing to guarantee the old price for up to a year if the customer will make a purchase now. This offer combined with the overwhelming desire to control expenses is often sufficient for the customer to agree to the order. In some instances this call is followed up by a call from a person in the toner phoner operation known as a "Verifier". The purpose of this call is to confirm the order without using language that connects the caller with Xerox Corporation. This call is usually tape recorded by the toner phoner so that it can be used to intimidate the customer into paying the bill when they dispute the order or discover that they have been scammed. Of course, ensuing battles over the actual quantity ordered, restocking fees for returned orders, and exorbitant shipping charges combined with threats for collection actions and reports to credit agencies provide a plethora of issues that the toner phoner utilizes to grind the customer into a position of submission on the billing.

Awareness of toner phoner scams is very helpful to the small business community, but in no way assures protection from the sometimes persistent telephone solicitations by toner phoners. Business names and contacts are often shared amongst boiler rooms in an attempt to keep the customer off guard, especially if a customer was scammed in the past. A customer who successfully detects a toner phoner invasion at its initial stages, and asks probing questions to validate who they are talking to, can expect to be subjected to a litany of profanity and vulgarities as the toner phoner slams the phone in their ear. Unfortunately, this is no guarantee that the customer has heard the last from the toner phoner because they will often continue calling for up to weeks later while continuing to associate themselves with Xerox Corporation.

Xerox Corporation has taken a very aggressive approach to combating toner phoner fraud. We have established an 800 telephone number that customers can utilize to submit their complaints. These complaints are recorded both in hard copy and on computer disks for inclusion in a perpetual database. This database is routinely queried for collections of complaints that are shared with the various law enforcement and administrative agencies involved with enforcement and regulatory issues. The weight of these collective complaints has generated quicker response than is afforded individual complaints. In response to customer requests for assistance when they receive shipments from a toner phoner, a letter has been crafted which summarizes the telemarketing law pertaining to items that individuals receive under false pretenses. Customers are encouraged to send this letter certified mail return receipt requested to the toner phoner so that they have some tracking for the notification. This notification gives the toner phoner 15 days to issue a call ticket for the pick up of the shipment or the customer will simply consider it a free gift. This also makes the toner phoner responsible for the cost of the return shipping and not the customer. Additionally, customers are provided with flyers explaining toner phoner fraud, which they can spread around their workplaces to increase awareness of this issue.

Enforcement in this area has been sporadic. Just recently Xerox Corporation supported a joint operation involving the Federal Trade Commission, U.S. Postal Inspector's Office, and Federal Bureau of Investigation with complaint information from our database. This operation involved raids on 14 boiler rooms located on the West Coast. Prior to this, complaint information was supplied to a unit in the Iowa State Attorney General's Office that resulted in

raids on several boiler rooms located on the West Coast. These raids were so effective that enforcement officials noted signs posted in boiler rooms instructing their callers not to call Iowa. Several other smaller operations conducted by the Federal Trade Commission across the country were also supported. The frustration in this area is best depicted by the tracking of major boiler rooms that has occurred over the last three years. This tracking has identified 141 major boiler rooms with 120 of them being located in Southern California. These boiler rooms do not attempt to hide, but do change locations periodically if enforcement action is taken or anticipated. A normal response to enforcement action is that the boiler room simply closes the door and moves down the street under a different name.

The experiences of Xerox Corporation in the area of telemarketing fraud that have been characterized in this statement reflect some very basic injustices affecting small businesses across the country on a daily basis. Owners and employees must be on constant guard to avoid being victimized by a group whose only motivation is greed. There is nothing palatable about being duped into purchasing copier supplies for six times their fair market value. The potential losses in both dollars and productivity can be devastating.

On behalf of the thousands of small businesses across this country that we proudly call our customers, we pledge to continue support of ongoing enforcement activities, and ask for your assistance in eradicating this scourge from the imaging supplies industry.

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