

**SHOPPING SMART AND AVOID SCAMS: FINANCIAL
LITERACY DURING THE HOLIDAY SEASON**

HEARING
BEFORE THE
COMMITTEE ON
BANKING, HOUSING, AND URBAN AFFAIRS
UNITED STATES SENATE
ONE HUNDRED TENTH CONGRESS

FIRST SESSION

ON

STEPS CONSUMERS CAN TAKE TO AVOID FINANCIAL SCAMS, PURCHASES, CHARITABLE GIVING, AND OTHER FINANCIAL DECISIONS WITH SPECIAL FOCUS ON THOSE THAT ARE MOST PREVALENT DURING THE HOLIDAY SEASON

THURSDAY, DECEMBER 13, 2007

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THURSDAY, DECEMBER 13, 2007

U.S. SENATE,
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS,
Washington, DC.

The Committee met at 10:41 a.m., in room SD-538, Dirksen Senate Office Building, Hon. Thomas R. Carper, presiding.

OPENING STATEMENT OF SENATOR THOMAS R. CARPER

Senator CARPER. The hearing will come to order.

I am delighted to be here with Senator Dole and all of our witnesses and other guests. Thank you for joining us today.

You and I have sat through a number of hearings together and occasionally, and this is going to sound hard for the folks who might be here or tuning in around the country, but sometimes we sit through hearings and we are not so sure that they matter all that much. You may have been through one or two of those.

But this hearing, as much as any that I can recall in recent years, not only is it timely, but it is personally helpful to me and I suspect to all of us, our staffs, and anyone who might be within the sound of our voice. I appreciate very much the effort that has gone into preparing for the hearing, and we appreciate those of you who have come to testify today. Some real good will come out of this hearing, and we are thankful for that.

I write a blog, every week or two I write a blog entry. My next blog entry, posted over the weekend, will be on this very issue. And hopefully of interest to people.

So this is an issue and a message that has legs, and we are going to make sure that it gets to as many—not just legs, but ears and minds across the country. But thank you all so much for coming.

Senators are going to have 5 minutes for their opening statements. We have a number of things going on today, some big stuff on the floor, as we know, and a number of hearings that are going on. So we will be coming in and out. I will try to be here throughout, but we are grateful for Senator Dole. We have been joined by Senator Menendez and others who may come.

I am going to ask our witnesses to try to stick to about 5 minutes, if you can. We will let you go a little bit beyond that, but we will rein you in if you go too far. We appreciate your consideration.

After our witnesses' testimony, we are going to have one round—as far as I know, probably one round of questions.

The purpose of our hearing today is to highlight consumer-friendly tips and advice for this holiday season. This hearing is very much timely, as we are still in the midst of holiday shopping. At least some people are.

According to a recent study of our National Association of Retailers, I am told only about 10 percent of all consumers have completed their holiday shopping by this time. I can assure you, I am not among the 10 percent. That means roughly 90 percent of Americans still have some shopping yet to do. I am fully in that area.

Hopefully, we will talk about some tips that consumers can use to make our dollars go further and avoid some of the problematic scams that are unfortunately prevalent during this time of year, and unfortunately through much of the rest of the year, as well.

Holiday shopping accounts, I am told, for roughly 20 percent of all annual consumer spending, 20 percent. This year it is estimated that Americans will spend about \$500 billion during the holiday season.

Many consumers, during this season, will fall victims to one of the many scams that are out there. Some of those scams involve fraudulent charities or investments, which are often specifically targeted to seniors. Roughly 25 percent of donations to charity organizations are made during the end of the calendar year.

As I check my mailbox every night when I go home to Delaware, they are just crammed with requests for donations, actually largely from organizations that I recognize and, frankly, want to help. We cannot help them all. My wife sometimes, Elizabeth, says I work just so that I can give my money to the folks that are asking for donations all the time. I wish we could help them all.

But Americans will donate some \$300 billion to charitable organizations during the course of this year. And I think Americans who are that generous have a right to know whether or not a charity is adhering to a reasonable standard. Charities have a right to do good and to do well, but consumers need to know whether the charity is doing more well than good.

Also during this time of year, many Americans are making end-of-the-year investments. A majority of solicitations are legitimate but, as we know, some, unfortunately, are not. We will explore some ways today for consumers to make better educated decisions in that regard.

In addition to this being the season of charity, it is also a time to give gifts. As people head out to make their purchases, there are some tips that can help people save money and avoid some common problems, and we will hear about those. For example, gift cards are very popular this time of year. Consumers are expected to spend almost \$25 billion this holiday season just on gift cards. And gift cards can be a great present because they allow, as we know, consumers the flexibility to purchase a gift of their choosing.

Some gift cards come with expiration dates and with certain fees that consumers should be aware of when they are deciding whether to purchase a card. In addition, many credit cards offer built-in warranty protection. Consumers should be aware of these protections when deciding whether or not to purchase additional warranties.

Online shopping has become increasingly popular over the years. The FTC estimates that online shopping this year will reach about \$33 billion in sales. I think it is growing by about 20 percent per year, too. The Federal Trade Commission and the National Cyber Security Alliance recently issued 10 tips for holiday shopping online. These tips urge consumers to use common sense when choosing a seller and deciding how to pay for their purchases.

I look forward to hearing from our witnesses. I hope we can provide some good information to consumers here today.

I would ask unanimous consent that all statements be included in the record. If there is no objection, that will occur.

Let me recognize Senator Dole for being here in light of her earlier role. She led a major non-profit, one that I think very highly of, the American Red Cross. You could probably sit on either side of the dias here today, because you could add a lot, and I am sure you will, by your presence here.

And then, after you have spoken, we will recognize Senator Menendez. Thank you, Senator Dole.

STATEMENT OF SENATOR ELIZABETH DOLE

Senator DOLE. Thank you very much, Mr. Chairman. It is always a joy to partner with you.

You know, ever since my days as Deputy Special Assistant to the President for Consumer Affairs—and this is during the Nixon Administration—and then the 5 years following on the Federal Trade Commission, what we are talking about today has been a top priority for me, consumer education, certainly improving financial acumen of individuals.

In fact, Mr. Chairman, back in my days with the White House Consumer Office, we prepared a booklet called Consumer Education K through 12. One of my jobs was traveling around the country getting the schools to accept this material so that children even that young could begin to understand more about financial literacy.

I see people in the audience that I have worked with and certainly organizations that it has been privilege to be involved with for many, many years. And so this is really near and dear to my heart, and I am so glad you are here today and look forward to working with our witnesses.

But you know, today there is a particularly pernicious practice called identity theft, an all too prevalent problem we must continue to deal with. We have dealt with it in this Committee, but there is much more to do.

Identity thieves constantly create new scams to rob hard-working, law-abiding citizens of their good names, their credit, and their security. The stakes could not be higher for the families involved.

As some of you may remember, after last year's holiday shopping season, TJX, the parent company of TJ Maxx and Marshalls, disclosed that it has experienced a massive data breach where the security of its customers' financial information was compromised. According to a filing with the SEC, beginning in July 2005 and continuing over an 18-month period at least 45.7 million credit cards were exposed to possible fraud. Imagine that, 45.7 million.

As this example illustrates, identity theft is often cited as one of the fastest growing crimes in the Nation. According to a study conducted for the Federal Trade Commission in 2005, approximately 8.3 million Americans were victims of identity theft, losing an average of \$1,882 each.

Without a doubt, this is an issue that continually needs to be front and center on our radar screens. We need to do our part to educate people on ways to prevent identity theft and inform them of what to do if, heaven forbid, they become a victim.

With regard to financial literacy, I believe clarification of credit card agreements is high on the list to benefit consumers. There are many well-intentioned laws that require credit card companies to fully disclose their policies, on rates, on payments, on terms of use. But unfortunately, the tangible effect of these laws is often multiple pages of single-spaced typing and small font lettering filled with sophisticated legal terminology. Who are they trying to fool?

As I have said before in this Committee, for gosh's sakes, you should not have to have a magnifying glass and a lawyer to understand a credit card user agreement.

Some lender companies are now providing consumers with a one-page summary of their disclosure information in a format similar to the nutrition information displayed on products in your local grocery store. This clear, concise presentation is easy to read and it is simple to understand. I am going to take you back to my early consumer days when clear nutritional labeling and unit pricing were our top priorities.

So we must also continue to require that credit card companies provide full disclosure regarding fees, interest rates, minimum payments, and privacy statements. It is imperative that this information be presented in the most consumer friendly manner possible. By providing more easily understood applications and monthly statements, card issuers can reduce losses due to defaults and also lessen the demand for customer service to guide consumers through problems. It is a win-win situation.

As they say, it is a no brainer.

Again, thank you, Mr. Chairman. It is always a joy to be with you, to work with you on so many issues. And I am sorry that other commitments are going to require me to leave early, but I look forward to hearing the testimony of each of our witnesses. Thank you very much.

Senator CARPER. Thank you, Senator.

And I did not know about your other experiences. You really are well qualified for this one. Maybe you should—if you come back into the hearing, maybe we will put you out there. Thanks very much.

Senator Menendez.

STATEMENT OF SENATOR ROBERT MENENDEZ

Senator MENENDEZ. Thank you, Mr. Chairman.

Mr. Chairman, you started off by citing the statistics of those Americans who have either not shopped or still have not fulfilled their shopping requirements. I hope that the Senate gets in the spirit very soon of understanding that we are in the holiday season

and help the economy along the way, and the process. I am definitely in the universe of those who can benefit from today's panel.

Let me say that every time, every year around this time, Americans are in the spirit of giving. And as a whole they spend more and they give more than any other time of the year. But as they open up their hearts and their wallets, they also open themselves up to the possibility of falling prey to any number of consumer pitfalls.

From terms that are hard to understand, print that is difficult to read, deals that sound too good to be true, and promises of money back that do not always appear, well-intentioned shoppers can find themselves confused, misled, or worse.

As American consumers continue to spend record amounts of holiday shopping, those trying to make a quick buck will work to stay one step ahead. Some schemes have been around for ages. Organizations posing as charities, gift cards that have hidden fees or expiration dates, optional warranties that are unnecessary are all part of an old theme.

But those seeking to prey on unsuspecting consumers are creative and they usually find a way to reel in their victims. So as the predators become savvier, so must we.

The same principle that holds for any financial transaction, whether it be buying a car, getting a home loan, or buying your loved ones holiday gifts, it pays to be informed. As we know, education is a pivotal piece to overcoming holiday scam tactics.

But I believe we must also work to stay one step ahead so that consumers are not left to fend for themselves. Certainly, there are steps we can take so that shoppers are not left to untangle the web of scams on their own. I think there is more that we can do.

For starters, I think we can ensure the terms on rebates are fair and reasonable. Consumers should not have to jump through 20 hoops just to get back \$50. Rebates can be done in a fair and open manner, but too often they become a black hole where people send their forms, their UPC symbol, and their receipt only to wait.

The FTC has cracked down on the more egregious players, but the fine print keeps getting smaller. At a minimum, consumers deserve to have rebates that are fair and reasonable if they are being offered in the first place. And I think we need to look at legislation that ensure consumers pay the actual post-rebate price at the register.

I am also concerned, Mr. Chairman, about this new wave of embedded giving, in essence where if you purchase an item, that as a result of purchasing that item a certain amount of money will be given to a charity along the way. But increasingly—I think there were articles today in some of the Nation's leading papers that talked about charities that had no idea that their name was being used.

And so it leads to a whole issue of is the charity the one that has to go after the entity to make sure that what was offered to the public as an enticement to purchase their product because they would be, at the same time, doing a charitable act by having certain amounts of money, for example, go to Make A Wish Foundation or some other entity? Are they the ones who have to do the

policing to make sure that those charitable contributions become a reality?

This is an increasingly big part of the universe of giving today and I think we need to be looking at that.

So I look forward to hearing from today's witnesses on what we can do to prevent unsuspecting consumers from being victims, both by improving awareness but also by taking preventative steps before consumers have the chance to become victims.

It is a shopping season in which the time that consumers have should be spent on how they can best spend their money on their loved ones, not on how to have to avoid the next scam.

With that, Mr. Chairman, I look forward to the witnesses.

Senator CARPER. Senator Menendez, thank you very, very much.

Let me introduce our witnesses and then we will turn it over to—Ms. Tyler, you will be our first lead-off witness, but let me just introduce all the witnesses and then turn it over to you.

Karen Tyler, President—that is a nice sounding title—President of the North American Securities Administrators Association. I understand you are from North Dakota? Does the wind ever blow in North Dakota?

Ms. TYLER. Occasionally.

Senator CARPER. Does it get cold? I understand you are from North Dakota and the Securities Commissioner there; is that correct?

Ms. TYLER. Yes.

Senator CARPER. Appointed by the Governor. Does he pronounce his name Hoeven, John Hoeven?

Ms. TYLER. John Hoeven.

Senator CARPER. John Hoeven in July of 2001. Ms. Tyler oversees the Enforcement, Registration, Corporation Finance and Education Divisions of the North Dakota Securities Department. Prior to her appointment as Securities Commissioner, she served clients in the banking and brokerage sectors of the financial services industry for 14 years.

Nancy Smith, a name that I said, Ms. Smith, a name that has been very important to me. My very first campaign treasurer when I ran for State Treasurer at the tender age of 29, Nancy Smith. It has been a long time since I have seen you, welcome back. Think of all that you helped me start all those years ago.

Seriously, this is not the same Nancy Smith, but you actually do look alike.

This Nancy Smith, though, is an attorney with extensive knowledge of consumer issues. Nancy's career includes assignments with the National Credit Union Administration with the U.S. Department of Agriculture's National Appeals Division; Federal Crop Insurance Corporation appeals and litigation; and advising association executives on policy, development, and approaches to proposed law.

Next, Ms. Julie Cripe. Ms. Cripe, welcome, President and CEO of OmniBank. Is that in Houston, Texas?

Ms. CRIPE. Yes.

Senator CARPER. Julie Cripe has been an officer of OmniBank since 1979. She is currently Chair—do you call yourself Chairman or Chairperson?

Ms. CRIPE. Chair, Chairman, Chairperson. I answer to it all.

Senator CARPER. Currently Chair of the Texas Bankers Education Foundation, past Chairman of the American Bankers Association's Education Foundation, which she is representing here today. Welcome.

And last but not least, H. Art Taylor. When I first looked at your name, I ran the H and the Art together and I named you Hart. Mr. Taylor, we are happy you are here. President and CEO of BBB Wise Giving Alliance. BBB used to be Better Business Bureau?

Mr. TAYLOR. Yes.

Senator CARPER. Mr. Taylor is President and Chief Executive Officer of the BBB Wise Giving Alliance, the organization formed by the merger in early 2001 of the National Charities Information Bureau and the Council of Better Business Bureaus Foundations, which housed the Philanthropic Advisory Service Program.

Your entire statements will be made a part of the record and I would ask you to—you can give your entire statement if it comes in around 5 minutes. If it does not, I would just ask you to summarize it.

Again, we welcome you and we are happy that you are here for what I think is a very important hearing.

Ms. Tyler.

**STATEMENT OF KAREN TYLER, SECURITIES COMMISSIONER,
STATE OF NORTH DAKOTA**

Ms. TYLER. Thank you, Chairman Carper, Senator Dole, and Senator Menendez. Good morning to you all.

I am Karen Tyler and I am honored to be here today to assist you in alerting consumers to the steps that they can take to avoid financial scams this holiday season. As Senator Menendez stated, criminals do count on people opening not just their hearts but also their wallets during the holidays. And they do aggressively exploit this spirit of good will.

This predatory conduct, combined with a convergence of financial challenges, including higher energy prices, a volatile stock market, lower housing values, and general economic unrest, may lead investors to make hasty, ill-informed decisions in pursuit of higher returns on their investments.

NASAA urges investors to be especially vigilant in protecting their assets from Internet, telephone and in-person promotions for alternative investment products. State securities regulators suggest four key defensive actions that investors can use to protect themselves and their money from financial predators this holiday season.

First, never give a Social Security number, date of birth, or credit card number in response to unsolicited e-mail messages or cold callers, no matter how good the sales pitch sounds. Financial institutions will never ask their customers for such personal information through e-mail. Anyone who receives an e-mail that appears to be from a financial institution asking for account information should consider it to be a fraudulent attempt to obtain personal account data for an illegal purpose.

Second, do not make risky and quick investment decisions based upon sales pitches that refer to great deals that will be offered for

only a short time, or those that purport to offer year-end tax advantages. The end of the year is a favorite time for criminals to roll out various income tax avoidance schemes.

Third, even though everyone is pressed for time during the holidays, investors should find the time to research any investment solicitation and those who offer them before considering investing their hard-earned dollars. Ask for and read the prospectus of any investment proposal before deciding to invest. Just because literature is received, do not assume the investment is actually legitimate. And consider whether it is a suitable option, given the investor's age, tolerance for risk, and overall financial profile.

And fourth, once a prospectus is read and the investment is independently researched, do contact your State securities regulator to check the disciplinary background of the broker or investment advisor suggesting the investment. State securities regulators can also verify whether the product being offered is properly registered.

Investors must also understand that investment professionals not only offer different types of services and charge for them differently, they have different legal obligations to their customers. For example, investment advisors are subject to a fiduciary duty. That means they must put the interests of their investor ahead of their own at all times by providing investment advice and recommendations that they view as being in the best interest of their customer.

I would like to turn now to an unfortunate but very real aspect of the holiday season. The holidays can be a lonely time for those away from their loved ones, especially many of our Nation's seniors. Unscrupulous sales people may exploit this fact by inviting seniors to free lunch or dinner financial seminars, providing them with an appealing diversion during a difficult time of year. But instead of unbiased financial education, seminar attendees may be fed a hard sales pitch for investment products that are often unsuitable.

Recently, State securities regulators, the SEC, and FINRA released our findings of a year-long examination of 110 free meal seminars. Our exam found that while many of these seminars were advertised as educational, all were actually sales presentations. Half featured exaggerated or misleading advertising claims, and 25 percent involved possibly unsuitable recommendations. In many cases, the sales person recommends that the senior liquidate their existing investments and use the proceeds to purchase equity indexed or variable annuities, products that are often unsuitable for seniors and often reward the seller with very high sales commissions.

To help investors protect themselves this holiday season NASAA today has issued an investor alert offering a series of resolutions for safe investing. For example, resolve to investigate before you invest. Resolve to make safe investing a family affair. And resolve to check out your broker or investment advisor before investing.

In conclusion, while the holidays can be a perilous time for investors, my office in North Dakota, my colleague in Delaware, Commissioner Jim Ropp, and my colleagues across the country, will continue to play an active role in protecting investors throughout the year through a nationwide network of highly trained, unbiased,

non-commercial experts in financial services, products, and fraud avoidance.

I thank the Chairman and each member of the Committee for allowing me the opportunity to appear today and I look forward to answering any questions you may have and providing additional assistance to you in the future.

Thank you.

Senator CARPER. Ms. Tyler, thank you for excellent testimony.

Ms. Smith, you are recognized. Thank you again for joining us.

STATEMENT OF NANCY SMITH, CHAIR, CONSUMER AND LIVABLE COMMUNITIES COMMITTEE, AARP NATIONAL POLICY COUNCIL

Ms. SMITH. Chairman Carper, Senator Dole, Senator Menendez, I am Nancy Smith. I am the Chair of the Consumer and Livable Communities Committee of AARP's National Policy Council.

Thank you for inviting AARP to offer tips on how to shop smart and avoid scams during this busy holiday season.

Fraud, scams, and deceptive practices are crimes that rob victims of their assets, their self-esteem, and their economic security. The impact of such crimes on older persons can be particularly devastating, both emotionally and financially.

AARP engages in consumer education and outreach year-round to help older consumers protect themselves. But such awareness is most important at this time of year. Criminals often see older people as easy marks for charitable giving scams and target them based on a perception that they are more vulnerable, as well as more generous donors.

AARP's website and publications stress the need to protect valuable personal information that can be stolen and misused. We urge members to be very careful with their credit card and personal information. Identity thieves look for opportunities to take this information.

A Federal Trade Commission survey released November 27th shows that more than 8 million American adults were victims of some form of identity fraud in 2005. Of those victims, 3.2 million experienced misuse of their existing credit card accounts, 3.3 million experienced misuse of non-credit cards, and almost 2 million people found that new accounts had been opened or other frauds committed using their personal identifying information.

Consumers should protect their credit card information whenever they give their card to a store clerk or shop online. Holiday online shopping is an attractive option for consumers who may be housebound, have limited transportation options, or simply want to avoid large crowds. A well-known marketing research firm reports that online shopping has increased this holiday season by 14.5 percent over last year.

Consumers can find tips for online shopping at the AARP website. These tips are endorsed by the FTC and other consumer groups. They help consumers have a secure online shopping experience and lower their risk of identity theft. Some of the tips are always investigate the seller. Never use part or all of your Social Security number as a password. Pay by credit card. Keep a record of

your transaction. Always turn off your computer when you are finished shopping.

AARP's website constantly updates consumer tips that can help eliminate fraud, scams, and theft during the holidays and year-round. The AARP Foundation administers a grant funded program, the Consumer Fraud Protection Project, that uses peer counselors to help potential victims identify fraudulent schemes and deceptive practices.

The project is the result of a success of a 2003 AARP Foundation study "Off the Hook." That study found that telemarketing fraud is grossly under represented among older victims. But we also learned that those who are properly counseled by trained peer volunteers are less likely to fall victim to fraudulent pitches.

The project involves seven community-based non-profit agencies that recruit and train older volunteers to serve as peer counselors. Project volunteers contact known and potential fraud victims and alert them to the dangers of telemarketing and other fraud. These peer conversations are valuable to consumers because they provide an information exchange tailored to the consumers' level of interest and understanding.

Since July 2006, project volunteers have contacted half a million older consumers, and over the next 4 years they will contact 2.5 million more. Ultimately, the goal of AARP telemarketing fraud prevention programs is to equip consumers with information, ways to identify possible criminal activity, and the ability to avoid becoming a victim.

In conclusion, Mr. Chairman, AARP commends you for holding this hearing. AARP is committed to working with like-minded organizations and Government agencies to deter scam artists and empower consumers, especially during the holidays. Holiday shopping should not be a prime holiday for criminals.

Thank you.

Senator CARPER. That was great testimony, Ms. Smith. Thank you so much. Parts of your testimony, when we come back on the Q and A, I think I am just going to ask you almost to reread it verbatim. That is just that good.

Ms. Cripe, you are recognized. Please proceed. Thank you.

**STATEMENT OF JULIE CRIPE, PRESIDENT AND CEO,
OMNIBANK, NORTH AMERICA**

Ms. CRIPE. Thank you.

Mr. Chairman, Senators Dole and Menendez, my name is Julie Cripe and I am President and CEO of OmniBank in Houston, Texas. OmniBank has \$360 million in assets and has been in existence for 53 years.

I am also the immediate past Chairman of the American Bankers Association Education Foundation Board and, since 1925, the Foundation has supported banker efforts to teach personal finance skills in schools and communities across the country.

The holidays can be a very joyous time. With simple steps to remain financially secure, the joy of the season will be remembered long after the bills come due in January.

This morning, I would like to cover a few tips on good financial management and avoiding scams. In my written statement, I in-

cluded some tip sheets, four of them. You should feel free to use them with your constituents to help them avoid financial frostbite when the bills come due in January.

Senator CARPER. Was that financial frostbite?

[Laughter.]

Ms. CRIPE. The five steps are simple. It is following them that is the hard part. But small changes in behavior today can lead to a lifetime of good money management.

Step one, develop a budget. And being realistic is the key. Often forgotten are the non-gift expenses, and the gifts to ourselves. And that consumers one of every \$3 we spend during the holidays.

Step two, make a list and check it twice. Impulse buying has a nasty way of ballooning expenditures. Thus, creating a gift list and sticking to it can keep spending within the budget.

Step three, shop for bargains. Being rushed or under pressure can lead to over spending. Shop around and return the impulse purchases if they break the budget.

Step four, use credit wisely. The balance on your credit card should not be a complete surprise when you open the statement in January. It often takes longer than people think to repay holiday expenditures, so a good rule of thumb is to charge only what you can repay fully in 2 months.

And step five, plan for next year. I cannot emphasize enough the importance of savings, not only for holiday expenditures but for all the little curves that life throws at us. Saving even \$5 a week can pay for a lot of gifts without using your credit card. And it is also good discipline for building up a reserve for emergencies.

Let me suggest a few additional tips. First, as my colleagues have said, identity thieves are always looking for ways to steal your personal information. For example, we know that fraudsters are calling or e-mailing people to say that something has happened to their accounts and the funds will not be available unless they verify the account information over the phone or on the Internet. Because it is the holiday shopping season, people worry about not having access to their money and they fall for this scam. The fraudsters would then use that account information to move funds out of the bank. So never, ever give out personal information online or on the phone unless you initiate the contact.

Also, check your accounts regularly for unauthorized transactions and report such charges immediately to the bank or the credit card company.

Second, if someone is having trouble repaying debts, he or she should take action immediately and call the bank. Ignoring the problem will only make things much worse. Banks are always willing to help people, but waiting too long to begin the conversation will limit the options that are available.

Also, be wary of anyone who claims they can fix your credit for you. It is likely a scam.

Mr. Chairman, there is no better time than during the holidays to get back to the basics of good money management. The ABA Education Foundation is a great source for financial education materials published in English and Spanish. And because education on the use of credit is so important, our foundation has a stand-alone website called Get Smart About Credit with tips and links to

education materials at many of our member banks. Through the efforts of thousands of bankers every year and the work of the ABA Education Foundation, we hope to make a difference in helping people become more financially secure.

Together, we can make the holidays even brighter. Thank you, and happy holidays.

Senator CARPER. Thank you, Ms. Cripe. Terrific testimony. Thank you.

Mr. Taylor, Mr. Art Taylor, Mr. H. Art Taylor, you are on, my friend. Thank you.

**STATEMENT OF H. ART TAYLOR, PRESIDENT AND CEO, BBB
WISE GIVING ALLIANCE**

Mr. TAYLOR. Thank you, Senator Carper and Senator Dole and Senator Menendez. I appreciate you inviting me to share my remarks with you today.

I actually represent an organization that is very concerned about not only the consumer, but also the donor. On the consumer side, the Better Business Bureau system operates 129 affiliates around the country that are places where consumers can go to find out information on credible business. There are places where consumers can go if they want to know where to go to complain about a particular practice. So we are very happy that we are able to operate those things.

In addition to that, the BBBs work very closely with the FTC. We publish joint press releases on various things we find. We police advertising practices through our national advertising review programs. We follow things like poor rebate programs and identity theft problems that consumers encounter.

We have a program that deals with online shopping fraud through our BBBOnline program. And we are one of the largest institutions that are dealing with problems that people have with lemon cars. And so our programs do a lot with that, as well.

On the charity side, I happen to have the good fortune of being CEO of the Wise Giving Alliance, which is very concerned with charity issues. And we operate a program that evaluates 1,200 of the Nation's largest charities and the charities that people want to know most about.

I am happy to say that most of those charities meet all of our standards. In fact, about 70 percent of the charities meet our standards. Unfortunately, and I will say very unfortunately, we still find that 30 percent of the organizations that we reach out to fail to provide us with information. And we think this is something that the Nation needs to know about and the country really needs to push charities to participate in self-regulatory programs.

In fact, the Wall Street Journal reported on December 10th that charities should do more to make themselves open to the public. There were two individuals quoted in that article that you should know about. Diana Aviv, head of Independent Sectors, which is the organization that is the trade association for charities, said that if charities do not participate in self-regulation programs, essentially they are saying that they should behave in any way they want to.

And Brian Gallagher, Chief Executive Officer of the United Way of America said that we get irrational push back from charities

that are not concerned about participating in self-regulatory programs. So there is a concern about this issue of self-regulation.

But people ask me all the time, how can we be better givers? And so I thought I would come to you today with a few tips that we can offer donors on how to be better givers. First, donors should try to avoid giving a gift in response to excessive pressure. One of the ways to do that is by planning. We think it is very important for people to plan their gifts throughout the year. Develop a budget, talk to the family about the issues that are most important to them, and then take time to figure out which charities are best able to accomplish the goals they have in mind. We think by planning ahead of time, they can avoid being subjected to unscrupulous charity behavior.

We also think that how an individual charity solicits you is an important clue to whether that charity is above board or not. We find that charities that are above board do not generally use telemarketing as a fund-raising technique because they know telemarketing is a very expensive form of fund-raising and that most of that money will end up with the telemarketer. In some cases, upwards of 80 to 90 percent of the money you give will remain with the telemarketer.

We also know that good charities do not use spam e-mails on the Internet. You are unlikely to get an e-mail from a reputable charity, particularly if you have not had any contact with them. So avoid responding to Internet e-mails soliciting funds.

We also know that people who come to your door asking for your dollars are probably not people you should give to. We also know that people should be aware that events that charities host, while they can be very good in terms of explaining the issues that charities are dealing with, they can be costly and people need to know that.

Someone mentioned earlier today—I think it was you, Senator Menendez—that cause-related marketing is increasingly an important issue for donors to pay attention to. We have a standard that requires charities to make certain disclosures at the point of sale so that people know exactly how much of their purchase price is actually going to end up with the charity. We also think it is important that they know how long these campaigns will run, so that when they are buying the product they have not purchased it outside of the campaign period and, in fact, none of the money will end up with the charity.

So these are just some of the things that we think people should know about. And of course, on our website *give.org*, there are many, many more things that people can do to help police themselves so that they can make their gifts more effectively.

Thank you.

Senator CARPER. Well, I cannot remember the last time sitting and having a panel of four witnesses come forward and every one of them said something that I found was personally helpful, and I suspect helpful to everybody in this room and anybody else who might be able to follow this hearing. Those were just really exceptional testimonies and we thank you for them all.

I would like to start, if I could, with Ms. Tyler. NASAA has highlighted problems that are associated with these free lunch semi-

nars that you spoke about. I have seen those. When I get those in the mail or I hear about them, I think what do they serve? Should I take my wife for a date? Just before the presentation starts maybe say where are the restrooms, and we will slip out and go see a movie.

What is being done to address any abusive sales practices involved annuity products that are facilitated by the free meal seminar? Whenever I hear of these free meal seminars, I am reminded there is no such thing as a free lunch and maybe it is still true.

Ms. TYLER. Thank you, Chairman Carper. That is precisely right. There is no such thing as a free lunch. Our recent exams with the SEC and FINRA did show that all of these events are designed to sell product. And very often, the products being sold are complex, high fee, high commission paying products such as variable and equity indexed annuities.

Securities regulators are placing a special emphasis on dealing with these seminars through education efforts, through examination of firms that are conducting these types of seminars, and then through aggressive enforcement actions when we do find wrongdoing.

So it is really a three-pronged process: exams, enforcement, and education.

Senator CARPER. Thank you.

As a regulator, what are you going to help educate investors about safe investing? You just talked to us a little bit, but do it again.

Ms. TYLER. Certainly. Almost all state securities regulators do have a financial education division within their State agency. Those divisions are staffed by education professionals who do develop and disseminate education programs in their jurisdictions. All our education programs cover the full range of ages, starting with programs for our youngest citizens. We get into the school districts and deliver financial education in partnership with our teachers.

For example, in North Dakota every year we do a teacher training academy where we bring in 100 teachers and we spend 4 days educating them on how to deliver financial education to their students. And we do it in a way that allows them to incorporate financial education into their existing curriculum. We need to make it very easy for them to do this. And we think that starting with our young people is really an important place to start.

We also, of course, have programs for our working age constituents and our seniors, as well. So our programs run the full spectrum.

Just as an example, in the last 12 months, through a little over 1,000 different education events, we have reached over 180,000 investor constituents in our various jurisdictions.

Senator CARPER. In Delaware, if someone had a question, wondered about the merits of a particular charity, a group that is hosting a luncheon seminar, they can call the Delaware help line. There are folks at the other end of the line who answer the phone and, through computer-aided prompts and so forth, they can help direct an inquirer generally to the right source of information.

In a lot of States have folks who do your job, some appointed by the Governors, some by secretaries of states, I presume maybe some by the legislatures or by cabinet secretaries. I do not know if we have any that are independently elected.

But how would citizens in 50 States be able to find your equivalent in their State?

Ms. TYLER. It is an excellent question and I am glad you asked. The State government website portal would lead you to the State securities regulators agency.

Also, through the NASAA website, *NASAA.org*—

Senator CARPER. NASAA, not N-A-S-A?

Ms. TYLER. No, the other NASAA, N-A-S-A-A, *NASAA.org* will lead you to a link to every one of our securities regulatory jurisdictions.

Senator CARPER. All right, good.

Tell us what are some of the more prevalent investment schemes that are going around today. This will be my last question and then I will kick it over to Senator Menendez.

Ms. TYLER. Thank you. Certainly, the Ponzi scheme perpetually recreates itself, whether it is fronted by real estate or oil and gas scams or whatever is prevalent in the headlines on any given day. The Ponzi scheme structure, whereby you are simply taking money from new investors and using it to pay what appears to be a return to earlier investors. But most of the money goes into the promoters' pockets and typically offshore. That is a scam that is—we are perpetually dealing with, typically run more so by unregistered individuals.

In the registered world, we do deal very frequently with unsuitable recommendations being made to our investor constituents. Again, the complex, high fee, high commission paying products that may be unsuitable for investors with shorter time horizons or limited tolerance for risk.

Senator CARPER. All right, thanks very much.

Ms. Smith, we are going to have a second round of questions and I will come back and ask a question or two of you, Ms. Cripe, and Mr. Taylor.

But for now, Senator Menendez. Thanks very much.

Senator MENENDEZ. Thank you, Mr. Chairman. I, too, want to thank all of you. You had some pretty good testimony to give insights to people and I appreciate that.

But I would like to turn, and I will open the question to those who might want to answer it. But I want to pursue two lines of questioning, some that I raised in my opening statement. One is about the rebates.

It seems to me that we have all heard these stories about these consumer rebates. I actually went through one just to see what the process was like. After 33 years of public service, being an attorney, I thought this would be relatively easy. And I found hurdle after hurdle to try to achieve—the time and effort I put in to get the rebate, I am not quite sure is worth the dollar amount.

But wouldn't you agree that these rebates are pretty intentionally complex and, in essence, the companies bet on the fact that, in percentage terms, most people will not ultimately pursue the rebates or succeed at it? Anyone who wants to answer.

Mr. TAYLOR. Yes. We find that increasingly companies are offering rebates that they realize consumers will never come back and respond to, they will never turn in the rebate card. In some cases, they tell the consumer that the rebate is not even available to them until they have held on to the product for a certain period of time, in which case the consumer actually forgets about the fact that they have a rebate and they never get to the point to which they actually turn the rebate in for response.

I think you are absolutely on to something, and clearly I think more should be done to try to encourage companies to offer these rebates right away or to simply discount the product as they are planning to right away, so that the consumers are not left holding on to these certificates that they never get anything in return for.

Senator MENENDEZ. You know, I look at these rebates and if you do not have the original copy, if you miss the window of opportunity in which to submit it, if you cut out the wrong number, if the date does not match up, you are likely to be out of luck.

Mr. TAYLOR. That is right.

Senator MENENDEZ. And I do think that consumer, in part, are lured to making a purchase that they might think twice about. But if I can get \$50 back and that product now seems a lot more either within my reach or something that I desire but maybe could not quite afford, but the \$50 makes all the difference in the world, then we are bringing a universe of consumer to purchase a product that they might otherwise choose not to.

Do you think that would be a fair statement?

Mr. TAYLOR. I do, and I think our advice to consumers would be to avoid purchasing products that offer rebates that come down the road or that entice you to buy something. I think most consumers need to understand that today a rebate does not really amount to much, and that you should plan on spending the amount that you paid for the item minus the rebate, without ever actually cashing in on that rebate. Price it according to what the price says on the item and not minus that rebate.

Senator MENENDEZ. I think we could actually—there is nothing wrong with luring a consumer legitimately to a product. But if that is your intention, then ultimately why not just then, once you have lured them to consider purchasing the product because of a rebate, give them the rebate at the counter instead of subsequently.

Mr. TAYLOR. That is right.

Senator MENENDEZ. So we will have to look at that.

The other thing I want to talk about is I saw this New York Times article today, and I appreciate, Mr. Taylor, you referred to the issue that I talked about, embedded giving. It says charity share from shopping raises concern. There is a section here that is emblematic of what my concern is. "Sometimes charities—" this is quoting from the article "—do not even know that they are supposed to be receiving donations. For instance, some beneficiaries of an embedded giving program in a holiday catalog from Barney's New York found out that they were listed only after they were contacted by *The New York Times*. The World Wildlife Fund, a major charity that works to preserve and protect animals in the environment, was among them. Its Senior Vice President was disconcerted to learn that his organization was among a number of charities

named as beneficiaries of items bought from Barney's Have A Green Holiday catalog. Unfortunately, just like Barney's shoppers were in the dark as to how or if Barney's and the manufacturers will fulfill their commitment to donate a portion of the proceeds of these projects to WWF."

Now that is not to say Barney's will not. I do not know that they will or not. I am going to subscribe good intentions to them.

But it seems to me that there should be some standards here, at least that—No. 1, that charities should buy into it. These charities, whether it be the American Red Cross that our colleague chaired for a while, or whether it be the World Wildlife Federation or others, they have good name. They have credibility. They give people a sense of all right, this is an entity that does good work. And to have their names be used without their permission, at least as a minimum of standards, seems to me to be problematic.

With your experience, how do you feel about that?

Mr. TAYLOR. I totally agree with you, and that is why we have established a standard for how charities should deal with cause marketing arrangements with businesses. We say that the charity should know right up front how much money it is going to get from each purchase and there should be a duration stated so that the consumer knows also if they are going to be purchasing a product after a certain time if the campaign is still on, and if there is a maximum or a minimum that a charity is going to get over the life of the campaign.

But this does not deal with the problem that you are talking about which is charities, in many cases, do not even know that a company has used their name in a cause-related marketing approach. And if they do not even know, they cannot even go to the company and insist that the company operate in accordance with the standards that we have asked them to operate with.

And consumers are sometimes out in the cold because they do not know how much will actually go to that particular charity. And some businesses like this—I am not going to say Barney's—but some businesses like this, because they can attach their product, in some cases their not very good products, not their best products, to a name of a charity that is big.

The Red Cross is one organization that is used a lot in this. I can tell you that they have done an enormous amount to clean up the activity in their organization with regard to this. They will send out cease and desist to businesses and they are an example, I think, of what other charities are going to have to begin to do to police this.

Some charities are actually under pressure because they feel that they are going to get a little chunk of money from this arrangement. And so they are not as fast to hold the companies to a particular standard. But we think that charities should be pressured to do it. And in the end, it is going to be better for all charity endeavor.

Senator MENENDEZ. Thank you, Mr. Chairman.

I look forward to pursuing this so that good tidings does not become bah, humbugs.

[Laughter.]

Senator CARPER. Well said.

Ms. Smith, Ms. Cripe, Mr. Taylor, a question for you, if you can help me with this. I am going to go home tonight and I will open up my mailbox, or my wife will have already picked up the mail and have it inside. And I will look through—not just Christmas cards, there will be a lot of those, I suspect. But I will find a whole lot of appeals from charities, a number of whom I have supported in the past and some of whom I have not.

What I do is I set them aside and just before Christmas, maybe the weekend before Christmas, go through a huge stack and decide which ones I have given to before, we have given to before, which ones we will be able to support.

It would be helpful to know for us, and I suspect maybe for other families who set their requests aside for end of year giving, to know what portion of the money raised for—dollars raised by a particular charity, how much actually goes to administration and how much actually goes to whatever cause that the charity supports.

Can you give us some tips on how to make that determination?

Mr. TAYLOR. I suppose I should try to answer that question for you. We have a standard that requires charities to spend no more than 35 cents on administration and fund-raising, 35 percent of everything they spend in a particular year. And believe it or not, most charities that we evaluate operate within that guideline.

In fact, what we found is that there are more problems with charities that fail to meet other standards. And so the problem is not that people are supporting charities that spend too much on admin. The problem is that they falsely think that by supporting a charity that only spends a little bit on administration, that they are actually supporting a good charity. In fact, they may not be. And in many cases, they may not be. And so—

Senator CARPER. Could you just build on that a little bit?

Mr. TAYLOR. Sure. An example is that we find that only 12 percent of the charities we evaluate operate outside of our administrative cost standards. But overall, one-third of all of the charities we evaluate do not meet standards. So they may not have boards that operate. They may have boards that have conflicts of interest. They may be paying their board members. They may be lying on their solicitations. There could be any number of things that we monitor that these charities are doing wrong.

And yet, if you just follow how much they are spending on administrative costs, you will not know that these are things going on inside of these organizations.

And charities are very good at masking their administrative costs, which most people do not know. And the tax returns that they file, the 990 tax returns, are not very strong in requiring that they disclose exactly how much they are spending on admin.

So this is one of the biggest areas I think people are getting in trouble over when they are dealing with charities.

Senator CARPER. All right. Thank you for that. Those are some good points.

This will be a question for Ms. Cripe and also for Ms. Smith. I noticed that you included in your testimony some brochures or realty tip sheets with your testimony. I think, Ms. Smith, I think you

had, in your testimony, tips for online shopping that I thought was especially helpful.

I am just going to go back to your testimony on tips for online shopping. Just give it again verbatim. I just thought it was just excellent. And then I am going to ask you and Ms. Cripe a related question.

Ms. SMITH. Thank you, Senator. The tips include always investigate the seller. Never use part or all of your Social Security number as a password. Pay by credit card. Keep a record of your transaction. And always turn off your computer when you have finished shopping.

Senator CARPER. Thank you.

I wish I could get my son to turn off his computer before he goes to school or leaves for the day.

For Ms. Cripe and for you, Ms. Smith, if you have could go back to some of the tips that you shared with us, that would be much appreciated.

Ms. CRIPE. Certainly. I think one of the important things this time of year are the tips on gift cards, and I will not reiterate them all. But be sure that you buy them from a reputable source and you look at the fine print to see if there is a penalty for not using that card immediately, and to check out the fee structure.

I think most importantly for me, from an educational foundation standpoint, is preparing a holiday budget. And that includes your charitable giving. As you said, it is so easy to want to give to everyone that sounds like it is a good cause, but that should be part of the family budget for holidays and for all year long. How much of our efforts and, in fact, our educational materials that we take into the schools include teaching the kids about charitable giving and helping them discern what is a good charity and saving a little bit of their expenditure always on some charity. So that is a good thing.

Along the lines of preparing that holiday budget, avoiding impulse spending and avoiding those extra costs that we do not think about. We think about only gifting during the holiday season.

And really, the financial safety tips are about awareness and being alert. I saw someone yesterday here in Washington give her credit card and stick it in her pocket. Well, if I had been a pick-pocket, I would have just sidled up to her and taken that right out. I found people leaving their credit cards laying around. Many people carry their Social Security numbers or their cards in their wallet or their purse. That is not a good idea, because if your purse gets stolen or your wallet gets stolen, the thief has everything they need then to steal your identity.

So it is very important just to stay alert. It is a simple thing.

Senator CARPER. Say that last couple of sentences again.

Ms. CRIPE. I think it is very important this time of the year, and always, to stay alert. It is very simple to do that.

Senator CARPER. But go back a couple of sentences before that.

Ms. CRIPE. Okay, not carrying the Social Security number in your wallet or your purse.

Senator CARPER. That is it.

Ms. CRIPE. You really do not need to carry it around with you. There is very little need for that. If someone were to take your

purse or wallet, they have got your Social Security number and your credit card numbers and perhaps your drivers license. Then they have everything they need to steal your identity, and we do not want that to happen.

Senator CARPER. I see a number of people in the audience nodding their heads.

Ms. CRIPE. And please, please, do not write your PIN number for your debit or ATM card on the little envelope we give to you to keep it in.

Senator CARPER. With respect to debit cards, I understand that people are using debit cards in increasing numbers. I have also heard—and that is true in our family, as well. I understand actually that debit card purchases may exceed credit card purchases today, or at least they are pretty close.

I have heard recently some concerns about security aspects of debit cards. I was told be careful when you use your credit cards for purchases. Now you are hearing a similar kind of concern for debit cards. Can you comment on that at all? Any tips for us?

Ms. CRIPE. Yes. Be very careful when you are entering your PIN number. You will notice sometimes when you are in a line, if you are at a retail store, that people kind of try to inch you along. Just put your hand up so they cannot—there are shoulder surfers, if you will, that will try to read your number as you punch it in. And I could not do it, but they apparently are very good at it. And protect that number if you are using your PIN code.

A signature is safer, too. Do not use it if those two things are not required.

And as Ms. Smith said, when you are shopping on the Internet, use a credit card. It is much easier to protect yourself on the Internet using the credit card versus the debit card, and you do not have to—on our tip sheet, we have got some ways to tell if a site is secure or not. So that is, again, some information that is very important.

And it is really hard to tell sometimes. But if there are encodings, if there are passwords that you need to set up, keep those in mind when you are shopping on the Internet or using a debit card.

Senator CARPER. Thank you.

How long have you been doing this, in terms of providing advice to folks in these kinds of forums?

Ms. CRIPE. At least 30 years, ever since I have been in banking because that is what we do every day.

Senator CARPER. All right. This is a question that I am not going to ask it yet, but when we get to the end of the hearing—which will be fairly soon—the last question I may ask you is just to think back on the advice that you have given us here today and, looking back over your years of providing useful advice for consumers. And I want to ask each of you to give us your single best idea. I am not going to ask for your top 10. I am going to ask you for your best tip, particularly for this time of year, for consumers. So just be thinking about that, if you will.

Ms. Cripe, looking ahead to the next holiday season, is there anything that you want to—actually, looking forward to the future, is

there anything that you might want to stress for consumers to plan, not necessarily for this holiday season but for next year?

Ms. CRIPE. It is never too early to start planning for next year. Something that I think is hard for all of us to do is a forced savings plan. We have the best of intentions but we all know that that \$5 goes to a cup of coffee versus putting it in the bank to save it for the next holiday. Many banks, mine included, believe it or not, still have what is called a Christmas club or a holiday club, where the consumer gets a coupon book and they make a deposit every week. And it's just a reminder that they need to put that \$5, \$10, \$25 in so that in November they get a check and they can spend more of their money with cash versus credit.

And really, if they start doing it early, they do not even really notice it is missing. It is maybe one—the latte effect, if you will—one cup of coffee a day. And it will give them a nice start on the next holiday season.

Senator CARPER. And do folks do that?

Ms. CRIPE. Yes, they do.

Senator CARPER. Is it a pretty stable business? Is it growing? Is it coming down?

Ms. CRIPE. It is probably not a growing business because it is something that is more known to those of us who have been around a long time and we probably need to find a way to reach the kids on that kind of program, which is more of a standardized savings program for them because it is a great program and it allows people to save money at the holidays.

The other thing I would add—

Senator CARPER. Let me interrupt. I remember, as a kid growing up, how my mom would go to the store and buy something on lay-away and she would have to make payments on a regular basis until finally, just before Christmas, it would be paid off and she would pick it up.

Ms. CRIPE. Right. And this is even better. You are putting your money away and then, when you make your list of what you want to buy, you have got the money to do it.

Senator CARPER. Good. All right.

Mr. Taylor, if I could come back to you, what would you say is the most important thing that a consumer can do to avoid being taken by questionable appeals during the holidays.

Mr. TAYLOR. I think it is a mindset, Senator. What we want to do is get people to appreciate that they are their best defense against an unscrupulous charity. No matter what the IRS does or a State charity regulator or watchdog groups can do, we are all somewhat limited by what we can do.

Consumers have to appreciate, donors have to appreciate that they would not just go into an automobile storefront and buy a car without doing any homework. And you cannot give to a charity without doing some investigation. But we do. We get a letter in the mail. We like it. And we tend to give right away to that charity.

But that is, I think, the easiest way for us to be taken by an unscrupulous charity or, not even as bad as that, give to a charity that may not be positioned as well to solve the problem that they want solved. There may be another charity out there that is better able to address the problem that they want to have addressed.

So I think it is a mindset. People have to understand that just because an organization asks them for money, does not mean they should give without doing some investigation up front.

Senator CARPER. All right. Are there any kinds of charities that come to mind for you that maybe are especially in need during the holiday season?

Mr. TAYLOR. Well, this year, interestingly, the food banks are charities that are under some stress. They will tell you some of the reasons for that. But I am understanding that there is a need for Americans to support food banks and that there are overwhelming numbers of Americans that are going to bed hungry every night, especially children. And so this is something that I do not think Americans would be comfortable with if they knew it. And I know it is something that the food banks are trying to get more exposure about.

Second, I hear that social service organizations could use help, organizations that are in the business of helping people get homes and, because of so much going on now with the mortgage industry, shelter is going to be an important question for the country to deal with.

Senator CARPER. My staff and I worked at a food bank earlier this month and found it very rewarding. We also got colds. It was pretty chilly.

Mr. TAYLOR. Well, I hope you did not find a longer line this year than you might normally find at the food bank.

Senator CARPER. There is a real economy going on here because one of the amendments that I am joining with Senator Harkin and Senator Murkowski in offering to the farm bill, which is on the floor today, is an amendment dealing with school nutrition. They are trying to combat youth obesity. On the one hand, we know we are a Nation that is out of shape, we are overweight in many cases. And yet, we have folks that are still in great need.

I think part of it is maybe people are just eating the wrong kinds of foods, too.

Ms. CRIPE. I am sure you are aware that many of the food banks depend on farm bill food products to carry out their mission. And a lot of them are very concerned that if the farm bill does not go through in the numbers that they are looking for, that they are going to have problems feeding people.

Senator CARPER. We also, my staff and I, we only have three counties in our State. But we volunteer for the Salvation Army kettles. And I must say it is gratifying to see how many people dig in. They do not just put in quarters or nickels or dimes. They put in real money. And it is very, very gratifying to see that.

I think what I would like to do is just go back to that last question that I talked about earlier. This is what we call a pitch well telegraphed. But I want to come back and ask you to maybe, if you would give us your one best tip. If folks do not remember anything else walking out of here, if they have been listening or watching the hearing, just one great idea for people to keep in mind.

Ms. TYLER, I am going to ask you to lead us off.

Ms. TYLER. Thank you, Chairman Carper.

I would say the single most important thing to do when approached with an investment solicitation is ask for written infor-

mation, research the investment opportunity independently, and contact your State securities regulator. That contact literally may take mere minutes and it can save the investor a lifetime of financial hardship if they are subject to an investment that is actually a fraud and they do lose all their money.

Their State securities regulator will be able to determine if the individual making the solicitation is registered to legally do business in your State. And the securities regulator will be able to determine if the product being offered is appropriately registered to be sold. And those are two key factors that an investor should know before making that investment decision.

Senator CARPER. And again, I asked this before, but just to reiterate it, the best way to find out where you are or your counterpart is in other States?

Ms. TYLER. I would highly recommend utilizing the NASAA website.

Senator CARPER. NASAA, and we spell NASAA?

Ms. TYLER. N-A-S-A-A, *NASAA.org*.

Senator CARPER. And that stands for?

Ms. TYLER. North American Securities Administrators Association. And that will lead you to a link to the securities regulator in your jurisdiction.

Senator CARPER. Good. Thanks very much.

Nancy Smith.

Ms. SMITH. AARP would say, for consumers of all ages, the most important thing is to know who you are dealing with. That applies to online, in person, on the telephone, and certainly applies to everything we have been talking about here today, to purchases, to contributions to charities, to investment opportunities. Know who you are dealing with and verify.

Senator CARPER. Good. Thank you.

Ms. CRIPE.

Ms. CRIPE. I would say that the top thing to do this time of year, and probably the hardest, is to stop and take a deep breath before you do anything, before you make a purchase, before you use a debit or credit card, before you give to a charity. And that will stop a lot of scams and frauds and allow you to ask the question, if you pause before you buy something or do something. And if anything looks questionable, there are websites. Call your local bank and they will be happy to tell you if that sounds like a scam or a fraud. We, more than anyone, our job is to worry. And we do not want that to happen to you or to any consumer. And we do not mind that extra phone call.

Senator CARPER. When folks call the bank, who should they ask for?

Ms. CRIPE. They should be able to talk to anyone, because our front line people know as much as the chief executive about these things and we hear the stories every day as people come in. So all tellers, new accounts people, CSRs, whatever your particular bank might call them.

Senator CARPER. CSRs?

Ms. CRIPE. Customer service representative, should know how to help you or to whom to refer your question.

Senator CARPER. Thank you.

Mr. Taylor, last word. You are batting cleanup here.

Mr. TAYLOR. I believe—

Senator CARPER. I want you to drive this one out of the park.

[Laughter.]

Mr. TAYLOR. I think it is important, again, for people to realize that they have to defend themselves against charities. And they have to be the ones to hold charities accountable. If we continue to just give to organizations no matter what information they provide us, they will never improve and they will never get us to a point where we can count on all the charities out there to do the work that we really need them to do.

So it is important, not only when you make a dollar contribution, it is important when you make a penny contribution, that you do some investigation and make sure that you are giving to a legitimate organization that is really trying to accomplish a mission.

Senator CARPER. All right. Thank you.

When I was a State Treasurer, I was the State bond issuing officer. And as Governor, I was bond issuing officer for my State, and would meet on a fairly regular basis with the major rating agencies, including Moody's Investors Service, Standard & Poor, Fitch and others.

And we would have to present our financials, where we are raising our money, where it is coming from, how we are spending our money, in an effort to try to get a better credit rating.

I remember when I was elected State Treasurer, and Nancy Smith had been my campaign treasurer, Delaware had the worst credit rating in the country. We were tied for dead last with Puerto Rico. The folks in Puerto Rico were embarrassed with us, to be lumped with us. Delaware was the best in 1976, we were the best in the country in terms of overestimating revenue and underestimating spending. Nobody was as good as us at that.

[Laughter.]

All the way up to having the worst credit rating in the country. One of my happiest days as Governor was when we earned AAA credit ratings across the board, about 20 years later.

But we had to make—we were scrutinized very closely by the rating agencies, as are others who issue debt.

I wonder, are there entities out there that look at charities? You mentioned the importance of not just looking to see what percentage of a dollar that a charity raises do they actually spend on administration and do they spend on the causes that they are espousing, but what kind of other practices do they follow? Is there some entity out there that is doing this?

It is really hard. I think of my mom, who is now deceased. But my mom, living in Florida in her 70's in her home, and being bombarded until we got her on a do not call list down in Florida. But there are a lot of people, they are just ill-equipped to be able to do as you suggested, to depend on themselves.

Mr. TAYLOR. That is why we have this service, Senator, that does that. We take a lot of the guesswork out of it by evaluating these 1,200 organizations, the ones that are most in front of us, against 20 rigid standards. And we tell people right away whether a particular organization meets those standards or not. And you can find out in our magazine, because we know a lot of seniors, in par-

ticular, do not want to go on the web. So we provide this free magazine to anyone who wants to get it, so that they can see whether these organizations meet these standards.

And we also have our website, *give.org*—

Senator CARPER. Say that again.

Mr. TAYLOR. Give, g-i-v-e, *give.org*, where you can go and get a full report on any one of the 1,200 organizations that we evaluate. So what you are talking about is happening. And a lot of the local Better Business Bureaus around the country do this on a local basis. So we are really trying to cover the landscape.

We are not getting to every charity, of course. But we are getting to the ones that people ask us about and we are getting to the ones that are most in front of us. And I think that is important.

Senator CARPER. When someone—what was it, *give.org*?

Mr. TAYLOR. *Give.org*, yes.

Senator CARPER. When somebody signs on to *give.org*, do they have to provide their Social Security number to get—

[Laughter.]

Senator CARPER [continuing]. The information?

Mr. TAYLOR. Actually, they do not have to provide any information. And you know, in some cases, we lose out because we would like to find out more about who is coming to our website. But we have a policy, and I think it is a good policy, that you can just come. We do not ask you any questions and you can remain anonymous, and that is good.

Senator CARPER. All right.

In closing, we spend a fair amount of attention in Delaware on financial literacy. Our State Treasurer, someone who did not succeed me but succeeded my successor, who has done a great job in focusing attention in our State. A number of State treasurers have taken this on as one of their causes, which is—for which I strongly commend them.

As Governor, I presided over school reform in our State, a reform that continues to this day, and have done all 50 States. Among the things that we did was we established rigorous academic standards of what students should know and be able to do in math and science and reading and social studies. We started requiring tests be given, objective tests, to measure student progress toward those standards. We provided for accountability for students, for schools, for educators, even for parents.

We hear a lot as we prepare here, probably early next year, to take up reauthorization of No Child Left Behind, concerns about the States where teachers teach to the test. I say that should not be a problem or a concern as long as the tests reflect the academic standards of what kids are expected to know and be able to do in math and science and English and social studies. And as long as the tests are reflective of the standards, that is not a bad thing.

But I think somewhere along the way, as we have put a lot of focus on getting ready for the State test in math or science or reading or social studies or some other course, that we do not have the opportunity, we have not figured out how to link for our students educating them, getting them ready for some of the challenges that we were just talking about here, to be smart investors, to be smart consumers, to be smart donors. We have got to find a way to marry

the two together so that we can make relevant in the world that students are going to live in when they graduate how to invest wisely, how to handle their money smartly, how to figure out who to give their donations to at the end of the year, where to buy a gift card in a way that makes sense, whether or not we ought to take advantages of these rebates and how to be wise about doing that.

There has got to be a way to marry it all together so that the students can still make progress toward meeting their academic standards when they take those tests, but at the same time they will come away with skills, not the skills and knowledge they need to know to pass a test, to do well on a test, but will help them to behave in ways throughout their lives that will be to their benefit and that of their families.

Again, I will finish where I started. Sometimes we have hearings around here and I leave and I say well, just check that one off. But this has been just a really valuable hearing. And personally, I speak for myself and for my colleagues who were able to come here, and those who could not. There are others who might benefit from our publicizing this and putting you in the spotlight today. I am just real grateful to have been here and to have heard you.

I also want to just thank each of you for what you do with your lives and for the good that you do with your lives. On behalf of all of the people who are going to be helped by your testimony here today and by your work who will never have a chance to say thank you, I want to say thank you.

And with that, our hearing is adjourned.

[Whereupon, at 11:58 a.m., the hearing was adjourned.]

[Prepared statements supplied for the record follow:]

Testimony of Karen Tyler
Commissioner, North Dakota Securities Department
and
President
North American Securities Administrators Association, Inc.
Before the
United States Senate Committee on Banking, Housing, and Urban Affairs
“Shopping Smart and Avoiding Scams: Financial Literacy During the
Holiday Season.”

December 13, 2007

Chairman Dodd, Ranking Member Shelby, and members of the Committee,

I'm Karen Tyler, North Dakota Securities Commissioner and President of the North American Securities Administrators Association, Inc. (NASAA).¹ I am honored to be here today to assist you in alerting consumers to steps they can take to avoid financial scams this holiday season.

The holiday season is a time of generosity and giving. Unfortunately, it's also the time of year when scam artists aggressively exploit this spirit of goodwill. This predatory conduct, combined with a convergence of financial challenges - higher gasoline prices, a volatile stock market, lower housing values, and general economic unrest - may lead individuals to make hasty, ill-informed decisions in the pursuit of higher returns on their investments. NASAA urges investors to be especially vigilant in protecting their assets from internet, telephone and in-person promotions for alternative investment opportunities.

State Securities Regulatory Overview

The securities administrators in your states are responsible for enforcing state securities laws, the licensing of firms and investment professionals, registering certain securities offerings, examining broker-dealers and investment advisers, and providing investor education programs and materials to your constituents. Ten of my colleagues are appointed by state Secretaries of State, five fall under the jurisdiction of their states' Attorneys General, some are independent commissions and others, like me are appointed

¹ The oldest international organization devoted to investor protection, the North American Securities Administrators Association, Inc., was organized in 1919. Its membership consists of the securities administrators in the 50 states, the District of Columbia, the U.S. Virgin Islands, Canada, Mexico and Puerto Rico. NASAA is the voice of securities agencies responsible for grass-roots investor protection and efficient capital formation.

by their Governors and Cabinet officials. We are often called the “local cops on the securities beat,” and I believe that is an accurate characterization.

Financial Education Role of State Securities Regulator

Recognizing that education is a key weapon in the fight against investment fraud, the NASAA Investor Education Section was created in 1997 by the NASAA Board of Directors to help support the financial education efforts of our members. The Investor Education Section, along with a network of professionals from across the NASAA membership, is responsible for developing, coordinating, delivering, and supporting financial education initiatives that can be utilized by state securities regulators in their ongoing endeavor to improve the level of financial literacy in their jurisdictions. Currently, the Section has five focus areas: Youth Outreach, Senior Outreach, Affinity and Military Outreach, General Education Program Coordination, and a new area dedicated to working adults (pre-retirees) and their families called The Sandwich Generation.

Most state and provincial securities regulators have established investor education departments or divisions within their agencies. The result is an effective network of dedicated professionals delivering financial education at the grassroots level. Over the past 12 months, NASAA members have reached nearly 180,500 consumers through 1,100 investor education presentations. Our financial education professionals can be found at work in such venues as the classroom, the workplace, senior centers, and at trade and professional organization events. They partner with teachers, employers, and peer-based volunteer groups to deliver financial education to our constituents of all ages.

Investment Fraud Does Not Take a Holiday

Securities regulators know first hand that investment fraud does not take a holiday. Last year, state securities regulators reported significant increases in the number of

enforcement actions, money ordered returned to investors, and years of incarceration for securities law violations.

For the most recent reporting period, NASAA members reported 3,635 enforcement actions (including administrative, civil and criminal), up from 2,964 during the previous reporting period. More than one-quarter of all enforcement actions involved the financial exploitation of seniors. While we are currently in the process of updating these statistics, preliminary results show that investment fraud against seniors continues to grow, with nearly half (44 percent) of all investor complaints received by state securities regulators coming from seniors, up from 28 percent in 2005.

Clearly, investment fraud is a year-round problem. But it really hits home during the holiday season, when consumers may face a financial crunch with increased expenses from holiday gifts and travel. Others may be considering end-of-year investment or tax-savings opportunities. Still others, including seniors alone for the holidays, may be invited to a free holiday lunch or dinner investment seminar. For many, these situations can give rise to unsuitable product recommendations or a pitch for “get-rich-quick” investment scams.

The good news for investors is that there are four key defensive actions they can use to protect themselves and their money from financial predators this holiday season.

First, never give your Social Security number, date of birth or credit card numbers in response to unsolicited e-mail messages or “cold callers” over the phone – no matter how good the sales pitch sounds.

When registered professionals in the securities industry make sales calls, they must call only between 8:00 a.m. and 9:00 p.m. These time restrictions do not apply if you are already a customer of the firm or you have given them permission to call you at other times. Cold callers must also promptly tell you their name; their firm’s name, address, telephone number; and that the purpose of the call is to sell you an investment.

Investors should remember that every securities firm must keep a “do not call” list. If you want to stop sales calls from that firm, tell the caller to put your name and telephone number on the firm’s “do not call” list. If anyone from that firm calls you again, get the caller’s name and telephone number. Note the date and time of the call, and complain to the firm’s compliance officer, your state’s securities regulator, or the SEC.

The Internet also has made it simple for criminals to reach millions of potential victims at minimal cost. They no longer need to spend money setting up boiler rooms, making phone calls [or sending mailings]. We recognize that the Internet is an important tool for legitimate business purposes, such as direct offerings of securities through company websites and online brokerage services. Yet we continue to see online investors targeted with increasingly complex investment scams involving unregistered securities, promissory notes, charitable gift annuities, viatical settlements, and Ponzi schemes all promising inflated returns.

State securities regulators urge investors to beware of Internet and e-mail fraud, particularly with the busy holiday season. Recently, the Florida Office of Financial Regulation has noted an increase in the number of e-mail fraud attempts, known as “Phishing” sent to financial institution customers and credit union members. “Phishing” is a form of online identity theft that lures consumers into divulging personal financial information. Consumers must remain ever vigilant in order to protect their identity and property, including their financial accounts.

It starts with an e-mail asking the recipient to click on a link to verify their financial account information. If the recipient proceeds to do so, the link directs them to a fraudulent website and asks for their financial account number and PIN, along with other personal information. The customer, unaware that they have linked to a fraudulent site, provides the information, thereby enabling the “phisher” to steal personal financial data.

The “phisher” then can use the information to clean out the victim’s financial account and commit other forms of identity theft.

Financial institutions will never ask their customers or members for such personal information through e-mail. Anyone who receives an e-mail that appears to be from a financial institution asking for account information should consider it to be a fraudulent attempt to obtain their personal account data for an illegal purpose.

Second, state securities regulators caution against making quick and risky investment decisions based upon sales pitches that refer to great deals that will be offered for only a short time or those that offer year-end tax advantages. The end of the year is a favorite time for criminals to roll out various income-tax avoidance schemes. Investors should resist the temptation to file for nonexistent financial returns, such as Social Security advances or to speak with anyone offering to file a claim on their behalf for an upfront “fee.”

Each of these scenarios is a red flag that often signals a criminal at work. A well planned and systematic investing approach, over the long-term, usually will produce greater returns than a get-rich-quick scheme. It pays to remember that if it sounds too good to be true, it usually is.

Third, even though the holidays are busy and everyone is pressed for time, investors should find the time to research any investment opportunity – and those who offer them – before even considering investing their hard-earned dollars.

State securities regulators advise investors to ask for – and read – the prospectus of any investment proposal before deciding to invest. It is important to remember that just because you receive literature about an investment, you should not assume that the investment is legitimate. And, even if the investment is legitimate, it may not be suitable given an investor’s age, tolerance for risk, and overall financial profile.

The fourth defensive action comes once an investor has read the prospectus and independently researched all information concerning an investment opportunity. This step is perhaps the most important to help avoid getting scammed during the holiday season, or anytime, especially for investors who have been approached through an unsolicited contact pushing an unfamiliar investment alternative. This defensive move takes only a simple call to your state securities regulator to check the disciplinary background of the broker or investment adviser offering the investment. Almost anyone selling an investment product in any state must be registered with that state's securities regulator, and the product being sold must be registered, unless exempt by law.

Investors also should discuss their rights and responsibilities with their broker or adviser and understand whether the individual has a legal obligation to put the needs of investors before their own. It is important to remember that investment services providers not only offer different types of services and charge for them differently, they are also subject to different federal and state regulatory requirements and have different legal obligations to their customers.

For example, investment advisers are subject to a fiduciary duty. That means they must put the interests of investors ahead of their own at all times, by providing advice and recommending investments that they view as being the best for their customers. Investment advisers also are required to provide up-front disclosures about their qualifications, what services they provide, how they are compensated, possible conflicts of interest and whether they have a record of disciplinary actions against them. Brokers are generally not considered to have a fiduciary duty to their customers, [although this standard may apply in certain limited circumstances.] Instead, brokers are required to know your financial situation well enough to understand your financial needs and to recommend investments that are suitable for you based on that knowledge. They are not required to provide up-front disclosures of the type provided by investment advisers.

I'd like to turn now to an unfortunate, but very real, aspect of the holiday season. The holidays can be a lonely time for those away from their loved ones, especially many of our nation's seniors. Unscrupulous sales people may exploit this fact, inviting seniors to free lunch or dinner financial education seminars, providing them with an appealing diversion during a difficult time. But instead of unbiased financial education, seminar attendees may be fed a hard sales pitch for investment products that are often unsuitable. Although this is troubling year-round, it is especially offensive during the holiday season when fraudsters prey on those who may be lonely, especially the elderly.

Recently, state securities regulators, the Securities and Exchange Commission and the Financial Industry Regulatory Authority released the findings of a year-long examination of 110 free meal seminars. Our joint examinations found that while many free meal financial seminars were advertised as "educational," or "workshops," 100 percent of the "seminars" were instead sales presentations; 50 percent featured exaggerated or misleading advertising claims; and one-quarter involved possibly unsuitable recommendations to attendees.

Many in this room have been invited to that "free" lunch or dinner investment seminar that we just "can't afford to miss." The invitation I'm holding in my hand is filled with the recurrent themes that typically appear in these enticing ads: a free gourmet meal, tips on how to earn great returns while eliminating market risk, and a warm welcome to spouses of the invitees.

Many invitations use words such as "guaranteed," "can't lose principal," or "no-risk investment." Nothing will be sold, they say, and there is no cost or obligation. The high-pressure sales pitch usually comes in a follow-up telephone call a few days later.

The troubling violations our examinations uncovered range from outright lies and the conversion of investor funds, to more sophisticated forms of abuse. In many cases, the

salesperson recommends that the senior liquidate the investments they currently own and use the proceeds to purchase equity indexed or variable annuities, products that are often flagrantly unsuitable for seniors and often reward the seller with a high sales commission.

Additionally, these recommendations often constitute the dissemination of financial advice for compensation without an investment adviser license, which is a violation of state securities law.

For the past four years, since we first determined that the abusive targeting of seniors was a growing problem, national in scope, state securities regulators have focused on aggressively investigating and bringing enforcement actions to mitigate the investment fraud and misconduct facilitated by the free meal seminar mechanism.

Criminals count on people opening not just their hearts but also their wallets during the holidays. To help investors protect themselves this holiday season, NASAA today has issued an investor alert and podcast (audio broadcast) offering a series of resolutions for safe investing.

For example, resolve to investigate before you invest. The holiday season brings out phony investment schemes and scams promoted by high pressure criminals seeking to fleece investors for all they're worth. Take the time you need to understand what you're investing in.

Resolve to make safe investing a family affair. Take the time to check-in with your parents or family members and don't be shy about discussing personal finances. Make fraud prevention a family affair.

Resolve to check out your broker or investment adviser before investing. It just takes one call to your state securities regulator to get a quick history on your broker or investment adviser, but that call will pay dividends with the knowledge you'll gain.

Resolve to fight fraud. Whether it's taking the time to read your monthly statements and ask questions if you notice anything suspicious... make fraud detection part of your routine. And be sure to call your state securities regulator if you suspect you have been the victim of investment fraud. A list of state securities regulators is on the NASAA website at www.nasaa.org.

Conclusion

The holidays can be a perilous time for investors. My office and other state securities administrators will continue to play an active role in protecting investors throughout the year through a nationwide network of highly trained, unbiased, non-commercial experts in financial services, products and fraud avoidance.

I thank the Chairman and each member of this Committee for allowing me the opportunity to appear today. I look forward to answering any questions you have and providing additional assistance to you in the future.



The power to make it better.

Written statement
before the

Committee on Banking, Housing,
and Urban Affairs
United States Senate

on

“Shopping Smart and Avoiding Holiday
Scams: Financial Literacy During the
Holiday Season”

December 13, 2007

Witness: Nancy Smith, Chairman
Consumer and Livable Communities Committee
AARP National Policy Council

For further information, please contact:
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Chairman Dodd, Ranking Member Shelby, and members of the Committee, I am Nancy Smith, Chair of the AARP National Policy Council's Consumer & Livable Communities Committee. Thank you for inviting AARP to offer tips on how to shop smart and avoid scams during this busy holiday season.

Fraud, scams and deceptive practices are crimes that rob their victims of assets, self-esteem and economic security. The impact of such crimes on older persons can be particularly devastating, both emotionally and financially. AARP engages in consumer education and outreach year-round to help older consumers protect themselves against such activity – but such awareness is most important at this time of year. Criminals often see older people as easy marks for charitable giving scams, and target them based on a perception that they are more vulnerable as well as more generous donors.

SMART GIVING

AARP cautions consumers that it is good to give but it is just as important to give wisely. Our state offices (in 50 states, Puerto Rico, the Virgin Islands and the District of Columbia) work in alliance with state officials and non-profit groups to prepare consumers to recognize and resist fraudulent charitable appeals. For example, our AARP Washington State office has joined Washington state officials to launch "Operation Check Before You Give." This outreach effort helps consumers protect themselves by educating them on how to give to organizations they trust and learning how their donations will be spent *before* they reach for their checkbook.

AARP advises its members that "smart giving" takes just a few extra steps to ensure that one's holiday donation goes to the worthy cause intended. Among these steps are the following:

- Ask for and review written financial information before making a donation.

- Call your state Attorney General or Secretary of State to see if the charity is registered. In some states, charities must file financial disclosures.
- Pay with a check — not cash — made out to the charity, not the fundraiser.
- Contribute directly to the charity, not the fundraiser.
- Keep written records of your donations and pledges. Check your records if someone says you made a pledge you don't recall.
- Know the difference between "tax deductible" and "tax exempt." Donations to tax-exempt organizations are not necessarily tax deductible for you. If your donation is tax deductible, get a receipt.
- Don't give your credit card number or any personal information over the phone or in response to an email.

IDENTITY THEFT

Fraudulent door to door sales, deceptive direct mail, telemarketing scams and online theft are the most common tactics in season and out that criminals use to separate consumers from their assets. However, identity theft is fast becoming the criminal's weapon of choice. An AARP study found that 81 percent of older consumers are concerned about becoming a victim of identity theft, and according to the latest Federal Trade Commission (FTC) report, they have every reason to be.

An FTC survey released November 27th shows that 8.3 million American adults, or 3.7 percent of all American adults, were victims of some form of identity theft in 2005. Of the victims, 3.2 million, or 2.4 percent of all adults, experienced misuse of their existing credit accounts; 3.3 million, or 1.5 percent, experienced misuse of non-credit card accounts and 1.8 million victims, or 0.8 percent, found that new accounts were opened or other frauds were committed using their personal identifying information.

Security freezes, a valuable preventative measure, when placed at all three consumer reporting agencies, can stop identity thieves from accessing a consumer's credit report and using that information to fraudulently open new lines of credit and bank accounts. A recent report by AARP's Public Policy Institute found that older consumers are largely unaware of the existence of credit security freeze protection, and would be more likely to take advantage of security freezes if the process of placing and using the freeze were easier and less costly.

AARP's website and publications stress the need to protect valuable personal information that can be stolen or misused. We urge our members to be very careful with their credit card and personal information. Identity thieves look for opportunities to take this information. Consumers should be protective of credit card information whether they give their card to the store clerk or shop online.

HOLIDAY ONLINE SHOPPING

Holiday online shopping is an attractive option for consumers who may be homebound, have limited transit options or simply want to avoid large crowds. Netconcepts®, LLC., an E-business and marketing research firm, reports that online shopping has increased this holiday season over 2006 by 14.5% overall. Consumers can find the following tips on the AARP website, endorsed by the FTC and other consumer groups, to help them maintain a cyber-secure online shopping experience and lower their risk of identity theft.

Online Shopping Tips:

- Always investigate the seller. Anyone can sell things online, so it is a good habit to check out the online seller before you make a purchase. Make sure the Web site gives the business' name, mailing address (more than a post office box) and telephone number.
- Check the site's security and take time to read the site's privacy policy.

- Choose your password carefully. Never use part or all of your Social Security number as a password.
- Pay by credit card. It is the safest and quickest way to shop online.
- Keep a record of your transaction.
- Always turn off your computer when you are finished shopping. Leaving it on all the time is a perfect opportunity for scammers to install malicious software and then control your machine remotely to commit cyber crime.

GIFT CARDS

Holiday shopping often includes gift cards. AARP counsels consumers to look at gift cards carefully and read the fine print. Gift cards can have expiration dates, fees and other terms or conditions that reduce the face value of the card. There can be restrictions on where and when the cards may be used. Buyers and recipients of lost or stolen gift cards are often left with no resort and no compensation is offered by the vendor.

The Office of the Comptroller of the Currency reports that consumers lost \$8 billion last year by not using the gift cards that they received out of an estimated \$26 billion spent on gift cards. Before buying any gift card, it is important to read the fine print to see when the card expires and any conditions on its use. Specifically:

- Check for any fees that the recipient might have to pay when trying to turn the card to cash.
- See if you can get your money back if the card is lost or stolen.
- Check for a toll free number to call or a web site on the packaging if either the buyer or recipient has a problem with the card.
- Also be cautious about purchasing a gift card from public display racks.

AARP's website constantly updates valuable consumer education tips that can help to eliminate fraud, scams and theft during the holidays and year-round. In

addition, we provide training to our volunteers as peer counselors who can offer consumer advice.

CONSUMER FRAUD PREVENTION PROJECT

AARP Foundation administers a grant-funded program, the Consumer Fraud Prevention Project (CFPP), which uses peer counselors to help potential victims identify fraudulent schemes and deceptive practices.

CFPP is a result of the success of a 2003 AARP Foundation study, "Off the Hook," which found that the crime of telemarketing fraud is grossly underreported among older victims, but that those who are properly counseled by trained peer volunteers are less likely to fall victim to fraudulent pitches. The Project engages older volunteers in contacting known and potential fraud victims and alerting them to the dangers of telemarketing and other types of fraud. Seven community-based non-profit agencies selected by Project staff recruit and train volunteers to serve as peer counselors. Volunteers contact consumers identified as potentially vulnerable by the AARP Foundation and talk with them about current frauds, consumer resources, and the consumers' own experience with fraud.

The consumers reached through this project meet a demographic profile that AARP research found among known fraud victims. The Project reaches out to those who have expressed an interest in activities that might lead them into financial danger. These dangerous activities include lotteries, gambling, recent bankruptcy, or those who frequently donate to charities or respond to mail order contest offers.

The Project's primary impact is made through conversations that the trained volunteers have with older, at-risk consumers. These peer conversations are valuable to consumers because they provide an information exchange that is tailored to the consumer's level of interest and understanding. Volunteers report

that those consumers are grateful for the information as well as the social interaction.

Since July 2006, Project volunteers have contacted 500,000 older consumers, and over the next four years they will contact 2.5 million more. Overall, the Project involves hundreds of volunteers, each of whom contributes many hours per month. Ultimately, the goal of AARP telemarketing fraud prevention program is to equip consumers with information, ways to identify possible criminal activity and avoid becoming a victim.

CONCLUSION

In conclusion, Mr. Chairman, AARP commends you for holding this hearing on an issue that greatly affects the economic security of all consumers, and especially older consumers. Holiday shopping should not be a prime holiday for criminals. AARP is committed to working with like-minded organizations and government agencies at all levels to deter scam artists who would take advantage of consumers and charitable contributors, especially during the holidays.

Thank you.



Smart Shopping

Looking Gift Cards in the Face

When you can't find the perfect gift for someone, a gift card can be the best solution. That way you know your friends can pick out just what they want. But gift cards can have some drawbacks. It's the fine print that may make your gift less than you had hoped for.

Gift cards can have expiration dates, fees and other terms that reduce their value. There can be restrictions on where and how the cards can be used. Lost or stolen cards are often gone for good.

The Office of the Comptroller of the Currency reports that consumers lost \$8 billion last year by not using the gift cards that they received. This is out of the projected \$26 billion spent on gift cards.

Before buying any gift card, read the fine print to see when the card expires and any conditions on its use. Check for any fees that the recipient might have to pay when trying to cash in on the gift. Are there restrictions on where the card can be used, such as only for online purchases? See if you can get your money back if the card is lost or stolen. Is there a toll free number to call if either of you have problems with the card? Look for a web site on the packaging where you can get more information about any restrictions or directions.

You should also be cautious about purchasing a gift card from a public display rack. There have been some reports of thieves tampering with the packaging to steal the serial numbers or insert counterfeit or used cards. The best practice is to have the store clerk scan the card to check the value before you make your purchase. And keep your receipt in case any problems develop.



Smart Shopping

Online Shopping: A Safety Checklist

You're browsing the Web and found a great buy on a jacket: good price, in your size, and just the right color. But is it safe to buy online? What can you do to make sure your money and privacy are protected? These simple steps can improve your online shopping experience.

Investigate the Seller

Anyone can sell things online, so it is a good habit to check out the online seller before you make a purchase. Make sure the Web site gives the business' name, mailing address (more than a post office box) and telephone number. You need to know how to reach the seller so if you can't find a working phone number, go somewhere else. Type the site's name into a search engine. If you find unfavorable reviews, you may be better off doing business with someone else. Are you familiar with the seller's merchandise or services? Can you tell exactly what you're getting based on the site's description or pictures? Also, do you understand all costs (including price, shipping, and taxes), delivery time, warranty information, and the return policy?

Make sure the site has clear information about what you can do if you have problems with your purchase. Some purchases may need to be returned. Know who pays the shipping costs on anything that needs to be returned. Some retailers give you extra time so gifts can be returned or exchanged; others may give just as little as a week-if they accept returns at all. Others may charge a "restocking" fee so you wouldn't get a full refund.

Check the Site's Security

Only do business with companies that use secure server technology. This works with your Web browser to scramble your personal information-such as your credit card number-as it travels over the Internet. If the site is secure, the "http" in the address bar at the top of your screen will change to "https" or "shttp" at the page where you are asked to type in payment information. You can also look for other signs that the site is secure such as a closed padlock on the browser's status bar. Always check for signs the site is safe before entering your information. Don't buy online if the site isn't secure.

Read the Site's Privacy Policy

Understand how the seller will use your personal information. Many online stores will sell information about you to other companies. But, today, companies have to let you choose whether or not the company can share your information with others. Exercise your right to "opt out" if you don't want the seller to pass to others information about you. If you don't like the privacy policy, don't deal with that retailer.

Choose Your Password Carefully

If you use a password to log on to your computer, choose a different one to make a purchase. Also, use an unpredictable combination of numbers, letters and symbols. Do not give your password to anyone who contacts you, including people who claim to be employees of online services or stores. Never use part or all of your Social Security number as a password.

Pay by Credit Card

Paying by credit card is the safest and quickest way to shop online. The federal Fair Credit Billing Act gives you the right to dispute credit card charges for goods or services that you never received, never ordered or that were misrepresented to you. So, if you have a problem with your purchase, you may be able to withhold payment while your credit card company investigates the problem.. Don't send cash or use a money-wiring service because you'll have no way to get your money back if something goes wrong.

Also, if a thief has used your credit card, you are usually responsible for only the first \$50 in charges. For additional security, you can ask your credit card company about getting a "single-use" credit card number that allows you to buy online using a temporary card number.

Keep a Record

Be sure to print and file a copy of your order and confirmation number in case you have a problem with your purchase. Keep a written record of the product description and price, shipping and handling costs. By law, online businesses must deliver merchandise within 30 days of purchase or notify you if there will be a delay. Read your credit card statements as soon as you get them to make sure there aren't any unauthorized charges.

Turn it Off

When you are finished shopping, turn off your computer. Leaving it on all the time is a perfect opportunity for scammers to install malicious software and then control your machine remotely to commit cyber crime.

Complaint Resources

Federal Trade Commission. Where to file your complaints about most types of frauds and scams.

Where to file complaints about an online transaction that involves a foreign company.

Send spam email messages to spam@uce.gov.

Internet Crime Complaint Center. Where to report crimes that take place on the Internet.

National Fraud Information Center. Report telemarketing and Internet fraud to the National Consumers League

AARP Resources

Get cybersavvy!

AARP and the Direct Marketing Association help anyone new going online in "Getting Cybersavvy."

Basic Web Lessons

Tutorials on how to get what you want on the Internet.



Scams

Credit Card Fraud

Not long ago a woman dined at a favorite restaurant. She paid by credit card. When she received her next credit card bill, though, she was shocked. She saw charges of several hundred dollars for things that she didn't buy.

Credit card fraud is increasing. It costs businesses billions of dollars each year. And it costs you, too. Businesses pass these costs on to you in the form of higher prices, interest rates and fees. If you are victimized by a credit card scam, you also pay with your time and inconvenience getting your credit cleared.

You are not usually required to pay unauthorized charges – especially if you call the credit card company immediately after discovering a problem.

When the woman at the restaurant called her credit card company, they said she was a victim of “skimming” – a growing area of credit card theft. At the restaurant an employee probably ran her credit card twice, once for the meal charge and a second time on a magnetic card reader. The employee then copied the data onto a blank credit card and sold it to a third person or used it personally. The woman didn't have to pay for the unauthorized charges.

Today, you, like most people, undoubtedly use credit cards routinely. Few people pay cash. Credit cards are just so convenient. And even though fraud is increasing, the good news, consumer advocates say, is that credit card theft is one of the easier crimes to prevent.

Credit card companies are taking steps to make the cards more secure. Some display a photograph of the cardholder so criminals can't make face-to-face purchases with a stolen credit card. Most cards have holograms, secret imprints, or hidden images so thieves have a harder time making a new credit card with a stolen card number.

Despite these improvements, you still be a victim of credit card fraud. Even though credit card companies usually won't make you pay for the merchandise that thieves buy, it can be nerve-wracking to lose a credit card or find unauthorized charges on your credit card bill. That's why it's important to protect your credit card, your credit card number, and your credit card sales slip.

Protect Your Credit Cards:

Use common sense when it comes to your credit cards. Don't lend your card to anyone else. If you want someone else to use your credit card, go with the person and do it yourself. Some other tips:

- Only carry one or, at most, two credit cards.
- Don't write your PIN (personal identification number) on your credit card. This prevents thieves from using your card and PIN to withdraw money at an ATM machine.
- Write down the phone numbers of the credit card companies and keep them in a safe place to have them handy if a credit card is stolen or lost.
- Immediately report lost or stolen cards to the credit card company. The credit card company can stop the thief by canceling your credit card and number.

Guard Your Credit Card Number

Thieves don't need your credit card to charge merchandise to your account. They only need the card number. Criminals use stolen credit card numbers to make purchases over the phone or through the mail. Sophisticated lawbreakers can even make a new credit card with your name and number on it.

If you receive an offer for a new credit card in the mail and don't intend to use it, cut up the application form into several pieces. Some crooks go through trash looking for discarded but still usable applications in your name. Also,

- When checking out at store registers, shield your credit card from the people around you. Someone might be looking over your shoulder to copy your number.
- Don't give your credit card number to telemarketers unless you are sure they represent a reputable company or you placed the call. Con artists pretend to sell you something just to get your credit card number.
- Con artists also may pretend to be your credit card company or bank and say they need to verify your card number because of some "computer problem." Don't fall for this scam. Verify directly with the credit card company using the telephone number on your card, not the number the caller may give you. The number they give on the phone may be false.
- Make sure your transactions are accurate. Be on guard for dishonest merchants who might change your credit card slip after you sign it.
- Always add up your charge slip before signing the credit card receipt. Don't leave blank spaces where additional amounts could be added.
- Never sign a blank charge slip.

Check Those Receipts

- Keep track of your credit card receipts as proof the purchases you actually authorized.
- Read your monthly billing statement carefully to see if it includes purchases or transactions you did not make. Report any to the credit card company right away.
- Always check your receipts against your billing statement. If you think a charge amount was changed, call your credit card company immediately.
- Shred your receipts and anything with your credit card number on it. Thieves go through trash looking for this valuable information.

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Testimony of

Julie Cripe

On Behalf of the

AMERICAN **BANKERS** ASSOCIATION

EDUCATION FOUNDATION

Before the

Committee on Banking, Housing, and Urban Affairs

United States Senate

December 13, 2007



December 13, 2007

Testimony of Julie Cripe
on behalf of the
American Bankers Association Education Foundation
before the
Committee on Banking, Housing, and Urban Affairs
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Mr. Chairman and members of the Committee, my name is Julie Cripe and I am President and CEO of OmniBank, N.A. in Houston, Texas. OmniBank has roughly \$360 million in assets and has been in existence for 53 years. I am also the immediate past chairman of the American Bankers Association Education Foundation board. The Education Foundation is a non-profit subsidiary of the American Bankers Association (ABA). The American Bankers Association brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than \$125 million in assets – represent over 95 percent of the industry's \$12.7 trillion in assets and employ over 2 million men and women.

Since 1925, the ABA Education Foundation has supported the banking industry's efforts to teach personal finance skills in schools and communities across the country. Through our two flagship annual programs – Teach Children to Save Day and Get Smart About Credit Day – more than 14,000 bankers took to the classrooms this year to teach personal finance skills to more than 556,000 children and young adults. The Foundation provides consumer booklets on budgeting, saving and credit, offers a web-based, interactive credit education program and publishes a financial education newsletter for children. All of these are published in English and Spanish.

I want to thank you Mr. Chairman for holding this timely hearing. The holidays can be a very joyous time, filled with generosity and giving. With simple steps to remain financially secure, the joy of the season will be remembered long after the bills come due in January. In my statement today, I'd like

to cover some holiday tips on good financial management. I have also included tips sheets on several subjects:

- Tips for Preparing a Holiday Budget
- Financial Safety Tips For Holiday Shopping
- Warning Signs of Financial Stress
- Gift Card Tips

Please feel free to reproduce these and use them whenever possible if you find that they would help your constituents make it through the holidays and avoid the financial frostbite in January when the bills come due. These can also be found on the ABA Education Foundation website – www.aba.com/abaef.

‘Tis the Season Not to Overspend

Here are five simple steps that can help consumers avoid a holiday spending hangover.

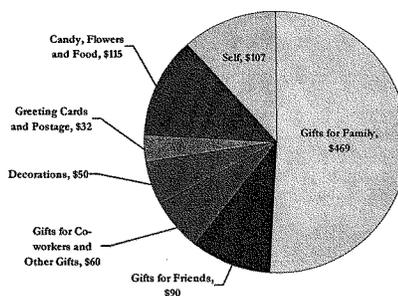
Step 1 – Develop a Budget

Careful budgeting is always a good idea, but it is particularly important during the holidays, when the spirit of giving collides with advertisements for mega-bargains. Being smart *and* realistic is the key. The National Retail Federation (NRF) estimates that U.S. consumers expect to spend an average of \$817 on holiday-related shopping this year. Nearly one of every four dollars of this (\$197) is expected to go to purchasing non-gift items, such as decorations, greeting cards and postage, candy, food and flowers. These are items often overlooked in budgeting, yet their costs can add up quickly. Travel expenses and charitable contributions should also be a part of any budget. Beyond the \$817 of holiday spending, NRF estimates that shoppers are also likely to see bargains that they cannot pass up,

December 13, 2007

amounting to \$106 dollars of additional spending, for a total holiday-spending dollar amount of \$923. Save your receipts from this year to help create a realistic budget for next year's holiday season. Make budgeting a family affair and you will impart much needed financial education to your children.

Holiday Spending Breakout, 2007



Source: National Retail Federation

Step 2 – Make a List and Check it Twice

Impulse buying has a nasty way of ballooning expenditures. Thus, creating a gift list and sticking to it can be very helpful. Know what you want to buy for each person and how much you want to spend. It is also a good idea to limit the list to family and close friends. For those outside your list, send greeting cards or handwritten letters of appreciation. Home-baked goods or simple crafts are often less expensive and more appreciated than what you would buy at the mall or the big-box store.

Step 3 – Shop for Bargains

With just a few weeks to go before Christmas, pressure builds to find gifts. Being rushed or under pressure can lead to overspending. Starting early and having time to comparison shop is the best idea, of course, but late in the season you can still re-evaluate your purchases to make sure that they are appropriate and within your budget.

Step 4 – Use Credit Wisely

The balance on your credit card should never be a complete surprise when you open the statement in January. Keeping receipts and adding them up each week provides a reality check on

spending, helping you to stay within your budget and prevent any surprises next month. Paying for items in cash also helps to limit overspending. If you do use credit, it is a good idea only to carry a single credit card with the lowest interest rate. It is also a good idea to set a specific date by which you intend to pay off your holiday credit card bills. It often takes longer than people think to repay these expenses. A good rule of thumb is to charge only that amount that can be repaid within two months.

Identity thieves are always looking for ways to steal your personal information. So during the busy holidays don't forget to safeguard your personal information by tearing up or shredding any documents that link your name to account numbers; checking your accounts regularly for unauthorized transactions; never giving out your personal information online or on the phone unless you initiated the contact; and notifying your bank if you believe that your identity has been compromised.

Step 5 – Plan for Next Year

Planning ahead can make next year's holiday merrier and brighter. Saving some money every month for holiday gifts can ease the financial pressure felt in December and is also a good discipline for building up a reserve for emergencies or unexpected expenditures during the year. A savings account at your local bank is the perfect way to start saving. Many banks have a Christmas Club account in which the depositor gets a coupon book with which they make deposits each week or month. Saving just \$5 or \$10 per week adds up to between \$240 and \$480 for the whole year – plus the interest earned that money. This money allows for purchases in cash, rather than on credit. Besides the interest earned on the deposits, customers save by not paying interest had they used their credit card instead. I cannot emphasize enough the importance of savings, not only for holiday expenditures, but for all the little curves that life throws at us.

If you used your credit card during the holidays, paying the bills on time is very important, even if you cannot pay off the entire balance all at once. It avoids any late-payment fee and helps protect

your credit history and credit score. It is also important to check your credit card statement carefully for unauthorized charges and report such charges immediately to your bank or credit card company.

Financial stress in January and February can be difficult to manage. The most important thing to remember is to take action immediately if you are having trouble meeting your financial obligations. Ignoring the problem will only make things much worse. Banks are always willing to help people, but waiting too long to begin the conversation will limit the options that may be available. So call your lender first if you start having trouble managing your finances. Credit counseling services, such as the National Foundation for Credit Counseling, also provide valuable advice on managing debt. It is important to choose a reputable organization for counseling. Be wary of anyone who claims that they can “fix” your credit for you. Your local bank can be a source for counseling services in your area.

Seek Out Financial Education

The holidays are not the only time to exercise good financial management. Learning about how to manage your money is something that will pay dividends throughout your life. Your local bank is typically a great source for financial education. Many banks have educational material on their websites. For example, at my bank, we have an entire section on our website devoted to financial education, which includes a financial e-Learning course, a self-paced interactive program that teaches teens and young adults how to use credit wisely.

At OmniBank, we also offer a PAWS Account for children under the age of 12. We believe that children are never too young to learn about managing money and this account is the perfect way to help them understand the importance of saving and budgeting – and to have fun doing it. The account only requires an opening \$5 deposit. Each time a child makes a deposit they earn PAWS points that can be used to purchase items from the Lion's Den store located in our bank lobby.

The ABA Education Foundation is also a great source for financial education information. Our website – www.aba.com/abaef – provides resources and tips for consumers on budgeting, establishing good savings habits, managing credit effectively, and protecting against identity theft and predatory lending scams. Each month we offer new consumer tips. Not surprisingly, in November we had two seasonal tip sheets on *Charitable Giving Ideas* and *Making a Holiday Budget for Gifts and Expenses*, and for December, we have a tip sheet called *Account for Your Spending: Keep Receipts and Data Secure*. The ABA Education Foundation also writes a *Money Talks* newsletter series that contains tips, practical advice, thought-provoking ideas and age-appropriate activities to bring money lessons alive for young children, tweens, teens and young adults.

We also have many resources for managing credit, such as *The Dos and Don'ts of Credit* and the *ABA Guide to Credit Cards* (both in English and Spanish). Because education on use of credit is so important, the ABA Education Foundation has a stand-alone website called *Get Smart About Credit* which can be found at www.getsmartaboutcredit.com. This provides tips and resources and also provides links to educational material on the websites of many of our member banks, and links to other organizations active in the financial literacy field. These resources provide a wealth of information for consumers in need of assistance.

The number of bankers involved and the number of students reached through our website and our annual Teach Children to Save and Get Smart About Credit programs by no means capture what the banking industry as a whole is doing. Indeed, bankers are reaching more and more people every day, teaching lessons on budgeting, credit and saving.

Four Consumer Tip Sheets for Good Holiday Budgeting and Spending

As I mentioned above, I have attached four consumer tip pages that can be used in meetings or mailings – anywhere there is an opportunity to help educate consumers about budgeting and spending for the holidays. Please feel free to use these as you please for your constituents.

Conclusion

There is no better time than during the holidays to get back to the basics of good money management. As bankers, we are in the fortunate position of helping other people make their dreams come true. Through the efforts of thousands of bankers every year and the work of the ABA Education Foundation, we hope to make a difference in helping people become more financially secure. All of us need to work together to produce and distribute financial education materials and sponsor outreach programs. Together we can make the holidays even brighter.

Tips for Preparing a Holiday Budget



- **Make a list, and check it twice.** Experts agree that it helps to write down a list of all the people for whom you plan to shop, before you hit the stores or turn on the computer. Next to each name write down what you want to buy for that person, and how much you want to spend. You get a clear idea of the numbers involved and know in advance how many gifts you need to purchase.
- **Shop for bargains** once you have an idea of what you're looking for, and for whom you are buying. In addition, if you are purchasing a number of items from the same online retailer, buying all the items together can cut down on shipping costs.
- **Curb impulse shopping and spending** — buy only what is on your list. If you've forgotten someone, add them to your holiday budget and, if necessary, adjust the amounts you spend on others so you keep the same total.
- **Make a plan for those other expenses.** Give some thought to how much you'll be spending during the holiday season on things other than gifts. Be sure to include in your budget the following: postage for cards and presents that need to be shipped; wrapping paper, bows, greeting cards and other supplies; decorations; food and drink for holiday meals (and don't forget to add more, if you will be feeding guests); and travel expenses.
- **Review your receipts and bills from last year.** This will give you an idea of the amount you actually spent and how long it took to pay for it all.
- **Save your holiday receipts from this year** and either total them daily or add them up two weeks before the actual holiday. Expenses add up fast during this busy season. Seeing your totals will provide you with a reality check as to how much more you can afford to spend.
- **Using credit during the holidays?** If so, take only the credit cards you will need and limit those to as few as possible. And be sure to check your credit card statements carefully for any unauthorized charges. Report such charges immediately to your financial institution or credit card company.
- **Give yourself a present** – save for next year.



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Financial Safety Tips for Holiday Shopping



Safeguard your cash, credit cards, debit cards and personal information while shopping for the holidays. With identity theft and fraud on the rise, here are a few tips for financial safety.

- Reconcile your statements each month and check for unauthorized transactions.
- Report any suspicious inquiries or unauthorized transactions to your bank immediately.
- Never give out your checking or credit card account number unless you initiated the call.
- Don't enter your credit card number on an Internet site unless it is a secured site with a lock symbol on the browser status bar and "https" in the address. These safeguards are not guarantees, but if they are missing, the site is definitely not secure.
- Tear up or shred pre-approved credit offers, receipts and other personal information that link your name to account numbers.
- Get copies of your credit report from the three major credit bureaus each year. Check that everything is accurate, the accounts are yours and that closed accounts are marked closed.

When using a debit card or the automated teller machine (ATM), use these safety tips:

- Have your card ready and be prepared to use the ATM immediately.
- Watch for any unusual "add-on" devices at ATM or point-of-sale locations. Crooks can use these skimming devices to steal account information. Do not use any card reader that looks bogus and report the machine to your bank.
- Be careful and mindful of who is around you at ATMs. "Shoulder surfers" can get your PIN number and gain access to your account, so shield the screen and keyboard.
- Put your cash away immediately and always take your receipt with you.
- If you must go alone, choose a well-lit area that is free of obstructions when using the ATM at night.
- If your card is lost or stolen, contact your bank as soon as possible. Never carry your PIN number in your wallet and never write your PIN number on your ATM card.



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Warning Signs of Financial Stress



The following are warning signs of financial stress:

- Making only the minimum payments month after month.
- Paying important payments (such as rent or mortgage) late.
- Using money from one lender to pay another.
- Using cash-advances to pay daily living expenses.
- Applying for or accepting new credit cards because the credit limits on your existing cards have been exhausted.
- Transferring balances to new accounts to avoid paying off debt.
- Running out of cash (often or always).

If your finances are in stress, seek professional advice and counseling.

- Talk to your local banker about managing your money and reducing debt. Your banker may also offer our Budgeting booklet to help you get on track.
- Contact the National Foundation for Credit Counseling for confidential advice at 1-800-388-2227 or visit www.nfcc.org for a referral to an office near you.
- Remember that most creditors are almost always willing to work out alternate payment plans, especially in emergency situations such as job loss or major illness.
- Be wary of anyone who claims they can "fix" your credit for you. Some information may not be erased from credit reports. Use only reputable organizations as recommended by a trusted source.



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Gift Card Tips



- **Buy from Reputable Sources.** Only buy gift cards from reputable sources. Stay away from online auction sites which may have counterfeit or fraudulently-obtained cards.
- **Know What Fees May Apply.** Some gift cards don't have fees, but others do. Check the packaging for information on fees or look for a toll-free number or website with full information. Some fees may be paid in cash, but others deduct fees from the card.
- **Check for an Expiration Date.** Some gift cards expire. If your card does, you may not be able to use it after the expiration date. Find out whether the card can be reissued with a new expiration date, and what the fee would be for issuing a new card.
- **Carefully Examine the Card Before You Buy It.** Don't buy it if anything looks suspicious, like if protective stickers have been removed or the codes on the back of the card have been scratched off to reveal a PIN number.
- **Have the Store Cashier Scan the Gift Card You're Buying in Front of You.** This reflects the balance that you paid for and protects against crooks who substitute worthless cards for the cards you think you are buying.
- **Keep Original Receipt and Write Down Any Toll-Free Numbers.** Keep your original receipt if you need to verify the value of the card. Having the toll-free number that appears on the back of the card can be handy if your gift card is lost or doesn't work.
- **Never Disclose Private Information.** Never give your Social Security number, date of birth, or any other private information to anyone when you purchase a gift card. No reputable company will ever ask for this information.
- **Know Where the Gift Card Can Be Used.** A store gift card often can be used only at the store where it was purchased (or related stores). Some are used for purchases in selected malls. Other gift cards, like those with a connection to American Express, Discover, MasterCard or VISA, can typically be used wherever their credit cards are accepted. Some gift cards allow you to get cash at an ATM.



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Testimony of H. Art Taylor, President & CEO
BBB Wise Giving Alliance, 4200 Wilson Boulevard, Arlington, VA 22203
before the
COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS
UNITED STATES SENATE
on
Shopping Smart and Avoiding Scams:
Financial Literacy During the Holiday Season
December 13, 2007

Chairman Dodd, Senator Shelby and Members of the Committee, I am Art Taylor, President and CEO of the BBB Wise Giving Alliance. I appreciate the opportunity to appear before this Committee to share with you our experience in helping donors make informed giving decisions.

The BBB Wise Giving Alliance (the Alliance) is a monitoring organization that sets voluntary accountability standards for charities (www.bbb.org/charity). We are a 501(c)(3) charitable affiliate of the Council of Better Business Bureaus. The Council of Better Business Bureaus is a 501(c)(6) business membership organization that serves as the umbrella organization for the 114 local Better Business Bureaus in the United States.

Under somewhat different names the BBB Wise Giving Alliance has been monitoring national charities for almost a century. Our mission is to help donors make informed judgments, based on ethical, financial and other considerations, about the charities that seek their support. We work from the donor's perspective.

Our national scope, the breadth of our standards, the public availability of our evaluations, and our practice of identifying organizations that do not meet our standards, as well as those that do, have given the Alliance a distinctive position. We have extensive contact with the public with our Web site, www.bbb.org/charity. Our national charity reports are accessed on our website over 2 million times a year. We work with media to promote sound information about charity operations. We go beyond standards to issue special alerts and advisories for individuals on topics related to giving. These include tips on charity telemarketing, police and firefighter appeals, and charitable responses to disasters.

The Donor's Dilemma

The generosity of American donors is well known. Their support of charitable activity contributes immeasurably to the betterment of virtually every aspect of American life. But donors, subject to fund-raising appeals issue from hundreds of thousands of charities in this country, have problems in making giving choices. In 2001, the Alliance commissioned a major donor expectations survey of over 2,000 adult Americans. Among the key findings:

- 70% of respondents say it is difficult to know whether a charity is legitimate;
- 44% say it is difficult to find the information they want in making a giving decision.

A similar Alliance-commissioned study in 2001 found that small businesses, which almost universally support local nonprofit organizations in some way, are also concerned with having information to aid their giving. Knowing how a charity spends its money was cited as a very important factor in giving decisions by 83% of respondents; the clarity of program descriptions in fund raising appeals was cited by 63%. Like individual donors, these businesses (defined as having 4-99 employees) look for help in finding accountable charities and in verifying the legitimacy of groups that seek their support.

Charity Transparency

In referring to “legitimacy,” donors mean they are looking for information that will give them confidence that their gifts are well used. It is on their behalf that the Alliance seeks information from charities. Our efforts are usually but not always successful: currently about 30% of the approximately 1,200 charities from which we request information do not provide it.

Here I want to stress an important feature of our reporting. Participation in our evaluation program is *voluntary*. While charities must file certain information, primarily financial, with various government bodies, they have no obligation to file with the

Alliance. In that context, charities that are ready to go beyond what is required by government demonstrate that for them transparency is a commitment to openness.

The value that we place on openness is shared by many in the charitable sector. In a report on philanthropy in the Wall Street Journal of December 10, 2007, the article entitled “How charities can make themselves more open,” attributes to Diana Aviv, chief executive of Independent Sector, a coalition of charity and philanthropy leaders, the statement that if charities oppose any sort of self-regulation, that “raises the question of whether you think you should be free to behave in any which way.”

In the same report, the Wall Street Journal quotes Brian Gallagher, chief executive of United Way of America, as saying “I think we get irrational pushback from nonprofits who say, ‘You can’t measure mission-centered work.’ You most certainly can. The question is, ‘Are you committed to do it?’ And then, ‘Are you committed to report on it?’”

Problems in the Charitable Sector

When enormously generous intent and seemingly infinite opportunity to do good intersect as they do in American life, it is not surprising that donors of all kinds often make uninformed decisions, unwittingly supporting charities that do not deserve their trust or falling prey to outright scams. Charities themselves are not immune to manipulation.

Examples abound-- in the records of state charity officials over the years, in the alerts issued by local Better Business Bureaus and in instances reported in the media:

- New York State barred a fund raising company from soliciting in the state, alleging among other things that its telemarketers, seeking contributions for police and firefighter organizations, falsely told potential donors that they are retired police officers, police-offers-in training or volunteers, and represented that the entire donation would benefit the charity
- In disasters especially, Internet websites may mimic the websites of charities, so as to acquire credit card and/or other personal information. Online retailers may offer products that they state will benefit a charity, without the charity's authorization (and quite possibly with no benefit to the charity)
- The Attorney General of Louisiana sued the author of a site soliciting hurricane relief, charging, among other things, that the site omitted to state that contributions would be used for white victims only. With court authorization, the state stopped the fund raising
- Callers representing themselves as representatives from "charitable trusts" call charities. The speakers says he is calling on behalf of an anonymous donor who wants to leave a bequest to the charity and asks for private information that will

allow the scammer to get into the charity's accounts. When the charity asks questions, the caller is unresponsive, emphasizing the importance of anonymity.

There is no way to put a number on the dollars that are lost to sound charitable activity in one way or another. Experience leads the Alliance to believe that rather than outright chicanery or fraud, however, it is accomplishments of dubious public value, low spending for actual charitable activity, ineffective board oversight, and inaccurate or misleading appeals that betray donors' trust that most weaken the impact of charity.

Resources for Donors

Donors are not always sure what they need to know, how to find it, or how to assess the information they have. Many resources, however, are available to them. Widespread and constant publicizing of these resources can contribute significantly to donors' ability to make sound choices.

The BBB Wise Giving Alliance evaluates over 1,200 national charities against a range of rigorous Standards for Charity Accountability. Its reports, which state whether the subject charity meets or does not meet these standards, are freely available on its Web site, www.bbb.org/charity. Many local Better Business Bureaus report similarly about local charities (www.bbb.org).

State charity government officials - While responsibilities of state charity government officials vary from state to state, individuals can generally contact their offices (usually a

division of the state's office of the attorney general) to verify that a charity is properly registered to solicit.

Guidestar.org gives free access to the IRS Form 990 that hundreds of thousands of charities file annually. These forms focus on financial information.

[Internal Revenue Service](#) Publication 526 tells how to claim deductibility for charitable donations. Publication 78 lists organizations to which contributions are deductible. It is important that donors verify the 501(c)(3) status of organizations they consider contributing to, as well as the need for written confirmation from the charity of all gifts, the treatment of non-cash contributions, the impact of receiving something of value from the charity as a result of the contribution, the amount deductible in contributions for benefit tickets, etc.—all information available at this site.

A resource **not** generally available to donors, we might note, is the Do Not Call list, since it does not cover charities. However, it is our understanding that if someone asks a specific charity solicitor not to call his/her house again, that charity is required to honor the request.

Tips for Holiday Giving

Charitable giving always attracts special attention during the holidays, but our view is that donors must be pro-active throughout the year. Certain common-sense tips, like those below, are always relevant. Donors should expect accountability from charities and

be ready to shun those that do not provide it. Acting from that position, they are far less apt to fall make poor giving decisions in the midst of holiday emotions.

WATCH OUT FOR NAME CONFUSION.

Look at the appeal carefully; some charities' names sound the same. More than 1,000,000 organizations have received charitable tax exempt status from the IRS.

QUESTION VAGUE APPEALS.

Make sure the charity's appeals clearly identify the nature of the charity's programs. For example, if the charity says it's helping the homeless, does it explain how (shelter, food, medical care) and where this is taking place?

BE WARY OF EXCESSIVE PRESSURE IN FUND RAISING.

Don't be pressured to make an immediate on-the-spot donation. Charities should welcome your gift whenever you want to send it.

REMEMBER: NOT ALL SOLICITING GROUPS ARE CHARITIES.

If you want to take a charitable deduction for federal income tax purposes, make sure the organization is tax exempt as a charity under section 501(c)(3) of the Internal Revenue Code. To verify a charity's tax status, visit the following IRS site: <http://apps.irs.gov/app/pub78>.

HOW WILL THE CHARITY USE DONATED GOODS?

Many will consider donating all types of used items to charity, from clothing to cars. Find out how the charity benefits. Sometimes the charity receives only a small portion of the resale price of the item.

INTERNET APPEALS REQUIRE CAREFUL SCRUTINY.

For those making donations to giving sites on the Internet, look for clear disclosures that explain how much of the gift goes to the charity, the privacy policy, and whether there is appropriate security on the site for credit card transactions.

CAUSE-RELATED MARKETING: HOW MUCH OF THE SALE GOES TO CHARITY?

If the purchase of a product or credit card is being promoted as helping a charity, does it specify what portion of the purchase price goes to the organization?

DO NOT GIVE CASH.

If you contribute, write out a check to the charity's full official name, not to an individual or third party that might be collecting the donation.

KEEP RECORDS OF YOUR DONATIONS.

Keep receipts, canceled checks, and bank statements that verify your contribution amounts. The IRS also requires donations to be substantiated through a written confirmation from the charity.

CHECK WITH OUTSIDE SOURCES.

Check with your appropriate state government authorities to verify the charity is registered to solicit in your state. This is usually a division of the state's office of the attorney general. Also, contact the BBB Wise Giving Alliance (www.give.org) for information on national charities or the Better Business Bureau that serves your area for information on local charitable organizations.

In closing, I would like to emphasize what I believe is most crucial to the betterment of charitable giving. It is essential not only that donors seek information, availing themselves of the resources available, but that they expect charities to be forthcoming in providing information that donors can use. The public trust on which our charities depend can thrive only in an atmosphere of openness.

BBB WISE GIVING ALLIANCE STANDARDS FOR CHARITY ACCOUNTABILITY

PREFACE

The BBB Wise Giving Alliance *Standards for Charity Accountability* were developed to assist donors in making sound giving decisions and to foster public confidence in charitable organizations. The standards seek to encourage fair and honest solicitation practices, to promote ethical conduct by charitable organizations and to advance support of philanthropy.

These standards replace the separate standards of the National Charities Information Bureau and the Council of Better Business Bureaus' Foundation and its Philanthropic Advisory Service that were in place at the time the organizations merged.

The *Standards for Charity Accountability* were developed with professional and technical assistance from representatives of small and large charitable organizations, the accounting profession, grant making foundations, corporate contributions officers, regulatory agencies, research organizations and the Better Business Bureau system. The BBB Wise Giving Alliance also commissioned significant independent research on donor expectations to ensure that the views of the general public were reflected in the standards.

The generous support of the Charles Stewart Mott Foundation, the Surdna Foundation and Sony Corporation of America helped underwrite the development of these standards and related research.

Organizations that comply with these accountability standards have provided documentation that they meet basic standards:

- In how they govern their organization,
- In the ways they spend their money,
- In the truthfulness of their representations, and
- In their willingness to disclose basic information to the public.

These standards apply to publicly soliciting organizations that are tax exempt under section 501(c)(3) of the Internal Revenue Code and to other organizations conducting charitable solicitations. The standards are not intended to apply to private foundations, as they do not solicit contributions from the public.

The overarching principle of the BBB Wise Giving Alliance *Standards for Charity Accountability* is full disclosure to donors and potential donors at the time of solicitation and thereafter. However, where indicated, the standards recommend ethical practices beyond the act of disclosure in order to ensure public confidence and encourage giving. As voluntary standards, they also go beyond the requirements of local, state and federal laws and regulations.

In addition to the specific areas addressed in the standards, the BBB Wise Giving Alliance encourages charitable organizations to adopt the following management practices to further the cause of charitable accountability.

- Initiate a policy promoting pluralism and diversity within the organization's board, staff and constituencies. While organizations vary widely in their ability to demonstrate pluralism and diversity, every organization should establish a policy, consistent with its mission statement, that fosters such inclusiveness.
- Ensure adherence to all applicable local, state and federal laws and regulations including submission of financial information.
- Maintain an organizational adherence to the specific standards cited below. The BBB Wise Giving Alliance also encourages charities to maintain an organizational commitment to accountability that transcends specific standards and places a priority on openness and ethical behavior in the charity's programs and activities.

GOVERNANCE AND OVERSIGHT

The governing board has the ultimate oversight authority for any charitable organization. This section of the standards seeks to ensure that the volunteer board is active, independent and free of self-dealing. To meet these standards, the organization shall have:

1. A board of directors that provides adequate oversight of the charity's operations and its staff. Indication of adequate oversight includes, but is not limited to, regularly scheduled appraisals of the CEO's performance, evidence of disbursement controls such as board approval of the budget and fund raising practices, establishment of a conflict of interest policy and establishment of accounting procedures sufficient to safeguard charity finances.

2. A board of directors with a minimum of five voting members.

3. A minimum of three evenly spaced meetings per year of the full governing body with a majority in attendance, with face-to-face participation. A conference call of the full board can substitute for one of the three meetings of the governing body. For all meetings, alternative modes of participation are acceptable for those with physical disabilities.

4. Not more than one or 10% (whichever is greater) directly or indirectly compensated person(s) serving as voting member(s) of the board. Compensated members shall not serve as the board's chair or treasurer.

5. No transaction(s) in which any board or staff members have material conflicting interests with the charity resulting from any relationship or business affiliation.

Factors that will be considered when concluding whether or not a related party transaction constitutes a conflict of interest and if such a conflict is material, include, but are not limited to; any arm's length procedures established by the charity; the size of the transaction relative to like expenses of the charity; whether the interested party participated in the board vote on the transaction; if competitive bids were sought and whether the transaction is one-time, recurring or ongoing.

MEASURING EFFECTIVENESS

An organization should regularly assess its effectiveness in achieving its mission. This section seeks to ensure that an organization has defined, measurable goals and objectives in place and a defined process in place to evaluate the success and impact of its program(s) in fulfilling the goals and objectives of the organization and that also identifies ways to address any deficiencies. To meet these standards, a charitable organization shall:

6. Have a board policy of assessing, no less than every two years, the organization's performance and effectiveness and of determining future actions required to achieve its mission.

7. Submit to the organization's governing body, for its approval, a written report that outlines the results of the aforementioned performance and effectiveness assessment and recommendations for future actions.

FINANCES

This section of the standards seeks to ensure that the charity spends its funds honestly, prudently and in accordance with statements made in fund raising appeals. To meet these standards, the charitable organization shall:

Please note that standards 8 and 9 have different denominators.

8. Spend at least 65% of its total expenses on program activities.

Formula for Standard 8:

$$\frac{\text{Total Program Service Expenses}}{\text{Total Expenses}}$$
 should be at least 65%

9. Spend no more than 35% of related contributions on fund raising. Related contributions include donations, legacies and other gifts received as a result of fund raising efforts.

Formula for Standard 9:

$$\frac{\text{Total Fund Raising Expenses}}{\text{Total Related Contributions}}$$
 should be no more than 35%

10. Avoid accumulating funds that could be used for current program activities. To meet this standard, the charity's unrestricted net assets available for use should not be more than three times the size of the past year's expenses or three times the size of the current year's budget, whichever is higher.

An organization that does not meet Standards 8, 9 and/or 10 may provide evidence to demonstrate that its use of funds is reasonable. The higher fund raising and administrative costs of a newly created organization, donor restrictions on the use of funds, exceptional bequests, a stigma associated with a cause and environmental or political events beyond an organization's control are among factors which may result in expenditures that are reasonable although they do not meet the financial measures cited in these standards.

11. Make available to all, on request, complete annual financial statements prepared in accordance with generally accepted accounting principles.

When total annual gross income exceeds \$250,000, these statements should be audited in accordance with generally accepted auditing standards. For charities whose annual gross income is less than \$250,000, a review by a certified public accountant is sufficient to meet this standard. For charities whose annual gross income is less than \$100,000, an internally produced, complete financial statement is sufficient to meet this standard.

12. Include in the financial statements a breakdown of expenses (e.g., salaries, travel, postage, etc.) that shows what portion of these expenses was allocated to program, fund raising and administrative activities.

If the charity has more than one major program category, the schedule should provide a breakdown for each category.

13. Accurately report the charity's expenses, including any joint cost allocations, in its financial statements.

For example, audited or unaudited statements which inaccurately claim zero fund raising expenses or otherwise understate the amount a charity spends on fund raising, and/or overstate the amount it spends on programs will not meet this standard.

14. Have a board-approved annual budget for its current fiscal year, outlining projected expenses for major program activities, fund raising and administration.

FUND RAISING AND INFORMATIONAL MATERIALS

A fund raising appeal is often the only contact a donor has with a charity and may be the sole impetus for giving. This section of the standards seeks to ensure that a charity's representations to the public are accurate, complete and respectful. To meet these standards, the charitable organization shall:

15. Have solicitations and informational materials, distributed by any means, that are accurate, truthful and not misleading, both in whole and in part. Appeals that omit a clear description of program(s) for which contributions are sought will not meet this standard.

A charity should also be able to substantiate that the timing and nature of its expenditures are in accordance with what is stated, expressed or implied in the charity's solicitations.

16. Have an annual report available to all, on request, that includes:

- (a) the organization's mission statement,
- (b) a summary of the past year's program service accomplishments,
- (c) a roster of the officers and members of the board of directors,

(d) financial information that includes:

- (i) total income in the past fiscal year,
- (ii) expenses in the same program, fund raising and administrative categories as in the financial statements, and
- (iii) ending net assets.

17. Include on any charity websites that solicit contributions, the same information that is recommended for annual reports, as well as the mailing address of the charity and electronic access to its most recent IRS Form 990.

18. Address privacy concerns of donors by

(a) providing in written appeals, at least annually, a means (e.g., such as a check off box) for both new and continuing donors to inform the charity if they do not want their name and address shared outside the organization, and

(b) providing a clear, prominent and easily accessible privacy policy on any of its websites that tells visitors

- (i) what information, if any, is being collected about them by the charity and how this information will be used,
- (ii) how to contact the charity to review personal information collected and request corrections,
- (iii) how to inform the charity (e.g., a check off box) that the visitor does not wish his/her personal information to be shared outside the organization, and
- (iv) what security measures the charity has in place to protect personal information.

19. Clearly disclose how the charity benefits from the sale of products or services (i.e., cause-related marketing) that state or imply that a charity will benefit from a consumer sale or transaction. Such promotions should disclose, at the point of solicitation:

- (a) the actual or anticipated portion of the purchase price that will benefit the charity (e.g., 5 cents will be contributed to abc charity for every xyz company product sold),
- (b) the duration of the campaign (e.g., the month of October),
- (c) any maximum or guaranteed minimum contribution amount (e.g., up to a maximum of \$200,000).

20. Respond promptly to and act on complaints brought to its attention by the BBB Wise Giving Alliance and/or local Better Business Bureaus about fund raising practices, privacy policy violations and/or other issues.