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OLD SCAMS-NEW VICTIMS: BREAKING THE CYCLE OF VICTIMIZATION

HEARING

BEFORE THE

SPECIAL COMMITTEE ON AGING
UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

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OLD SCAMS–NEW VICTIMS: BREAKING THE CYCLE OF VICTIMIZATION

WEDNESDAY, JULY 27, 2005

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

The committee met, pursuant to notice, at 2:32 p.m., in room SD–106, Dirksen Senate Office Building, Hon. Gordon Smith (chairman of the committee) presiding.

Present: Senators Smith, Talent, Kohl and Carper.

OPENING STATEMENT OF SENATOR GORDON SMITH, CHAIRMAN

The CHAIRMAN. Good afternoon, ladies and gentlemen, we welcome you all to this hearing of the Senate Special Committee on Aging. Today's hearing is the first in a series that will examine consumer fraud and identity theft issues relating to older Americans.

According to the Administration on Aging, nearly 40 percent of America's seniors rank fear of fraud ahead of their concern for health care and the crisis attendant to it and even higher than terrorism. In all, the Nation loses $40 billion per year to telemarketing fraud and over $50 billion to identity theft. These crimes rob America's seniors of their dignity and retirement security.

As we will hear from the Federal Trade Commission, Internet auctions, prize and sweepstakes fraud and lottery scams top the list of fraud complaints received from Americans age 50 and older. What is most disturbing is that these scams routinely top the FTC's annual list of top consumer frauds in the nation. It seems that even though we are aware of their use, scam artists remain successful in pitching old scams to new victims, perpetuating the cycle of victimization.

Through today's hearing I hope we will make progress in finding effective means to break this cycle. Fortunately, a number of Federal, state and community programs, especially groups in Oregon such as Elders in Action, have made a positive difference in helping seniors prevent and recover from fraud and identity theft crimes. However, I believe we can and should do more. Working with my colleagues, I have introduced bipartisan identity theft legislation that would, among other things, place restrictions on the solicitation of Social Security numbers, allow consumers to place a security freeze on their consumer credit reports, and require all entities that handle sensitive personal information to provide notice to affected consumers in the event of a security breach.

I am also mindful that legislation and consumer education must work in tandem. As reflected in the consumer education research that will be presented to us today, one size may not necessarily fit all when it comes to consumer messaging.

Throughout this Congress I will be inviting state and Federal law enforcement agencies, as well as independent consumer protection groups, to embark upon a collaborative approach to responsible and effective consumer education messaging. To further this goal, I welcome today's distinguished panelists and again I thank you all for coming today.

I will turn next to my colleague, Senator Kohl, for his comments and then to Senator Jim Talent of Missouri for his comments.

OPENING STATEMENT OF SENATOR KOHL

Senator KOHL. Thank you, Mr. Chairman, for holding this important hearing. We would like to welcome all of our witnesses here today as we examine ways to combat consumer fraud and identity theft as it impacts our nation's seniors.

It seems that seniors are being targeted more and more by con artists looking for a quick buck. Studies show that up to 5 million seniors fall prey to financial fraud every year. Just last week my Milwaukee office helped a 65-year-old man, who was a businessman all of his life, when he responded to an e-mail he received encouraging him to invest in a Nigerian business venture. The return was supposed to be outstanding. One hundred sixty-five thousand dollars later, this man is left with nothing but an empty retirement account and his wounded pride. Although the FBI was contacted, he was told that these scams are so common and so difficult to trace that they could not do anything to help him recover the money that he has lost.

Seniors like this man become targets every day. They are trusting and come from a generation when business was often conducted on a handshake. Unscrupulous criminals are exploiting this trust and using it to their advantage. Preying on the elderly is certainly nothing new but in a day and age when many seniors are not technologically savvy, con artists have an easier time collecting personal information and using it to swindle a person out of their savings more than ever before.

One way to stem the tide of consumer fraud is consumer education. We need to explain what seniors need to watch for and how not to be victimized. In my home State of Wisconsin we have been working to educate seniors on the pitfalls of financial exploitation. My office has developed a brochure that not only gives seniors an idea of what to watch out for in terms of identity theft, credit card scams, telemarketing schemes and fraudulent lotteries, but also lists where seniors can turn for help.

I have also been working with the Wisconsin Coalition of Aging Groups, the banking industry, and law enforcement in Wisconsin, and recently received confirmation from Federal agencies that Wisconsin banks can report suspicious activities involving a senior's account to law enforcement officials without violating Federal privacy statutes. This is good news for seniors and their families and we'll continue to work with all of our partners to get the message out to seniors on how to avoid being victimized.

As we examine this issue today, it is critical that we keep in mind that senior scams are nothing new. Just as con-men and -women have new high-tech ways of conducting fraud, we, too, must develop new ways of stopping these criminals.

So I thank you once again, Mr. Chairman, for holding this hearing. We look forward to hearing from our witnesses, learning more about how we can put an end to schemes and scams targeting our seniors. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Kohl.

Senator Talent.

OPENING STATEMENT OF SENATOR TALENT

Senator TALENT. Thank you, Mr. Chairman. I think this is a very important hearing and I am not surprised that our senior citizens rank fear of fraud so highly. They are a target because these con artists know that in many cases they have worked very hard and tried to save a little money and I think a lot of people have a sense that well, the only people who are victims are people who perhaps are naive or maybe do not have a lot of experience with the world, but that just is not true. I was just leafing through the statements and I know a lot of the witnesses are going to say that and we know that in our office.

This is a very important hearing. I hope there is more we can do here in the Federal Government to try and help our seniors. I also want to echo what you said about the number of good state and local programs that are out there. We have several in Missouri. I want to mention in particular the O'Fallon, Missouri Police Department Senior Citizens Police Academy, which has been very effective because the seniors can come in and learn about these scams, and also what Clay County is doing with an elderly protection initiative for homeowners.

So I am glad you are holding this hearing. I am very interested in what the witnesses have to say and what we can do productively to try to help fight this. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Talent.

Our first panel will consist of Ms. Lois Greisman. She is the associate director of the Division of Planning and Information at the Federal Trade Commission. They will be releasing a first-of-its-kind report compiling fraud and identity theft statistics on Americans age 50 and older. Ms. Greisman, I am pleased that you are here and we welcome you and look forward to your testimony.

She will be followed by Mr. Zane M. Hill, acting assistant chief inspector at the United States Postal Inspection Service. He will be discussing the agency's law enforcement efforts and premier a new consumer education video. Mr. Hill, we welcome you, as well, and we will hear first from Ms. Greisman and then you will be following her.

STATEMENT OF LOIS GREISMAN, ESQ. ASSOCIATE DIRECTOR, DIVISION OF PLANNING AND INFORMATION, FEDERAL TRADE COMMISSION, WASHINGTON, DC

Ms. GREISMAN. Thank you very much, Mr. Chairman, Senator Kohl. The written testimony submitted represents the views of the Commission. My comments and any responses I have to your questions reflect my own views and do not necessarily reflect the views of the Commission or any individual commissioner.

I am delighted to have the opportunity this afternoon to discuss the Commission's efforts in fighting consumer fraud against older Americans. We have worked closely with your committee over the years to protect senior Americans and we welcome the opportunity to continue these critical initiatives.

I am also very happy to appear on the same panel as assistant chief Inspector Zane Hill. The U.S. Postal Inspection Service has been an indispensable partner in the fight against identity theft and consumer fraud. Our close working relationship has proven both effective in prosecuting wrongdoers and efficient in protecting consumers.

We all are sensitive to the fact that certain fraudsters may target older Americans and place them at higher risk than the population at large. In 2004 we received almost 650,000 fraud and identity theft complaints directly from consumers and from others. It is this rich source of information that we used to develop the extensive report we have provided to the committee, which analyzes the complaints received from consumers aged 50 and older. As you said, Mr. Chairman, this is a unique report that we have produced.

The FTC uses the information in this report and all other complaint information in guiding its law enforcement and consumer and business outreach initiatives, and this vital complaint information is also made available through our consumer sentinel network to over 1,300 law enforcement agencies, which in turn use it to identify and prosecute crooks. The FTC's report provides a tremendous amount of information about what older Americans tell us about being victimized. I want to emphasize a few points in that report about the fraud data.

First, older Americans are not immune from any particular type of fraud. The most frequent complaints involve fraud about Internet auctions, sweepstakes and lotteries, Internet services and computers. We see these same complaint categories when we look at the entire population, but some things do stand out. For example, complaints about sweepstakes rank second for older Americans but rank fifth for the entire population and the FTC's report shows that the number of sweepstakes complaints received increases significantly from consumers aged 70 and older, as does the total dollar loss reported by victims.

The FTC has sued many companies for sweepstakes frauds, many of which have been based in Canada. Our goals always have been to close down illegal operators and if at all possible, get money back to the victims.

Second, looking at the report it also was striking to see that 41 percent of the fraud complaints from older Americans are Internet-related. What that means to us as we define it, that means that the company initially contacted the consumer by the Internet, the

consumer responded to a solicitation via the Internet, or the solicitation itself concerned an Internet product or service. The 41 percent figure itself should not be surprising but it is a significant increase from the 33 percent figure for consumers aged 50 and older that we saw looking at the 2002 data.

At bottom, we analyzed all the complaint data in the report to help us maximize our law enforcement activities. Halting fraudulent conduct is a cornerstone of the FTC's consumer protection mission in protecting older Americans, whether the cases involve alleged sweepstake scams, misrepresentations about a purportedly new Medicare program, or health claims about the benefits of a dietary supplement called "Senior Moment."

Law enforcement, however, is just one tool. We aggressively work to reduce fraud and identity theft through consumer and business education. We have developed a wealth of educational materials that alert consumers to signs of fraud and advise them about how to protect their sensitive information. Other educational materials inform businesses about how to safeguard personal information and how to assist customers who have been victimized. The FTC also partners with other agencies and organizations to reach a wide audience. The AARP is a key partner. Whose many publications frequently include articles about how to avoid and report fraud and identity theft. The AARP also has cobranded FTC publications and distributed them to its members.

Further, the FTC looks forward to working with this committee to ensure that these materials reach senior Americans and all other consumers. I have provided the committee with a sample of these materials. It is in this large packet of information and I would be remiss not to note at the back is a "Do Not Call" fan, which is one of my favorite programs.

All of these materials are available on our website, in both English and Spanish. We hope to continue conducting outreach programs and campaigns with your offices and with others to make the Commission's consumer education materials and our on-line complaint forms available through your websites as we continue our efforts to protect older Americans.

Thank you for the opportunity to describe the Commission's activities. I will be happy to address any questions you may have.

[The prepared statement of Ms. Greisman follows:]

PREPARED STATEMENT OF

THE FEDERAL TRADE COMMISSION

on

IDENTIFYING AND FIGHTING CONSUMER FRAUD AGAINST OLDER AMERICANS

Before the

SENATE SPECIAL COMMITTEE ON AGING

Washington, D.C.

July 27, 2005

I. Introduction

Mr. Chairman, Ranking Member Kohl, and members of the Committee: I am Lois C. Greisman, Associate Director of the Division of Planning and Information in the Federal Trade Commission's Bureau of Consumer Protection.[1] I am pleased to be able to discuss with you today how consumer fraud and identity theft affect older Americans; how we at the FTC identify and prosecute these frauds; and how we use our consumer education program to help older consumers guard against fraud and identity theft in the first place. With complaints received by the FTC in 2004 showing $152,000,000 in fraud losses by consumers age 50 and over, this is a problem that deserves an aggressive response.[2]

FTC consumer complaints and survey data indicate that fraud against older consumers mirrors fraud against the population as a whole. For example, Internet auction fraud is the top category of fraud complaints for consumers both younger and older than 50 years. Our FTC data show that in some respects, however, older consumers are more likely to fall victim to certain types of frauds. Prize and sweepstakes fraud is more prevalent among older consumers than among the public at large, and is particularly prevalent among consumers age 70 and older. And although we tend to think of the Internet as the domain of the electronic generation, older consumers are finding benefits – and scams – online. Consumers over age 50 who filed

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[1] This statement represents the views of the Commission. My oral presentation and responses to any questions you have are my own, however, and do not necessarily reflect the Commission's views or the views of any individual Commissioner.

[2] Much of the data referred to in this testimony is drawn from the FTC's *Report on Fraud and Identity Theft Complaints Received by the Federal Trade Commission from Consumers Age 50 and Over*, May 2005 (hereafter *Older Americans Report*), attached to this testimony as Appendix 1.

complaints with the FTC reported losing roughly $43.5 million due to Internet-related fraud in 2004. As discussed below, the FTC is using its resources to identify the nature of these problems, working with our state and federal law enforcement partners to bring actions in appropriate cases, and working with private and public groups to educate consumers on how to spot and steer clear of fraud.

II. An Overview

From fraud to identity theft, the FTC has developed a rich collection of data that enable us to detect activities that cause significant consumer harm. Consumers who contact the FTC provide the greatest source of data. Consumers reach us through our toll-free hotlines (877 FTC HELP and 877 ID THEFT) and online complaint forms (found at ftc.gov and consumer.gov/idtheft). We also receive valuable complaint data *via* external data contributors such as the FBI's Internet Crime Complaint Center, Canada's Phonebusters, local Better Business Bureaus, the US Postal Inspection Service, and the Social Security Administration's Office of Inspector General. We enter these complaints into the FTC's Consumer Sentinel system, a web-based network that links more than 1,300 law enforcement agencies throughout the United States, Canada, and Australia to over 2 million fraud and identity theft complaints.[3] These agencies have direct access to complaints that enable them to develop cases, locate witnesses, and seek enhanced sentences for criminal prosecutions. Membership in the Sentinel

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[3] Consumer Sentinel, which is available to law enforcement agencies free of charge, also provides access to other investigative tools, including a library of telemarketing tapes, points of contact in domestic and foreign agencies, and model forms and pleadings for both criminal and civil fraud prosecutions. Sentinel has been an exceptionally successful model of law enforcement cooperation.

network ranges from local police departments to every state Attorney General and every major federal investigative agency. In addition to its use by law enforcement agencies in developing and pursuing investigations, the Sentinel data provide a window into consumer fraud and identity theft, which we track year-by-year for statistical analysis.

In 2004, the FTC received almost 650,000 fraud and identity theft complaints. Eighty-five percent of the complaints provided the consumer's age, and approximately a quarter of those complaints (145,895) were from consumers age 50 and over. Sixty-five percent (94,441) of the older consumers reported that they were victims of fraud and 35 percent (51,454) asserted that they were identity theft victims. The top fraud complaints categories from consumers age 50 and older were: Internet Auctions; Prizes/Sweepstakes and Lotteries; Internet Services and Computer Complaints; Shop-at-Home/Catalog Sales; Foreign Money Offers; Telephone Services; Advance-Fee Loans and Credit Protection/Repair; and Business Opportunities and Work-at-Home Plans.[4]

While older consumers are active web-users, they report less online-related fraud than the public at large. Focusing solely on the 94,441 fraud complaints, 18 percent of older fraud victims report that they were initially contacted by a company *via* the web, versus 22 percent for the public at large. Fraud initiated by email, such as spam, accounts for a smaller percentage of contacts for older consumers as well, with just 27 percent reporting it as the initial means of contact, as opposed to 35 percent for the general population. Twenty-five percent of older

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[4] *Older Americans Report*, Page 3.

consumers identified the telephone as the manner in which they were contacted, whereas only 16 percent of the general population reported that as the initial means of contact.[5]

The FTC's consumer data are self-reported, and therefore do not necessarily reflect general nationwide trends or the actual incidence of the fraud/crime in any given year. FTC staff therefore conducted two surveys to study the overall prevalence and costs associated with identity theft and consumer fraud.[6] The Fraud Survey found that older consumers do not appear any more likely to be fraud victims than younger consumers.[7] Controlling for certain features, the results of the survey "suggest that seniors [age 65 and older] face the lowest risk of being a victim."[8] Older consumers, however, were found less likely to complain, once victimized. Indeed, only 55 percent of consumers age 55-64 reported being victimized by fraud, as opposed to over 70 percent of consumers between the ages of 18 and 54 who were victims.[9]

This testimony will draw upon both FTC complaint data and the surveys to illustrate older Americans' experience with fraud and identity theft.

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[5] *Older Americans Report*, Page 7; *2004 Annual Trends*, page 7.

[6] The *Federal Trade Commission - Identity Theft Survey Report* (September 2003) can be found at ftc.gov/os/2003/09/synovatereport.pdf. The fraud report, entitled *Consumer Fraud in the United States: An FTC Survey,* Federal Trade Commission Staff Report (hereafter *Fraud Survey)* (August 2004) can be found at ftc.gov/reports/consumerfraud/040805confraudrpt.pdf. The Fraud Survey targeted ten specific types of fraud which were selected because they cover the most prevalent types of complaints reported in the FTC's complaint database and are frauds that have frequently led to FTC enforcement actions.

[7] *Fraud Survey,* page 68.

[8] *Id.*

[9] *Fraud Survey,* page 86.

III. Internet Fraud

The Internet helps keep older Americans connected to their families, world events, and the marketplace in ways unimaginable 10 years ago. However, just as older Americans have reaped the benefits of this powerful medium, so too have they experienced its dangers. Thus, it is not surprising to find that 41 percent of all reported fraud complaints from consumers age 50 and older were Internet related.[10] This figure is all the more dramatic when one considers that Internet-related fraud represented only 33 percent of all fraud complaints from this age group in 2002. The most common Internet-related fraud involves Internet auctions (43 percent), followed by online shop-at-home and catalog sales (14 percent), and Internet access services. Consumers age 50 and older reported being defrauded of over $43 million in 2004 through Internet-related scams.

Because Internet auction fraud has reached so many consumers, the Commission has an ongoing program to address these high-tech rip-offs. First, in addition to prosecuting Internet auction fraud cases itself, the Commission uses outreach and training to support local, state, and federal law enforcement agencies throughout the nation in their efforts to investigate and prosecute Internet auction fraud artists. The FTC's Consumer Sentinel plays a key role in identifying Internet auction fraud artists and providing consumer complaints about those fraud artists to law enforcement. Second, through formal meetings and informal discussions with the

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[10] *Older Americans Report* page 4. A fraud complaint is "Internet-related" if: it concerns an Internet product or service; the company initially contacts the consumer *via* the Internet; or the consumer responds *via* the Internet. It is interesting to note that Internet-related fraud drops off for consumers age 70 and older. For example, Internet auction is the top complaint for consumers age 50-59 and 60-69. However, it drops to number 6 for consumers 70 and over. *See*, *Older Americans Report*, page 11.

operators of the largest Internet auction web sites, the FTC encourages the auction web sites to adopt meaningful consumer protection measures. Third, the Commission tracks trends in Internet auction fraud and seeks to educate consumers who are using Internet auctions about ways to minimize the risk of being ripped off.

IV. Prize and Sweepstakes Fraud and Other Cross-Border Scams

Almost 12,000 older consumers complained to the FTC that they were victims of fraudulent prize or sweepstakes promotions in 2004.[11] These reported frauds generally involve notifying consumers by mail or telephone that they have won a substantial monetary prize, which they can claim only if they pre-pay the taxes or other fees on the award. The complaints indicate that this fraud cost older consumers almost $35 million in 2004, with approximately $2,000 as the median amount paid.[12] These frauds can be devastating to consumers who sometimes cash out retirement funds to claim their purported prizes.

Lottery and sweepstakes frauds, many of which originate in Canada, have been major targets of FTC enforcement actions. Partnering with our law enforcement colleagues from the Royal Canadian Mounted Police (RCMP) and other Canadian law enforcement offices, the FTC has succeeded in shutting down many of these operations and obtaining judgments against the alleged fraud artists.[13]

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[11] *Older Americans Report*, page 10.

[12] *Id.*

[13] *See, e.g.*, *FTC v. World Media Brokers, Inc., et al.* (N.D. Ill. July 29, 2004) (ordering payment of $19 million in redress to consumers); *FTC v. Duraisami*, (W.D. Wash.);

(continued...)

Other cross-border scams have involved the sale of alleged fake credit card protection services and discount drug services, advance-fee credit cards, and other benefits.[14] Preying on consumers' greatest fears, one particularly egregious fraud involved telemarketers who allegedly represented themselves as calling from Social Security or Medicare. They allegedly told the consumers that unless they provided their Social Security number and bank account information, they would no longer receive Social Security benefits. They also told the older consumers that, for a $299 fee, they would be enrolled in a new Medicare program.[15] The FTC took swift action, obtaining a preliminary injunction freezing the defendants' assets and shutting down their operation.

The increasingly international nature of fraud presents a growing challenge for law enforcement. In June 2005, the FTC released a report to Congress recommending legislative changes that would enhance the agency's ability to combat cross-border fraud.[16]

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[13] (...continued)
FTC v. D&C Nat'l Holdings, Ltd., Civ. No. 02-1134 (W.D. Wash. final judgment entered Jan. 23, 2004); *FTC v. Dillon Sherif*, Civ. No. 02-0294 (W.D. Wash. final judgment entered April 14, 2003); *FTC v. NAGG Secured Investments,* Civil No. C00 - 2080Z (W.D. Wash. final judgment entered July 7, 2003). These cases ordered $1.5 million in consumer redress.

[14] *FTC v. 120194 Canada Limited*, Civ No. 04C 7204, (N.D. Ill) (complaint filed November 8, 2004).

[15] *FTC v. Xtel Marketing*, Civ No. 04C-7328e (N.D. Ill) (stipulated preliminary injunction entered December 17, 2004).

[16] *See*: *US Safe Web Act: Protecting Consumers from Spam, Spyware, and Fraud*, June 2005, found at ftc.gov/reports/ussafeweb/USSAFEWEB.pdf.

V. Health-Related Fraud

Although health care-related complaints are not among the top categories reported to the FTC by older consumers, they nonetheless represent a great concern to the Commission because the consequences of health-related fraud can be so dire.[17]

The Commission has taken a range of actions to curtail deceptive or unsubstantiated claims by dietary supplement marketers and other health care service providers. For example, marketers of a dietary supplement dubbed "Senior Moment" settled charges that they made unsubstantiated claims that their products could prevent memory loss and restore memory function in adults.[18] In another recently concluded case, a Canadian defendant claimed that its cancer treatment, "Zoetron Therapy," could cure cancer. Consumers allegedly misled by the defendants' claims paid up to $20,000 to travel to Mexico for this treatment. A final judgment prohibits the defendants from promoting this therapy, and imposed a suspended judgment of $7,650,000.[19]

Following up on these and other law enforcement efforts, Commission staff conducted a surf of the Internet and identified 90 marketers selling dietary supplements and products that purported to have anti-aging benefits, including reducing fat, cholesterol, and blood pressure while increasing muscle mass and improving cognitive, immune, and sexual function. In June

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[17] "Health Care" ranks 9th among fraud categories, just after "Business Opportunities." It is not represented on the pie chart on page 5 of the *Older Americans Report* because it represents less than 2 percent of all complaints from consumers age 50 and older.

[18] *In the Matter of Nutramax Laboratories, Inc.*, Docket No. C-4116 (final consent order August 31, 2004)

[19] *FTC v. CSCT,* Civ No. 03 C 00880 (N.D. Ill.) (Final Judgment entered February 17, 2004)

2005, staff issued warning letters to these marketers, informing them that health claims must be supported by competent and reliable scientific evidence. The letters further stated that the Commission was unaware of any such substantiation to support their claims of anti-aging benefits and instructed the marketers to discontinue any deceptive claims immediately.[20]

VI. Identity Theft

Misuse of sensitive information threatens consumers' sense of economic security and undermines confidence in our financial systems. Although the published report from our identity theft survey did not include an age-based analysis, the survey did yield age-related data.[21] These data show that 31.6 percent of all victims were age 50 or older, with 10.3 percent in the age range of 50-54, 12.1 percent of all victims in the 55-64 range, and 9.2 percent older than 64. If we look only at the more serious types of ID theft – those that involved more than just having unauthorized charges placed on the victim's existing accounts – the victim was at least 50 in 21.7 percent of cases. Consumers who were 65 and over accounted for 4.5 percent of all cases of this type of fraud.

The Commission's own complaint data provide another window on the experience of older Americans. Last year, the Commission received nearly 250,000 identity theft complaints. Approximately 51,000, or 22 percent, came from consumers age 50 or older. The most striking difference between consumers under 50 and those over 50 was the greater prevalence of older consumers complaining that new credit accounts had been opened in their names. While such

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[20] *See*, press release at ftc.gov/opa/2005/06/greatamerican.htm.

[21] Appendix 2 provides an age-based analysis of the *Identity Theft Report.*

complaints represented 16.5 percent of all ID theft complaints for the general population, 19.6 percent of complaints from older consumers involved this type of identity fraud. Our identity theft survey found that this form of "New Account" fraud was more difficult for consumers to discover, more costly, and posed greater challenges for recovery.[22] Not surprisingly, older consumers were less likely to experience fraud associated with others seeking or obtaining employment in their names. Among the general population, this represented 13 percent of all episodes.[23] However, only 5 percent of the instances of identity theft reported by older consumers involved employment-related identity theft.[24]

Combating identity theft is a high priority for the Commission. We have developed a comprehensive program to attack this problem that includes: (1) substantial consumer and victim assistance; (2) a virtual library of consumer resources including the central identity theft website at consumer.gov/idtheft; and (3) a training program for criminal investigation conducted jointly with the US Department of Justice, the Secret Service, FBI, and American Association of Motor Vehicle Administrators for local law enforcers throughout the country on how to respond to identity theft victims, and how to build a case for prosecution.[25]

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[22] *Identity Theft Survey Report*, page 7.

[23] *Older Americans Report*, page 13.

[24] *See FTC National and State Trends in Fraud & Identity Theft* (2004), page 10. This report can be found at www.consumer.gov/sentinel/pubs/Top10Fraud2004.pdf.

[25] For a comprehensive description of the Commission's identity theft program, see recent testimony before the Senate Committee on the Judiciary, *Securing Electronic Personal Data,* April 13, 2005, pages 17-21.

VII. Consumer Education

While the Commission has an aggressive program to combat fraud through litigation, an equally critical effort is reaching consumers before they fall prey to a scam. Consumer education is a key component to every element of our enforcement agenda, and we work to reach all segments of the population, including older consumers.

The FTC's web site provides a wealth of information for older consumers, including brochures on telemarketing fraud, Internet auction fraud, sweepstakes and lotteries, miracle health claims, reverse mortgages, and work-at-home schemes. We also have formed a partnership with the AARP to ensure that our messages reach as broad an audience as possible. Numerous articles about FTC anti-fraud and identity theft campaigns appear in AARP's publications, which reach millions of households. The AARP itself has reprinted and co-branded the FTC's identity theft publications, and links to many of our resources from their website. AARP also conducts valuable consumer research on the older American experience with fraud.

The FTC sends representatives to conferences and community events as well. At AARP's 2004 conference, the FTC was able to reach 27,000 attendees with information on a wide variety of issues, ranging from the Do Not Call registry to identity theft to spam. Our regional offices also organize and attend community events for seniors, where they offer information on avoiding scams, and referrals for those who have been defrauded.

VI. Conclusion

Our data show that fraudsters and identity thieves do not discriminate when it comes to committing trickery - everyone is at risk. Because older consumers are often on limited incomes,

and may not have the support to identify and avoid scams, the FTC will continue to use all the tools in our arsenal to identify the problems, attack those who exploit older consumers for their own financial gain and educate older people to the telltale signs of fraud.

The CHAIRMAN. Thank you very much.

Mr. Hill.

STATEMENT OF ZANE M. HILL, ESQ., ACTING ASSISTANT CHIEF INSPECTOR, UNITED STATES POSTAL INSPECTION SERVICE, WASHINGTON, DC

Mr. HILL. Thank you very much, Mr. Chairman, members of the committee. I want to first of all thank you for the opportunity to testify today about crimes against the elderly. The mission of the U.S. Postal Inspection Service is to protect the U.S. Postal Service as an agency, its employees, and the mails from criminal attack and criminal misuse.

I think I want to show a video at this point in terms of our work with crimes against the elderly so you can see what we are trying to accomplish here. [Video shown.]

Before I begin, I would like to acknowledge our Federal partner, the Federal Trade Commission, and the wonderful work that they have done with us in terms of training initiatives, education, legislation, enforcement actions. We have an excellent working relationship with them and I think we are actually doing some good to protect our seniors from fraud.

There are countless illegal schemes that violate the Federal mail fraud statute, which is the very first consumer protection law enacted in 1872. It is still the most effective fraud enforcement weapon and postal inspectors have used it for over 100 years.

Last year, for example, we responded to over 82,000 mail fraud complaints. Out of that we investigated over 3,000 fraud cases and arrested over 1,400 individuals for mail fraud. As a result of these investigations there was over $1.2 billion in court-ordered involuntary restitution and this was only a portion of the total financial impact these crimes had upon American citizens.

Over the years postal inspectors have used the mail fraud statute to investigate and prosecute all types of scams. The advent of the telephone brought telemarketing scams and then the advent of the Internet brought Internet scams. Each of these bring their own offerings but really it is in many cases the same scam, just a different twist. Eventually the mails will become involved in the scheme and that is when postal inspectors will become involved in the investigation.

Because older citizens, the physically challenged and shut-ins rely on the mail and these other forms of communication for many of their purchases and their personal business, they become easy prey for these fraud operators. The problem is further compounded by fraud operators who sell the names and addresses of their victims to other operators, resulting in repeated victimization of many elderly citizens.

The same holds true for telemarketers. Most offers are legitimate but unscrupulous telemarketers can be the smoothest of operators and they can quickly defraud people out of their life savings.

Losses attributed to telemarketing fraud are estimated to exceed $40 billion per year. Unfortunately, senior citizens are shown to be particularly vulnerable to these fraudulent solicitations. Fraudsters recognize this and they recognize that many seniors are widowed, alone, isolated from family and friends, and they take advantage

of this. A telephone call from anyone to some of our senior citizens is welcome and our experience has shown that con artists know how to make the most of this. Once they have them on the telephone line, then they can manipulate them.

In searches of fraudulent telemarketers' places of business we have discovered the files of the operators that they have maintained on their victims. These files tell us a great deal about how these cons are worked. The information contains intimate details of the victim's health, the names of their children, vacation and travel memories, and even information on deceased spouses.

Telemarketers in particular use this information when they call their victims to give their sales pitch a personal touch, a hook if you will. They will mention family names, inquire about their health, and very effectively portray themselves as being caring and knowledgeable.

For these victims, these telephone calls may be one of the few regular contacts they have with other people and the victims actually sometimes value this interaction with someone willing to talk with them. Victims often even defend the fraud operators in the continued belief that they are, in fact, their friends who are trying to help them win a sweepstakes and gain some money.

Sadly, in our investigation some victims will acknowledge that they believed that the fraud operator was taking advantage of them but explain that they had no one else that they could talk to, and this is a sad commentary.

One particular technique called the "You have won" scheme, targets elderly victims who have previously participated in lotteries, sweepstakes, and other prize-winning opportunities. Fraudsters inform these seniors that they have own; however, they are required to pay either administrative fees, taxes or membership fees before the prize check can be mailed. We know how this ends. The victim receives nothing; the scam artist receives the fee.

Another tactic utilized by con artists is to tell a senior that they have won a large cash prize and then ask them for some identification by providing a credit card number, a bank account, or other personal information so that they can verify the senior as the winner.

Armed with this personal financial information, fraudsters can quickly clean out the accounts of these unknowing senior victims.

One of the most notorious scams that we have seen against seniors is what is known as the reload. It is a very offensive tactic that bothers all of us in this business. When fraud operators are successful in obtaining money from a victim, they often make an attempt to gain even more money. This is the reload. In a typical reload, the fraud operator contacts the victim again and alters the original scam or represents a new scam sweepstakes. Winners may be told that their prize has been increased but that additional fees are necessary to claim the new prize, and then starts the cycle of the reload. Victims in fraudulent investment schemes may be convinced to invest more money or to convert their investment to another market product which invariably is worth even less than what they initially had been sold before.

Also, fraudulent telemarketers often network with other operators and sell or exchange target lists. The con artists refer to these

lists as "mooch lists" or "sucker lists," and you can tell from the name of the list what they think about them.

If a telemarketer knows a particular senior has fallen for several scams, they will call this senior, pose as either an attorney or law enforcement officer and advise them that they have arrested the con artist from the earlier schemes and seized the money. This is the start of the scam. The victim's money is described as being held either in a State fund or held by the courts. The scam artist will then request a fee to release those funds to the victim and in doing so steal from the victim again. As you can see from this, there are just multiple opportunities under a reload for the victims to be re-victimized again and again.

Many seniors have been robbed of their hard-earned life savings through illegal telemarketing and mail fraud schemes, but also there is a tremendous emotional cost that associates with this. The senior victims lose not only their money but also their self-respect and their dignity because they have been duped. We have interviewed victims in some of our cases who have claimed they could not remember sending anything to the operators or out of embarrassment would never acknowledge how much money they actually lost. Let me give you one example.

An example of a recent Inspection Service case highlights an 86-year-old widower and World War II veteran from Pennsylvania who was the victim of a sweepstakes fraud. Over the course of 2 years, this senior lost his entire life savings to con artists who repeatedly promised him $850,000 in prize money provided he would pay in advance a series of customs fees, taxes, and legal fees in addition to his savings account. In reading the account of this, it was multiple reloads and multiple interactions by different groups that just continued to victimize him.

It gets even worse. After he lost his life savings, the victim then used his Social Security income and sold his stock shares to cover the purported processing fees for the monies he had won. He never received any of the prize or any of the sweepstakes.

Criminal prosecution is an important element in our fraud program, but it is not the only tool that we use. We also use civil fraud and our administrative authority to shut down the use of mails for those fraud operators that are using that as a vehicle to commit these crimes. The most important thing that we have seen in our good work with the FTC has been in the area of consumer education. We think this is probably where we need to place a lot of our work and attention to educate them. I want to tell you about some of those efforts and the success that we have had with them.

In September 2003, our postal inspectors, in conjunction with the Postal Service, the FTC, and other Government agencies and private companies, unveiled a national consumer awareness program on identity theft known as Operation: Identity Crisis. This campaign focused on the ease with which identity theft occurs unless consumers take steps to prevent it. The video that you watched is one of those types of videos that we do as a part of these campaigns.

Even though this crime affects all age groups, including older Americans, according to complaints that the FTC just spoke about, the percentage of seniors as a victim group rose from 17 to 21 per-

cent, so we are actually seeing an increase in the numbers of senior victims to these types of frauds. The Inspection Service has recognized for many years that awareness in terms of consumer fraud is where our emphasis needs to be. We will continue to try to increase those efforts and to partner once again strongly with the FTC and other organizations to get that message out.

Prevention efforts must focus on the key factors that play the greatest role in identity compromise. Unfortunately, the traditional way to steal personal information has not changed in terms of identity theft. Obtaining lost or stolen wallets, checkbooks, credit cards is still the favorite method, according to Congressional Quarterly Research. While this is a challenge, it really pales in comparison to the 52 million identities that have been compromised through electronic means since the beginning of this year. This is why prevention of the crime is a priority for the Inspection Service.

You have all heard the saying "Crime doesn't pay," but in this case, it does in a very positive way for some of the victims. All of the campaigns that we have been involved with have been paid by a unique funding arrangement where we use monies received from criminal fines and forfeitures in cases where the victims could not be identified and the money could not be returned to them, just like the video that you saw. In addition, this money also pays for funding for public service announcements and other very proactive consumer campaigns that we are involved with.

As you understand, the more that we can get the message out to that part of our population, the more we can tell them things to look for. They are very knowledgeable. They can identify some of these factors. We think that we will be very effective there if we can continue that very aggressive push in terms of the education.

Another campaign that we actually did also in 2004 was to raise awareness about investment fraud and help consumers avoid becoming victims of those types of scams. This one, perhaps you remember, was called "Dialing for Dollars," and it included a video portraying investment scheme that actually targets older Americans.

This past February, in February 2005, we teamed up with the Postal Service consumer advocate and other Federal, State, and local consumer protection agencies, and launched a campaign to inform consumers how to avoid fraudulent work-at-home schemes. A multimedia approach conveyed the message with ads placed in newspapers and magazines reaching over 45 million readers.

Last month, the Inspection Service and the Direct Marketing Association announced a nationwide consumer education initiative to educate Americans on how to avoid being scammed by the fraudulent sweepstakes like you just saw. In August, a foreign lottery campaign is planned to protect the public from those scams that take the money with the purchase of "tickets" and then charge a fee to collect the fictional winnings.

Americans trust the Postal Service and the mail. Seniors have relied on this mail system their entire lives for their financial and their personal business. The Inspection Service is totally committed to continue its work of ensuring that the mails are secure and not used for criminal and fraudulent purposes. We will continue to be vigilant for those fraud schemes that target our senior citizens.

In closing, Mr. Chairman, I would like to extend an invitation to you and the committee to join us in a National Fraud Prevention Campaign that we are planning to kick off during Consumer Protection Week in February 2006. This will focus specifically on educating senior citizens about the various fraud schemes that target their age group.

That concludes my remarks. Thank you.

[The prepared statement of Mr. Hill follows:]

Statement of Zane M. Hill, Acting Assistant Chief Inspector

United States Postal Inspection Service

Crimes Against the Elderly

Before the

Senate Special Committee on Aging

U.S. Senate

July 27, 2005

Mr. Chairman and members of the Committee: thank you for holding this hearing on the topic of crimes against the elderly. I appreciate the opportunity to discuss the subject, and the role of the United States Postal Inspection Service in combating it. Before I begin, I'd like to acknowledge one of the most important working partners we have in our efforts to protect consumers, particularly older Americans, the Federal Trade Commission. We have partnered with the FTC on numerous crime prevention efforts, training initiatives, legislation, and enforcement actions. Together our agencies have joined in the battle to protect older Americans.

Role of the Postal Inspection Service

The U.S. Postal Service delivers more than 206 billion pieces of mail a year, containing money, messages, and merchandise, to 142 million addresses at some of the most affordable postage rates in the world. U.S. Postal Inspectors are mandated to safeguard all of it—including the people who move it and the customers who use it.

Congress empowered the Postal Service "to investigate postal offenses and civil matters relating to the Postal Service." Through its security and enforcement functions, the Postal Inspection Service provides assurance to American businesses for the safe exchange of funds and securities through the U.S. Mail; to postal customers of the "sanctity of the seal" in transmitting correspondence and messages; and to postal employees of a safe work environment.

There are approximately 1,900 Postal Inspectors stationed throughout the United States who enforce roughly 200 federal laws covering investigations of crimes that adversely affect or fraudulently use the U.S. mail and postal system. Approximately 300 Postal Inspectors conduct mail fraud investigations, including those that target the elderly.

The Mail Fraud Statute and Its Use

There are countless illegal schemes that violate the nation's first consumer protection law—the Mail Fraud Statute, enacted in 1872. This statute is the most effective fraud enforcement weapon and U.S. Postal Inspectors have been using it for over 100 years. Last year, Postal Inspectors investigated 3,242 fraud cases and our analysts prepared more than 82,000 letters in response to mail fraud complaints. In 2004, Postal Inspectors arrested 1,446 mail fraud offenders, and 1,245 were convicted. As a result of these investigations, there was more than $1.2 billion in court-ordered and voluntary restitution.

Crimes Against the Elderly Investigated by U.S. Postal Inspectors

The most common examples of mail fraud against consumers investigated by Postal Inspectors are internet action fraud, illegal contest and sweepstakes schemes, foreign lotteries, phony billing scams and work-at-home schemes. Older citizens, the physically challenged, and "shut-ins" conveniently receive many of their purchases by mail. Sadly, that makes them easy prey for mail fraud operators. The problem is compounded by operators who sell the names and addresses of their victims to other criminal elements, resulting in the repeated victimization of many elderly citizens.

Americans receive thousands of unsolicited phone calls from telemarketers each year trying to sell a variety of products, with older citizens often the target. By definition, telemarketing involves the use of the telephone. But calls are often preceded or followed by a postcard or letter. In most business transactions, including fraudulent ones, it is difficult not to use the mail.

Many offers are legitimate, but unscrupulous telemarketers can be the smoothest of operators. Losses attributed to telemarketing fraud are estimated to exceed $40 billion per year.

Tactics Used by Fraudulent Operators

Many senior citizens are vulnerable to being victims of telemarketing and mail fraud scams. Fraudsters recognize that many of these seniors are widowed and feel isolated. A telephone call from anyone is greeted with open arms. Experienced con artists understand elderly citizens' vulnerabilities and know what buttons to push when they have them on the telephone.

In searches of telemarketers' places of business, we have discovered the files they maintained on their victims. The files contained intimate details of the victims' health, the names of their children, vacation and travel memories, and even information on deceased spouses. Telemarketers, in particular, use this personal information when they call their victims. They mention family names, inquiring solicitously about their health, and very effectively portray themselves as being caring and knowledgeable. For the victims, these telephone calls may be their only regular contact with other people, and the victims actually value the interaction with someone willing to talk with them. Victims often even defend the fraud operators in the continued belief that they are "friends" who are trying to help them win a sweepstakes or manage investments. Some victims will even acknowledge that the fraud operator is taking advantage of them, but explain that they had no one else who showed interest in them.

One particular technique used by fraudsters is to target those who are ill or in early stages of dementia. It is known as "the check is in the mail." The telemarketer will call a senior posing as a representative of a local business or hospital and ask if they have paid their bill, invoice, etc. Since the senior's memory might be poor, the victim often thinks they have forgotten about this bill and will promptly write a check and put in the mail. Telemarketers target seniors also because they know they have large savings and or retirement funds they can withdraw if they choose. These large retirement accounts are attractive targets of con artists.

"You have won" schemes target elderly victims who have previously participated in lotteries, sweepstakes, and other prize winning opportunities. Seniors are told that they have won—however, either administrative fees, taxes, or membership fees must be paid before the prize check can be mailed. Foreign telemarketers are notorious for this type of scam. They are aggressive and fearless since they are in a different country, and they understand how difficult extradition can be to the United States. This is why the Postal Inspection Service is one of the leading agencies in the Cross-Border Fraud Investigative Initiatives and work closely with Canadian law enforcement.

Another tactic utilized by con artists is to tell a senior that they have won a large cash prize and then ask them to verify their identification by providing a credit card or bank account number so

they can verify they have the right winner. These telemarketers are very persuasive and once they obtain the personal financial information of a victim, they can clean out their accounts.

One of the most notorious scams against seniors is what is known as the "reload." When fraud operators are successful in obtaining money from a victim, they often make an attempt to gain even more. This is the reload. In a typical reload, the fraud operator contacts the victim again and builds upon the original scam by adding a new twist to it, or pitches an entirely new scam. Sweepstakes "winners" may be told that their prize winnings have increased, but that additional fees are necessary to claim the new amount. Victims of fraudulent investment schemes may be convinced to invest even more money, or to convert their original investment to another market product which is invariably worth even less than what the victims were sold before. Fraudulent telemarketers also often network with each other. They sell each other the names of people they have successfully ripped off. The con artists refer to these lists as "mooch lists" or "sucker lists." If a telemarketer knows a particular senior has fallen victim to several scams, the telemarketer will call the senior posing as an attorney or law enforcement officer and advise that they have recovered the victim's money and it is either in a state fund or being held by the courts. The telemarketer will then request an administrative or bonding fee to release the funds, and in doing so steal from the victim again.

Fraudulent telemarketers have the same capability as legitimate businesses to buy lead lists. They can request lists of specific demographics such as the names of people over 60, widowed, handicapped, prior investments over $10,000, etc. The companies that compile and sell lists may or may not know the intentions of the buyer. It is difficult to hold these companies accountable without hard evidence they had knowledge what the lists would be used for.

Impact on Victims

Illegal telemarketing and mail fraud schemes continue to target senior citizens who are often the most vulnerable and trusting. Many senior citizens have been robbed of their hard-earned life savings and frequently pay an emotional cost, losing not only their money, but also their self-respect and dignity. Postal Inspectors have interviewed victims who claimed they could not remember sending anything to the operators, or, out of embarrassment, minimized the level of victimization they experienced.

Interagency and Industry Cooperation

To increase efficiency in investigating suspected mail fraud, Postal Inspectors lead or participate in several law enforcement and consumer group initiatives aimed at safeguarding the public's confidence in the U.S. Mail, and protecting consumers. Listed below are some of our major cooperative efforts.

Health Care Fraud Working Group

Chaired by the Department of Justice (DOJ) Fraud Section, this interagency group seeks to share investigative strategies, prevention and training programs and develop best practices in fighting health care fraud affecting those dependent on health care, mostly seniors. Members include DOJ, the FBI, Health and Human Services Office of the Inspector General, state attorneys general offices, various health care groups and the Postal Inspection Service.

Telemarketing and Internet Fraud

The Telemarketing and Internet Fraud Working Group is chaired by DOJ and as the name implies, focuses on the large problem of telemarketing and the dramatically increasing use of the Internet in fraud schemes. It served as a catalyst in the development of the Cross-Border Crime

Forum (see below). Members of this group include DOJ, the FBI, Federal Trade Commission, Secret Service, state attorneys general offices, and the Postal Inspection Service.

Corporate Fraud Task Force

Created in the wake of the Enron scandal to address the corporate criminal mismanagement, the corporate fraud task force was initiated by a Presidential Directive. Although the term "corporate fraud" implies a business fraud, the vast majority of the victims are the consumer investors who trusted the integrity of the firm. Many seniors have lost their life savings through this wave of corporate greed. The members of the group include several United States Attorneys in districts where the problem appeared, the Treasury Department, the Labor Department, the Securities and Exchange Commission (SEC), the Commodity Futures Trading Commission (CFTC), Federal Energy Regulatory Commission (FERC), Federal Communications Commission (FCC) and the Postal Inspection Service.

Council on White Collar Crime

Chaired by the Attorney General and his staff, this working group meets once a year and includes all the major agencies involved in combating white collar crimes, both civilly and criminally.

Securities and Commodities

Chaired by DOJ to focus on fraud in the stock market, its members include the Postal Inspection Service, the FBI, the SEC, the IRS, the Secret Service and various U. S. Attorneys.

Bank Fraud Working Group

Chaired by the DOJ to focus on fraud against the banking industry, its members include FBI, FDIC, Secret Service, and the Postal Inspection Service. The group meets several times per year to discuss these issues.

Cross-Border Crime Forum

Established by another Presidential Directive, the Cross-Border Crime Forum meets once a year to address problems and solutions to cross-border crimes. Members include DOJ, the FBI, FTC, Customs, the Postal Inspection Service and our Canadian counterparts. The Inspection Service's focus on combating Canadian-based cross-border fraud has expanded considerably through this bi-national working group and the interagency relationships. We are currently involved in the following cross-border task forces: Atlantic Partnership (Nova Scotia), Project Colt (Quebec), Toronto Strategic Partnership (Ontario), Project Emptor (British Columbia), Vancouver Strategic Partnership (British Columbia), and the Alberta Partnership (Alberta).

Consumer Education and Fraud Prevention Initiatives

Criminal prosecution is an important element in our fraud program, but it is not the only tool. Arrests are not the only solution. The Postal Inspection Service works to protect consumers by educating them about current fraud schemes so they don't become victims. For years, Postal Inspectors have led fraud prevention projects and participated with consumer protection agencies and other groups to help citizens protect themselves before they become victims of fraud.

Project kNOw Fraud

Responding to the proliferation of telemarketing fraud cases, the Postal Inspection Service led an interagency group of law enforcement and consumer organizations in what was named Project kNOw Fraud, one of the most ambitious fraud prevention initiatives ever undertaken. In 1999,

Project kNOw Fraud sent a postcard to every household in America—more than 123 million addresses.

National Fraud Against Senior Citizens Awareness Week

In June 2001, the Inspection Service initiated another project. In this effort, we reached out to senior citizens to help prevent fraud in this population who had become prime targets for telemarketing schemers. *National Fraud Against Senior Citizens Awareness Week* was established to raise the awareness of older citizens about illegal telemarketing and mail fraud schemes. In support of the effort, the Senate passed a resolution, introduced by Senators Carl Levin and Susan Collins, designating the week of August 25, 2002, as "National Fraud Against Senior Citizens Awareness Week."

An immediate success of the campaign was declared when, during its first week, a woman in her 80s went to a small Post Office near Pittsburgh, Pennsylvania, to mail a $2,200 cashier's check to Canada, telling the postmaster she needed the money right away because her husband had won $162,000 in a Canadian sweepstakes. She had to mail the check to pay for taxes on the winnings before she could receive the prize money. The postmaster, educated by the Postal Inspection Service's campaign, told her "Don't mail him anything. It's a scam." And it was. The venture was being investigated by Postal Inspectors and our Canadian counterparts.

Operation: *Identity Crisis*

In September 2003, the Postal Inspection Service, in conjunction with the U.S. Postal Service, the Federal Trade Commission (FTC), and the U.S. Secret Service unveiled Operation: *Identity Crisis*. This campaign focused on the ease with which identity theft occurs unless consumers take steps to prevent it. Even though this crime affects all age groups, including older Americans, the percentage of seniors as a victim group rose from 17 percent to 21 percent in 2004, according to the complaints received by the FTC.

The Inspection Service recognizes the need to increase our efforts to educate consumers, especially elder Americans, who are increasing targeted in identity crimes. Prevention efforts must focus on the key risk factors that play the greatest role in identity compromise. Unfortunately, the traditional way to steal personal information has not changed. Obtaining lost or stolen wallets, checkbooks, or credit cards is still the 'favorite' method according to CQ Research. And while this is a challenge, it pales in comparison to the 52 million identities that have been compromised through electronic means since the beginning of this year. That is why prevention of this crime is a priority for the Inspection Service.

Dialing for Dollars

In October 2004, the Inspection Service launched a campaign to raise awareness about investment fraud and help consumers avoid becoming victims of fraud. This campaign called *Dialing for Dollars* included a video created by the Inspection Service portraying an investment scheme that targets older Americans.

Work-at-Home Scams: They Just Don't Pay!

In February 2005, the Inspection Service teamed up with the Postal Service's Consumer Advocate office and other federal, state, and local consumer protection agencies and launched a campaign to inform consumers how to avoid work-at-home schemes. A multimedia approach conveyed the message with ads placed in newspapers and magazines reaching over 45 million readers.

Current Projects

Last month, the U.S. Postal Inspection Service and the Direct Marketing Association announced a nationwide consumer education initiative educating Americans on how to avoid being scammed by fraudulent sweepstakes. In August, a foreign lottery campaign is planned to protect the public from scams that take their money with the purchase of "tickets" or charge a fee to collect fictional winnings.

Crime Doesn't Pay... or Does It? The Establishment of the Consumer Fraud Fund

We recognize that the success of the fraudulent operator depends heavily upon the victim's participation. Fraud is a crime that can be reduced or prevented by educating the general public and specific groups, like the elderly. Accordingly, the Postal Inspection Service established the Consumer Fraud Fund to augment fraud prevention programs. The fund was created with monies received from criminal fines and forfeitures in cases where victims could not be identified.

Enhanced Enforcement

In those instances where the crime does not meet federal prosecutorial guidelines, Postal Inspectors take their cases to local prosecutors or seek alternative solutions. Regrettably, most frauds target those who can least afford it—the elderly, the poor, the disadvantaged, or the ill. These frauds most often result in relatively small monetary loss and are not always prosecutable under federal guidelines. Although the loss is significant to the victim, it is often not significant enough to support a federal criminal action.

In these cases, we seek alternative resolution whenever the crime is certain, but lacks criminal prosecutive appeal. Alternative resolutions consist of civil or administrative actions – investigative tools unique to the Postal Inspection Service. In instances where the criminal activity does not meet federal or state prosecutive guidelines, yet the scam affects a large number of consumers, often the most disadvantaged, Postal Inspectors take quick action to withhold mail or to encourage the promoter to voluntarily discontinue the fraud. Over the past decade, envelope stuffing, chain letter and coupon fraud scams have been halted in this manner. We have achieved similar success in combating illegal foreign lottery mail. Since 1994, nearly 11 million envelopes containing foreign lottery material have been destroyed.

Withholding Mail Order

A Withholding Mail Order (Title 39, USC 3003) enables the Postal Service to withhold an addressee's mail if they are using a false or assumed name to conduct or assist with activity that violates lottery, mail fraud or use of a fictitious name or address statutes.

Temporary Restraining Orders and False Representation Orders

The Postal Service has unique remedies for civil/administrative relief under the postal false representation and lottery statutes, Sections 3005 and 3007 of Title 39. Temporary Restraining Orders (TROs) and False Representation Orders (FROs) enable Postal Inspectors to stop mailed-in responses (most of which contain checks) before they reach the operator of a fraud scheme.

FROs are often used to combat illegal lotteries, both foreign and domestic. Lottery promotions usually involve the purchase of a share in a foreign lottery pool and promise large winnings for little effort. They often target senior citizens who are most vulnerable to such scams.

Reporting Fraud Complaints

Each year the Postal Inspection Service responds to thousands of consumer fraud complaints received through our toll-free mail fraud hot line, online complaint system, or by mail. In addition, we receive numerous complaint referrals from federal, state and local law enforcement agencies, prosecutors, and industry and consumer groups. Nearly all of these complaints question the legitimacy of promotional offers they received in the mail. Postal Inspectors urge consumers to report incidents of potential mail fraud. Information that is collected by complainants is input to the Postal Inspection Service's Fraud Complaint System, which helps identify violators of the Mail Fraud or False Representation Statutes.

Civil Asset Forfeiture Reform Act

The Civil Asset Forfeiture Reform Act (CAFRA) of 2000 was of great help to Postal Inspectors resolving fraud cases. Prior to CAFRA, when the best or the only way to seize proceeds of a fraud was forfeiture, the requirements of forfeiture were such that it was very difficult to provide victim restitution. Moreover, it was only possible to pursue forfeiture in mail fraud cases when money laundering could be proven. CAFRA changed all of that. Now forfeiture of assets in mail fraud cases can be accomplished by showing the property is a proceed of the crime. Further, restitution to identified victims is through a much more efficient and simplified process.

Deceptive Mail Act

In another success, working closely with the Senate Permanent Subcommittee on Investigations, Postal Inspectors helped craft legislation that addresses fraudulent sweepstakes and other deceptive mailings. As a result, the Deceptive Mail Prevention and Enforcement Act was passed and became law in April of 2000. The law protects consumers, especially seniors, against deceptive mailings and sweepstakes practices by:

- establishing standards for sweepstakes mailings, skill contests and facsimile checks,
- restricting government look-alike documents, and
- creating a uniform notification system allowing individuals to remove their names and addresses from all major sweepstakes mailing lists at one time.

Mailings must disclose in clear and prominent language that no purchase is necessary to enter a sweepstakes and that a purchase will not improve consumers' chances of winning a prize. The law also creates strong financial penalties for companies that do not disclose all terms and conditions of a contest.

Frequently Asked Questions About Mail Fraud and Prevention Tips

Below are frequently asked questions about mail fraud schemes, as well as tips and suggestions to assist consumers in identifying a potential fraud.

Which schemes generate the most complaints?

1. *Internet auction fraud.* Buyers place bids for items on an auction Web site. Successful bidders "win" the auction and pay via the U.S. Mail. They're scammed when the seller doesn't deliver the goods after receiving payment, delivers something other than the advertised item, or doesn't disclose relevant information about the item. Inspectors investigate Internet fraud when the mail is used as part of the scam.
2. *Contest and sweepstakes fraud.* A consumer is told he or she is a guaranteed prize winner, but the "free" prize could end up costing hundreds of dollars, and often the victim never receives a thing.
3. *Foreign lotteries.* Any lottery involving a foreign country and conducted through the mail is illegal; they may also be fraudulent. You may not even be entered to play.
4. *Phony billing scams.* These target businesses and professionals, using unsolicited calls or letters offering Yellow Page ads, copy machine supplies, specialty advertising items and

other overpriced products. They may imply they are your regular supplier offering a special discount.

5. *Work-at-home schemes* promise work stuffing envelopes or assembling products. The only *real* work is selling the program to dupe others into falling for the scheme.

Other common types of mail fraud include advance-fee loans, credit repair offers, business opportunities scams, home improvement schemes and supplemental health insurance frauds, to name a few.

Are the fraudulent schemes directed at any particular group?
Sophisticated con artists target older citizens who often live alone, have sizable savings accounts and may be disarmed by convincing salespeople. Favorite schemes include sweepstakes scams, guaranteed prize promotion investments and foreign lotteries. Many seniors are victimized repeatedly through the sale of victim lists. Other operators offer to help recover victims' previous losses—for a fee, only to scam them all over again.

How do people avoid being scammed?
A consumer's good judgment is the last line of defense against the con artist. Consumers should be skeptical of any offer that sounds too good to be true. The following questions can help consumers evaluate questionable offers:

- Do I have to pay to receive a "prize" or enter a sweepstakes?
- Do I have to provide personal or financial information?
- Am I a "guaranteed" winner or told "no risk is involved?"
- Am I pressured into responding right away?
- Do they ask for advance payment or accept cash only?

If the answer is "yes" to any of these questions, consumers should be wary. Consumers should ask that all statements about the product or service be provided in writing, and check the offer with the consumer protection agencies, the Better Business Bureau (BBB), State Attorney General, or the National Fraud Information Center, at 1-800-876-7060.

The Postal Inspection Service's Web site, **www.usps.com/postalinspectors**,offers more tips on postal-related crimes and allows consumers to submit a mail fraud complaint online. Fraud complaint forms are also available at every Post Office. In addition, the Postal Inspection Service offers several publications and videos to assist consumers in preventing mail fraud.

Summary of Recent Fraud Investigations by U.S. Postal Inspectors

Two men were investigated by the Postal Inspection Service for their role in an insurance fraud scheme that conned investors, mostly elderly, out of over $20 million. The operators purchased fractional interests in "life settlement" contracts, known as viatical contracts, without the investor's knowledge. The men induced at least 250 individuals to invest in what the suspects represented as "FDIC insured, CD- like" investments with a guaranteed return. Instead, the money was used to purchase high risk viatical contracts and make questionable real estate transactions. Misrepresentations to investors included illegal diversion of investor funds to viaticals, and diversion of money to personal use. $5 million of investor's funds were converted in the form of commissions. One suspect was sentenced in May to 96 months in prison and ordered to pay $23 million in restitution.

An Illinois man was sentenced to 71 months in prison for his role in an insurance scheme that defrauded elderly victims out of over $1 million. Victims were told that their funds were being invested in a 5-star annuity account and in some cases investor funds were withdrawn without the investor's knowledge. In fact, the money was diverted for the suspect's personal benefit. The Illinois man received the maximum sentence with the judge stating that he wished he had the

power to sentence him to three times the amount of imprisonment based on the vulnerable victims in this case.

A man in California was sentenced in March to 12 years and four months in prison and over $49 million in restitution for his role in an investment scheme where 50% of the investors were senior citizens. The scheme involved inducing over 3,000 investors to invest in 12 internet based malls and internet service provider companies. The companies were marketed by telemarketers as being a "low-risk" investment that used state of the art software. In reality, the only thing the investors received was a return of 15% of their investment and the names of individuals who could help them build the promised projects. The remaining 85% of the investor's money was paid to the promoters, owners, and telemarketers as commissions.

Another recent example highlights an 86-year-old widower and World War 2 veteran from Pennsylvania who was the victim of a sweepstakes fraud. Mr. Karinch over the course of two years lost his entire life savings to con artists who repeatedly promised him $850,000 in prize money provided he pay in advance a series of customs fees, taxes and legal fees. In addition to his savings account, Mr. Karinch used his social security income and sold his stock shares to cover the purported processing fees. He never received any of the promised cash prizes.

Steven Karinch was targeted by telemarketers in at least two Canadian Provinces, (Quebec and British Columbia) and possibly other countries. This was determined incident to our investigation based on the telephone numbers contained in the victim's personal notes, and the payout locations on the Western Union, MoneyGram and bank transfers.

This intelligence information has been referred to two cross-border law enforcement partnerships, specifically Project Colt (Montreal) and Project Emptor (Vancouver). Based on the financial paper trail, the primary investigative attention has been devoted to British Columbia activity. The Inspectors assigned to the case have requested Project Emptor assistance in this matter, and have submitted a request to obtain British Columbia bank records. Ultimately, we will seek an indictment in the Middle District of PA.

In addition to the Inspection Service, the investigation is being assisted by the FBI, federal prosecutors in the Central District of CA, and the Royal Canadian Mounted Police in Vancouver.

Conclusion

Older Americans trust the U.S. Mail. They rely on the mail system as a trusted communication device perhaps more so than any other age group. They place their confidence in the mail and conduct a large part of their financial and personal service through the mail. For this reason, the Inspection Service will continue to ensure that the mails are secure and trusted for this important part of our population.

Our mission is clear – to protect the U. S. Postal Service, its employees and its customers from criminal attack and protect the nation's mail system from criminal misuse. We take this mission seriously. We will continue to protect seniors from fraudsters and scam artists and ensure the American public continues to have confidence in the mail.

The CHAIRMAN. Thank you both so very much.

Zane Hill, is this a public service video? Is it shown on the airwaves? Where is it shown if not on television?

Mr. HILL. We have sent it to target groups, and we have used it with some video news releases, but we have not done a public service campaign with it, Senator.

The CHAIRMAN. It is very good, and it seems to me that there are probably some television programs where a public service announcement like that would be very, very effective.

Just a question and a comment as an observation. I have seen some of your educational materials. They seem to me excellent. Do you do any research testing their effectiveness? Do you have a sense are you reaching consumers? Is it getting through how they can protect themselves?

Ms. GREISMAN. We do an enormous amount of internal testing before we disseminate any sort of consumer——

The CHAIRMAN. Do focus groups and——

Ms. GREISMAN. Probably not quite on that level, but we do have an Office of Consumer and Business Education, which is staffed with people who have enormous expertise on how to reach a broad range of consumers and also how to communicate information in a way that is most likely to be received. We certainly have done copy testing on occasion when we think it is warranted.

The CHAIRMAN. Lois, I owe you an apology. I think I mispronounced your name. It is Greisman, right?

Ms. GREISMAN. That is correct. No problem.

The CHAIRMAN. I apologize for that.

A question about restitution to victims. When you identify them and you get a conviction or apprehend someone, do you ever retrieve their money?

Ms. GREISMAN. I will start. If at all possible, we do, and the best key to enable us to do that is to be able to seize assets at the outset when we are dealing with criminals, people engaged in fraud. We, of course, are a civil law enforcement agency. If we are able to obtain ex parte relief and freeze their assets before they hide it, send it abroad, or do whatever they will with it, we are most likely to be able to preserve assets and then provide it to consumers in the form of redress at the end of the day.

The CHAIRMAN. You have enforcement powers, but you do not have police powers in the same sense as the Justice Department. Do you work with them, the FBI?

Ms. GREISMAN. We work very closely with them, as we do with Postal Inspection Service, FBI——

The CHAIRMAN. Attorneys General in the States?

Ms. GREISMAN. Attorneys General, U.S. Attorney's Offices. We have found that partnering our civil enforcement with criminal enforcement is indispensable, and that is where we get the main deterrent effect.

The CHAIRMAN. Are there any Sentencing Guidelines for elder crimes?

Ms. GREISMAN. I would have to defer to my colleague on the criminal side.

Mr. HILL. Yes, Senator. I know there are some in terms of vulnerable victims, in terms of the fraud guidelines that talk about

where the scheme targets individuals, I think, over the age of 55 or where you have multiple targets of a fraud scheme.

The CHAIRMAN. These are Federal Sentencing Guidelines?

Mr. HILL. Yes, sir.

The CHAIRMAN. Lois, I think in your testimony you spoke of the schemes that come from across our borders—Canada, you did not mention Mexico. Are there some from that southern border as well?

Ms. GREISMAN. Certainly we have seen cross-border fraud from many countries throughout the world. It is not limited to Mexico or to Canada.

The CHAIRMAN. Say it is Mexico or Canada or anywhere else, what do other nations do in terms of coordinating with you and stopping it as it might emanate from their countries? Do they wait until their people are victimized, or do they work well with you, particularly our closest neighbors with whom we have the greatest commercial relationships?

Ms. GREISMAN. We have an enormous history of collaborative efforts with our Canadian counterparts, and increasingly so with our Mexican counterparts. We have a lot of project initiatives in the pipeline with Canadian law enforcement, but it can be difficult, and part of what the FTC has sought in order to better enhance our ability to deal with cross-border fraud is the introduction and passage of the U.S. Safe Web Act. We think that would provide us with additional tools to effectively combat cross-border fraud.

The CHAIRMAN. So as not to be blaming it on Canada, are there U.S. fraud schemes that victimize Canadians?

Ms. GREISMAN. Absolutely. There is no question about it. In fact, we receive a lot of complaint data from what is called Canada's Phone Busters, and most certainly those involve some Canadian citizens complaining against U.S. companies.

The CHAIRMAN. You feel like the relationship between nations on these issues is seamless and effective?

Ms. GREISMAN. Very much so.

The CHAIRMAN. That is very good to hear.

What about recidivism rates? Someone you find, apprehend, in some cases, I am sure, imprisoned, when they come out do you get a lot of repeat offenders? What do you find, Zane?

Mr. HILL. Yes, Senator, we do. There are more scams than we can possibly count and these people are very creative. The old saying "There is a sucker born every minute," then they take advantage of that, and they will just, you know, when prosecuted, when sentenced, then they will come out and they will look for other creative ways to dupe American citizens out of their money.

To your other question about cross-border type work, unfortunately—the good thing about the information age and all these new means of communicating is this is really good. The bad thing is this type of fraud becomes very global, and these operators can set up in any number of countries, some of which we have not yet had the opportunity to create that good partnership relationship like we have in other countries where we have actually worked with them to combat this. So you have to go to where the schemes are originating and where the operators are residing. That is where you have to go to seize the assets to do all those things to shut them down.

The CHAIRMAN. Is there any place particularly in the world that seems to have a concentration of it? Or is it just pervasive?

Mr. HILL. Well, I think if you were to ask us that, I think probably parts of Eastern Europe. You know, we have seen an increase in the number of operators out of there, but, you know, the way telecommunications can be routed and switched and so on and so forth, sometimes even the place where you think they are might not be where they are actually working from.

Ms. GREISMAN. If I may?

The CHAIRMAN. Yes.

Ms. GREISMAN. When a consumer complains to us, the consumer knows only what the company may have told him about where the compared is located. So, for example, a company can certainly say, yes, I am in the U.S. and there is a U.S. drop box, but it, in fact, maybe in Eastern Europe or in Canada or elsewhere.

The CHAIRMAN. It is appalling, but I appreciate your forthcoming answers.

Senator Kohl.

Senator KOHL. Ms. Greisman, your report indicates a general upward trend in consumer fraud and identity theft complaints from consumers of 50 and over. Aside from an obvious increase in scams, is this also due to an increase in awareness and, therefore, reporting? Are seniors becoming more familiar about whom to turn to?

Ms. GREISMAN. Yes, we think that is absolutely right. Each year that we have better enabled consumers to contact us, we have seen a substantial increase in the number of complaints, both on the fraud and identity theft side.

Senator KOHL. So that the upside in numbers clearly does indicate a problem, but it is not apples and apples. It is that more people are familiar with what is happening and, therefore, are reporting what is happening.

Ms. GREISMAN. That is correct. It does not tell you anything about the actual incidence of fraud or identity theft across the country, which is why we use surveys to get at that.

Senator KOHL. All right. As I understand it, the complaints from consumers that you receive are all reported by victims themselves. We have seen that there is much stigma associated with being victimized and, therefore, many crimes go unreported. Is there a way to extrapolate from these numbers the actual number of seniors who are being defrauded?

Ms. GREISMAN. I am afraid I do not think we can do that at this point. We would have to look at our fraud survey and techniques used in conducting that survey to see if you could determine the actual incidence impacting the elderly.

Senator KOHL. Mr. Hill, in your testimony, you describe how raids of fraudulent telemarketers' places of business turned up files containing very personal information about their victims, such as spouse and children's names, their health conditions, and their travel histories. How is such information being distilled?

Mr. HILL. Senator, you have people in the business of gathering personal information about American citizens, and this is what their job is, any number of open source public records they go to. They have very aggressive research groups that gather this information for them, and then they compile it in lists, basically cus-

tomer lists that they use. It is not a unique situation for the fraud operators. It is done in a lot of marketing strategies for consumer marketing campaigns. Unfortunately, the unscrupulous operators use those same types of lists to then victimize the seniors as a target audience that they know that they can go after and that they would be very susceptible to those types of scams.

Senator KOHL. All right. I understand that the Postal Inspection Service has developed a series of consumer DVDs, education DVDs. How are these being disseminated to seniors? Do you have any feedback on how they are being received and what kind of impact these DVDs are having?

Mr. HILL. To another question about a focus group, we have done focus groups with seniors on some of our DVDs, and they have been very positively received. They think it tells the right message in the right way so that seniors will understand what things to be aware of. We are going to do more of this with the other public awareness campaigns that we do to make sure that the message that we put together is, in fact, reaching the target audience with the things they need to do to protect themselves.

Senator KOHL. Thank you.

Mr. Chairman, thank you.

The CHAIRMAN. Thank you, Senator Kohl.

Senator Talent?

Senator TALENT. Thank you, Mr. Chairman.

Mr. Hill, I notice in your testimony on page 8, you present five questions people ought to ask themselves if they are contacted or they see something on the Internet. I was actually going to ask about that. I can remember on a number of occasions seeing public service announcements actually from the post office explaining what to do if people want you to send money up front or something. Are you making an effort to get out this information about key questions to ask regarding potential transactions or deals like this?

Mr. HILL. Yes, Senator, we are. We are going to continue to really focus with these types of questions. As the scams change, then these questions will also change. But basically the one that you pointed out, when you have to give money up front to get something that you have won, that is just a red flag automatically.

So these are the things that we will continue to do. As these scams continue to evolve, we will continue to pull out these key questions and build those into each of these public awareness campaigns that we are doing.

Senator TALENT. This is very frightening to me, Mr. Chairman, because I can easily see a lot of people, not just seniors asked to confirm something and providing some financial information and then, bang, their whole savings are just gone. I hope we can come up with some way for really getting this word out in a way that people can understand.

Thank you, Mr. Hill. Thank you, Mr. Chairman.

The CHAIRMAN. I have a few questions on the second round, so if any of my colleagues have additional questions, we will go to them.

Back to the question of public service announcements, to either FTC or Postal Inspection, do you have the authority to get these on the air or do you have the funding necessary to get these on the

air? Because it does seem to me that that could be perhaps quite effective if we could get them more broadly distributed, these messages that may be produced in the form of 30-second television ads. Do you have funding or need authority that Congress can provide?

Ms. GREISMAN. We do conduct an enormous number and different types of consumer educational campaigns. To the best of my knowledge, we have not done video news releases, which is not to say it is not something we would not think about. But we have reached, we think, an enormous audience through our print and online materials as well as through some radio I know we have done. In fact, in the near future we will be doing an enormous outreach campaign focusing on identity theft as part of the FACT Act amendments.

The CHAIRMAN. I would sure encourage you to think about what you need from Congress to better broadcast the materials that I think are excellent that you have produced, because I think there is an education curve out there that could really put a dent in this that maybe we can more effectively disseminate.

I want to ask you about methamphetamines, not that you have anything to do with it, but my State of Oregon—and I suspect it is true of other States increasingly, tragically—just has a plague of methamphetamines. In fact, in Washington County, OR, over 90 percent of identity theft cases last year were connected to meth trafficking. The U.S. Attorney's Office in Eugene, OR, says the statistics are similar for what they regard as routine ID theft cases such as shoulder surfing, dumpster diving, and mailbox theft.

Can you both elaborate on what, if any, experience your respective agencies have with this component to elder abuse?

Ms. GREISMAN. I am not aware of a specific component with respect to seniors. Certainly we are well aware and the law enforcement community is well aware of the link between identity theft and methamphetamines, and what we have seen is that either people who are addicted or people who are trafficking it are using identity theft as a quick way to get quick cash to fund the labs. Part of what we are doing in response to that is ensuring that as many complaints as possible get into the Consumer Sentinel Network because that is accessible to 1,300 law enforcement agencies throughout the U.S., Canada, and Australia, and we think that will enable them to connect dots to locate thieves in a way that they do not otherwise have available.

Mr. HILL. Senator, from our perspective, in the last probably 8 years or so, whenever you have seen that increase in meth usage and a meth problem in a community, you see these types of very low-level white-collar type crimes that are going on, the identity theft, trying to—purse snatching, vehicle break-ins to get purses or any type of personal information. You referenced other theft of mail. All of those things go hand in hand with that type of crime that the methamphetamine users seem to gravitate to. For them, it is not a very high-risk crime. It is something that they can do fairly anonymously if they can get the information. They do not have to confront someone. They do not have to brandish a weapon at them. They can do a great deal of damage to a community with those types of what we call probably low-tech white-collar crimes in terms of stealing that information.

The CHAIRMAN. I am sure you are very much aware that Health and Human Services is in the process of implementing a Medicare Part D program, a prescription drug benefit for Medicare patients. Obviously, we are talking about people who are elderly. I suspect that as we speak there are many scams being developed trying to springboard off of Medicare Part D. Are my suspicions well founded? Are you starting to see prescription drug fraud schemes being developed?

Ms. GREISMAN. Well, sir, over the years we have, unfortunately, seen no shortage of frauds involving various drugs, various dietary supplements, both in terms of the claims promised about what they can do for you, but also in terms of their availability. In fact, one of the settlements referred to in the Commission's testimony involves a scheme in which people allegedly were selling a Medicare program.

What we have done, because we are anticipating a possible surge in such types of fraud, is talk to our colleagues over at HHS to try to find the best way to ensure consumers who are defrauded or who think they are defrauded know where to file a complaint and can access information that will ensure that they can differentiate between, distinguish between what is fraudulent and what is real.

The CHAIRMAN. I am glad to hear you are already working with HHS because I suspect that scenario, as we implement this prescription drug benefit, that there is going to be a world of new opportunities for people who would commit these frauds.

Senator Kohl, do you have any additional questions?

Senator KOHL. No.

The CHAIRMAN. Senator Talent.

Senator TALENT. No.

The CHAIRMAN. We have just been joined by the Senator from Delaware. Do you have an opening statement or a question of these witnesses?

Senator CARPER. Not an official statement, but just something I would like to say, and then a question, if I may. As I walked through the room, I heard part of my question being asked, so maybe the rest of it has been asked as well.

In our State, Delaware, we had about 40, 45 different drug discount cards that people could apply for. It was very confusing. I was thinking about trying to explain things so that my mother, who just passed away, could have understood them and trying to couch them in those terms. It is hard enough for folks the age of my mother or my aunt and uncle to understand the benefit that is being offered to them, and it is all the more difficult when there are folks out there that are trying to defraud them.

We saw a fair amount of that fraud not so much in Delaware during the last year or so with the drug discount card, but what lessons have we learned from the fraud that grew up around the drug discount card that might enable us to reduce the incidence of fraud with respect to the next step, the implementation of the Part D benefit?

Mr. HILL. I will just speak from the U.S. Postal Inspection Service standpoint. I am not aware of us seeing a real increase in the numbers of investigations that we have done of that nature. I could be wrong, but I do not know if we have really looked at that to the

level of concern that the committee has expressed, and we will do so to see what kind of numbers. But obviously you are right, Senator, anytime that someone is misrepresenting what service they can provide to those card users, then there is a strong possibility that they could be deprived of services needed. So that will be something that we will most certainly take a look at.

Ms. GREISMAN. I will add just briefly, that the importance of education can never be underestimated, and I think the point you are making is critical, which is that it is important to communicate in a way that people understand what you are saying and can use that information. That is something we spent a lot of time and energy ensuring that we get right, and we are constantly re-evaluating it. The prescription drug world is certainly a challenge, but it is one that we think we can deal with, working with HHS.

Senator CARPER. On the one hand, it is hard enough for folks the age of our parents and grandparents to figure out do I want to use this benefit, the Part D benefit. Do I want to use it? Do I know enough to understand it to make a right decision? Is the person that I am talking to on the phone someone who is there to help me or someone who is there to take my money and to defraud me?

My mom used to live down in Florida just outside of Clearwater for a number of years, until my sister and I moved her up to Kentucky in the last years of her life. I remember the last few years my mom was there—my dad had passed away—my mom put a roof on their house that did not really need one. My mom built an extension to the house that I am sure was not really needed. She was living there by herself. I remember the time when my mom bought a vacuum cleaner, and she paid more for that vacuum cleaner than I paid for my first car or two that I bought. It is a good vacuum cleaner, but—and it should have been for what she paid for it, for as long as she paid for it.

But, on the one hand, somebody tried to sell her once a long-term nursing home plan, and she bought it. My sister and I had no idea that someone had tried to sell her that kind of nursing home plan, but she bought it. When the time came for us to move her and all of her earthly goods from Florida up to Kentucky, my sister came across this long-term nursing home plan that my mom had bought for a relatively small amount of money and found out that it was worth 2 years of paying for her to stay in a private nursing home, and in that case—so we were not all that happy about the vacuum cleaner and the roof on the house and some other things, but we were glad that my mom had the good sense, the presence of mind to take out that long-term care plan, which did a lot of good for her and for us.

Thanks very much.

The CHAIRMAN. Thank you, Senator Carper.

Lois and Zane, thank you both very much for your presence and testimony today and your public service. We are grateful to you and your agencies for what you are doing for America's senior citizens.

The CHAIRMAN. We will now call up our second panel that will consist of four individuals: Dr. Anthony Pratkanis, a professor of psychology at the University of California at Santa Cruz, serves as a member of the AARP multidisciplinary research team.

He will be followed by Dr. Denise Park, who is the co-director of the National Institute on Aging Roybal Center for Healthy Minds at the University of Illinois, and she will be presenting the results of NIA-funded research illustrating the role of cognitive science in developing effective consumer education materials for older Americans.

Then we will hear from Ms. Helen Marks Dicks, the director of the Elder Law Center, the Coalition of Wisconsin Aging Groups, and she will testify about the center's work in educating and empowering seniors to recognize, report, and combat scams and other fraudulent practices.

Also, we are very pleased to welcome from my home State of Oregon Ms. Vicki Hersen. She is the director of Operations at Elders in Action. Ms. Hersen will testify about Elders in Action community education program which provides seminars and ombudsman counseling on many topics, including senior scams, fraud, and identity theft.

Dr. Pratkanis, go right ahead.

STATEMENT OF ANTHONY R. PRATKANIS, PH.D., PROFESSOR OF PSYCHOLOGY, UNIVERSITY OF CALIFORNIA AT SANTA CRUZ, SANTA CRUZ, CA

Mr. PRATKANIS. Chairman Smith, Ranking Member Kohl, and Senator Talent, every year Americans lose almost $100 billion in telemarketing, investment, and charity fraud. While this dollar figure is staggering, it does not capture the true costs of this crime. Fraud not only impoverishes victims financially, but it can also impoverish them emotionally and drive a wedge between victims and family members. Economic fraud crimes have societal consequences as well, resulting in a loss of trust that impacts the business community and erodes the very fabric of life in American society.

But I want to report some good news in the right against economic fraud crimes.

For the last 8 years, I have been a member of a team of researchers and fraud fighters consisting of myself, Doug Shadel, the state director of AARP in Washington State; Bridget Small, the director of Consumer Protection for AARP here in Washington, DC; and Melodye Kleinman, of WISE Senior Services, whose written testimony you received today.

Our team has conducted surveys of victims, carried out experiments investigating the effectiveness of intervention strategies, developed educational materials, trained volunteers to fight this crime, and have warned over a quarter of a million potential victims personally about fraud crimes. As a result of our work, we have developed an understanding of the nature of the crime and some strategies for preventing it. I want to tell you four things that we have learned, and I want to discuss with you three opportunities or challenges that I think we will face in fighting this crime.

First, we have learned that the weapon that is used in fraud crimes is social influence. No one knowingly gives their hard-earned cash to a con criminal. They think they are making an investment, winning a prize, providing for a charity, or some similar positive goal. The con criminal is a master at using one high-powered influence tactic after another to sell a deception. Given that

the weapon in a fraud crime is an invisible one—social influence as opposed to a gun or a knife—there is a tendency by both victims and observers not to recognize economic fraud crime for what it really is—a crime.

Recently, Doug Shadel and I analyzed over 250 undercover tapes used in fraud investigations. In these taps, law enforcement took over a victim's telephone line and then tape-recorded the con criminal's pitch. In listening to these tapes, we found that con criminals would play different roles—authorities, friends, even dependents—to create a platform of trust. They would then use many well-established social influence tactics to sell the crime. For the most part, these sales pitches are sweet and charming, although nonetheless deceptive and effective. However, at times it can also be abusive, frightening, and intimidating.

Mr. Chairman, with your permission, I would like to play a portion of some of these tapes to illustrate the abusiveness that can occur in these crimes.

The CHAIRMAN. Without objection.

Mr. PRATKANIS. The first selection is a montage of fraud pitches taken from two different undercover tapes. First you will hear two cons, Victoria and Sean, who are working together for a company that they call WMT. The company claims to be offering credit card protection. In reality, they are attempting to get the victim—in this case, Helen, who is played by a seasoned investigator—to make what is known as a verification, to give her name and other personal information over the phone, which they will then record and then use subsequently to withdraw money from Helen's account.

In another scam, which you will also hear interspersed between these two, you will hear from Robert, who has told Ardelle, a real victim in this case that is being tape-recorded as part of a law enforcement investigation, that Ardelle has won a prize and needs to send money to claim her prize. Ardelle has been a repeat victim and now is out of money, and thus Robert is making one last attempt to steal whatever he can from her. [Taped played.]

Mr. Chairman, with your permission, I would like to play a second portion of the section of our tapes that will give you an additional feel for the abuse. This time we will look at a little more detail about that WMT company. This was a call recorded in March 2003, and again, WMT is trying to get a verification from the victim. They have told them they are credit card protection, but what they are really trying to do is get a verification where the victim reads their personal identification number over the phone, which they tape-record and then use to withdraw from their account.

Senator TALENT. This is a law enforcement officer on the other end?

Mr. PRATKANIS. Yes, Senator. The first one was a victim. [Pause.]

The CHAIRMAN. Maybe they got away.

Mr. PRATKANIS. It is in the written testimony as well, so we can move on if you would like.

The CHAIRMAN. Why don't we do that? We will put it in the written record.

Mr. PRATKANIS. Thank you, Mr. Chairman.

The CHAIRMAN. I understand Senator Talent had a question for you before he had to leave, and if you want to ask that, Senator?

Senator TALENT. Actually, I just want to clarify about the tape, and I got the answer.

The CHAIRMAN. OK. Thank you, Senator Talent.

Go right ahead, Doctor.

Mr. PRATKANIS. Mr. Chairman, a second thing that we have learned is just about anyone can fall prey to this crime. It impacts a large cross-section of our society, as Senator Talent said in his opening remarks. Con criminals go where the money is, and thus, older Americans with their nest eggs are a prime target for this crime. The stereotype of a frail or lonely victim does not stand up in our surveys of victims. While some victims are indeed lonely, others are quite active in their communities and can be leaders in their communities.

Indeed, what we find is that con criminals profile their victims, as Mr. Hill said earlier, and they profile their psychological and other characteristics to find their Achilles' heel. We all probably have one. They find that Achilles' heel to construct the exact pitch that is likely to be most effective with each victim.

For example, in one of our surveys, we found that victims of lottery fraud, a crime which emphasizes luck, believe that the world controls them, a psychological trait known as external locus of control; whereas, investment fraud victims—and this crime emphasizes a mastery of one's fate—they believe that they control the world, or a trait known as internal locus of control. In other words, the con criminal was pitching the exact scam to take advantage of the person's psychological characteristics.

The third thing that we have learned is we have identified effective strategies for preventing this crime. In her written testimony, Melodye Kleinman described the reverse boiler room approach of WISE Senior Center. At WISE, senior volunteers contact potential victims with a warning message. The volunteers call potential victims whose names appear on criminal call or mooch lists that have been recently seized by the FBI. These can be quite active lists. It is not uncommon for us to call people and find out that they just sent in some money to a con criminal.

Our volunteers then call and talk with these potential victims. They explain the nature of the crime, and then they help them develop their own strategies for preventing the crime. In a series of experiments, we tested the effectiveness of this intervention. We first had our volunteers call the victim with a prevention message, and then a few days later professional telemarketers attempted to take the victim in a simulated scam. We found that our interventions were effective in reducing victimization rates by about 50 percent. In other words, peer counseling is an effective tool in our fight against economic fraud crimes.

Finally, as a result of our research and work with victims, we have identified components of a prevention message that are most effective. Successful prevention messages are ones that provide the potential victim with specific warnings about the crime and, most importantly, coping strategies for dealing with the crime that build a sense of self-efficacy, a feeling that "I can take charge of the situation and hang up" on the criminal. We encourage everyone to develop their plan for getting off the phone and have it ready to go when the need arises. On the other hand, our research has found

that some messages that increase fear and create a defensiveness not only do not work but oftentimes boomerang, and in one study actually increased victimization rates slightly.

Our research suggests three opportunities and challenges for those interested in preventing this crime.

First, it is important to remember that economic fraud is a crime. There is a tendency to blame the victim in this crime and to believe that "there must be something about them" that led to victimization. Instead, our research shows the power of the fraud criminal's weapon of influence. Victim blaming is harmful to victims and hinders law enforcement's ability to obtain accurate and timely information about this crime. The victim of economic fraud should be included in any Victim's Bill of Rights. Sentencing for economic fraud crime should match the magnitude of the crime and not the charm of the con. We need continuing Federal efforts in investigating and enforcing these laws.

Second, we now have the tools, knowledge, and strategies which have been proven effective in preventing economic fraud. This information needs to be disseminated to fraud fighters everywhere. Doug Shadel, in collaboration with Washington State Attorney General McKenna, has trained over 2,500 volunteer fraud fighters since October 2003 who have in turn educate close to 100,000 people in their communities about fraud. This fall they will begin a series of peer counseling events to reach those whose names have been stolen by identity thieves. We need more of this sort of intervention. I would like to see the tools for effectively dealing with this crime in the hands of every victim's advocate in local and State prosecutor's offices, the efforts of Washington State duplicated in other areas, and the creation of regional centers to fight economic fraud patterned after the remarkably successful program at WISE Senior Center.

Finally, we need research that focuses on the chronic victim, the 50 percent or so of victims that we did not successfully reach in our call center research. Our research shows that the chronic, repeat victims find themselves in a rationalization trap of being confronted with two discrepant thoughts: "I am a good and capable person," on the one hand, but yet, "I just sent my hard-earned money to a scammer." In such a situation, it is difficult to admit that one has been taken in a fraud without damaging self-esteem, and thus defensiveness is common. We are currently investigating strategies for resolving this rationalization trap in the hopes of finding effective interventions for use with the chronic victim.

Chairman Smith and Ranking Member Kohl, this concludes my testimony. I thank you for the opportunity to inform you about our research, and I thank you and each of the members of your committee for the leadership you are taking in fighting this crime.

Thank you, sir.

[The prepared statement of Mr. Pratkanis follows:]

Testimony to United States Senate Special Committee on Aging

Anthony R. Pratkanis

Delivered: July 27, 2005

Chairman Smith and Ranking Member Kohl:

Every year Americans lose over $40 billion in telemarketing, investment, and charity fraud. While this dollar figure is staggering, it doesn't capture the true costs of this crime. Fraud not only impoverishes victims financially, but it can also impoverish them emotionally and drive a wedge between victims and family members. Economic fraud crimes have societal consequences as well, resulting in a loss of trust that impacts the business community and erodes the very fabric of life in American society.

What We Have Learned from Our Research on Economic Fraud Crimes

I want to report some good news in the fight against economic fraud crimes.

For the last 8 years, I have been a member of a team of researchers and fraud fighters consisting of myself, Doug Shadel – State Director of AARP Washington, Bridget Small – Director of Consumer Protection for AARP in Washington, D.C., and Melodye Kleinman – of WISE Senior Services, whose written testimony you also received today.

Our team has conducted surveys of victims, carried out experiments investigating the effectiveness of intervention strategies, developed educational materials, trained volunteers to fight this crime, and warned over a quarter million potential victims about fraud crimes. As a result of our work, we have developed an understanding of the nature of the crime and some strategies for preventing it. I want to tell you four things that we have learned.

First, we have learned that the weapon that is used in fraud crimes is social influence. No one knowingly gives their hard earned cash to a con criminal – they think that they are making an investment, winning a prize, providing for charity, or some similar positive goal. The con criminal is a master at using one high-powered influence tactic after another to sell a deception. Given that the weapon in a fraud crime is an invisible one – social influence as opposed to a gun or a knife – there is a tendency by both victims and observers not to recognize economic fraud for what it really is – a crime. Recently, Doug Shadel and I analyzed over 250 undercover tapes used in fraud investigations. In these tapes law enforcement took over a victim's phone line and then tape recorded the con criminal's pitch. In listening to these tapes, we found that con criminals would play different roles – authorities, friends, even dependents – to create a platform of trust. They would then use many well-established social influence tactics to sell the crime. For the

most part, this sales pitch is charming and sweet, although nonetheless, deceptive and effective. However, at times it can also be abusive, frightening, and intimidating.

Mr. Chairman, with your permission, I would like to play a portion of some of these tapes to illustrate the abusiveness that can occur. This selection is a montage of fraud pitches taken from two different undercover tapes. Victoria and Sean are working together for *WMT* – a company claiming to offer credit card protection. In reality, they are attempting to get Helen (a seasoned investigator posing as a victim) to make a verification – to give her name and other personal information over the phone, which they will then record and use to make withdrawals from Helen's bank account. In another scam, Robert has told Ardelle (a real victim whose telephone line has been taken over by law enforcement) that she has won a prize and needs to send in money to claim the prize. Ardelle is out of money, and thus Robert is making one last attempt to try to steal whatever he can from her.

Play Track 2 (transcript in Appendix).

Mr. Chairman, with your permission, I would like to play a portion of a second section of our tapes that will give you and your committee a feel for the abuse many seniors experience at the hand of con criminals. The following is taken from a call recorded in March of 2003 from a Canadian company called *WMT* claiming to offer card protection but in reality this is a ploy to obtain a tape-recording of the victim providing personal and credit information to use to withdraw money from her account – what the con is calling "a verification." Let's listen in.

Play Track 1 (transcript in Appendix)

A second thing we have learned is that just about anyone can fall prey to this crime; it impacts a large cross-section of our society. Con criminals go where the money is and thus older Americans with their nest eggs are a prime target of this crime. The stereotype of the frail or lonely victim does not stand up in our surveys of victims. While some victims are indeed lonely, others are active leaders in their communities. Indeed, we find that con criminals profile their victim's psychological and other characteristics to find their Achilles' heel (and we all probably have one) to construct the exact pitch that is likely to be most effective with each victim. For example, in one of our surveys, we found that victims of lottery fraud (which emphasizes luck) believed that the world controls them (a psychological trait known as external locus of control) whereas victims of investment fraud (which emphasizes mastery of one's fate) believed that they control the world (or a trait of internal locus of control). The con pitched the exact scam to take advantage of the person's psychological characteristics.

Third, we have identified effective strategies for preventing this crime. In her testimony, Melodye Kleinman described the reverse boiler approach of WISE Senior Center. At WISE, senior volunteers contact potential victims with a warning message. The volunteers call potential victims whose names appear on criminal call or mooch lists that have been recently seized by the F.B.I. The volunteers talk with these potential victims,

explain the nature of the crime, and help develop strategies for preventing the crime. In a series of experiments we tested the effectiveness of this intervention strategy. We first had our volunteers contact the victim with a prevention message and then, a few days later, professional telemarketers attempted to "take" the victim in a simulated scam. We found that our interventions were effective in reducing victimization rates by 50%. Peer counseling is an effective tool in our fight against economic fraud crimes.

Finally, as a result of our research and work with victims, we have identified components of a prevention message that are most effective. Successful prevention messages are ones that provide the potential victim with (a) a specific warning about the crime and, (b) most importantly, coping strategies for dealing with the crime that build a feeling of self-efficacy – a feeling that "I can take charge of the situation and hang up." We encourage everyone to develop their plan for getting off the phone and to have it ready to go when the need arises. On the other hand, messages that increase fear and defensiveness not only do not work but may actually boomerang and increase victimization rates.

Three Opportunities and Challenges in the Fight against Economic Fraud Crimes

Our research suggests three opportunities and challenges for those interested in preventing this crime.

First, it is important to remember that economic fraud is a crime. There is a tendency to blame the victims in this crime and to believe that "there must be something about them" that led to victimization. Instead our research shows the power of the fraud criminal's weapon of influence. Victim blaming is harmful to victims and hinders law enforcement's ability to obtain accurate and timely information about the crime. The victims of economic fraud should be included in any Victim's Bill of Rights. Sentencing for economic fraud should match the magnitude of the crime and not the charm of the con. We need continuing federal efforts in investigating and enforcing fraud laws.

Second, we now have tools, knowledge, and strategies which have proven to be effective in preventing economic fraud. This information needs to be disseminated to fraud fighters. Doug Shadel in collaboration with Washington State Attorney General McKenna has trained over 2,500 volunteer fraud fighters since October of 2003 who in turn have educated close to 100,000 people in their communities about fraud. This fall they will begin a series of peer counseling events to reach those whose names have been stolen by identity thieves. We need more of this sort of intervention. I would like to see the tools for effectively dealing with this crime in the hands of every victim's advocate in local and state prosecutor's offices, the efforts of Washington State duplicated in other states, and the creation of regional centers to fight economic fraud patterned after the remarkably successful program at WISE Senior Center.

Finally, we need research that focuses on the chronic victim – the 50% or so of victims that we did not successfully help in our call center research. Our research shows that chronic, repeat victims find themselves in a rationalization trap of being confronted with

two discrepant thoughts: "I am a good and capable person" but yet, "I just sent my hard-earned money to a scammer." In such a situation, it is difficult to admit that one has been taken in a fraud without damaging self-esteem. We are currently investigating strategies for resolving this rationalization trap in the hopes of finding effective interventions for use with the chronic victim.

Chairman Smith and Ranking Member Kohl: This concludes my testimony. I thank you for the opportunity to inform you about our research, and I thank you and each of the members of your committee for your leadership in fighting economic fraud crimes.

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Appendix: Transcripts of Portions of Undercover Investigation Tapes

Track 1

The following is taking from a call recorded in March of 2003 from a Canadian company called *WMT*. *WMT* used a credit card protection scam by claiming to offer credit card protection. In actuality, *WMT* used the ploy to obtain a tape-recording of the victim providing personal and credit information so *WMT* could withdraw money from their account – what is called a verification in the transcript. The first two calls that preceded this call were made by a man we will call Sean who claimed to be working with authorities to catch scammers. The victim who we will call Helen is really a seasoned investigator who has taken over a victim's phone line and is posing as that victim. At this point, the sweet talk has faded and the Sean has become extremely abusive in a last effort to get the verification.

SEAN: You know what, you're driving me nuts! What is wrong with you? How are you going to call me, if I'm calling you from an automatic dialer? That's a computer. What are you going to call me, that's the customer service number.

HELEN: Well, how does your family reach you at work?

SEAN: I have a house number. I have a cell number. You're my client. You're not my friend. I'm not going to give you my cell number.

HELEN: Well, if I can't get a number where I can reach you personally, then I don't want to do the verification.

SEAN: Are you stupid? I'm not trying to insult you, but are you mentally ill? Is there something wrong with you that I don't know about? Is there something physically wrong with you, like are you retarded? Are you over-age? Do you forget things? Is there something wrong with you?

HELEN: I don't like your language.

SEAN: No, I'm not swearing, I'm asking you a question. Maybe you could be retarded. I don't know. Is there something wrong with you?

HELEN: Well, I want to call you.

SEAN: Helen, shut up! You just asked me a question; I'm answering it for you. You just asked me a question; I'm answering it for you.

HELEN: You already told me.

SEAN: No, no, no, listen to me. Shh. It's not a phone number like that. It's a customer…

HELEN: Well, I want to call you back.

SEAN: Well, listen, listen, listen. It's a customer service number in case you have problems about the information. Now you can't call because you don't have the information. I still didn't send it to you. So if you call it's not going to do you any good. You cannot reach me, because I'm calling from an automatic dialer. Now because you're an old lady, you have no clue what's going on, an automatic dialer is a computer with a headset. So you can't call it. If I tell my wife to call me back, she can't. She can call me back on my cell phone, which is in the car right now. And I'm not going to give you my cell phone number. Are you my friend, are you my best friend, are you my cousin, are you my family? No client has ever asked me for my house number.

HELEN: I'm not asking you for your house number.

SEAN: Then what are you asking?

HELEN: I'm asking you for a number where I can call you right back at work.

SEAN: I told you, you can't. You cannot do that. I'm on an automatic dialer… That's a customer service number.

HELEN: Well, I'm, I'm not interested in verifying any information.

SEAN: I'm going to tell you something. I'm going to pass you to my manager, because you're making me sweat. And if you were in front of me old lady, man, black, white I would have slapped you by now. Ok?

Track 2

The following is a montage of fraud pitches taken from two different undercover tapes. Victoria and Sean are working together for *WMT* (see Track 1). They are attempting to get Helen (a seasoned investigator posing as a victim) to make a verification – to give her name and other personal information over the phone, which they will then record and use to make withdraws from Helen's bank account. In another scam, Robert has told Ardelle (a real victim whose line has been taken over by law enforcement) that she has won a prize and needs to send in money to claim the prize. Ardelle is out of money, and thus Robert is making one last attempt to try to steal whatever he can from her.

HELEN: I don't think I'm interested.
VICTORIA: Ma'am, it's illegal to hang up on a verification.

ARDELLE: Who sent me this?
ROBERT: Don't worry about all that, I'll give you that information later, because it's obviously getting too confusing.
ARDELLE: Uh.

SEAN: You're going to shut your mouth and you're going to listen to me ***. I'm fed up with you talking over me. I'm going to start this verification. Answer my questions with a yes or with a no. Do you understand?

VICTORIA: This is the law that President Bush passed himself, ma'am. You cannot hang up.

SEAN: And if you were in front of me old lady, man, black, white I would have slapped you by now. Ok?
HELEN: Well, I tell you what.
SEAN: I'm going to pass you to my manager. Hold the ** line, and here he or she comes.

VICTORIA: It's illegal to ask questions on the verification.

ROBERT: And do this exactly as I tell you and don't switch up on me again, Ok? Answer me, Ok?!
ARDELLE: I can send you a check!
ROBERT: You'll never, ever be anything. You're going to your grave a loser. A big loser. I think you're terrible.

The CHAIRMAN. Thank you, Doctor. That was wonderful testimony, very helpful to learn from.

Our next announced witness is Dr. Denise Park. Dr. Park?

STATEMENT OF DENISE C. PARK, PH.D., CO–DIRECTOR, NATIONAL INSTITUTE ON AGING ROYBAL CENTER FOR HEALTHY MINDS, UNIVERSITY OF ILLINOIS, URBANA–CHAMPAIGN, IL

Ms. PARK. Thank you. Good afternoon, Chairman Smith, Senator Kohl, and other members. My name is Denise Park. I am a cognitive neuroscientist and professor at the Beckman Institute, which is part of the University of Illinois in Urbana-Champaign. I direct the Roybal Center for Healthy Minds at the University of Illinois, a center funded by the National Institute on Aging that is designed to take the results of basic laboratory research on aging and determine how these results can be used to improve function in older adults in their everyday lives. I have been involved with the NIH by just completing a stint Chairing an NIH Review Panel recently, and I also just completed a term on the Board of Directors of the American Psychological Society.

Thank you for inviting me today. My research for the past two decades has focused on the aging mind. Today, I would like to alert you to how changes in cognitive function with age make older adults particularly susceptible to being victimized by charlatans who exploit certain aspects of the aging cognitive system.

How are we doing on the visual aids here? OK, great.

Here is a figure based on data collected from my laboratory that has been published in scientific journals as well as USA Today and Newsweek. I call this figure the "Aging Mind" slide. It represents data collected on many different cognitive tests from adults aged 20 to 90 who were selected from a group of exceptionally able and healthy older adults. What you will see in this figure is the focus of my first important take-away point. Basic lab research demonstrates very clearly that as we age, beginning in our 20's, like many other systems in the body, our cognitive system shows signs of gradual deterioration. With age, we become slower at processing information; our memory becomes somewhat less effective; and our ability to take in a large quantity of information at one time and reason about it decreases. At the same time, these declines are not as important for function in everyday life as they might appear, because with age, as this figure shows, knowledge also increases, conferring a buffer against the impact of cognitive aging. Nevertheless, we do become increasingly "cognitively frail" with age, and this frailty has the greatest impact when we cannot rely on our knowledge or experience to help us out. So when older adults are unexpectedly faced with offers to buy things or have repairs done, they have less ability than younger adults to process all aspects of the message that they are receiving. This can result in them attending to the most attractive parts of the message or the simplest part of the message and agreeing to purchase things that they neither want nor need, or worse yet, signing contracts for which they never receive any services or contracts that they do not understand.

A second take-away point that will give you further insight into why older adults are more easily exploited by consumer scams is

the following: There is conclusive evidence that older adults have a bias toward the processing of positive information. Studies conducted by Laura Carstensen and her colleagues at Stanford University suggest that with age, we learn to ignore negative information and direct more of our attention and limited cognitive resources toward positive information. This is generally good news, suggesting the resilience that characterizes so many of our elderly citizens. But at the same time, this tendency to process positive information at the expense of negative can make older adults particularly vulnerable to unscrupulous characters.

Research in my lab conducted with Oscar Ybarra has demonstrated the following: We presented young and older adults with both positive and negative information about an individual and then tested their memory for the traits we used to describe the individuals. Older adults tended to recall more positive traits and less negative traits, whereas young adults were more balanced between positive and negative information. These results suggest that when older adults meet a charming charlatan, they are going to be biased toward processing the positive information about the individual—his niceness, attractiveness, and warm toward them—and be less likely to note the inconsistency of his story or tendency to gloss over specifics, which would make him seem untrustworthy to a younger adult. This problem is exacerbated by the somewhat more limited cognitive abilities that occur with age that, again, result in increased vulnerability to exploitation. The types of effects I am describing will be particularly pronounced for our oldest citizens and for those with less experience, that is, less knowledge, with making financial decisions. So, for example, a new widow over age 75 might be particularly vulnerable to exploitation.

The third point that I want to make is that with age, we tend to remember less explicit detail about events and more of the gist of what we hear. With age, individuals are particularly poor at remembering the details or context in which they learned something. So the point about gist memory will become particularly important when you consider my fourth point, and that is this: Information that feels familiar to an individual seems like it must be true. This is called the "illusion of truth effect." Knowing that older adults remembered gist over detail, and that familiar information feels true, my colleagues Ian Skurnik, Norbert Schwarz, Carolyn Yoon, and I set up an experiment that was designed to demonstrate that information that individuals believe to be false at the time they learn it will later seem true. Here is what we did.

We had older adults—aged 60 and over—and young adults—aged 18 to 25—come into our lab, and we presented them with a series of statements about health and told them whether the statements were true or false. For example, they would see statements like "Most cold medicines cause the eye's pupils to dilate," or "DHEA supplements can lead to liver damage, even when taken briefly." Some of the statements they saw only once and some they saw three times. Thus, all participants studied some statements that they were told three times were false. Now, remember that older adults tend to remember gist but not the details of what they see or hear. Remember that familiar information seems true. So what did we predict? We predicted that people would be more familiar

with the statements that they heard three times were false than the statements that they heard one time were false. We also expected that older adults, because they forget details, would not remember whether the statements were true or false.

So 3 days later, when we brought our participants back to our lab, what did we find? We showed people the statements they studied earlier as well as some new ones, and we asked people to judge whether the statements were true, false, or new. What we found was very surprising on the surface, but also exactly what we predicted. We found that old, but not young, adults were more likely to call a statement true that they had been told was false three times, compared to a statement they heard was false only once. So the more often participants had been told a medical statement was false, the more likely 3 days later they were to believe that this statement was true. Why is this? It is because the statements they heard were false multiple times felt familiar, and information that feels familiar seems true. So young adults did not show these effects because they could remember the explicit details about what they had studied.

So these findings explain how pernicious the effects of false claims can be for older adults. An older adult might not believe that "shark cartilage cures arthritis" if they read it as a headline in a tabloid at the grocery store checkout. But later, when they encounter the shark cartilage in the store, they might remember that they heard somewhere that it was a cure for arthritis and decide to purchase it, not remembering that they disbelieved the information when they initially read it. These findings provide insight again into not only how older adults might be exploited, but also provide guidelines for providing warnings to older adults. When presenting information to older adults as a warning, it is very important to present information clearly and in a positive way—for example, "Do this," rather than "Never do this"—if we want older adults to accurately remember it. Here is an example of a way not to present information to older adults taken from an actual pamphlet about living trusts.

Here is the claim: A living trust—this was taken from an actual pamphlet. A living trust will preserve your legacy to loved ones by helping you avoid probate costs and estate taxes. Then it goes on to say: But here is the truth. Most people do not need to worry about probate or estate taxes. Most living trusts are not designed to avoid estate taxes. There are many easier, cheaper ways to avoid probate than a living trust.

Older adults, however, a few days later, if they read this, might only remember that they learned something about how living trusts are important for avoiding probate, and they think that they need one, even if they initially understood that living trusts are rarely needed to avoid probate.

A better way to phrase this might be as follows: Living trusts are usually unnecessary and rarely save money for people. If you think a living trust is for you, get advice from an estate planning attorney.

Presenting false claims about health or taxes to older adults and then explaining why they are wrong is a dangerous business for helping older adults avoid fraud.

What I would like to do now is to critique several public service ads intended to educate older Americans about consumer fraud from the point of view of a cognitive psychologist. I will be pointing out some features that make the materials more easily comprehended and remembered by older adults and also presenting some examples that have some significant problems that will limit their effectiveness. As we look at these ads, keep in mind that designing materials for older adults can be particularly difficult due to the range of cognitive ability present in this population. There are, of course, a majority of older adults who are functioning at an extraordinarily high level and will be quite insulted by materials that are so simple that they appear to talk down to them. At the same time, there is a significant proportion of very old adults who are cognitively compromised and who may also have a limited social network, and these may be most susceptible to fraud. It can be quite a challenge to design materials that speak to both groups. Nevertheless, I will try to show you some materials that succeed for both groups and others that are problematic in their design.

First I will show you some examples of problems. The first example here is material about Alzheimer's disease designed by a nonprofit Alzheimer's support organization. This particular brochure illustrates the point I just made. Remember that I mentioned that older adults tend to remember the gist of what they read rather than details and that information that is believed to be false at the time they read it may feel true later on. So when this information is presented as a set of itemized myths, there is a good chance that the information will later be remembered as truth. For example, an older adult reads the statement, "MYTH: There Is No Hope for an Alzheimer's Person." At the time he or she reads it, they understand the statement is false. Days later, however, all the individual remembers is that he or she once read somewhere that there was no hope for people with Alzheimer's, completely forgetting the context in which it was read. Had the information been presented in a straightforward and positive way—"FACT: There are things that can be done to help people with Alzheimer's"—such a misunderstanding could have been avoided.

The next example is a consumer fraud fact sheet published by the Federal Trade Commission that warns against "phishing" scams, a type of e-mail scam to which older adults, due to more limited experience with the Internet, may be especially vulnerable. The problem with this ad is that those individuals most likely to be taken in by a phishing scam are probably going to think it has something to do with the sale of seafood that does not exist. So the people who most need to read this article would be likely to pass it by when they encountered this brochure because they would not know what a phishing scam is and that it would have any importance to their everyday life. Perhaps a better headline would be, "Have you been getting e-mail requests to update financial records or to help secure funds for someone in another country? It is a scam." Then the next line might read, "How Not to Get Hooked by a Phishing Scam."

The next excerpt is from a pamphlet on Medicare/Medicaid fraud put out by the Department of HHS and the Administration on Aging, and it is another example of helpful information being pre-

sented in a difficult and inaccessible format. Here we see once again that the main title, "Be Informed, Be Aware, Be Involved," does not convey any useful information about what this pamphlet is actually about. The section headings also give no sense of what the topic of the pamphlet is. It is only upon careful scrutiny that one is able to notice that it is about health care and Medicare fraud. Finally, in small print, it indicates that if one suspects that fraudulent charges have been made to Medicare on their bill, one should call the number on the back of the pamphlet. But actually there is no number provided. The title of this pamphlet might read instead, "Check Your Medical Bills. Be Alert to Medicare Overcharges and Medicare Fraud." Ms. Park. The next advertisement developed by the Department of HHS, the American Hospital Association, and the AMA is a good example of a well-crafted message that is easily accessible to older adults at all levels of cognitive function. The text is simple and succinct. The title and headings are eye-catching and easy to understand. It is possible to gather the gist of the message simply by glancing at the bold text alone. However, anyone who is interested in more detail can chose to read the small print as well.

The pictures, while adding to the overall attractiveness of the ad, also serve to reinforce the main points and make them more memorable and easier to process.

The CHAIRMAN. As you have evaluated these, Dr. Park, how much of the Government's information is good and how much is bad?

Ms. PARK. That is an interesting question. Your Committee sent me 10 or 15 pamphlets of this sort, and I selected 6 without any difficulty to critique, and, you know, I would guess at least—this is a guess. Of the materials I was sent, I would guess 25 percent had serious problems. I didn't have to look hard to find these examples, and there were many more in the materials that were sent to me.

The CHAIRMAN. You mind if we give them your number?

Ms. PARK. I might mind. No, I think that actually that's my closing comment, and maybe I should get to that.

Very quickly, this is another example of a good add. It is really clear what this ad is about. Stop calling me. How to remove your name from marketing lists. Then you can see that there is clear headers, and you can look at what your particular problem is and get more information on the second page of the web site.

This is a web page. Here is another one that is really very good. Nice integration of visual and verbal information. If you just bought something online about a medical device, you would be sure to look at this and sure to know that this is about how to be warned.

I like that they showed the FDA as a clear and credible source that was very visible on this ad, and it is also easy to figure out how to get more information from this ad.

So to conclude, I hope you all remember the following: normal aging is accompanied by declines in cognitive function that result in older adults remembering gist rather than details. Never present older adults with false statements as examples, because, later on, they will feel true to the older adult.

Older adults have a bias to process positive information. This can lead to exploitation due to their tendency not to process negative information about shady characters.

Finally, I would like to note that cognitive aging scientists can play an important role in designing effective and memorable materials for older adults that will help them be less vulnerable to fraud. The work I have presented today is only a small example of the help cognitive scientists can offer in designing effective materials for older adults to protect them against fraud, as well as to aid in designing materials that clarify information about taxes, forms, medical conditions, and Social Security.

The research I presented today was supported by the National Institute on Aging, and is a good example of how basic laboratory research can result in important outcomes for understanding everyday behaviors. It has been an honor and a pleasure, Senator Smith and Senator Cole, to share with you the work conducted under the auspices of the NIA Roy Ball Center for Healthy Minds, and I would also like to thank your Committee staff for their support and the National Institute on Aging for the support of the research that contributed to this presentation. Thank you.

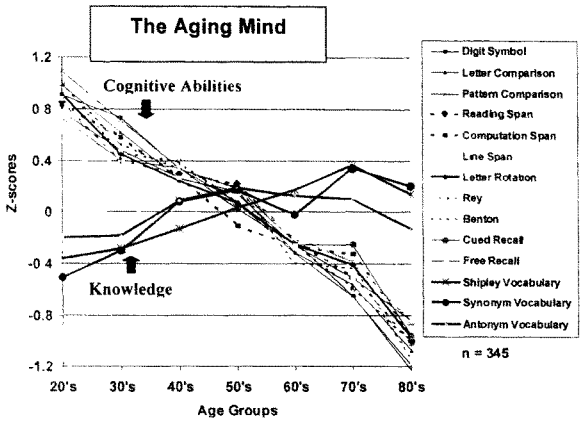
[The prepared statement of Ms. Park follows:]

Consumer Fraud and the Aging Mind
Scientific Testimony Presented to
The Senate Special Committee on Aging
July 27, 2005
By Denise C. Park, Ph.D.

Good afternoon, Chairman Smith, Senator Kohl, and other members of the Committee. My name is Denise Park. I am a cognitive neuroscientist and professor at the Beckman Institute, which is part of the University of Illinois in Urbana-Champaign. I direct the Roybal Center for Healthy Minds at the University of Illinois, a Center funded by the National Institute on Aging that is designed to take the results of basic laboratory research on aging and determine how these results can be used to improve function in older adults in their every day lives. I have also been involved with the NIH by just completing a stint chairing an NIH Review Panel for the past several years and I also just completed a term on the Board of Directors of the American Psychological Society.

Thank you for inviting me here. My research for the past two decades has focused on the aging mind. Today, I would like to alert you to how changes in cognitive function with age make older adults particularly susceptible to being victimized by charlatans who exploit certain aspects of the aging cognitive system.

Below is a figure based on data collected from my laboratory that has been published in scientific journals as well as *USA Today* and *Newsweek*. I call this figure the "Aging Mind" slide. It represents data collected on many different cognitive tests from adults aged 20 to 90 selected from a group of exceptionally able and healthy older adults (Park et al., 2002). What you will see in this figure is the focus of my first important take-away point. Basic laboratory research demonstrates very clearly that as we age, beginning in our 20's, like many other systems in the body, our cognitive system shows signs of gradual deterioration. With age, we become slower at processing information; our memory becomes somewhat less effective; and our ability to take in a large quantity of information at one time and reason about it decreases. At the same time, these declines are not as important for function in everyday life as they might appear, because with age, as this figure shows, knowledge also increases, conferring a buffer against the impact of cognitive aging. Nevertheless, we do become increasingly "cognitively frail," and this frailty has the greatest impact when we cannot rely on our knowledge or experience to help us out. Thus, when older adults are faced unexpectedly with offers to buy things or have repairs done, they have less ability than younger adults to process all aspects of the message that they are receiving. This can result in them attending to the most attractive parts of a message, or the simplest part of the message, and agreeing to purchase things they neither want or need, or worse yet, signing contracts for which they never receive any services or that they don't understand.



A second take away point that will give you further insight into why older adults are more easily exploited by consumer scams is the following. There is conclusive evidence that older adults have a bias towards the processing of positive information. Studies conducted by Laura Carstensen and her colleagues at Stanford University suggest that with age, we learn to ignore negative information and direct more of our attention and limited cognitive resources towards positive information. This is generally good news, suggesting the resilience that characterizes so many of our older citizens. But at the same time, the tendency to process positive information at the expense of negative can make older adults particularly vulnerable to unscrupulous characters. Research in my laboratory conducted with Oscar Ybarra has demonstrated the following. We presented young and older adults with both positive and negative information about an individual and then tested memory for the traits we used to describe the individuals. Older adults tended to recall more positive traits and less negative information, whereas younger adults were more balanced between both positive and negative information (Ybarra & Park, 2002). These results suggest that when older adults meet a charming charlatan, they are going to be biased towards processing the positive information about the individual: his niceness, attractiveness, and warmth towards them, and be less likely to note the inconsistency of his story, or his tendency to gloss over specifics, which would make him seem untrustworthy to a younger adult. This problem is exacerbated by the more limited cognitive abilities of older adults (my first point), again resulting in increased vulnerability to exploitation and bad decisions about how to spend money. These types of effects will be particularly pronounced for our oldest citizens and those with less experience making financial decisions—for example, new widows over age 75.

The third point I want to make is that with age, we tend to remember less explicit detail about events and more of the gist of what we hear. With age, individuals are particularly bad at remembering the details or context in which they learned something (Johnson, Hashtroudi, & Lindsay, 1993). This point about gist memory will become particularly important when you consider my fourth point, and that is this: information that feels

familiar to an individual seems like it must be true. This is called the "illusion of truth effect" (Begg, Anas, & Farinacci, 1992). Knowing that older adults remembered gist over detail, and that familiar information feels true, my colleagues Ian Skurnik, Norbert Schwarz, Carolyn Yoon, and I set up an experiment that was designed to demonstrate that information that individuals believe to be false at the time they learn it will later seem true. Here is what we did.

We had older adults (aged 60 and over) and young adults (ages 18-25) come into our lab and we presented them with a series of statement about health and told them whether the statements were true or false. For example, they would see statements like "Most cold medicines cause the eye's pupil to dilate," or "DHEA supplements can lead to liver damage, even when taken briefly." Some of the statements they saw only once and some they saw three times. Thus, all participants studied some statements that they were told three times were false. Now remember that older adults tend to remember gist but not the details of what they hear or see. And remember that familiar information seems true. So what did we predict? We predicted that people would be more familiar with the statements that they heard three times were false than the statements that they heard one time were false. And we also expected that older adults, because they forget details, would not remember whether the statements were true or false.

So when we brought our participants back to our lab three days after they studied the statements, what did we find? We showed people the statements they studied earlier as well as some new ones, and asked people to judge whether the statements were true, false, or new. What we found was very surprising on the surface, but also exactly what we predicted. We found that old, but not young, adults, were more likely to call a statement "true" that they had been told was "false" THREE times compared to a statement they had been told was false only once! Thus, the more often participants had been told a medical statement was false, the more likely they were later to believe that it was true! (Skurnik, Yoon, Park & Schwarz, 2005). This is because the statements they heard were false multiple times felt familiar, and information that feels familiar seems true. Young adults did not show these effects because they could rely on explicit memory rather than gist and retained the information that the statements were false.

These findings explain how pernicious the effects of false claims can be for older adults. An older adult might not believe that "shark cartilage cures arthritis" if they read it as a headline in tabloid at the grocery store checkout. But later, when they encounter the shark cartilage in the store, they might remember they heard "somewhere" that it was a cure for arthritis and decide to purchase it—not remembering that they disbelieved the information when they initially read it. These findings provide insight again into not only how older adults might be exploited, but also provide guidelines for providing warnings to older adults. When presenting information to older adults as a warning, it is very important to present information clearly and in a positive way (e.g., "Do this." rather than "Never do this.") if we want older adults to remember it accurately. Here is an example of a way NOT to present older information to older adults taken from an actual pamphlet about "living trusts."

> **THE CLAIM: A living trust will preserve your legacy to loved ones by helping you avoid probate costs and estate taxes.**
>
> **THE TRUTH: Most people don't need to worry about probate or estate taxes. Most living trusts aren't designed to avoid estate taxes. There are many easier, cheaper ways to avoid probate than a living trust.**

Older adults, a few days later, might only remember that they learned something about how living trusts are important for avoiding probate and think that they need one, even if they initially understood that living trusts are rarely needed to avoid probate.

A better way to present this might be as follows:

> **Living trusts are usually unnecessary and rarely save money for people. If you think a living trust is for you, get advice from an estate planning attorney.**

Presenting false claims about health or taxes to older adults and then explaining why they are wrong is a dangerous business for helping older adults avoid fraud.

What I would like to do now is to critique several public service ads intended to educate older Americans about consumer fraud from the point of view of a cognitive psychologist. I will be pointing out features that will make the materials more easily comprehended and remembered by older adults and also presenting some examples that have some significant problems that will likely limit their effectiveness. As we look at these ads, keep in mind that designing materials for older adults can be particularly difficult, due to the range of cognitive ability present in this population. There are, of course, many older adults who are functioning at an extraordinarily high level and will be quite insulted by materials that are so simple that they appear to "talk down" to them. At the same time, there is a significant proportion of very old adults who are cognitively compromised and who also have a limited social network and may be those most susceptible to fraud. It can be quite a challenge to design materials that speak to both groups. Nevertheless, I will show you some materials that succeed for both groups, and others that are problematic in their design.

Example 1

Myths

At the present time, Alzheimer's remains incurable. This lack of information about the disease provides room for misconceptions and false beliefs about the disease. The following are six of the most common myths followed by facts.

MYTH ONE: Alzheimer's Symptoms are Natural Signs of Old Age

FACT: This is not true. Normal signs of aging may include forgetfulness or mild memory loss. Alzheimer's, however, progresses more quickly and severely, and eventually fully deteriorates the brain.

MYTH TWO: Problems Arise During Old Age Due to Senility

FACT: A proper diagnosis will render this myth untrue. Senility represents a general term used to cover a variety of symptoms. Senility is not synonymous with Alzheimer's. Many other problems may have similar symptoms but are treatable, even curable. An older person should be encouraged to seek a professional medical exam rather than assuming that senility is inevitable.

MYTH THREE: There is No Hope for an Alzheimer's Person

FACT: Even though there is no present cure, there are many items that will help an Alzheimer's person remain comfortable and happy. Specific activities to keep the person active and prosperous, proper medical attention to relieve unnecessary symptoms, proper behavioral guidance to ward against depression etc. are a few examples of what can be done.

MYTH FOUR: Alzheimer's is a Mental Illness

FACT: This is true to an extent. Because Alzheimer's affects the brain, it is a "mental" illness. However, it is by no means strictly a psychiatric disorder. Alzheimer's is a degenerative disease that affects the brain, and consequently the whole unified body remains affected. A change in personality is part of it, but in

Older adults will later remember that this false information is true due to the finding that, later on, familiar information feels true.

First, I will show you some examples of problems. The first example is material about Alzheimer's disease designed by a nonprofit Alzheimer's support organization. This particular brochure illustrates one of the points I made earlier: Remember that I mentioned that older adults tend to remember the gist of what they read rather than details and that information that is believed to be false at the time it is read may "feel" true later because it is familiar. Thus, when information is presented as a set of itemized "myths," there is a good chance that that information will later be remembered as truth. For example, an older adult reads the statement, "MYTH: There is No Hope for an

Alzheimer's Person." At the time he or she reads it, it is understood that this statement is false. Days later, however, all the individual remembers is that he or she once read somewhere that there is no hope for people with Alzheimer's, completely forgetting the context in which it was read. The older adult recalls the gist of the statement, but forgets that it was learned in the context of being told it was a false statement. Had the information been presented in a straightforward and positive way ("FACT: There are things that can be done to help people with Alzheimer's!"), such misunderstanding could have been avoided.

Example 2

FTC Consumer Alert

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

How Not to Get Hooked by a 'Phishing' Scam

"We suspect an unauthorized transaction on your account. To ensure that your account is not compromised, please click the link below and confirm your identity."

"During our regular verification of accounts, we couldn't verify your information. Please click here to update and verify your information."

Have you received email with a similar message? It's a scam called "phishing" — and it involves bogus Internet messages who send spam or pop-up messages to lure personal information (credit card numbers, bank account information, Social Security number, passwords, or other sensitive information) from unsuspecting victims.

According to the Federal Trade Commission (FTC), the nation's consumer protection agency, phishers send an email or pop-up message that claims to be from a business or organization that you may deal with — for example, an Internet service provider (ISP), bank, online payment service, or even a government agency. The message may ask you to "update," "validate," or "confirm" your account information. Some phishing emails threaten a dire consequence if you don't respond. The messages direct you to a website that looks just like a legitimate organization's site. But it isn't. It's a bogus site whose sole purpose is to trick you into divulging your personal information so the operators can steal your identity and run up bills or commit crimes in your name.

The FTC suggests these tips to help you avoid getting hooked by a phishing scam:

- **If you get an email or pop-up message that asks for personal or financial information, do not reply. And don't click on the link in the message, either.** Legitimate companies don't ask for this information via email. If you are concerned about your account, contact the organization mentioned in the email using a telephone number you know to be genuine, or open a new Internet browser session and type in the company's correct Web address yourself. In any case, don't cut and paste the link from the message into your Internet browser — phishers can make links look like they go to one place, but that actually send you to a different site.
- **Use anti-virus software and a firewall, and keep them up to date.** Some phishing emails contain software that can harm your computer or track your activities on the Internet without your knowledge.

  Anti-virus software and a firewall can protect you from inadvertently accepting such unwanted files. Anti-virus software scans incoming communications for troublesome files. Look for anti-virus software that recognizes current viruses as well as older ones that can effectively reverse the damage, and that updates automatically.

The people most likely to be "hooked" by a phishing scam might not read this, as they won't know what "phishing" is.

This next example is a consumer fraud fact sheet published by the Federal Trade Commission that warns against "phishing" scams, a type of e-mail scam to which older adults, due to more limited experience with the Internet, may be especially vulnerable. The problem with this ad is that those individuals most likely to be taken in by a "phishing scam" are probably going to think it has something to do with the sale of seafood that doesn't exist. So the people who most need to read this would be likely to pass by this information when encountered. Perhaps a better headline would be "Have you been getting e-mail requests to update financial records or to help secure funds for

someone in another country? It's a SCAM!" Then the next line might read, "How Not To Get Hooked by a 'Phishing' Scam."

Example 3

SENIOR MEDICARE PATROLS

Home | Previous Page

Be Informed, Be Aware, Be Involved brochure

Fight Medicare/Medicaid Waste, Fraud, and Abuse

What is this brochure about?

Be Informed
Billions of dollars are lost each year to Medicare/Medicaid waste, fraud, and abuse. The Medicare and Medicaid programs provide security for you and your family. You want to ensure that these health insurance programs will have the money to operate and to provide good, quality health care for you and future generations.

Although the vast majority of providers are honest, the activities of the remaining few result in wasted funds for the Medicare and Medicaid programs and a loss of quality of care for yourself.

Be Aware

Headers convey no information.

Here are some ways to take an activerole in protecting your health care:
- Review Medicare Summary Notice for errors
- Confirm services/supplies were received
- Confirm services/supplies were necessary

If you identify or suspect waste, fraud, and/or abuse, call your provider and describe the problem. If you're not satisfied with the response you get or if you are not comfortable calling your provider directly, call your local Senior Medicare Patrol project. The number is located on the back of this brochure.

No phone number given.

Be Involved
Volunteers are critical to the success of this effort. Since 1993, billions of dollars in health care savings have been realized due to government and volunteer efforts of people like you.

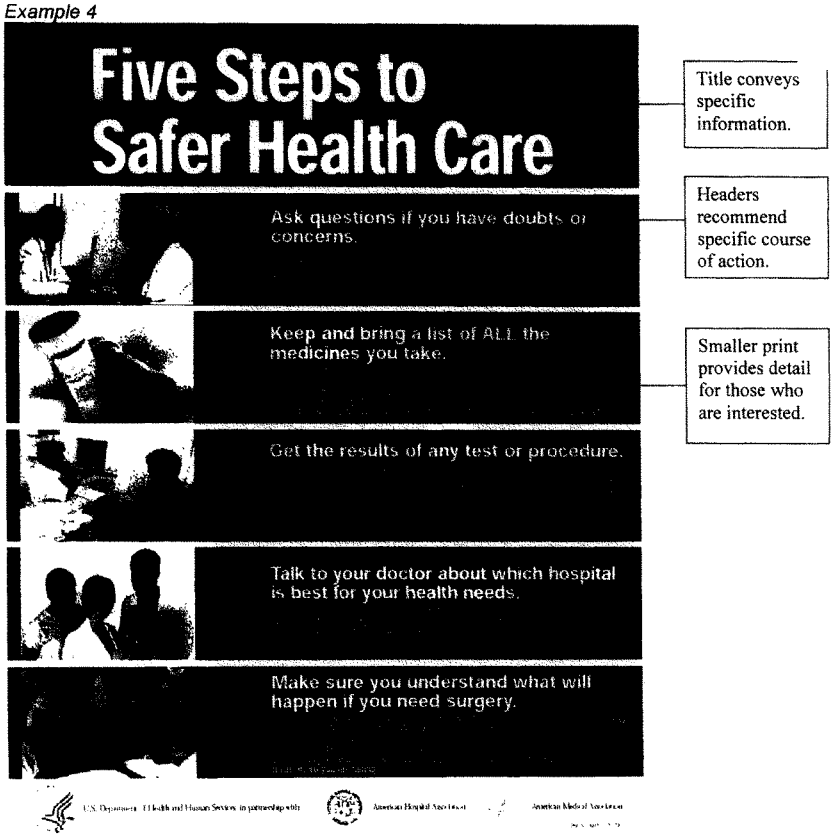
You can help make a difference in your community by actively participating in your local Senior Medicare Patrol project. Volunteer activities include:
- Giving presentations
- Answering incoming phone calls
- Helping beneficiaries review their Medicare Summary Notices

What to look for:
- You are billed for a service that you have not received
- You are asked to provide your Medicare/Medicaid number when a service or supply is advertised as "free"
- You continue to receive medical supplies when they are no longer necessary
- You do not receive necessary medical supplies/treatments ordered (i.e. prescription for sixty pills only contains forty)

This information is provided by the U.S. Administration on Aging, which is partnering with other government agencies, the organization listed below, and thousands of older Americans in a national effort to combat and prevent waste, fraud, and abuse in Medicare and Medicaid.

This next excerpt is from a pamphlet on Medicare/Medicaid fraud put out by the Department of Health and Human Services and the Administration on Aging, and it's another example of helpful information being presented in a difficult and inaccessible format. Here we see once again that the main title, "Be Informed, Be Aware, Be Involved," does not convey any useful information about what the pamphlet is actually about. The section headings also give no sense of what the topic of the pamphlet is. It is only upon careful scrutiny that one is able to notice that it is about health care and Medicare fraud. Finally, in small print, it indicates that if one suspects that fraudulent charges have been made to Medicare on their bill, they should call the number on the back of the pamphlet. But actually there is no number provided. The title of this pamphlet might instead read, "Check Your Medical Bills! Be Alert To Medicare Overcharges and Medicare Fraud!"

Example 4



The next advertisement, developed by the Department of Health and Human Services, the American Hospital Association, and the American Medical Association, is a good example of a well-crafted message that is easily accessible to older adults at all levels of cognitive function. The text is simple and succinct. The title and headings are eye-catching and easy to understand. It's possible to gather the gist of the message simply by glancing at the bold text alone. However, anyone who is interested in more detail can choose to read the small print as well. The pictures, while adding to the overall attractiveness of the ad, also serve to reinforce the main points and make them more memorable and easier to process.

Example 5

Stop Calling Me! How to Remove Your Name from Marketing Lists

For an update on the Do Not Call List, click here

STOP calling me!

How to Remove Your Name from Marketing Lists

It's clear what you can learn by reading further.

Tired of telemarketing calls, "junk mail," and email messages from strangers trying to sell you something? It's hard to avoid them completely, and there may be opportunities that you really want to hear about. But it is possible to reduce the amount of unwanted offers you receive. Click here to learn more about it ...

Continued...

Telemarketing Fraud Tips from the National Consumers League's National Fraud Information Center

Avoiding Sales Calls

Tired of calls from strangers trying to sell you something? Bothered by shady characters offering deals that are too good to be true? You can't eliminate unwanted calls completely, but you can reduce the number you receive.

Clear headers with details below.

Internet Fraud Tips

Telemarketing Fraud Tips

NCLnet.org

Online Complaint Form

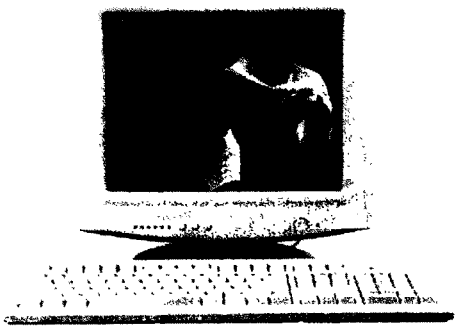
Fraud.org

- **Sign up for the national "do not call" registry.** It's easy and it's free! Call (888) 382-1222, TTY (866) 290-4326 from the phone number you want to register. Unfortunately registering by phone may not work if you live in a residential complex that uses a PBX phone system. But you can also register online at www.donotcall.gov. If you don't have a computer, use someone else's. You'll need Internet access and a working email address. The "do not call" system will send a response to that address with a link that must be clicked on within 72 hours to complete the registration.
- **Registration doesn't last forever.** It expires in five years. No notice will be sent to you, so keep your own records. You can confirm that a number is on the registry and the registration date through the toll-free number or Web site. If your number changes or is disconnected, you'll need to re-register. You can also take the phone number off the "do not call" registry anytime via the toll-free number or Web site.
- **Some callers aren't covered.** Nonprofit groups, charities, political organizations, and survey companies don't have to use the national "do not call" list. But when charities use professional fundraisers to call, they must honor your request not to call again.
- **Some companies can still call you.** Even if your number is on the registry, companies can call if you purchased something from them or made a payment within the previous 18 months, you asked about a product or service or submitted an application in the past 3 months, or you have a "personal relationship" as a friend, relative or acquaintance. But you always have the right to tell them not to call again.
- **Be careful what you sign.** Companies can also call with your written permission, so look at contracts, order forms, contest entry forms, and other things you sign carefully to make sure you're not agreeing to be called without realizing it. You can withdraw consent anytime by saying, "don't call me again."
- **It may take a while to notice fewer calls.** Telemarketers check the national "do not call" registry every three months, so it may take that long before your number is removed from their calling lists.

This excerpt from the webpage of the National Fraud Information Center is another example of a well laid out public service message. The front page of the website grabs the attention and tells the reader exactly what information is coming. The main page is laid out simply and effectively, with headers that "signal" the content of each paragraph, allowing readers to direct their attention quickly to more detail on topics that interest them.

Example 6

Know Your Source.



Nice integration of visual and verbal information.

Buying Medical Devices Online Can Be Tricky.

Clear and simple message.

Anyone can create an appealing illusion on a Web page.

Be wary if the product:
- Has not been cleared for sale by the FDA;
- Claims to diagnose or treat more than one illness, e.g., cancer, arthritis, anemia;
- Is made by one laboratory only and sold directly to the public.

Avoid buying from sites:
- That uses words like "new cure;"
- With impressive-sounding terminology that can hide bad science;
- Without a U.S. address and phone number.

Credible source clearly visible.

FDA
U.S. Food and Drug Administration

For more information about online medical device purchases, contact the U.S. Food and Drug Administration at www.fda.gov and click on "Buying Medicines and Medical Products Online," or call 1-888-INFOFDA (1-888-463-6332).

Easy to get more info.

A public service message from the FDA and the CyberSmart Safety Coalition: Working to provide information about online medications

Here is another simple and effective advertisement, this one from the F.D.A. This is a magazine ad that immediately conveys the notion that it can be risky to purchase medical devices on the internet and warns the reader what to avoid. Also, the F.D.A. logo is prominently displayed in this ad – a nice touch that serves to add legitimacy, since most seniors know the F.D.A. and are more likely to pay attention to information from a trusted source.

To conclude, I hope you remember the following.

Normal aging is accompanied by declines in cognitive function that result in older adults remembering gist rather than details. Never present older adults with false statements as examples, because later on, they will feel true to the older adult.

Older adults have a bias to process positive information and this can lead to exploitation due to their tendency not to process negative information about shady characters and to focus on the positive.

Finally, I would like to note that cognitive aging scientists can play an important role in designing effective and memorable materials for older adults that will help them be less vulnerable to fraud. The work that I have presented today is only a small example of the help cognitive scientists can offer in designing effective materials for older adults to protect them against fraud, as well as to aid in designing materials that clarify information about taxes, forms, medical conditions, and social security. The research I presented today was supported by the National Institute on Aging and is a good example of how basic laboratory research can result in important outcomes for understanding everyday behaviors. It has been an honor and a pleasure to share with you the work conducted under the auspices of the National Institute on Aging Roybal Center for Healthy Minds.

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The CHAIRMAN. Dr. Park, it has been enormously helpful and insightful the academic approach you have taken. A question if I may.

How sophisticated do you think the scam artists are? Do they know what you know in terms of positive messages and how to tell negative things in ways that will ultimately seem truthful to them?

Ms. PARK. I think that is a really good question. I think there are people who intuitively know how to defraud people and recognize that they need to present themselves as warm, charming—how to deal with lonely elders—and also are very good at, based on a few cues in a conversation as to what this person needs and wants to hear. So there is, you know, I would guess a really sophisticated con artist is a natural psychologist. He is informal. They also learn over time with what works and what doesn't work, and they will unconsciously learn things about what works that they can't even verbalize, but they may implicitly recognize what will be effective.

The CHAIRMAN. Well, certainly this hearing and this Committee will be pursuing your suggestions on improving the materials and their effectiveness so that they are not wasting time, but actually making a difference. So.

Ms. PARK. OK. Thank you, Senator Smith.

The CHAIRMAN. Thank you so very much. Helen Dicks is from Senator Kohl's State of Wisconsin and, we are very thankful for your presence and invite your testimony now.

STATEMENT OF HELEN MARKS DICKS, ESQ., DIRECTOR , ELDER LAW CENTER OF THE COALITION OF WISCONSIN AGING GROUPS, MADISON, WI

Ms. DICKS. Thank you. Good afternoon, Chairman Smith, Ranking Member Kohl, and members of the Special Committee on Aging. I appreciate this opportunity to testify.

The Elder Law Center observes three types of financial exploitation of older Americans. Most easily recognized are the traditional fraudulent practices where a third party defrauds the senior and obtains their assets and their identities. The abusers are strangers to the seniors. This is the type that we have talked about the most today, and the type that we identify mostly as a consumer protection issue.

The second issue that we deal with is the occurrence of waste, abuse, and other fraud within Medicare and other public benefit programs. With the introduction of a new and complex Medicare Prescription Drug Program this fall, marketing to seniors will reach a new, intense level.

The CWAG Elder Law Center anticipates that scam artists will use this development to exploit seniors and people with disabilities who receive Medicare.

Previously, you had asked what happened around the drug cards introduced last year as a transition before this benefit started. We had a lot of experience in Wisconsin with people charging applicants who apply for a public benefit. We had people pretending to be a Medicare approved card company, getting people's personal information, and then charging their credit cards to the tune of $299

for a card that was not a Medicare approved card. There were several organized scams around the discount cards.

We presume that the same level of sophistication and greed will come out in the Part D marketing this fall.

The third type of exploitation is the most common, the most under reported, and actually the most appalling type of elder abuse. It is the financial abuse of seniors by family members and other trusted people. These people use legal documents, such as Powers of Attorney, to drain seniors of their lifetime savings and assets. Trusted family members and professional advisors use estate planning as a means of gaining access to savings accounts, real estate, and other personal possessions.

Seniors are reluctant to report these crimes simply because they involve family members. Law enforcement is often reluctant to get involved because they see this as a family issue.

To address these concerns, the Elder Law Center has been using a fourfold approach.

We provide consumer education on identifying and preventing financial elder abuse, benefit fraud, and other forms of exploitation. This education includes our publications, which I have provided to each Senate office.

Additional consumer materials were given in my testimony packet.

Since we anticipate major fraud activity around the new Medicare Drug Benefit, we have a section on our Part D web site www.wismedrx.org specifically dealing with fraud and a separate e-mail address to report fraud to us as people become aware of this type of activity.

Two, we provide legal assistance and emergency representation for victims of elder financial exploitation. Most work in this area comes in to us through our financial exploitation helpline. Our oldest caller was 102. She asked for assistance in revoking a Power of Attorney that a family member had been misusing.

The third way we work to eliminate abuse is to encourage the reporting, investigation, and prosecution of financial elder abuse, benefit fraud, and other exploitation through training for seniors, professionals, government employees, and community advocates.

Our professional training includes working with bankers and lawyers. We have specific publications on both the civil litigation and criminal prosecution of elder abuse cases. We are currently working with our Attorney General's office, training law enforcement personnel.

In addition, our office hosts one of the Senior Medicare Patrol projects, working to train seniors to spot and report Medicare fraud.

Fourth, we advocate for improvements in the law and additional public funding to support prevention and prosecution of elder financial exploitation. We have successfully lobbied for increased funding by the state to our counties for elder abuse investigations. The Wisconsin legislature is currently reviewing both our guardianship laws and our protective placement laws.

Financial abuse of elders is now where domestic violence was 20 years ago. No one wants to admit how extensive the problem is.

Unfortunately, elder financial abuse is a low priority among the general public, among law enforcement, and within our government. We need to change this. We need greater coordination between social service agencies and the law enforcement community. We need to create a dialog between those who have direct contact with vulnerable seniors and those who can take actions to protect them.

We need to realize that this is not just a family matter. We need a major change in the public attitude toward the victimization of seniors. This will require the reintroduction and passage of the Elder Justice Act and funding to support increased coordination between the aging network, financial institutions, and law enforcement.

In closing, I am proud of the work that the Coalition of Wisconsin Aging Group, its Elder Law Center, and the other elder justice advocates have done, but limited resources means limited results.

We need to empower our local communities with financial and legal means to prevent and prosecute elder the financial exploitation.

If we do not do so, there will only be more victims and more abusers.

[The prepared statement of Ms. Dicks follows:]

Elder Law Center

Coalition of Wisconsin Aging Groups

PREPARED STATEMENT OF

MS. HELEN MARKS DICKS

on

"OLD SCAMS-NEW VICTIMS: BREAKING THE CYCLE OF VICTIMIZATION"

Before the

SENATE SPECIAL COMMITTEE ON AGING

Washington, D.C.

July 27, 2005

2850 Dairy Drive • Suite 100 • Madison, WI 53718-6751 • 608/224-0606 • Fax 608/224-0607

I. Introduction

Good afternoon Chairman Smith, Ranking Member Kohl, and members of the Special Committee on Aging. I appreciate the opportunity to testify before you today on behalf of a uniquely vulnerable population in the area of fraudulent practices, our senior citizens. I am Helen Marks Dicks and I serve as Director at the Elder Law Center of the Coalition of Wisconsin Aging Groups.[1] The Coalition's largest department, the Elder Law Center, is a public interest law firm that provides legal education and services to seniors throughout Wisconsin.[2]

Educating and empowering the elderly to recognize, report, and combat scams and other fraudulent practices minimizes the victimization of seniors and protects the viability of federal and state benefits programs. Today I offer testimony on the concerns our organization has about the increasing number and sophistication of scams targeting the elderly. Through our work in the field of financial elder abuse prevention, education and services, we have observed how an aging baby boom generation and greater use of technology by seniors has provided criminals with a target-rich environment in which seniors become financial prey. I will also speak to an area of particular concern, the public's lack of knowledge and interest in these issues. Finally, I would like to discuss the obstacles professionals face in reporting elder exploitation due to the nature of our nation's legal environment, and how reputable professionals become unintended accomplices in exploitation.

II. Identification of Elder Financial Exploitation.

Through our work, the CWAG Elder Law Center has observed three types of financial exploitation. Most easily recognized are traditional fraudulent practices where a third party contacts a senior through mail, internet, phone, and direct solicitation in an attempt to defraud the senior and obtain their savings or personal information. Traditionally, scams of this type were perpetuated through direct mailings, disappearing contractors, or unseen contract provisions. However, traditional financial misappropriation from seniors has expanded in recent years to include electronic identity theft and reverse mortgage scams.

Waste, abuse, error, and other fraud within our Medicare and public benefits programs is another common problem. Unscrupulous providers receive payment for products and services that were billed to the senior's account, but were never received. The government is also bilked out of federal and state funds when seniors request products and services that have been improperly marketed as "free". With the introduction of a new and complex Medicare prescription drug benefit this fall, marketing to seniors will reach a new level of intensity. The

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[1] The Coalition of Wisconsin Aging Groups (CWAG) is a statewide federation of individuals and member groups that represents over 125,000 people. As a nonprofit, nonpartisan organization, CWAG pursues justice and quality of life for people of all ages through legal and legislative advocacy, education, and leadership development.

[2] The CWAG Elder Law Center assists in obtaining public benefits, such as Medicare and Medicaid, as well as provides counseling on issues of guardianship, elder abuse prevention, victim services and pension rights. The Elder Law Center receives funding through several sources including the Administration on Aging, The Victim of Crimes Act, The Older Americans Act, the State of Wisconsin, and private foundations. The Elder Law Center is also a Title III legal service provider for 65 of Wisconsin's 72 Counties.

CWAG Elder Law Center anticipates opportunists will use this development to scam seniors and people with disabilities who receive Medicare.

The third type of exploitation is the most common, the most underreported and the most appalling. It is the financial abuse of seniors by family members and other trusted people in their lives. These often-ignored scam artists use legal documents such as powers of attorney to drain seniors of a lifetime of earnings and savings. Mistakenly trusted family and friends use estate planning as a means of gaining access to savings accounts, real estate, and personal possessions. The abuser often isolates the senior from people who might report their questionable activity. Unfortunately, law enforcement rarely polices these criminal acts because seniors are often reluctant to report a family member or caregiver. If investigated, the financial agent will often defend their legal right to make monetary decisions on the senior's behalf. Prosecution of these acts is complicated by questions about the senior's competency to testify clouding what traditionally would be a simple criminal case.

To address these concerns, the CWAG Elder Law Center uses a four-fold approach:

1) Educate on the prevention of financial elder abuse, benefits fraud, and agent exploitation.
2) Provide legal assistance and emergency representation for victims of elder financial exploitation and fraud;
3) Encourage and support the reporting, investigation and prosecution of elder abuse, benefits fraud, and agent exploitation by training professionals, government employees, and community advocates;
4) Advocate for improvements in the law and additional government funding to support the prevention of elder financial exploitation and assist the prosecution of abusers.

I will address each of these areas separately.

III. The Four-fold Approach to Eliminating Elder Financial Exploitation

1. Consumer education on financial elder abuse, benefits fraud, and agent exploitation.

At the CWAG Elder Law Center we focus our educational outreach on both consumers and professionals. For individuals, we provide several informative booklets, such as *Elder Exploitation Basics*,[3] *It Pays to Plan Ahead*,[4] *Plan, Prevent and Protect*,[5] and the *Identity Theft*

[3] THE COALITION OF WISCONSIN AGING GROUPS, ELDER EXPLOITATION BASICS (2004). For information on how to obtain this booklet, or any other CWAG Elder Law Center publications. Please contact the CWAG Elder Law Center, 2850 Dairy Drive, Suite 100, Madison, WI 53718.

[4] THE COALITION OF WISCONSIN AGING GROUPS, IT PAYS TO PLAN AHEAD (2004).

[5] THE COALITION OF WISCONSIN AGING GROUPS, PLAN, PREVENT AND PROTECT (2004).

Toolkit.[6] These publications inform and instruct readers on ways to protect seniors from financial exploitation through properly executed advanced directives, well-secured personal information, and informed financial decision-making. In addition, we distribute a monthly *FRAUD ALERT!*,[7] published by the CWAG Elder Law Center's Medicare Integrity Project, one of the Senior Medicare Patrols[8] funded by the Administration on Aging. Through the *FRAUD ALERT!* consumers learn about current scams and benefits fraud issues occurring in the State of Wisconsin. The CWAG Elder Law Center's Wisconsin Guardianship Support Center[9] also produces *The Guardian,*[10] a quarterly newsletter for seniors, guardians, social workers and policy makers to inform its readers on agent and guardian issues. In addition, the Wisconsin Guardianship Support Center provides one-on-one counseling and instruction for seniors, agents, and others with guardianship questions. The CWAG Elder Law Center also hosts an Elder Abuse listserve[11] that routinely alerts participants about scams targeting seniors and encourages members to share information on issues such as elder financial exploitation.

With the implementation of the new Medicare prescription drug benefit, Medicare Part D, we anticipate a flood of consumer scams targeting elders. To warn the public about this type of criminal activity we will publish a booklet[12] identifying scams associated with this new benefit. We have also developed a Wisconsin Medicare Part D website[13] that contains a consumer alert section describing deceptive sales practices and agent misbehavior. Consumers are encouraged to report dishonest agents, fraudulent sales practices and other misleading behavior to the appropriate governmental agency. Also, all CWAG Elder Law Center outreach materials on the Medicare drug benefit include information about reporting Medicare fraud, waste and abuse. Witnesses to fraud can report suspicious activity to our dedicated email address, medfraud@cwag.org.

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[6] THE COALITION OF WISCONSIN AGING GROUPS, ELDER FINANCIAL EXPLOITATION PROJECT IDENTITY THEFT TOOLKIT (2004).

[7] The FRAUD ALERT! is a monthly publication of the Wisconsin Medicare Integrity Project of the Coalition of Wisconsin Aging Groups.

[8] The Senior Medicare Patrol Projects (SMP) were established in 1997. The Administration on Aging funds over 57 SMP projects in the United States, and Puerto Rico. SMPs work with law enforcement, community organizations and beneficiaries to identify and reduce the billions of dollars that are lost each year to Medicare and Medicaid error, fraud, waste and abuse.

[9] The Wisconsin Guardianship Support Center is operated by the Elder Law Center of the Coalition of Wisconsin Aging Groups. It is funded, in part, by Wisconsin's Department of Health and Family Services.

[10] THE GUARDIAN is produced and published quarterly by the Elder Law Center of the Coalition of Wisconsin Aging Groups with funding from the Wisconsin Department of Health and Family Services.

[11] The Elder Abuse listserve is open to any professional who may have contact with incidents of Elder Abuse and is operated by the Wisconsin Guardianship Support Center, housed within the CWAG Elder Law Center.

[12] THE COALITION OF WISCONSIN AGING GROUPS, FRAUDS AND SCAMS RELATED TO MEDICARE PART D (*forthcoming*, 2005).

[13] WISCONSIN RX: MEDICARE & OTHER DRUG COVERAGE OPTIONS, *www.WisMedRx.org*, (available July 28, 2005).

2. Legal assistance and emergency representation for elder financial exploitation victims.

At the CWAG Elder Law Center, we understand that victimized seniors are often isolated by their abusers and do not have access to senior centers or participate in programs where we can reach them. To reach this population, we have initiated a program that distributes educational materials to seniors in their home-delivered meals encouraging them to call our Elder Financial Exploitation Helpline. The Elder Financial Exploitation helpline, along with our Guardianship Support Center helpline, provides individual legal assistance and general information to seniors on a host of issues, including fraud, financial abuse, and family exploitation. The helplines will mail instructions on how to revoke a power of attorney, correct a credit rating or report identity theft. In fact our oldest caller, a 102 year old woman, sought helpline assistance in revoking an activated power of attorney that a family member was misusing. In addition to providing legal information and limited direct services to victims, we refer more complex issues to the Wisconsin Elderly Benefit Specialist Program[14], a pro bono panel, or the private bar.

Through our legal services staff we are often alerted to adult children who pressure their elderly parents to give assets to family members in the name of Medicaid "divestment" and estate planning. In the process of estate planning, attorneys, real estate agents and other professionals may become unwitting accomplices to financial exploitation. Often these arrangements are contingent upon the adult children providing continuing care or permitting the parent to remain in their own homes. Unfortunately, many seniors are forced to live in substandard conditions or are even evicted from their home. Our staff is often appalled by the boldness of potential abusers who restrict their parents from spending money in an attempt to preserve an inheritance. As elder advocates, we must remember our responsibility is to protect the rights of the senior, not the rights of a potential heir.

3. Encourage the reporting, investigation, and prosecution of elder financial abuse, benefits fraud, and agent exploitation.

The CWAG Elder Law Center seeks to encourage the reporting of elder abuse. However, reporting is meaningless when questionable practices are not investigated or prosecuted. In Wisconsin, some adult protective service workers complained to our organization that they had referred cases for criminal or civil litigation without any action taken on behalf of the elder. Upon investigation, we found that lawyers were under the impression that there was no remedy available for financially abused seniors. Therefore, the CWAG Elder Law Center began training attorneys through continuing legal education courses on elder financial exploitation. Our staff also produced an attorney's toolkit for preventing and remedying elder financial exploitation through both the criminal and civil legal systems[15].

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[14] The Wisconsin Elderly Benefit Specialist Program is a federal and state mandated advocacy program designed to provide older adults with free legal services. The program is funded by the Older Americans Act, state tax dollars, and county human services departments.

[15] THE COALITION OF WISCONSIN AGING GROUPS, ATTORNEY'S TOOL KIT: ELDER FINANCIAL EXPLOITATION (2004). The CWAG Elder Law Center also created a reference for social workers on how to deal with abuse in regulated facilities, such as nursing homes. See The Coalition of Wisconsin Aging Groups, Financial Abuse in Regulated Facilities and Programs, (2004).

This past year the Wisconsin Attorney General created a task force on Financial Elder Abuse. Through our involvement with this task force, our chief elder financial exploitation attorney, John Hendrick, presented at the law enforcement training program of the Wisconsin Department of Justice (WDOJ). He educated trainees on how to recognize and prosecute financial elder abuse. In addition, the WDOJ distributed our prosecutor's manual[16] to all district attorneys in Wisconsin. We also participated in a statewide conference for law enforcement, prosecutors, and adult protective service workers, sponsored by the Wisconsin Attorney General.

All Wisconsin counties have Elder Abuse Interdisciplinary Teams (I-Teams) made up of adult protective service workers, law enforcement, economic support workers, elderly benefit specialists, bankers and others who discuss and respond to elder abuse. Some counties have FAST (Financial Abuse Specialty Teams). These teams meet on a monthly basis to discuss cases of elder financial exploitation. The CWAG Elder Law Center is a member of the Dane County FAST team and has trained I-Teams statewide. In cooperation with local I-Teams, the CWAG Elder Law Center has developed and sponsored additional statewide trainings for bankers, and others working within the financial community, on elder abuse issues and reporting.

Recently, John Hendrick of our office worked with Wisconsin Senators, Herb Kohl and Russ Feingold, in obtaining written guidance from federal bank regulators addressing whether federal privacy law prohibits banks from reporting activities that appear to be elder financial abuse. This guidance permits financial institutions to report dubious activity in the accounts of elderly customers without violating the Gramm-Leach-Bliley Act[17]. Hopefully, this will encourage greater reporting of elder financial abuse by banks and other thrift institutions. Having a fraud prevention partner at the places where seniors invest their savings will go a long way to preventing financial abuse.

Banking institutions also often manage property transfers. Most are planned, legal and appropriate. However, any property exchange is susceptible to exploitation by both family members and professional scammers. The current trend in fraudulent lending solicitation is predatory mortgage scams. Seniors receive a check in the mail that when cashed becomes a lien on their home. By notifying lenders and banks about these types of scams, hopefully, banks and other institutions will intervene when seniors come to cash these checks. In conjunction with the new guidance on reporting, this means elder advocates have a way to prevent emerging fraud at the source.

As briefly mentioned earlier, CWAG Elder Law Center receives a Senior Medicare Patrol grant that funds the Wisconsin Medicare Integrity Project. This program enables our organization to train retired professionals to help beneficiaries spot Medicare fraud, waste, and abuse by analyzing their Medicare Summary Notices (MSN). If a beneficiary or volunteer identifies a discrepancy on a MSN, they report it to our offices and we refer the matter to the appropriate authorities.

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[16] THE COALITION OF WISCONSIN AGING GROUPS, CRIMINAL PROSECUTION OF ELDER FINANCIAL ABUSE (2004).

[17] Gramm-Leach-Bliley Act, 15 U.S.C. § 6801 (1999).

4. Advocate for improvements in the law and additional government funding.

The CWAG Elder Law Center is active in supporting legal reform on both the state and federal level. Nationally, we support the Elder Justice Act. On a state level, we successfully advocated for increased funding to support elder abuse investigations at the county level. We are currently assisting state legislators in revising Wisconsin law governing guardianship, powers of attorney, and adult protective services. While Wisconsin is a state that takes pride in its services to seniors, we are still limited in what we can accomplish by a lack of funding. In addition, our efforts to protect elders would significantly benefit from greater clarity within the law and stronger enforcement of elder rights.

IV. Recommendations

I believe financial elder abuse is now where domestic violence was twenty years ago. No one wants to admit how extensive the problem is, nor divert resources for public awareness campaigns. Unfortunately, elder financial abuse is a low priority among the general public, among law enforcement, and within our government. We need to change this. We need greater coordination between social service agencies and the law enforcement community. We need to create a dialogue between those who have direct contact with vulnerable seniors and those who can take action to protect them. We need to realize that these are not just "family matters." We need a major change in the public attitude toward the victimization of seniors, a population we should esteem and protect rather than ignore. Frankly, this will require the reintroduction and passage of the Elder Justice Act[18], and funding to support increased coordination between the aging community, financial institutions and law enforcement.

In closing, I am proud to be a part of the CWAG Elder Law Center and the elder advocate network. But limited resources mean limited results. We need to empower our local communities with the financial and legal means to prevent and prosecute elder financial exploitation. If we don't, there will only be more victims and more abusers.

[18] THE ELDER JUSTICE ACT, S. 333, 108th Cong. (2003).

The CHAIRMAN. Thank you very, very much.

Vicki Hersen is from my State of Oregon. Thank you, Vicki, for coming all this way, and we invite your testimony.

STATEMENT OF VICKI HERSEN, DIRECTOR OF OPERATIONS, ELDERS IN ACTION, PORTLAND OR

Ms. HERSEN. OK. Thank you.

Good afternoon, Chairman Smith and Senator Kohl. I am Vicki Hersen, director of Operations for Elders in Action, and I am honored to be here today, and thank you for convening this hearing to address the critical issue of "Old Scams, New Victims: Breaking the Cycle of Victimization." Elders in Action is a powerful voice for local seniors in the Greater Portland area. We have a 37-year history of tackling important issues of concern for seniors, and we believe quality of life should never depend on age.

Our small staff relies on the time and talent that 200 volunteers provide in delivering key services, including our ombudsmen and community education program.

The ombudsman philosophy embodies the neighbor-helping-neighbor approach. Our volunteers provide personal support, information, guidance, and advocacy to fill gaps in meeting the needs and solving problems for our growing senior population.

For seniors who are alone, confused, or afraid, or have nowhere else to turn, our volunteers provide a lifeline. More than 2,400 elderly victims of crime in the Portland area have been helped by Elders in Action ombudsmen since this innovative program began in 1998.

Victims of Crime Act funds, through the Oregon Department of Justice, help support this vital service. This is for seniors who live independently in their own home and it is not to be confused with the—long-term care ombudsmen program, which is funded through Older Americans Act money. But this is for folks who live in their own home or apartment.

We helped individuals such as Georgia, who was terrified when a friend of her sons moved in and began stealing from her and threatening her. With our help, Georgia filed a restraining order and was able to take the steps necessary to live in an abuse-free environment.

Then there was May, who had hired a contractor for some maintenance on her home, and ended up being a victim of his fraud.

Last year, we helped victims of scams and fraud recover over $90,000 in benefits owed and funds lost to crime. Our volunteers have the time and the heart to keep working with the seniors for a positive solution.

When an urban renewal area became a hotbed for opportunists to buy houses from seniors, we were there to assist. One 82-year-old victim was targeted by a man with a high pressure sales pitch, convincing her to sell her house for $88,000. Later, she was confused about what had transpired, and she called our ombudsmen services, and after reviewing the paperwork and making phone calls on her behalf, we were able to reverse the below market agreement and we saved her from a $48,000 loss when she sold the house for $136,000 a few months later.

Our community education volunteers work to prevent local seniors from becoming victims in the first place by providing practical information and resources about senior scams, fraud, ID theft protection, home security and safety and predatory lending schemes.

Last year, we provided 7,100 seniors with important consumer information at 94 community events. Such senior-to-senior prevention education is critical in helping seniors become more attentive to their surroundings. These include the many fraudulent schemes that are becoming rampant via mail, phone, door-to-door, and e-mail.

One of our volunteers says, you can be robbed by a gun or you can be robbed by the phone, and the phone is a lot easier.

She provides practical tips to her peers on cutting down the paper, credit cards, and sensitive ID information that people carry with them.

Elders in Action volunteers advise seniors to keep their antenna up for things that just don't seem right. The old adage holds that if it sounds too good to be true, it probably is.

Communication and prevention of isolation of seniors is crucial to breaking the cycle of victimization. We encourage seniors to call Elders in Action to see if mail that they may have received or an e-mail or a door-to-door offer or a phone offer is real.

Our volunteers help file reports to our State Attorney General's Financial Fraud and Consumer Protection Division, the Construction Contractors' Board, the Oregon Division of Finance and Corporate Securities, and other consumer protection groups.

Creating opportunities for seniors to get involved in their neighborhood or at their local senior centers is also a way to break barriers to isolation.

We encourage seniors to talk with each other if they're suspicious, or if they have been a victim of a crime so that their peers may be informed.

In fact, one of our victims of identity theft, luckily knew not to give the person information, but someone had actually taken out a credit card in her name. She came to us and one of our volunteers assisted her in getting it cleared up. She is now one of our ombudsmen volunteers, so she shares in the community her experience to be alert and informed.

A local senior service agency case manager has said that 25 percent of their elderly clients have been a victim of ID theft or scams. One key solution to ID theft is to install mail slots or locked mailboxes, to pick up new checks at your bank, and to only put your mailing address on checks with your first initial.

Unfortunately, Medicare Part D prescription drug benefit that people have been mentioning about that takes effect in January creates new fodder for scammers and other opportunists.

Already we've received calls from three types of schemes who are taking advantage of seniors' uncertainty about the upcoming changes. One involved an insurance company using heavy handed sales by phone and not fully disclosing all information, not allowing the consumer to make an informed choice. A second came by mail and stated that the President has announced the guidelines for Medicare reform and went on making it sound like an official notice, then asking for phone, name, address, and birth dates of the

Medicare beneficiary and spouse. No company name or contact information was listed on the return postcard, and the return address was a post office box, which is also a red flag.

The third involved a company calling a woman in an assisted living facility. They made it sound like they were an official Medicare company and offered her $20 to answer a questionnaire, which lasted an hour. In reality, they were fishing for confidential information.

There's a significant link to financial loss from robbery, ID theft, and health deterioration. Most of the victims we assist live on low, very fixed incomes, and a loss of a few hundred dollars can tear their world apart. The trauma of a stolen purse exacerbated an already existing health condition in one of the seniors we assisted, and she ended up in a nursing home as a consequence.

The criminal was a repeat offender who stole the client's ID, wrote checks, and cashed her tax refund.

Please consider the following solutions: Provide help and assistance within the police and court system for aging awareness training, tracking of scams, and more investigations, and I really appreciate the elder friendly materials that you were sharing with us, because we use a lot of focus groups with our local media and with just different groups, because we have seniors who are willing to share their information, and the importance of large enough fonts, colors, certain colors that people find hard to see on web sites and things like that are in print. So that's really great.

Present senior-sensitive messages—TV spots, newspaper stories, and ads—about where to get help. Provide more significant funding for programs that educate seniors so they know how to avoid being victims of fraud, and provide funds for programs to train peer advocates for senior victims of crime.

Thank you for the opportunity to share how Elders in Action works to prevent problems and solve difficult situations for seniors. Our elders deserve much more, given the contributions they have made to our society. Let us translate this into funds for those who really need it and create ways to gather the talent and wisdom that our elders can give to our community. Thank you.

[The prepared statement of Ms. Hersen follows:]

Testimony of Vicki Hersen on Behalf of Elders in Action
Presented to
The Senate Special Committee on Aging
July 27, 2005

Mr. Chairman and members of the Committee, I am Vicki Hersen, Director of Operations for Elders in Action. I am honored to be here today and thank you for convening this hearing to address the critical issue of "Old Scams- New Victims: Breaking the cycle of Victimization".

Elders in Action is a powerful voice for local seniors in the greater Portland Oregon area. We have a 37 year history of tackling important issues of concern to seniors. We believe the quality of life should never depend on age.

Our small staff relies on the time and talent our 200 volunteers provide in delivering key services. We provide information to the public via our newsletter, program brochures, electronic news line, and website www.eldersaction.org

Today, I would like to share with you how our unique volunteer driven program assists older adults. The Ombudsman philosophy embodies the concept of **neighbor helping neighbor.** Our volunteers provide personal support, information, guidance, and advocacy to fill gaps in meeting the needs and solving problems for our growing senior population

For seniors who are alone, confused or afraid, or have no where else to turn, our volunteers provide a lifeline. More than 2 460 elderly victims of crime in the Portland area have been helped by Elders in Action Ombudsman since this innovative program began in 1998. Victims of Crime Act funds, through the Oregon Department of Justice, help support this vital service.

We helped individuals such as Georgia who was terrified when a friend of her son's moved in temporarily, then refused to leave and began threatening her. With our help, Georgia filed a restraining order and was able to take the steps necessary to live in an abuse-free environment. Then there was May who hired a contractor for some maintenance on her home and ended up being a victim of his fraud.

Last year, we helped victims of scams and fraud recover $90.764 in benefits owed and funds lost to crime. Our volunteers have the time and the heart to keep working with the senior for a positive solution.

When, an urban renewal area became a hot bed for opportunists to buy houses from seniors who had lived in the area for more than 30 years, we were there to see that these seniors were prepared to make informed choices. One 82 year old victim, was targeted by a man who came to her house and said that: " the market

was down and the house was not worth more than $88,000." With his high pressure sales pitch she signed some papers, and later was confused about what had transpired. She called our Ombudsman services, and after reviewing the paperwork and making phone calls to the State Board of Realtors, we were able to reverse the below market agreement. She ended up selling the house for $136,000 a few months later and now lives comfortably in her retirement home. Our Ombudsman saved her from a $48,000 loss.

Our Community Education volunteers work to prevent local seniors from becoming victims in the first place by providing practical information and resources, about Senior Scams and Fraud, I.D. Theft Protection, Home Security and Safety, and Predatory Lending schemes.

Last year we provided 7,100 seniors with information about how to protect themselves from scams and fraud, and other important consumer topics at 94 community events. Such senior to senior prevention education is critical to help seniors become more attentive to their surroundings. These include the many fraudulent schemes that are becoming rampant via: mail, phone, door to door and e-mail.

One of our volunteers says," You can be robbed by a gun or robbed by the phone, and the phone is a lot easier". She provides practical tips on cutting down the paper, credit cards, and sensitive ID information that people carry with them.

Our Multnomah County Assistant District Attorney who specializes in elder issues, advises that education to seniors, their friends and family is the key to breaking the cycle of victimization. The more aware people are of their environs, and what is happening in their neighborhood is critical. Elders in Action volunteers advise seniors to "keep their antennae up for things that just don't seem right". The old adage holds that " If it sounds too good to be true, it probably is". The key is to break the cycle and give seniors effective tools with which they can respond.

Communication and prevention of isolation of seniors is crucial to breaking the cycle of victimization.

-We encourage seniors to call Elders in Action to see if a mail, e-mail, door to door or phone offer is real.

-Our volunteers help file reports to our State Attorney General's Financial Fraud and Consumer Protection Division, the Construction Contractors Board, the Oregon Division of Finance and Corporate Securities and other consumer protection groups.

- Creating opportunities for seniors to get involved in their neighborhood or at their local senior centers is a way to break barriers to isolation.

- We encourage seniors to talk with each other if they are suspicious and or if they have been a victim, so their peers may be informed.

A Portland Oregon senior service agency case manager has said that 25% of their

elderly clients have been a victim of ID theft or scams. One key solution to ID theft is to install mail slots or locked mail boxes, to pick up new checks at your bank and to only put you mailing address on checks with your first initial.

Medicare Part D –Prescription Drug Benefit changes creates new fodder for scammers and other opportunists.

- We have received calls about 3 types of schemers who prey on seniors and take advantage of their uncertainty about the upcoming changes in the Medicare Part D Prescription Drug Benefit that will take effect in January 2006. One involved an insurance company using heavy handed sales by phone and not fully disclosing all information, not allowing the consumer to make an informed choice. A second stated that " the President has announced the guidelines for Medicare reform."... making it sound like an official notice, then asking for phone, name , address and birth dates of the Medicare Beneficiary and spouse. No company name or contact information was listed, and the return address was a Post Office Box (which is a red flag as well). The third involved a company calling a woman in an Assisted Living Facility. They made it sound like they were an official Medicare Company and offered her $20.00 to answer a questionnaire which lasted an hour. In reality. they were fishing for confidential information.

There is a significant link to financial loss from a robbery, ID theft and health deterioration. Most of the victims we assist live on very low fixed incomes, and a loss of a few hundred dollars can tear their world apart. The trauma of a stolen purse exacerbated an already existing health condition in one of the seniors we assisted. She ended up in a nursing home as a consequence. The criminal was a repeat offender, who stole the client's ID wrote checks and cashed her tax refund.

Please consider the following solutions

1. Provide help and assistance within the police and court system for Aging Awareness training, and tracking of scams
2. Present senior sensitive messages. TV spots. newspaper stories and ads, about where to get help.
3. Provide more significant funding for programs that educate seniors so they know how to avoid being victims.
4. Provide funds for programs to train peer advocates for senior victims of crime.

I thank you for the opportunity to share how Elders in Action works to prevent problems and solve difficult situations for seniors. Our elders deserve much more, given the contributions they have made to our society. Let us translate this into

funds for those who really need it, and create ways to gather the talent and wisdom that our elders can give to our community.

Vicki Hersen, Director of Operations
Elders in Action
501 SW Washington St.
Portland, OR 97204-2238

The CHAIRMAN. Thank you very much, all of you, and Vicki, if you could tell us what are the two or three biggest sorts of scams going on in Oregon right now? Is it Medicare Part D?

Ms. HERSEN. Well that's new, but like the identity theft and, as you know, meth is just so rampant in the West Coast. It's really bad, and we found a lot of victims have sons or grandsons living with them and financially exploiting them, and so we've been working with them to get restraining orders, and work with adult protective services. So that's really—identity theft——

The CHAIRMAN. Relatives with a pernicious motive living close by?

Ms. HERSEN. Yeah. It was interesting, when Senator Carper mentioned three of the issues with regard to his mother are issues that we have all helped with—aggressive vacuum cleaner sales people. This is really hard, because sometimes the person may be selling a legitimate item, but it is their tactics, and we do have one volunteer who I love—she's this particular vacuum maker's kind of advocate or anti-advocate—because the people came at six o'clock in the evening and came to the woman's house and were there for over an hour and she ended up buying a $1,300 vacuum, and she has wood floors. But really to get them out of her house.

So we were able to reverse that, and everything. Then they made some really sly comments. She says, "Well, I can't lift this upstairs where my carpets are," and they said, "Oh, we will come over and help you every time you need to." Just give us a call.

So it is things like that. Also construction fraud and scams. That is why we really educate people not to respond to flyers or people coming buy and saying "Oh, I see your gutters need to be repaired or a roof." wee advise people to call first and how to do that in a positive way.

The CHAIRMAN. I think it is clear from the testimony we have heard from all of you that, you know, Oregon, Washington was mentioned; California certainly. There are some very excellent programs to help the elderly avoid these things that have a national focus on this. Are there other states that we should mention who have good programs or states where they really need to shore it up?

Ms. PARK. I guess I think this is in some ways more of a national, from my point of view, the structuring of information and warnings to elders. It might be very useful—I have been thinking about how to solve this for the government, to set up a best practices standard and perhaps if some short-term requirement were made to have materials for seniors put out by Federal agencies reviewed. If that happened for a period of 6 months or a year after developed in conjunction with scientists, it might be the case that that would become part of the culture of developing materials for elders.

The CHAIRMAN. If I asked you, Dr. Park, what is the best thing the Federal Government can do to help stem this, would that be your answer?

Put up—you know, put together kind of a clearinghouse of best practices?

Ms. PARK. From the point of view of the kind of thing that I do, yes. I think the other thing is to be really clear about how do you

effectively warn seniors. So I can—we can design the very best messages and the clearest, but the problem is they have to reach people. With the Internet, 200 television channels, radio, it is less clear how to get people to process messages. I was telling your staffer I was very impressed. Someone in town where I live felt that our president of the university was very unpopular to him, not to others. It was a lawyer, and he put a billboard in town criticizing this individual and ultimately resulted in this individual resigning and taking another job.

I think everyone in town saw that billboard and those are cheap and effective, and when you think of when you were a little kid, Smokey the Bear, Only You Can Prevent Forest Fires. We all know that. I think getting some billboards. This is just. This is what I think. It's not what I know, if you see the difference. I haven't done research on this. But I think presenting a short message so that—Afraid You're Being Scammed or something like that a phone number or an Internet web site that people can check and having some kind of branding of this so that people know this is a national priority and there is a place to go if you just think there is any chance you might be defrauded so that they can get the information that they need. So one is to be effective. The other is to make sure you communicate.

The CHAIRMAN. But it is truly an excellent suggestion. As we look to reauthorize the Older Americans Act, we ought to—Senator Kohl and I ought to work together on an amendment that will create this kind of best practices center and create this branding, and create these simple messages that can be of assistance to the States.

Dr. Pratkanis, you spoke of the Wise Senior Center's, telemarketing victim call centers. Is this the kind of thing we are talking about?

Mr. PRATKANIS. Yes, there is a number of approaches to take depending on the level of victimization, and the call center is excellent for getting people who are at risk or who may be in the process of being victimized. For those, I don't think the mass-marketed communications necessarily is the most impactful. They need somebody, such as Oregon, where there is an advocate in their camp. So the Wise Senior Center could serve as a model for that through its reverse boiler room where they're contacting people who are vulnerable, on the mooch list right now, and they are also have services there to help folks when they have similar situations that Ms. Hersen described in her statement.

But personally, I would like to see that duplicated as much as possible.

The CHAIRMAN. Are other States doing it? I mean you mentioned Washington.

Mr. PRATKANIS. I'm not aware of that, Senator.

The CHAIRMAN. But Washington State is doing it?

Mr. PRATKANIS. Washington State has a different set of programs. They don't have the call center at Washington State. What they have is AARP does education for community leaders—people at nursing homes and so forth—that teach them about the crime and then they go out and teach other people in their State.

But it would be nice to have in different regions, different areas, these kinds of centers that could serve as a focus to disseminate information, to set up best practices, to continue to do the kinds of research that it needs to fight the next round of crime.

The CHAIRMAN. Helen Dicks, do you have a comment?

Ms. DICKS. I was going to say one of the things that we have done to try to reach the isolated elderly is we have recently produced a piece about financial exploitation that listed services for seniors and put them in home delivered meals. That was one way we thought of reaching people who were not coming into senior centers and didn't have regular contact with other people. We included—I put this in our packet that we gave a card, one side is about financial exploitation; the other side is a more general piece about other services available to seniors.

The CHAIRMAN. Senator Kohl.

Senator KOHL. Thank you. Helen, you are so experienced in our State with respect to these issues—I mean there are so many things that we could list. What are one or two of the most important things that we need more of? Law enforcement? Do we need more resources? Do we need more publications? If you could manage to get accomplished two or three things that would reduce the level of victimization, what would they be?

Ms. DICKS. I think the two biggest things that I would do is one education of professionals, that is, the law enforcement community, with the real emphasis that this is truly a crime. It is not a consumer protection, regulatory issue. This is not a question of a family matter. Elder abuse is being minimized. We really need to convince law enforcement and the general community that this is a serious crime and it has to be treated like a criminal matter.

Then the other part, in order to change of the attitude of professionals, is we have to change the general public attitude. If we had good publicity coming out of criminal prosecutions, I think it would help scare off the abusers. I think we talk a lot, and I do a lot in terms of educating seniors so that they don't become victims, but we also have to do something strong to limit the influence and the activity of the abusers. I don't think we have enough emphasis in that particular area, and I don't think the law enforcement community has enough resources to pursue this such a comment was made earlier. We need to provide seniors who are going to go through the criminal justice system as witnesses with some kind of support and background so that they aren't traumatized again by the court system after being victimized by the crime.

Senator KOHL. Those are good comments.

Mr. Pratkanis, would you like to comment?

Mr. PRATKANIS. No, I agree wholeheartedly with that. You know, victim advocates right in the court system.

In addition, the other thing that I worry about is some of the FBI agents are switching some of their focus into the War on Terrorism, and that leaves some gaps at the Federal level in terms of investigation. I understand their priority. I have made a similar kind of switch in my research, but that doesn't mean the gap doesn't go away, and real success on this crime in terms of prosecution started in the late 1980's, and with Operation Disconnect and a few other FBI operations. As agents get switched over to other areas,

there leads to be that gap, and it has to be Federal and international.

Senator KOHL. Helen, I know you have developed many publications around the issue of victimization of our seniors. In your experience, what is the best way to get these publications into the hands of seniors?

Ms. DICKS. Well, we kind of have a several-fold approach. One is that we go to every conference, every gathering of seniors every time we can get together with either seniors or their advocates and get the information out that way. We also do as much as we can through publicity within the aging network. We give a certain amount of our materials out without charge. Unfortunately, we can't do a great deal of that because of financial restraints.

The other thing that we do with our publications I don't know what the professor would think of this—but our publications that are for seniors are very clearly distributed as senior publications, and we keep them at a very low cost. For professional publications, we make it more obvious that they are more dense. They are written differently. They encourage the professional community to start taking actions in this area.

I also find that we get a good response when we use talk radio and radio broadcasts that are specifically focused on senior issues. Of course, in Wisconsin, since we are dealing with a very rural population, "Farm Hours" and other programs of that nature are also useful in getting out information and the weekly shoppers.

Senator KOHL. That's very good. Any other comments from members of the panel on issues? Yes. Dr. Park.

Ms. PARK. I would just like to make one other small comment, Senator Kohl, and that is the—I think the Committee on Aging should also be concerned about an inadvertent kind of fraud and I hesitate to use the word fraud, but the presentation of materials, such as this Medicare Section D Plan, that people can't understand, and they can't understand the benefits that are available to them and how to secure them because the options are too many. They don't—people can't process that many choices, and they don't have enough information to make good decisions.

So I think when laws are passed for seniors that implicate things like their health care, again, there should be some sense that the options available to them can readily be processed and acted upon by the people these laws are intended to help.

I think that is a major concern as things become more complex with these different plans.

Senator KOHL. Thank you.

Ms. HERSEN. Yeah. No, those are good comments. I agree. We have seen that as far as confusion, and we want to make sure people are informed and are able to make wise choices, but with the confusion, it makes it more difficult, and I agree. It is really important to educate law enforcement and the prosecution—in providing aging awareness training to them, so they do take these crimes seriously. I mean we have had examples—luckily, we have one—an elder crimes unit in the Portland Police, which we helped start back in the 1990's, but some officers, it is just not up there, you know, and they don't realize. One perfect example was a woman called us and she had put her car for sale. This is a perfect scam.

Someone can go through the newspaper. Look who's selling cars. Her name was kind of an old fashioned name. If you heard her on the phone, you could tell that she was very elderly. The guy ended up coming or giving her a deposit of $50 and said can I test drive it? Well, he test drove, and, of course, stole her car.

So when she reported it to the police, well, the first police officer didn't take it seriously. Well, it is just too bad. Well, losing $750 meant a lot for someone on a fixed income. That was probably a couple months of prescription drugs, food, fuel to heat her apartment. So someone from the Elder Crimes Response Team did start looking into this, but it is that attitude not realizing the importance of having investigators and reporting. This is probably going on in all of Oregon for people who are abusing meth, as an easy way to get money. They make these phone calls, and they play the lottery. They will call like 20 or 30 people and then find out, oh, this person wants to sell their car, and then steal it.

So it does need to be taken seriously by both law enforcement, and any way we can help. We do have senior volunteers who provide aging awareness training and so actually today and yesterday our Portland Police was having a training involving citizens on better communication techniques.

The CHAIRMAN. Thank you, Senator Kohl. To each of our witnesses, please accept our heartfelt thanks for your willingness to travel here, and to share your skills and your experience. You have added measurably to the Senate's public record. You have given us many good ideas to work on at the Federal level. We are grateful to you.

We also thank C–SPAN for covering this hearing, because, frankly, the more we get information out and heighten awareness, the more successful we will be in apprehending, prosecuting, fining, and jailing those who would prey on the elderly.

We say to those who would do such a thing that if we don't catch you, we trust there is a hot place in Hell for you. So each of you beware and all of you who have helped us today, we thank you, and we are adjourned.

[Whereupon, at 4:31 p.m., the committee was adjourned.]

APPENDIX

Written Statement of Melodye Kleinman on behalf of WISE Senior Services Regarding Programs to Help Seniors Avoid and Prevent Being Victimized by Economic Fraud Crimes

Submitted for the Hearing Record to the United States Senate Special Committee on Aging
July 27, 2005

On May 6, 1998, the Telemarketing Victim Call Center (TVCC) opened in Los Angeles, California. We 'reversed' the concept of the typical boiler room where criminals gather to prey on victims, and gathered volunteer fraud fighters to call victims with fraud prevention messages. This is believed to be the first long-term operation of its kind in the U.S. While our primary function is to alert potential victims that they have been or will be targeted by fraudulent telemarketers, we've also been able to obtain information regarding on-going telemarketing fraud for law enforcement.

The TVCC is operated through the joint efforts of several partners. Telephone lines and calling expenses (until recently) have been covered by AT&T Wireless Services, and the equipment provided accommodates 25 callers. Senior RSVP volunteers (RSVP or the Retired and Senior Volunteer Program is part of the Corporation for National and Community Services and funded by the Federal Government) staff the TVCC every Wednesday from 10:00 a.m. to 1:00 p.m. These volunteers are recruited through the RSVP program of WISE Senior Services, a private not-for-profit social services organization. Training on telemarketing fraud, printed materials used by the volunteer callers and bright yellow "Fraud Fighter" T-shirts are all furnished by AARP. The FBI, the U.S. Postal Inspectors, or other law enforcement agencies have furnished lead materials for the volunteer callers to use. Generally an FBI agent or former Fraud Investigator from the California Department of Corporations is present when calls are made. In some instances, evidence of an on-going fraud is obtained, and immediate action is required.

WISE Senior Services was eager and willing to take the lead role in sponsoring the TVCC. Volunteers and community activists founded WISE Senior Services in 1968, to address the needs of the growing senior population in the County of Los Angeles. WISE serves a large population of seniors who are at risk when alone; have a physical or mental impairment; want to remain in their own home; are at risk for exploitation or abuse by others and/or are lonely or depressed. The broad spectrum of programs and services offered by the agency covers the whole continuum of care, serving from the well and active elderly to residents of long-term care facilities. For the last thirty-seven years, WISE has been at the forefront of innovating new programs to address issues faced by the senior community…from creating national programming to advocate for the rights and quality of care for those in long term care facilities (Long-Term Care Ombudsman); developing and modeling public/private partnerships to pursue and prosecute fiduciary elder abuse cases (Fiduciary Abuse Specialist Teams); and managing and operating the

only national program to deal with elderly victims of telemarketing fraud (Telemarketing Victim Call Center).

The lists from which TVCC potential victims' names are obtained have been found in the course of normal telemarketing fraud investigations. Some lists are seized from the consumer service files of boiler rooms when search warrants are executed. Other lists are gleaned from bank records or telephone toll records. In every case, potential victims have been identified as targets of boiler room operations. Persons whose names are found on boiler room lead lists used by the TVCC come from every part of the country. Thus, the TVCC is national in scope and serves potential victims across the U.S.

Records are maintained for each day's calling activity. From these records, it has been determined that TVCC volunteers make an average of 530 calls per day. In the first six years of operation, over 160,000 calls were made.

TVCC volunteers use a one-page script, which is designed to engage and educate victims. Potential victims are warned regarding the risks associated with sending money or giving personal or financial information to persons they do not personally know. Potential victims are advised of fraud warning signs, such as pressured solicitations to wire money, or of offers to have a courier service pick up a check or money order. Potential victims are urged to protect themselves by obtaining materials before sending money. The TVCC volunteers offer to mail a fraud prevention kit, which is sent free of charge. Potential victims are given fraud prevention resources including the telephone numbers of the National Fraud Information Center and the local telephone number of their nearest FBI office.

The TVCC volunteers also gather information for law enforcement. In the course of the peer counseling session, the volunteer will inquire about current solicitations. Using a suspicious activity form, the volunteer will ask for names, company information, telephone numbers, and addresses of recent solicitations. The FBI enters this information into a database and reports that on average, the TVCC identifies between 100 and 125 previously unknown operations each year.

At first, TVCC volunteers followed the one-page script but as the volunteers' confidence and skills have grown and our understanding of victims has deepened, TVCC volunteers have taken on more sophisticated interventions. Staff have revised scripts, intensified the peer-mentoring component of the call center, and tested modified messages to see which most influence victims' behavior to change. The most concentrated test of message effectiveness was done with a U.S. Department of Justice grant in 2001. The prevention messages varied; some gave more detail about a fraud to watch for, some more detail about self-protective steps to take. All of the experiments were designed to answer two basic questions…can volunteers and a reverse boiler room be an effective tool to prevent telemarketing fraud and what are the most effective messages in reducing a person's willingness to respond. At the conclusion of six different rounds of experiments, the research found that using peer mentors to deliver prevention messaging was an effective strategy in reducing victimization for older consumers.

The Call Center has also been able to provide other timely and significant functions. For example, in an effort to warn consumers about fake charities that come out in force during the pre-holiday season, the Call Center held a special session in conjunction with a press conference led by the Federal Trade Commission to announce law enforcement action against 39 suspected fake charities. During this session, the volunteers received special training and information on educating senior consumers on how to detect fraudulent fund-raiser calls.

Since the beginning of the TVCC, we've identified between 40 and 50 chronic victims each year. Chronic victims or "true believers," are those who are engaged in a pattern of response to telephone or mail solicitations that they either do not want to change or are unable to break. If the victim was not living in the Southern California area, we placed the victim on a "re-contact list" and followed up with weekly calls for six months. If the victim agreed, we made a referral to their local Adult Protective Services agency. If the victim lived in Southern California, we invited the victim and family to come to the TVCC for training as a fraud fighter. Working with this particular group can be frustrating for both professionals and family members because the victims may be people with severe personality disorders, long-time ingrained behavior patterns and/or cognitively impaired.

WISE is currently working with AARP's multi-disciplinary research team that completed the recent DOJ study on a project funded by the NASD Investor Education Foundation to conduct a series of focus groups and survey's to both victims and non-victims to learn more about why the elderly are more frequently victimized by economic fraud crimes and what we can do to help them. Over an 18-month period, the research team will conduct 4 major surveys that include combinations of victims and non-victims, volunteers and non-volunteers and measure and evaluate greed, gullibility, religiosity and measures of controllability; life stresses by age groups as a predictable measure for vulnerability; and fraud fighter volunteering as a measure of increasing financial literacy. A series of 3 to 5 focus groups will be held to look at socialization issues that prevent the elderly from recognizing and disconnecting from fraudulent telephone events and explore marketing messages that generate suspicions and awareness about telephone solicitations.

The TVCC closed down for a brief period between October 2004 and June 2005 because our partner, AT&T Wireless Services was acquired by another company and no longer able to provide telephone equipment and services for the volunteers. Recently, WISE was able to budget this telephone expense into a contract with the City and County of Los Angeles for Elder Abuse prevention programming. The TVCC has just acquired two large victim lists; the first is 82,000 seniors who lost money in an annuity scam, the second 6,000 seniors who sent money to a Canadian Lottery scheme.

The TVCC has been a success on many fronts. Its operation confirms the significant role of volunteers in crime prevention. It has caught the attention of media, whose coverage expands the reach of our prevention messages to millions of consumers and, in the process, challenges the tolerance for this type of crime. TVCC research has shown that

personal contact with the most at-risk audience can influence them to change behavior. The multi-disciplinary team that supports the TVCC unites the not-for-profit, private businesses, academic and law enforcement worlds. Victims have contributed too, offering information and tips on current scam attempts, which are relayed to the FBI and Federal Trade Commission for appropriate action.

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Senate Special Committee on Aging
Written Testimony for
Old Scams – New Victims: Breaking The Cycle of Victimization

Stetson University College of Law
Gulfport, Florida
Elder Consumer Protection Project
Submitted August 10, 2005 by
Professor Rebecca C. Morgan

Stetson University College of Law Center for Excellence in Elder Law has a 17 month grant from the Administration on Aging for an elder consumer protection project. This project is designed to educate Florida's elders as well as professionals about consumer scams against elders and to also collect information about the scope of consumer scams in Florida.

Educating Florida's elders:

We have taken several approaches to educating Florida's elders about the various consumer scams:

- Two Elder Consumer Protection Fellows travel throughout Florida speaking to elders about specific consumer scams. We have targeted senior centers, churches, retirement communities, etc. as locations for these speeches. To date, we have given speeches to over a total of 6,000 people. We will have made presentations in each county in the

state of Florida before the project ends.

- Once a semester we hold a consumer forum on campus, with multiple speakers on a variety of topics and exhibitors from different agencies.
- We have created a series of re-enactment videos to show elders how various scams work. We use these "scam videos" in the speeches and also make them available on our web site. A self-test will be added to the web site to help elders understand the scams and how to better protect themselves.
- We have created a web site for elders with a variety of information, including fraud alerts about the latest scams, the scam videos, schedules of speeches, and agencies to contact for help. We will be adding informational materials about specific scams to the web site in the next few months. The web site is designed to be elder-friendly, in terms of font size and type, colors, etc. See http://elder.law.stetson.edu/
- We have created written materials, such as hand-outs, brochures, and posters about various scams. These are designed to be elder-friendly, in terms of font size and type, colors, etc. and are distributed at speeches and other programs.

- We also participate as speakers in programs hosted by other agencies.

Educating Professionals:

We have created several educational programs designed to educate law enforcement, Assistant Attorneys General, Assistant State Attorneys and Adult Protective Services workers about various scams with elder victims. We are hosting a national symposium on September 15 and 16, 2005. Attorney General Jane Brady of Delaware is the keynote speaker. This one and one-half day program is designed to give participants information about a variety of frauds and to share resources and information about how to combat them. Topics include investigations, prosecutions, administrative agency actions, and multi-jurisdiction litigation. For more information about this upcoming program, see http://elder.law.stetson.edu/professional/symposium.php.

In conjunction with the Florida Department of Law Enforcement, we are doing three trainings throughout the state for law enforcement and protective services investigators. One program was held in the spring. We have two more scheduled, one in Ft. Myers in October and the other in Broward County in November. These trainings will help improve the investigative techniques of participants as well as give them insight into dealing with elder victims.

In October, we will offer a one-day program for Assistant State Attorneys

and Assistant Attorneys General on the skills used to interview elder witnesses and to conduct the direct exam of elder witnesses. This is a skills CLE; the participants will first hear lectures on how to conduct the interview and direct exam, and then in small groups, have the opportunity to do so. Participants will be critiqued by faculty from the law school and attorneys from the community.

We are planning additional programs for private attorneys and legal services attorneys about consumer scams with elder victims. These programs would take place later in the calendar year. All of these programs are free.

By the end of August we will have a web site for professionals that will provide them with resources and information. A list of statutes, civil and criminal, from all 50 states will be available on the web site, as well as court opinions on cases of consumer frauds. We will also have information about innovative techniques, pending legislation, and resources for professionals.

We are creating a resource manual for first responders that will help them in taking a report of an elder victim of a consumer scam. The manual will have resources, helpful contacts, an annotated bibliography of resources, cases, and other information. We anticipate that this will be a resource manual that will remain useful for years to come. In January, we will be conducting a series of three half-day programs for first responders about how to investigate these cases. Like all of

the other trainings, this will be a free program. We are also creating a train the trainer handbook for law enforcement. We plan to create materials, including videotapes suitable for use at roll calls, to allow various law enforcement agencies to train their officers about various consumer scams and how to conduct an investigation when elders are the victims.

Data Collection:

The final component of the project is to examine the data collected by other agencies, such as the Florida Attorney General's Office, the Department of Agriculture, and various law enforcement agencies, to get a better picture of the kinds of scams that are being reported and the number of scams being reported. Once we have looked at the data, we hope to have a better idea of the scope of consumer fraud against elders in the state of Florida. We plan to use the data to write articles for law enforcement and other professionals in Florida to let them know about the scope of the problem and to make recommendations for dealing with these cases.

Elder Friendly Courtroom

On September 16, 2005, Stetson will dedicate the Eleazer courtroom, the only courtroom in the country designed specifically to be high-tech and ***barrier free.*** This courtroom is named in honor of retired professor William R. Eleazer,

who built the Stetson trial advocacy program into the powerhouse it is today. This courtroom will be used for many of the educational programs for elders and professionals under this project, including monthly presentations to local elders on various consumer scams, the national symposium, the skills training, the training sessions for private attorneys and legal services attorneys, and the training program for first responders. In addition, we will use the courtroom as the site for a series of focus groups that we will conduct later in the fall semester. The focus groups of elders will give us some information not only about why elders fall for various scams, but hopefully will give us information that will be useful for prosecution of consumer scams, as well as for law reform. More information about the courtroom is available at http://www.law.stetson.edu/Eleazercourtroom/

Conclusion

We have been undertaking a three-prong educational approach to fighting consumer scams against elders by educating elder consumers and professionals, and by collecting information about scams. We plan to use our results for further education and recommendations for more effectively combating consumer scams against Florida's elders. Further research is needed not only on the scope of the problem but also on different ways to reach elders about consumer scams. Thank you for the opportunity to submit this written testimony about our project.

REBECCA C. MORGAN
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Director, Center for Excellence in Elder Law

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Professor Morgan is the director of Stetson's Center for Excellence in Elder Law and the holder of the Boston Asset Management Faculty Chair in Elder Law, the only chair in elder law in the country. Professor Morgan is a past president of the National Academy of Elder Law Attorneys (NAELA). She is a NAELA fellow and an academic fellow in the American College of Trusts and Estates Council (ACTEC). She was a special advisor to the ABA Commission on Legal Problems of the Elderly and is the past president of the Board of Directors of the National Senior Citizens Law Center. She served as the reporter for the Uniform Law Commissioners for the Uniform Guardianship and Protective Proceedings Act. She received the 2004 NAELA Unaward in recognition of her contributions to the field of elder law. She received the 2003 Florida Bar Faculty Award for Professionalism. She is currently directing Stetson's Elder Consumer Protection Project.

Professor Morgan has been the chair of the Florida Bar Elder Law Section and the American Association of Law Schools Section on Aging and the Law, and was a delegate to the 1995 White House Conference on Aging. She is on the Faculty of the National Judicial College. She served on the Florida Attorney General's Task Force on Elder Abuse and on the Legislative Guardianship Study Commission. She is the successor co-author of Matthew Bender's Tax , Estate and Financial Planning for the Elderly, and its companion forms book, as well as a co-author of LexisNexis' Planning for the Elderly in Florida. She has written a number of law review articles dealing with legal issues affecting the elderly and has made numerous presentations on various subjects of elder law.

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