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FRAUDS AGAINST THE ELDERLY: BUSINESS AND INVESTMENT SCHEMES

HEARING

BEFORE THE

SELECT COMMITTEE ON AGING
HOUSE OF REPRESENTATIVES

NINETY-SEVENTH CONGRESS

FIRST SESSION

SEPTEMBER 11, 1981

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CONTENTS

Members Opening Statements

Chronological List of Witnesses

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ACQUISITIONS

Appendixes

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FRAUDS AGAINST THE ELDERLY: BUSINESS AND INVESTMENT SCHEMES

FRIDAY, SEPTEMBER 11, 1981

U.S. HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON AGING,
Washington, D.C.

The committee met, pursuant to notice, at 10:08 a.m., in room 2167, Rayburn House Office Building, Hon. Claude Pepper (chairman of the committee) presiding.

Members present: Representatives Pepper of Florida, Bonker of Washington, Mica of Florida, Rinaldo of New Jersey, Marks of Pennsylvania, Shumway of California, Fenwick of New Jersey, Daub of Nebraska, and Hendon of North Carolina.

Also present: The Honorable David Pryor, a U.S. Senator from the State of Arkansas.

Staff present: Charles H. Edwards III, chief of staff, Val Halamandaris, senior counsel, and Walter Guntharp, minority staff director.

OPENING STATEMENT OF CHAIRMAN CLAUDE PEPPER

The CHAIRMAN. The hearing will come to order.

We would like to welcome you to this hearing by the House Committee on Aging to examine business and investment frauds perpetrated against the elderly. We shall reveal today some tragic examples of man's inhumanity to man, in frauds perpetrated upon many of the elderly people of this country.

As you know, senior citizens make up 11 percent of the population, but almost 30 percent of the victims of crime in the United States. The fastest growing area is economic crime, which is to say fraud.

On the basis of answers to our recent questionnaire to police chiefs, we have every reason to believe the incidence of frauds against the elderly is a widespread and growing problem.

Today's hearing relates to one kind of such fraud. Our concern today is with fraud in the guise of a legitimate investment or business opportunity.

The frauds we are examining today are particularly cruel because they prey on the fears of the retired and the soon to be retired that they will not have enough income to support themselves.

This fear is real since 25 percent of the elderly have incomes placing them at or near below the poverty line. In general, those in retirement can expect substantially less than half of the income they had while they were working. Recent publicity about cuts in social security has served to fuel the fears of the aged about their economic security.

As a result, it is not uncommon for seniors to pay $25 in answer to an ad which says they can make money stuffing envelopes or knitting baby booties at home. They all are proud people. They look to be independent and they think, here is an opportunity to make some money, in spite of the fact I am confined to my home. So they scrape up the $25 or whatever it is and send it to these unscrupulous people. If they have a few more dollars they might invest in a jewelry distributorship or a plant-growing franchise. The problem is that many of these opportunities advertised in local newspapers are frauds.

Take the case of Nita Brumley of Lubbock, Tex. She is a nurse who retired from hospital work. She was looking for something she could do. She scraped together some $3,475 for a jewelry distributorship. She was supposed to receive several display cases and the jewelry to fill them in order that she might make sales. The problem is she received nothing at all for her money.

Mr. and Mrs. Barney Dial who live outside of El Paso, Tex., took out a mortgage on their home to buy a plant-growing franchise. Their efforts to provide employment for Barney when he retired and to provide a means of support for their 42-year-old handicapped daughter went up in smoke. They paid $6,500 for a greenhouse, plants, and supplies, and the promise of the firm that it would buy back the plants they grew. The greenhouse they received leaked like a sieve and the company went out of business without buying a single plant. Mr. and Mrs. Dial are still paying off the mortgage at the rate of $153 a month.

Those seniors with a little more money might invest in vending machines. Arthur Shaffer of Columbia, S.C., a retired captain in the Army who served in World War II and Korea and Vietnam, had recently suffered a heart attack and was looking for some way to provide income to his family in the event of his death. He invested $9,000 and received nothing. They make no distinction between the heroes and the patriots of their country in their fraud.

Those older Americans who are a little better off might try investing in the commodities market. Mr. D. H. Brinson, age 73, of Reidsville, N.C., thought he was investing his money with a reputable dealer. He did not see any way that things could go wrong since he was investing in silver. The problem was he was dealing with con men and he lost over $52,000.

I am looking forward to the testimony of witnesses who will give us their firsthand experiences. I am particularly pleased that two men who were convicted of perpetrating these kinds of schemes against the elderly have agreed to appear before us and tell us what they did and how and what might be done to protect the elderly. These men who are serving terms in prison have agreed, voluntarily, to come here and tell us how they perpetrated these frauds in the hope that maybe people might be alerted to such dangers and might avoid being victims.

My distinguished minority leader here, Mr. Rinaldo.

STATEMENT OF REPRESENTATIVE MATTHEW J. RINALDO

Mr. Rinaldo. Thank you very much, Mr. Chairman.

Many elderly citizens have deprived themselves throughout their working years to save for their financial security in retirement.

Now, tens of thousands of them find this security threatened by inflation, and desperate financial conditions make many of the elderly easy prey for swindlers and con artists who fleece them with fraudulent moneymaking schemes.

In many cases, these schemes appeal not to greed or to the prospect of sudden wealth, but to the simple and honorable desire of the victim to earn a little extra money for honest labor. As packaged by the con artist, however, the investment is never recovered.

In other cases, venture capital is solicited for securities, commodities, franchises, or other attractive transactions which appear to be sound investments, but are in fact outright swindles designed to fleece the trusting victim.

These schemes, mostly conducted through the mails, are against the law. Typically, however, they are fly-by-night activities which operate so briefly under a single name and address that current legal procedures are often too slow to catch them.

I am, for that reason, pleased to join the chairman in cosponsoring H.R. 3973, which would expedite and strengthen the investigatory and enforcement powers of the Postal Service by granting inspection authority and by providing for civil penalties for infraction of the laws pertaining to the use of the mails for fraudulent purposes.

The con artist who victimizes the elderly is stealing more than money. He is stealing security and the dignity of human independence. Our language is not adequate to vilify such a criminal, but our laws should be adequate to stop him. I therefore hope and trust that the remedial legislation which we propose will soon be enacted so that this type of crime can be effectively deterred and prosecuted vigorously to the full extent of the law.

Thank you, Mr. Chairman.

The Chairman. Thank you, Mr. Rinaldo, Thank you for your usual fine cooperation by your staff and associates on the committee in our bipartisan effort to help the elderly of our country.

Now, I am very much pleased to have a gentleman to whom this committee is very much indebted.

In the House a few years ago, there was a very fine handsome Member from Arkansas, where I had the privilege of teaching law for a year after I left law school, and incidentally taught a man named J. William Fulbright, who later distinguished himself here in the Senate.

This young man from Arkansas of whom I spoke was the first one to try to get the House to establish a Committee on Aging, a Select Committee on Aging. He did not succeed, but he planted the seed that grew later into the effort that created our committee.

We are very grateful that he is now a distinguished Member of the U.S. Senate from the great State of Arkansas. He is still immensely interested in the subject of the elderly, and he is cooperating with us in every way he can. He is a senior member of the Senate Aging Committee.

As a member of the Post Office and Civil Service Subcommittee of the Senate, as a ranking Democrat there, he is the sponsor of the bill our committee is sponsoring here in the House, H.R. 3973, which would upgrade the authority of the Postal Service to crack down on frauds perpetrated through the mail.

We hope this is a successful approach, because one way or another these crooks use the movement of the mail in their schemes.

We are happy to have with us the Honorable David Pryor, the Senator from Arkansas.

STATEMENT OF HON. DAVID PRYOR, A U.S. SENATOR FROM THE STATE OF ARKANSAS

Mr. PRYOR. I am honored to have been invited to appear today with you and my distinguished colleagues on the House side. There is perhaps no other Member of Congress who has more thoroughly established himself as an advocate for the elderly of our Nation as the distinguished chairman of this committee, Congressman Pepper, and we all in the Senate wish you a happy birthday, Mr. Chairman.

Since I first became actively involved in issues which affect the elderly over a decade ago, the incidence of mail fraud has grown in epidemic proportions, but the seriousness of their effect on the elderly American has been brought home to us in unexcelled proportions in the last several months and years. The adverse effect it has on elderly America has been brought to our attention from not only our colleagues, but certainly our constituents.

Ongoing investigations done by staff of the House Select Committee on Aging under the able direction of Chairman Pepper have uncovered numerous examples of this type of fraud, including advertisements for phony gold coins, bogus land deals, worthless work-at-home schemes, pills and products to restore sexual potency, and cures for cancer, glaucoma, rheumatism—and practically any other ill you can imagine. Unfortunately, I am sure we could all go on and on here listing examples of this type of fraud.

I have long been concerned about these fraudulent mail practices, but the seriousness of their potential effect on our elderly citizens was brought home when a member of my staff who was on the mailing list for several aging publications began to receive fliers for all types of products which were specifically geared toward the aging segment of our population. The claims made by these fliers were so outrageous that it seemed highly unlikely that they could be true. My immediate concern was for the thousands of senior citizens who might fall prey to such sensationalism and is brought to light in legislation I am honored to sponsor on the Senate side in conjunction with your legislation.

Followup contact with the office of the attorney general of Arkansas revealed that his office is inundated with calls and letters from within the State of Arkansas, as well as from the 49 other States, regarding these schemes.

One common scheme was based in Georgia, and was instituted under the direction of two businessmen from Houston. These "entrepreneurs" purchased advertising space in small-town newspapers throughout the country, promising a 50-cent Government rebate on each gallon of gas purchased during the previous year. The only requirement was that individuals had to fill out a questionnaire and send it, along with $5, to a post office box in Georgia.

The individual's name would then be placed on a list of persons to receive a rebate as soon as the Government "reevaluated" gasoline overpricing. Needless to say, the claims of this advertisement were completely false. By the time this scam was uncovered, that little post office box in Georgia was receiving upwards of 2,000 pieces of mail per day.

I would like to put into the record, with your permission, a letter from a constituent. Her name is Ona M. Ellis.

[The letter and attachments submitted by Senator Pryor follows:]

Eureka Springs, Ark. 72632
5 Prospect
18 August 1981

Senator David Pryor
U.S. Senate
Washington, D. C.

Personal attention

Dear Senator:

Yesterday I received in the mail this correspondence which I am inclosing to you.

This sort of thing is wicked........
Please do something about this.........

Respectfully,

Ona M. Ellis

Ona M. Ellis

I am 80-yr old woman.....
I read and study a lot.....
I type this letter myself at home
I buy books and subscribe to things so I do not know where they got my name.....I draw small CSA annuity and minimum Soc Security.....
I live in small cottage, have garden and do my own work.

I want you to get on your high horse, in a hurry

OE

Franklin House
Suite 204
185 Cross Street
Fort Lee, N.J. 07024

GM-312

Mr O. M. Ellis
5 Prospect Street
Eureka Sps Ark. 72632

Enclosed is your
"GOVERNMENT
CASH"
REQUEST
FORM #436
Open and use at once!

Franklin House
Suite 204
185 Cross Street
Fort Lee, N.J. 07024

TF

FARMINGDALE N.Y.

U.S.
Permit
Farming

Enclosed is your
"GOVERNMENT CASH"
REQUEST
FORM #436
Open and use at once!

GM-312

Mr O. M. Ellis

5 Prospect Street

Eureka Sps Ark. 72632

MONEY-BACK,
NO-RISK GUARANTEE!

You are fully protected by this no-risk, money-back **GUARANTEE:**

1) If you don't like "GOVERNMENT CASH" when it arrives; if in the first 24 hours you don't find surprise ways to cash in for at least $500.00 in cash or benefits; return the book for a full refund—**no questions asked.**

2) Or, keep and use "GOVERNMENT CASH" for a full year. **You are still protected.** You MUST be 100% delighted or return it next year. You still get your money back in full without quibble or question.

Frank Young, Director

"Government Cash" Request Form #436

YES! I WANT "GOVERNMENT CASH" RIGHT AWAY! Please rush me my **guaranteed copy of your book complete with 130 perfectly legal ways to get a check or profit from Washington, D.C.** Here is my payment of $12.95 complete. Also send me my **FREE BONUS** described on the other side. **I MUST** be 100% delighted or **you will return my money without quibble or question.**

Print Name ______________________

Address ______________________

City __________ State __________ Zip # __________

Make check payable and mail to: **Franklin House,** Suite 204, 185 Cross Street, Fort Lee, New Jersey 07024. Use the enclosed postage-free envelope for your order.

Free Bonus When You Order!

Yes! When you order your GOVERNMENT CASH book within the next five days you get a powerful **FREE EXTRA BONUS**– a copy of **"How You Can Make Other People Do Exactly What YOU Want Them To Do!"**

Haven't you often wished that you possessed the **RARE POWER** to **COMMAND OBEDIENCE** from others with just a casual word, a brief glance? Haven't you wished you could **DOMINATE** other people with your inner force. **NOW, YOU CAN!**

Just imagine what it would be like to have it within your personal power to "force" your boss to give you a big raise– to "force" someone **YOU** love to love **YOU**–to "force" your friends, family and business associates to give you admiration and respect. **What a wonderful power to have.** You'll discover how in your **FREE BONUS.** But, the **ONLY** way to get your free copy of **"How To Make Other People Do Exactly What You Want Them To Do!"** is to complete and mail the Form on the other side.

Unless you order NOW, you will never have another chance!

Yes! That's the truth. You have been carefully selected to receive this offer of our GOVERNMENT CASH book because you have clearly demonstrated in the past that you are interested in EXTRA CASH. It has not been sent to you willy nilly or at random.

But, believe me when I tell you that it costs a great deal of money to send it to you -- and other men and women just like you.

So, let me make one thing perfectly clear. If you do not take advantage of the enclosed Government Cash Request Form NOW -- you will NOT get a second chance.

Therefore, read every word of the enclosed material before you decide.

NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

BUSINESS REPLY MAIL
FIRST CLASS **PERMIT NO. 814** **FT. LEE, N.J.**

Postage Will Be Paid By Addressee

Franklin House
Suite 204
185 Cross Street
Fort Lee, N.J. 07024

GM
312

11

"Government Cash" Report

How To Claim Your Share of the Giveaway Bonanza

Volume 3, Number 2 Fort Lee, New Jersey 07024

SPECIAL REPORT #436 FOR AMERICAN MEN AND WOMEN

Dear Friend,

Yes, It's true.

There ARE 130 perfectly legal ways to get money or profit from Washington, D.C.

The enclosed announcement has appeared in dozens of newspapers across America.

Read it right now in case you missed it to discover:

> There is a very good chance you have something coming from the U.S. Government. There is an even better chance you don't know WHY the Government owes you, HOW MUCH the Government owes you, HOW TO CLAIM what the Government owes you.

Here are just three examples -- you'll find many more in the enclosed announcement:

1) Are you under 65? Even if you are you may be able to start getting Social Security without waiting, if you know how.

2) Did you earn less than $10,000 last year. You may be eligible to receive payment of an earned income credit of up to $500.

3) Are you a renter? How would you like a good part of your rent paid by the government. It's possible when you qualify and when you know how to apply.

Unfortunately, you probably don't know how to cash in on everything that the Government owes you. Till now, there was no practical way to find out about these little-known cash benefits and other giveaway bonanzas.

Now, there is a way. Now there is "Government Cash" that tells you about 130 perfectly legal ways to get money or benefits from Uncle Sam. It is simple and easy to read. It tells you who qualifies, who to contact, what to ask and say. It gives you addresses and Government telephone numbers.

Will "Government Cash" help you? Will it help make sure that you are one of the taxpayers that does not get cheated? Here is how you can find out without any risk at all.

Use the enclosed "Government Cash" Request Form #436 to order the book. Start reading it as soon as you get it. In the first 24 hours if you don't find out surprise ways to cash in on at least $500.00 in cash or benefits, you can send the book back and get your money back.

Sincerely,

Frank Young

Frank Young, Director

Advertisement Advertisement

HERE ARE 130 PERFECTLY LEGAL WAYS TO GET MONEY OR PROFIT FROM WASHINGTON, D.C.

The Amazing Lost Money—Secret Of The U.S. Government

Does Uncle Sam Owe You Money You Don't Even Know About?

By John D. Morgan

DATELINE WASHINGTON — There is a very good chance you have something coming from the U.S. Government. There is an even better chance that you don't know WHY the Government owes you, HOW MUCH the Government owes you, HOW TO CLAIM what the Government owes you.

The amount available may surprise you. It could easily be a lot more than you would ever imagine. Specially when you count NOT ONLY Government checks made out to you, but loans, grants, tax refunds and deductions, free Government services. And, let me make one thing perfectly clear: when you are eligible THE U.S. GOVERNMENT MUST LET YOU CASH IN. There is an honest chance you may have enough coming to retire on for the rest of your life more comfortably than you thought possible.

Actually, the U.S. Government gives away so much every year it can hardly keep track of everything. Imagine how much must get lost in the shuffle. Think about the fact that about 37 million dollars went unclaimed because the men and women who could have had the money for the asking, simply didn't know it was available or how to get it. And that happened in just one U.S. Government Program. Just imagine how much goes unclaimed in ALL the different Programs.

The amount is astronomical.

Some of it may well belong to you, because it doesn't matter if you are young or old, it doesn't matter if you are male or female, it doesn't matter if you are employed or unemployed, black or white, rich or poor, married or single or whatever, whether you live in a big city, a small town or a farm — when you are eligible the U.S. Government must let you collect your rightful share. To make a long story short, there's the chance you've got a tax-free bonanza coming from the Government that's just sitting there waiting to be claimed.

But don't worry. Before you finish reading this page you'll learn how to find out for sure. In the meantime, please keep an open mind. At least don't disqualify yourself before you know some of the facts.

The first thing that you need to know is that there are at least 130 perfectly legal ways to get a check or benefits from Uncle Sam. Some U.S. Government Programs are common knowledge, but many of them are almost unknown to the average American. Not one person in 1,000 knows about them all. Here are some examples of what's available to men and women who are eligible:

- Are you on Social Security? With the right information and eligibility you may be able to jack up your payments to a maximum family package of $935.70 per month.
- Are you under 65? Even if you are you may be able to start getting Social Security without waiting, if you know how.
- Do you want to buy a home? One Government office can help you meet mortgage payments as high as $32,000, when you qualify and know how to apply.
- Would you rather fix up your current home? If you've found it almost impossible to raise the money, the Government may well help you to the tune of $10,000.
- Would you like to start your own small business? One Government office may well be willing to loan or invest as much as $100,000.
- Do your children want to continue their education after high school? The U.S. Government provides a series of basic grants that range from $200 to $1900, and guaranteed student loans that may total as high as $25,000.
- Are you a renter having trouble affording the high rents. When you meet certain requirements, a certain Government agency will help you. In fact, they won't let you pay more than 25% of your income toward rent.
- Did you earn less than $10,000 last year? You may be eligible to receive payment of an earned income credit of up to $500.00 in you are single with dependent child.
- Do you want to cut your fuel bills? If you earn less than $15,600, you may be able to get $1,500 at low interest to weatherize your home.
- Do you want to write a play or paint a picture or make a film? Maybe you can get a check for $2,000 to $8,000 to help you out.
- Are you a veteran or the survivor of a veteran? You may still be able to get monthly payments for yourself and/or your children—perhaps from $65 to $120 per month.

It goes on and on. The above examples are just for openers. There are many, many other ways (all legal) to cash in from the Government. Some checks are for as little as $35.00. But some of them are for as much as $1,500.00 or $5,000.00. Now you can find out about your share.

This is not welfare or charity. The Government owes you this money, free services and other things. This is what you rightfully have coming to you for being a good citizen and paying your taxes. If you do not get your share, you are only cheating yourself.

And, here's really the whole point of what I am saying. It's rather easy to cash in, but first you must know what is available, then you must know when you qualify, then you must know how to apply and claim your rightful share.

So many people are in the dark about all this. That's why so much of what is available goes unclaimed. In fact, most people don't have any idea how to get what they have coming, even from the very well known U.S. Government Programs.

Take Social Security for instance: did you know that many people can start collecting from Social Security before age 65, and skip the waiting?

Here's another thing. Are you one of the men or women who have overpaid Social Security? If you are, you've got some money coming.

There's more. Do you know how students between the ages of 18 and 22 can get Social Security benefits? Do you know how to make your whole family eligible for Social Security — even your youngest children? Do you know how to cash in on Social Security even if you've never paid a penny into it? Do you know how to get the special Social Security benefits that are only for veterans? Do you know how to increase the amount of your payment if you are already on Social Security? **As you've already read, with the right information you may be able to jack up your payments every month just by filling out a simple form!**

It goes on and on. It would be easy to fill up this entire page just on Social Security. But let's move on. There are many other U.S. Government Programs you should know about.

Are you a veteran? Did you know you might be able to get as much as $350.00 each month for schooling? That the Government may be willing to lend you a great deal of money to buy your home or fix your present home.

You know, information about how you can cash in is especially important if you are retired or planning to retire. As you know, prices keep going up and up. There seems to be no end in sight.

This is especially bad if you are on a fixed income. However, if you learn how to get your rightful share from the government it can help a lot. In some cases where medical expenses are concerned, it could make the difference between life and death. At the very least, some of the extra government cash or benefits could make your retirement a lot more pleasant.

And please don't forget — if you have the right information and you are already retired, you may be able to get extra money every single month over and above your Social Security check just like so many other people are doing right now!

All this is just the tip of the iceberg. The U.S. Government handles so much money and so many Programs all the time that it seems like a miracle that anything ever gets done right. In any case, here are a few more facts for your consideration:

- In just one U.S. Government Program over 300 thousand Americans get a check every month.
- In another, over 167 thousand more get monthly money.
- In yet another, 295 thousand get money in the mail just like clockwork.

There are many more examples just like these. Please remember — there are at least 130 perfectly legal ways to get money or benefits from the government and you deserve to know about every one of them.

Guess who pays for all this? The answer, of course, is you. You have paid for every one of these programs with your taxes all these years. You deserve to cash in so don't be bashful about going after what is rightfully yours.

As you know, inflation is now a serious problem. There is a real danger of higher and higher unemployment. Some people believe we are headed for a depression. Who knows? But one thing is sure: while some spending programs will be cancelled or changed the U.S. Government is never going to stop spending money entirely. Please don't cheat yourself. It is really quite simple to get your fair share. You'll learn how in a moment. But above all, don't make the mistake of guessing if you qualify. No matter who or what you are (as long as you are a U.S. citizen) you can probably get a surprise amount of government cash and benefits sooner than you think.

Unfortunately, the average citizen doesn't know about all this. Up till now there was simply no practical way he could find out about all these little-known cash benefits and other giveaway bonanzas.

Now, there is a way. Now there is "Government Cash" that tells you about 130 perfectly legal ways to cash in on the giveway of money and benefits from Uncle Sam.

"Government Cash" has been checked and found to be accurate as of 6/81. It is simple and easy to read. It tells you who qualifies, who to contact, what to ask and say. While it would not be possible to include every detail and form, it will clearly direct you to the right government office or publication. It gives you addresses and Government telephone numbers.

Will "Government Cash" help you? Will it help make sure to get your rightful share? Here is how you can find out without any risk at all.

Go ahead and order the book by mail. Start reading as soon as you get it. In the first 24 hours if you don't find out surprise ways to cash in on at least $500.00 in cash or benefits you can send the book back and the publisher will return your payment to you quietly and without question!

If you are extra skeptical, you can postdate your check or money order by 30 days. If you do this, the publisher promises and guarantees not to deposit it for at least that amount of time. Then, if you decide to return the book, the publisher will send back your uncashed check or money order with no questions asked.

To order, print your name and address on the enclosed "Government Cash" Request Form and send it with $12.95 to:

Franklin House
Suite 204
185 Cross Street
Fort Lee, N.J. 07024

84-243 O—81——2

Mr. PRYOR. This, of course, Mr. Chairman, is one of those typical claims, "Government Cash Report, How to Claim Your Share of a Giveaway Bonanza; 130 Perfectly Legal Ways to Get Money or Profit from Washington, D.C."

Another of my constituents, and I hope this will not embarrass anyone, Mr. Chairman, sent this to me recently. This is a flier advertising a vital discovery for men, women, 40, 50, and 60 and beyond: "Enjoy sexual relations with anyone you desire as often as you wish."

I cannot attest to the veracity of this. It is my belief it is fraudulent, per se, and it is this sort of thing with which our elderly are preyed upon on a daily basis.

Another of these frauds, I am almost embarrassed to admit, originated in Trumann, Ark., and involved a woman who advertised in several national literary-type magazines that her firm could help individuals publish their manuscripts, poems, and such. The ad instructed those interested to send their manuscript along with a $25 fee to the firm. To add credibility to the operation, the "publishing company" was incorporated in the State of Delaware, under the name of the woman's deceased father, although all the work was done out of the woman's home in Trumann. It is estimated that the woman received somewhere between 200 and 300 manuscripts, and many of these would-be writers were then solicited for additional funds on the grounds that the manuscript had "real promise" but the publishing firm needed some "seed money." One taxicab driver from New York City had written a short story about his work hacking cabs in the Big Apple. This driver was taken for an additional $1,000 beyond his initial $25 fee. Even after the Attorney General's office and the Federal Postal Inspector were successful in shutting down this woman's shop and began prosecution of this case, it was learned that she had changed the name of her business and had reopened her shop. This case is currently in litigation.

The fact that our current law is powerless to prevent companies faced with discovery and prosecution from merely closing their doors and opening up a new shop across the State line is one of the primary reasons legislation to reform this state of affairs is so desperately needed. The 100-year-old statute under which the Postal Service Inspector is forced to operate simply leaves him helpless to do anything in many cases.

I have received countless letters from constituents requesting information on a wide variety of schemes with which they have been approached. Some write to find out if the offers are legitimate. Many more who write are outraged that this type of fraudulent solicitation continues through the mails.

Perhaps some of the most loathsome of these schemes are those that promise greater financial security. This is an issue of particular concern to the elderly because of their overwhelming desire to remain active, self-sufficient, and independent members of society. Proposed cutbacks in retirement benefits and fear over the financial soundness of the social security system are factors which make these elderly even more vulnerable. I know that through the testimony of our witnesses today we will hear heartbreaking stories of financial devastation which resulted from such frauds.

The office of the Chief Postal Inspector has done a laudable job in its attempt to curb fraudulent mail practices. However, it is clear that much more must be done. Legislative approval of measures such as S. 1407 and H.R. 3973 will certainly make monumental strides toward easing of the restrictions now limiting the effectiveness of the Chief Postal Inspector, and I intend to do all within my power to see that swift action is taken on this legislation in the Senate.

I am hopeful that, in addition to rallying support for this important legislation, we will be able today to make some positive headway toward identifying some steps individual citizens and citizens' groups can take to help eradicate this epidemic.

Once again I would like to thank you, Mr. Chairman, for inviting me to be present here today. I look forward to hearing what our witnesses have to say.

The CHAIRMAN. Thank you for your very excellent and able presentation, Senator Pryor. Those are very pertinent materials that you have put into the record, and we appreciate it.

We are talking about the use of the mails. I had rather a novel use of the mails that I experienced myself not long ago. On the Fourth of July I made speeches at a couple of different places in my district. But when I got home I noticed my billfold was gone. I was very much upset about it, I only had $45 in it, but I had pictures very dear to me of my late wife, mother, and so on. I was quite hurt about it.

Some of the Latin TV and radio stations put out an appeal for people to return my wallet if they found it, and I put an ad in the paper. Several days passed, then I had a call from one of the postal officials in my district and he said, "Mr. Pepper, we have your wallet." Somebody had taken the money out, left everything intact, put my wallet which had cards in it indicating my identity, put it in the mailbox, and the Postal Service delivered my wallet to me.

Now I would like to call upon another of our fine members, Mr. Marks.

STATEMENT OF REPRESENTATIVE MARC L. MARKS

Mr. MARKS. Thank you, Mr. Chairman.

I commend you for holding these hearings today. Because of their potentially vulnerable economic position, the elderly are examining ways to take a limited income and expand it as much as possible. Unfortunately, in their quest for extra income the elderly are not always as careful as they should be with their investments. They have become easy targets for "get rich quick" schemes.

We will hear today about a number of schemes which have been perpetrated against the elderly. These include phony securities deals, phony fast-food franchises, phony distributorships, and so forth. We also will hear from some of those who were responsible for the crimes against the elderly. Finally, we will hear from the U.S. Postal Inspector, the Federal Trade Commission, and the Commodities Futures Trading Commission.

It is my hope that based on this "expert" testimony we will be able to devise methods which will reduce the vulnerability of the elderly and severely punish those who continue to ply such vicious crimes against the elderly.

The CHAIRMAN. Thank you very much, Mr. Marks.
Mr. Shumway.

STATEMENT OF REPRESENTATIVE NORMAN D. SHUMWAY

Mr. SHUMWAY. When this meeting was first brought to my attention, I thought it out of order. All of us are subject to the kind of fraud which will be brought to light today, but upon analysis, I determined it was an appropriate subject for this subcommittee to delve into. For that reason, I am here and participating in these hearings.

I think it is obvious all of us can be victims of this kind of scheming, but the elderly are more so, simply because they have the time, the money, the desire, and experience to put all these things together. This makes them prey, more than others. Therefore, I think it appropriate we consider these cases. It will challenge the intellect of us all to come up with solutions, but I hope during the course of the testimony we can apply some solution to the problems that will be brought to our attention. I commend you for scheduling these hearings and look forward to the testimony.

The CHAIRMAN. Thank you, Mr. Shumway.
Now, my good friend and colleague, Mr. Mica.
Mr. MICA. No comment at this time.
The CHAIRMAN. Thank you.
Mr. Daub.

STATEMENT OF REPRESENTATIVE HAL DAUB

Mr. DAUB. Thank you.

First, I sincerely commend the chairman for holding this significant hearing in a continuing effort to expose various manners by which the elderly in America are victimized by corrupt elements in our society. This forum will focus national attention on a severe problem and hopefully serve as a catalyst for change—an exposé that leads to concern; concern that leads to action.

In preparing for this hearing, yesterday I contacted numerous people and agencies in my State which deal with frauds in Nebraska against the elderly. One person I spoke with was Evelyn Runyon, who is the ombudsman for our eastern Nebraska office on aging. I am deeply troubled by the cases she reported.

I cannot help but feel the desire to try to use our role, that of legislator, a Representative, to try to help these innocent victims. So today, I would like to take this opportunity to inform the chairman that he can add my name to his timely and critically needed legislation, H.R. 3973, which makes an effort to curtail the use of the largest media for fraud against the elderly, the Postal Service.

From the exposure I have had to these frauds, it appears to me that there are three basic causes of the vulnerability and susceptibility of our older generation to this sort of abuse. First, and I believe most importantly, the elderly are isolated. Isolation and independence are interrelated, and however independent we all would like to say we are, we have basic needs for friendship, love, and people in our lives. Older people often live alone, do not go out often, and have few contacts. Therefore, any person willing to take the special effort of personal contact is so easy to befriend. When the family is gone, and there is no one to turn to, an older person finds a mere acquaintance a new "friend" who can be trusted—trusted to handle their savings, their valuables, and their most meaningful life treasures.

Second, elderly are not conversant with new technologies, and therefore can be taken advantage of easily by what they perceive to be their lack of adequate abilities to function in a world with foreign and unfamiliar computers, language, and values.

Last, older people are what others may refer to as "gullible"—I think it is better phrased as "trusting." They were brought up in an era where it was an insult to your neighbor when you locked your door at night. It is hard for us to imagine such a society today.

We can see where, taken together, these three factors make older Americans particularly susceptible to fraudulent schemes imposed on an innocent and nonsuspecting group of our society. Those who would commit such atrocities and purposely deceive and victimize the elderly must be punished accordingly. The fines must be high, the sentences must be long. The convicts here today should bear their past actions with sincere shame and regret. However, I also appreciate the fact that they are here to teach us, to teach older Americans how to protect themselves against crimes such as they have committed.

The solution is twofold, Mr. Chairman, one of treatment and one of prevention. Evelyn, our very special ombudsman, is a "treater," the Legal Aid Society is a "treater," and H.R. 3973, in a most appropriate and effective way, is a "treater." For those who have gone through the disillusionment of such a devastating abuse of their trust, as well as their material belongings . . . these people need treatment, they need retribution, and they need assistance in the most meaningful way.

Prevention takes education, and, Mr. Chairman, this hearing today, attended by so many of the local and national media, will be a significant step in our educational efforts on this matter. But perhaps even more important is the need to build on the strength and resources in individuals, in families, in communities, so that we can realize a real reduction in the incidences of such atrocious frauds. The Government is capable of doing just so much and I join you, Mr. Chairman, in trying to most fully meet our responsibility from the Federal perspective. However, the local communities and neighborhoods must join with us in an effort to solve the personal and human weaknesses which make these sorts of occurrences possible on the local level.

The development of a society must be measured by the steps it takes to prevent every form of preventable misfortune, and I commend you, Mr. Chairman, most personally for the efforts you make today in a continuing effort to improve the quality of life for our older Americans, and am pleased to be a part of your movement.

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

We have with us today a panel who were victims of the phony schemes we have been discussing. We will hear from Hon. Kenneth Fletcher, Chief Postal Inspector of the United States; Mrs. Mabel Nord, Licking, Mo.; Mr. Edward Seinleitner, Allentown, Pa.; Mr.

Sidney Marcus, Jr., Lusby, Md.; Mrs. Bayard Moore, McKeesport, Pa.; and Mr. William E. Waters, San Antonio, Tex.

We are very much pleased to have all of you with us today and look forward to hearing your testimony.

Mr. Fletcher.

A PANEL, CONSISTING OF KENNETH FLETCHER, CHIEF POSTAL INSPECTOR OF THE UNITED STATES; MABEL NORD, LICKING, MO.; EDWARD STEINLEITNER, ALLENTOWN, PA.; SIDNEY MARCUS, JR., LUSBY, MD.; MRS. BAYARD MOORE, McKEESPORT, PA.; AND WILLIAM E. WATERS, SAN ANTONIO, TEX.

Mr. FLETCHER. Mr. Chairman, my name is Kenneth H. Fletcher, and I am the Chief Postal Inspector. I welcome the opportunity to appear before this committee to discuss our efforts to prevent and combat crimes against the elderly.

As you are aware, Mr. Chairman, this is the sixth hearing your committee has held during the past year relating to crimes against the elderly, and I want to thank you for the opportunity you have afforded us to testify at each of these hearings.

The hearing today focuses on business opportunity fraud and a little later in my testimony I will be discussing actual case files which are representative of business opportunity mail fraud schemes where the elderly are victimized.

Senior citizens are heavy users of the mail; it is convenient for them. It provides an ideal way by which they can obtain goods and services at minimal cost and effort. The integrity of senior citizens as a group is superb—they are honest and trusting. Unfortunately, these very factors make the elderly prime targets for the mail order swindler. Recognizing this, we have designated postal crimes against the elderly as one of our highest priority programs.

Let me here insert a cautionary note of what I am saying: The vast majority of mail-order firms are legitimate. I am focusing on the relative few who have distorted and used the system for their own illegal gains. While we feel successful criminal prosecution in these types of cases serves as a deterrent to others, this is of little solace to those who lost their investments. The ideal solution is, of course, to prevent individuals from being victimized in the first place.

We believe a reduction in crime can be accomplished through public awareness, and we want to commend this committee for its efforts to heighten public awareness.

Where frauds have been committed, we use a two-pronged attack. Criminal prosecution is considered for each investigation under title 18, United States Code, section 1341, which is the mail fraud statute. It is one of this Nation's oldest consumer protection laws. The law is quite simple but very broad. Essentially, whoever uses or causes the mails to be used in an effort to defraud is in violation of the mail fraud statute.

Additionally, we can take civil action under title 39, United States Code, section 3005. This section permits the Postal Service, upon proper showing before an administrative law judge, to withhold and return to the sender mail addressed to anyone who solicits moneys through the mail by false representations. In addition, the Postal Service can request the U.S. district court in the State where the promotion receives mail to issue a temporary restraining order under title 39, United States Code, section 3007. This in effect stops the delivery of mail until the administrative law judge renders a decision.

There are several types of business opportunity fraud promotions which, by their nature, tend to focus on our senior citizens. They include distributorships and franchises, various investment programs, vending machines, and a variety of work-at-home promotions. During the past 21 months, we have initiated over 900 criminal investigations of business opportunity fraud and to date, we have made over 200 arrests relating to these investigations.

Work-at-home schemes affect senior citizens probably more than any other segment of our society. Although the most common offering in these so-called work-at-home schemes are for envelope stuffing, they also include the making of a product or the growing of plants and raising earthworms. It is usually alleged there is a market for such products when there is none, or that the promoter will buy the products when, in fact, the promoter will not. I think you are all familiar with the kind of advertisements I am talking about. "Earn $400 or more per month in your own home, no investment necessary, choose your own hours," and that kind of come-on.

In an effort to expose these operations, we have developed a brochure which describes the typical work-at-home schemes with cautions for the consumer. It also asks the consumer to notify us of suspicious advertising and has a tearoff card for this purpose. Since we issued the brochure in June 1980, we have been receiving 50 reply cards a week identifying numerous promotions. In the last 6 months, we have put out of business, through false representation orders, consent agreements, or criminal proceedings, about 3,500 of these phony work-at-home promotions.

I might add, Mr. Chairman, we recently received a call from Mr. Bob Tuttle, National Council of Better Business Bureaus. He advised the data they keep or work-at-home complaints show that for the first 6 months of last year, they received over 153,000 complaints; for the first 6 months of this year, they received only 45,000. So I think we are making some progress through the efforts our service, this committee, and other senior citizen groups are making.

The CHAIRMAN. The 153,000 figure, was that from within the United States?

Mr. FLETCHER. Yes, it is from the National Council of Business Bureaus, which coordinates all the better business bureaus in the country. So, complaints are down about two-thirds.

A recent work-at-home scheme involved a promoter who enticed over 25,000 persons across the country to invest $12 each with promises of income ranging from $180 to $500 per week. Operating through 15 different company names and addresses in California, Lawrence Phillips placed classified advertisements in daily and weekly newspapers from the west coast to the east coast and mailed promotional material throughout the country soliciting homeworkers to join his program in which they would earn a weekly salary by just stuffing envelopes. For a $12 application fee, investors received a booklet such as the one displayed here which explains how to "Make Money in Mail Order" by being a distributor for the Phillips Envelope Co. This required the placing of classified advertisements similar to the ones which enticed them to invest in publications and mailing circulars soliciting additional people to join the pyramiding fraud scheme.

False representation orders were issued on February 27, 1981, and July 15, 1981, to encompass all 15 promotions operated by Phillips.

In yet another case, an Ohio-based work-at-home promoter was sentenced on April 16, 1981, to 2 years in prison for defrauding 10,000 persons of over $200,000.

The CHAIRMAN. Excuse me, I would like the audience to be able to see this. Would you move it so they can see it and we can, too? Mr. Mica, can you all see from out there? If not, when you put it up, hold it up so the people can see it. I would like everybody to see these charts. Go ahead.

Mr. FLETCHER. Although the individual monetary investments are small, the number of victims and total monies lost to work-at-home schemes are substantial.

Another example involves a promoter operating in Palmer, Tenn. Advertisements were placed in publications announcing that over $200 a week could be earned, part-time, by taking short telephone messages at home. Investors were told that all they had to do was simply take names and addresses for the American Switchboard Association. For a $20 application fee, they received a kit containing four booklets describing procedures for setting up their own telephone answering service. Essentially, this was to place advertisements similar to those placed by American Switchboard Association, with a telephone number, and have people call them for orders. No salary was paid—the only income generated was money taken from additional victims. Approximately 3,500 individuals, many of whom were elderly or disabled and looking for part-time employment, invested more than $72,000 in this fraud before it was put out of business.

In another case, a cemetery plot salesman from Adrian, Mich., advertised three different work-at-home promotions in nationally circulated newspapers and magazines which promised earnings ranging from $900 per week to $60,000 per month. His so-called get-rich-quick plans included monitoring TV commercials and following instructions in a book entitled "The Happy Man's Money Plan" which he described as a "formula for success" written by himself, "a leading financial motivator throughout the Western Hemisphere." For application fees ranging from $20 to $30, victims did not receive the "plans" they had envisioned, but rather information on how to sell the same plan and materials to others. An estimated 7,500 victims lost approximately $200,000 to this promoter before he was placed out of business by a false representation order.

National Worm Growers Exchange, Smyrna, Tenn., placed ads in numerous newspapers throughout the United States and Canada soliciting individuals on retirement or fixed income to raise earthworms in their backyards. Interested customers were told by National Worm Growers Exchange's sales representatives that because of an earthworm's many uses, worms were in huge demand and that National Worm Growers Exchange desperately needed growers to help satisfy the overwhelming market. Victims were promised that very little work was required—that earthworms multiplied so rapidly, they practically grew themselves—and that National Worm Growers Exchange was ready to buy back all worms at a large profit to the grower.

For an initial investment of $2,000, victims received 30 pounds of worms, some newsletters acclaiming the many successes of worm farms, and an earthworm cake recipe—and that is all they received. Over 2,000 victims lost $3.5 million to this fraud. The five individuals responsible for this scheme were sentenced last year to 3 years in prison with probation ranging from 3 to 5 years.

A similar promotion occurred in Tucson, Ariz., except instead of offering worms, this operation involved the growing of house plants. Tom Thumb Plant Centers placed advertisements in newspapers throughout the Southwest offering earnings of $9,000 to $20,000 per year to individuals willing to grow house plants for their centers. Investors were promised greenhouses, starting plants, fertilizers, and other necessary items to start their own business—and also that all grown plants would be repurchased. Some people received a few plants and a shabbily constructed greenhouse—but most got nothing for their investment. Thirty individuals, most on retirement or fixed incomes, made investments ranging from $3,700 to $9,250 in this enterprise, with a few of the victims obtaining second mortgages on their homes in order to come up with the necessary cash. The two principals in this scheme received prison terms in July 1981 following their conviction for mail fraud.

Another growing problem area which affects the elderly is the broad spectrum of investment swindles. This involves a variety of schemes, including investments in stocks, coins, gems, precious metals, and commodities.

Many of these opportunities are legitimate, but this only serves to give the mail fraud operator a better climate in which to conduct a fraudulent promotion.

A sophisticated investment swindle was carried out by the Progressive Farmers Association—PFA—an investment corporation formed in the State of Missouri by Russell Phillips. Phillips allegedly organized the corporation to raise working capital for a new type of cooperative which would bring farmers and consumers together, eliminating the middleman, and would raise crop and livestock prices while cutting food prices.

To raise capital, Phillips sold securities known as "estate builders" to individuals, the majority of whom were retired or semiretired farmers. Salesmen convinced people to invest their savings by promising they would double their money. These investments were to be used to establish farmer's cooperative markets throughout Missouri. However, none of the promised markets were opened. Instead, the operators of PFA used the money to pay themselves exorbitant salaries and for investments in other personal enterprises. In May 1977 PFA filed bankruptcy, but not before they had convinced 6,000 people to invest $12 million in this venture. One 72-year-old man invested $70,000. Another elderly farmer who invested approximately $50,000 committed suicide as a result of his lost investment. A Federal grand jury indicted 22 individuals on 176 counts of mail fraud and other Federal statute violations. Twelve pleaded guilty, and in August 1980, after a 10-month trial, one of the longest trials in our history, Phillips and the remaining defendants were found guilty. Prior to sentencing, Russell Phillips, the mastermind of this operation, spoke for nearly an hour on his own behalf, attempting to explain to the court the business failures of the corporation and how he never intended to cheat anyone. After hearing Phillips' comments, the sentencing judge stated that it was now evident that Phillips could not be rehabilitated, and sentenced him to 15 years in prison with 5 years' probation and fined him $20,000. The other defendants received sentences ranging from 5 to 10 years in prison.

With the current interest in gold and silver, some investors are being convinced to place their savings in precious metals. With this in mind, six promoters operating as Federal Gold and Silver, Minneapolis, Minn., placed advertisements in newspapers and magazines offering investment opportunities in gold and silver. Investors were promised that their money would be used to purchase gold and silver and kept in vaults for safekeeping or invested in the commodities futures market—whichever the customer preferred. When the customer decided to sell, any profit would be taken in either gold and silver or cash. In fact, the company never purchased any gold or silver but instead used their victims' money to make short-term speculative investments for their own personal gains. As gold and silver prices continued to climb, and victims began demanding liquidation of their investments, Federal Gold and Silver closed its doors, causing 270 investors throughout the country, many of whom were elderly, to lose over $2.5 million. One retired man invested his entire savings and has had to seek reemployment. All six defendants were subsequently convicted of mail fraud and sentenced to prison terms ranging from 2 to 10 years.

In another similar swindle, Consolidated Gold and Silver, Inc., used the mails to solicit over a half-million dollars from investors for nonexistent gold contracts. Operating from a quickly organized "boiler room" in Miami, the promoters falsely represented themselves as established and reputable commodities salesmen and offered a unique deferred payment and future delivery plan. For a minimum investment of $4,000 per contract, investors were guaranteed the right to purchase a specified quantity of gold at investment date market price anytime prior to the expiration date of their contract, normally within the next 6 months. Consolidated Gold and Silver would then promise to sell their contracts without any additional payment and mail them any profit resulting from the sale. Victims were not told their initial investments were nonrefundable, nor were they told that payments, usually between $18,000 to $25,000 in addition to the initial $4,000 investment, would be required before they could realize any profit. When investors could not or would not remit the additional money, their contracts were considered to be in "default" and Consolidated would pocket all the money. Some investors would send Consolidated additional money; however, they were either told they were too late and their contracts were already in default, or were told even more payments were necessary. Consolidated's salesmen kept

bilking their victims until they ran out of funds. A third of the victims in this scheme were retired or elderly individuals attempting to increase their incomes through the rapidly rising price of gold. One 67-year-old man invested $83,000 and received nothing. Another 63-year-old man invested $66,000 and was then told he would not make a penny until he came up with $300,000 more. An elderly lady who is employed as a nurse and housekeeper for the mother of U.S. Senator John Danforth lost $15,000 in this scheme. The mastermind behind this fraud was subsequently convicted of mail fraud and sentenced to serve 10 years in prison and fined $10,000. We consider this sentence to be significant since he was 73 years old at the time of sentencing.

Then there are those business-opportunity frauds which involve the sale of a distributorship or "franchise."

A typical distributorship swindle involved the sale of jewelry franchises, with its base of operation in the Hartford, Conn., area. Investment Services International was formed by Brad Kniedl and Raymond Morrissey. They hired sales representatives to travel across the United States convincing people to invest in their distributorships by painting glowing pictures of high profits and money-back guarantees. For an investment of about $3,500, victims were told they would receive five jewelry showcases, each containing 100 pieces of fine costume jewelry. The showcases would be placed in good, high-traffic locations, guaranteed to produce at least 100 sales per week. Victims were shown photographs like this one of the showcases and jewelry they would be receiving, and, as you can see, they are impressive. At least 160 people invested $600,000 in this enterprise in the 6 short months it was in operation. After closing down Investment Services International, Kniedl and Morrissey then started similar schemes, independent of each other, using the same sales techniques, but different products. In a little over a year, over 400 people throughout the country lost $1.6 million to these swindles.

Kniedl and Morrissey were convicted of mail fraud and received prison sentences ranging from 18 months to 2 years. Ten other people were also indicted for their involvement in these operations.

A husband-and-wife team operating in Broadway, N.C., promoted a franchise investment swindle in which over 1,500 persons nationwide lost more than $1 million. Thomas and Ann Williams placed advertisements in nationally circulated publications which promised earnings of $3,000 per month to those willing to manufacture and sell a substance and device used to exterminate cockroaches. For an investment ranging from $175 to $600, investors were promised supplies, training, crew managers, advertisements, and an established market. No one received anything but a few samples of the roach product, Sure Kill, Roach Kill. They were arrested and convicted of mail fraud. Mr. Williams was sentenced to 18 months in jail with 5 years' probation, and Mrs. Williams was sentenced to 5 years' probation.

Two individuals operating in Cincinnati, Ohio, as Jerlor Marketing placed advertisements in the Wall Street Journal and hundreds of other newspapers throughout the country promising a substantial return on an investment in a coin-operated video game called the "Circle of Fun." These game units consisted of six separate video games and cost between $14,700 and $16,950.

Investors were promised the delivery and installation of high-quality machines, maintenance, and profitable locations in theater chains, roller skating rinks, shopping centers, and airports. All the buyer had to do was collect money from the machine every few days. Only a few buyers ever received a machine at all, and they had to install the machine themselves in poorly selected locations. Several individuals, including Mr. William Waters here on my right, lost more than $230,000 to the operators of this scheme. Mr. Waters lost about $18,000—money he invested to supplement his retirement income—and he received nothing but promises. The promoters were so successful with the sale of the "Circle of Fun" that they began selling another distributorship, this time involving photo-supply vending machines. Similar misrepresentations were made causing additional investors to lose thousands of dollars. Both individuals responsible for this fraud were convicted of mail fraud and sentenced in June 1981 to 4 years in prison.

In a similar operation a Palo Alto, Calif., promoter, described by a juror as being able to sell freezers to Eskimos, advertised the sale of gum, cigarette, and popcorn vending machine distributorships for approximately $6,000 each. Operating under the name Sentinal Distributors, Robert Donovan falsely described his business as a multimillion-dollar industry associated with manufacturers of nationally advertised products such as Wrigley's chewing gum and several well-known brands of cigarettes. Although delivery and installation of top-quality machines, profitable locations, and maintenance were guaranteed, half of the investors did not receive any machines at all, and those that did found that the locations provided were worthless and unprofitable. A total of 82 victims lost a half a million dollars to this fraud. One of the victims, a 70-year-old double amputee who had faith in Donovan's promises that he would recover his $5,000 investment in his vending machines within a matter of months, wrote a letter to the U.S. district court judge presiding at Donovan's trial for mail fraud. He stated, "I don't think Robert Donovan should go unconvicted as he * * * preyed on people like me." Donovan was later sentenced to 3 years in prison, fined $1,000, and 5 years 'probation, with the stipulation that he make restitution. If restitution is not made, Donovan's prison sentence will be increased to 8 years.

In yet another vending machine swindle based in Birmingham, Ala., 56 victims lost approximately $304,000 after responding to advertisements placed in the business opportunity section of nationally circulated newspapers by Mohawk Marketing. Mohawk promised its victims high-quality gum, candy, and cigarette machines, good locations, and high returns on their investment; however, most of the victims did not receive machines and those that did received inferior machines, some of which required the placement of 100 pounds of sand in the base for support. The promoter of Mohawk was convicted of mail fraud and sentenced to 2 years in prison, 10 years' probation, and fined $10,000.

Over 150 victims lost more than $750,000 to another vending machine promotion operated by Telstar Enterprises, Inc. The promoter in this swindle was subsequently convicted of mail fraud and sentenced to 3 years in prison.

Mr. Chairman, we have with us some of the machines received by victims in the cases that I have just discussed. If you do not mind, we would like to have you step down and take a closer look at these machines, and see just how these promoters cheated their victims.

The CHAIRMAN. What am I promised now?

Mr. FLETCHER. Inspector Wayne Kidd will tell you about the promises.

The first machine was one of 10 candy vending machines purchased from Mohawk Marketing by Ms. Alinda Alexander of Englewood, Colo., for $7,495. As you can see, it is a typical machine used to vend candy, and in relatively good condition. Ms. Alexander did not experience any problems until she tried to place candy in the machine for sale. The machine would not vend candy. The manufacturer's flyer which was packed inside this unit indicated that it was designed to only dispense Fruit of the Loom pantyhose. We have nothing against pantyhose, but it can be quite disappointing when you are expecting a Hershey bar with almonds.

The CHAIRMAN. Do they have this packed inside the base warning you must fill with sand or crushed stone for stability and safety on location?

Mr. FLETCHER. Yes.

The CHAIRMAN. It looks like a thin, tin, cheap box.

Mr. FLETCHER. She paid $7,500 for that.

The next machine was purchased by Ms. Shirley Lovejoy of Dundee, Ill., and is 1 of 5 she received for $3,747. This machine comes in two separate parts, and it will dispense gum; however, to avoid having the machine tip over, purchasers were required to place 100 pounds of sand in the base of each. Ms. Lovejoy made the following statement in a letter of complaint, "Instructions state that 100 pounds of sand must be placed in each base for support. How am I, as a single 52-year-old woman, suppose to haul 100 pounds of sand to each location?"

The CHAIRMAN. It is cheap. How much did they have to pay?

Mr. FLETCHER. $3,800. Again, they do not get locations; they are not placed where they can have any kind of return.

The CHAIRMAN. It cost $25, maybe.

Mr. FLETCHER. Yes, very shabby.

William and Jean Hammill of Erie, Pa., took out a second mortgage on their home to purchase 10 of these cigarette machines, for $12,000. They were promised the delivery of "deluxe" model machines and were guaranteed to earn $700 a week as full-time vendors. The machines they received were not the "deluxe" models and were of such inferior quality that cigarettes could be obtained from the machines by simply jiggling the levers. The Hammills spent over $3,000 in maintenance fees trying to correct this problem; however, they continued to malfunction and lose money. They are now stored in the Hammill's basement as a harsh reminder of their lost investment.

The CHAIRMAN. $12,000.

They would pay the regular price for cigarettes?

Mr. FLETCHER. You could get a wholesale price for the cigarettes, but part of these schemes, Mr. Chairman, is that they do not have locations to put them in. People can do very well in vending machines that are placed in the right locations and have quality machines and quality merchandise. But that is not the case here.

This next unit is one of five photo-supply vending machines purchased from Jerlor Marketing by Mr. Anthony Venuto of Cincinnati, Ohio, for $5,000. Jerlor promised Mr. Venuto the delivery of "high quality merchandise." I do not think I need to say much more about this machine, except that this is the exact condition in which it was received. The units were packed only in garbage bags and are totally inoperable. The only way you can get film from the machine is take the door off, lift the film box up and out of the slots.

The CHAIRMAN. What was he supposed to get?

Mr. FLETCHER. High-quality machines, good locations, the merchandise at discount.

The CHAIRMAN. What did the machines dispense?

Mr. FLETCHER. Film.

The CHAIRMAN. I do not see any way they can come out the bottom.

Mr. FLETCHER. No, they cannot come out. It is totally inoperable.

Thank you, Mr. Chairman, for your assistance.

As you can see, the variety of fraudulent schemes is seemingly endless. We feel very strongly about our obligations to keep the mails as free from abuse as possible. Phony mail order promotions are a small percentage of the total mail order industry, but the substantial dollar losses and the cost in terms of human suffering caused by the dishonest promoters deserve our attention.

I will be pleased to answer any questions you may have.

The CHAIRMAN. Thank you very much, Mr. Fletcher, for a very able and comprehensive statement. If the committee will agree, we will go through the panel and ask questions of the panel.

The CHAIRMAN. The next witness is Mrs. Mabel Nord of Licking, Mo.

STATEMENT OF MABEL NORD

Mrs. NORD. Mr. Chairman and members of the committee:

My name is Mabel Nord and I live in Licking, Mo. Before his death a few months ago at age 70, my husband Albert was a farmer. He worked hard all of his life. I am here this morning to tell you what happened to us with the hope that you will take action to prevent other senior citizens from being defrauded.

In November of 1973 a salesman from a corporation called Progressive Farmers Association (PFA) came to our house and encouraged us to invest. He was selling what he called estate builders in order to finance the construction and operation of farmers' co-op grocery stores. The idea was to cut out the middleman. He said we would be able to raise crop and livestock prices while cutting food prices. He said that as members, we would be able to get a discount on the food that we purchased.

The salesman showed us blueprints and drawings of the proposed buildings. He stressed that we would become one of the first 1,000 charter members which would bestow certain additional benefits.

He told us that we would get one-thousandth of 1 percent of the gross sales after the first $100,000 had been deducted and that there would be great tax benefits to us because of our age.

We found out later that the estate builder they were selling was nothing more than an unsecured promissory note which was evidence of their debt to us. The way it worked, we had our choice of paying $360 a year for 12 years or three installments of $1,440 or one installment of $4,000. In addition to all the benefits described we were promised an excellent return on our money. At the end of the 20 years the company promised to pay us $15,791 for each estate builder that we purchased.

We bought three estate builders and gave our check for $1,080 to the salesman for the first year's premium on them.

A year later another salesman from PFA came by our house and used an elaborate sales manual to influence us into buying bonds being offered by them. They told us the bonds were different than the estate builders and were protected just like those of banks. They also told us that the rate of interest was much higher than banks and that we could withdraw our money from the bonds at any time that we wanted. We bought three bonds with a face value of $4,000 each, making the total amount $12,000 for the three bonds.

In April of 1975, almost a year later, yet another salesman arrived at our house who told us the company was trying to sell 152 shares of stock in the organization to each estate-builder holder. The salesman told us how well the company was doing and how fast they were growing. He told us that if we took out 10 more estate builders at $360 each and kept them for just a year, we could keep the 152 shares of stock as a bonus. We paid them $3,600 for the 10 additional estate builders.

In 1976 we received notice that we had been credited with $1,077.18 in interest on the three bonds that we bought, but at no time did we receive this money or any return on our investment. Finally after several calls they told us the interest on the bonds had been applied toward the second-year payments on the estate builders we purchased initially. This was contrary to our wishes and the company knew it.

In July of 1976 we went to the company's office in Springfield and told them we wanted to cash in the 10 estate builders we bought a year ago. We also told them we were planning on keeping the 152 shares of stock they had promised to give us for taking them out. The company's president told us we could not cash in these notes because we had only paid one year's premiums. He told us that if we paid the second year's premiums we could borrow against the certificates as stated in the agreement. This did not seem right but we paid $3,600 rather than lose our investment.

In May of 1977 we heard that the company had gone bankrupt.

At the trial that took place last year we learned that over 6,000 people had been taken in this elaborate scheme for a total of $12 million. As for the proposed markets promised, a few scattered here and there did open, enough to keep people thinking that the entire plan would materialize. We learned that the money we paid went to pay commissions for the salesmen who visited us, and the remainder was divided up by the four principals who thought up this scheme. The Justice Department documented that the four principles converted about $2.5 million to their own use.

We learned that 60 percent of the victims were senior citizens who like us had worked hard all of their lives to make this country great. We lost $21,360 at a time in our lives when we can afford it the least. Other people lost more. A 75-year-old man from Greenfield, Mo., lost $84,000. Another senior citizen who had lost about $50,000 in this phony securities racket committed suicide as a result of the loss.

I understand that the principals who perpetrated this securities fraud were convicted of racketeering, obtaining money by false representations, and fraud and securities fraud. This is fine, but we have not been able to recover one dime of our investment. When it declared bankruptcy, the company had only $191,000 which could be realized when all their assets were sold to satisfy creditors.

Mr. Chairman and members of the committee, you cannot imagine what a nightmare this was for all the members of our family. There were more sleepless nights than I care to tell you about. The effect was very devastating, and I feel this experience was a contributing factor in my husband's having a stroke in 1976, the complications of which resulted in his death this past July. I am sad that these kinds of frauds can take place on such a large scale and that so many older Americans can so easily be victimized. I would be grateful for anything you could do to make such frauds impossible in the future.

The CHAIRMAN. We understand, Mrs. Nord. That is the reason we are having this hearing, to try to prevent scoundrels from doing that kind of thing to other people like you in the future. Thank you very much.

The CHAIRMAN. Mr. Steinleitner.

STATEMENT OF EDWARD STEINLEITNER

Mr. STEINLEITNER. Mr. Chairman and members of the committee:

My name is Ed Steinleitner. I am 54 years of age. I live with my wife, Marilyn, in Allentown, Pa. I work as an inspector in a machine shop. I suffer from a disability which prevents me from doing a great many jobs. In March of 1979, I was looking for some type of business which I could run from my home. I anticipated part-time work on my part and then later, if upon my retirement the business did well, I would give it my full-time efforts.

My wife and I answered an ad in our local paper and soon thereafter went to one of several seminars given in our town by two people who alleged to be owners of an earthworm distributing company. We were told that earthworms were a lucrative business and that the firm could not keep up with the demand. The firm said that it wanted to employ people like us to grow earthworms which they would buy back from us.

We were told that our business would: (a) be inexpensive to run; (b) did not require much capital to begin with; and (c) could easily be operated in our backyard. I have strong feelings about improving the environment and leaving the generations who come after us with as much of the natural beauty of this country as we can. I felt that in my own small way in this business I would be generating good topsoil and turning a nice profit on the side.

We paid the firm $12,000. For this money we purchased not only the earthworms and supplies needed to get started but we bought exclusive rights to sell earthworms to the company from the five counties in Pennsylvania nearest our home; we bought the territory. We also purchased the right to sell other people on getting into the business. Supposedly, we were to get 2 percent of the company's profits from the sales of each of the franchises we placed. We were to give the company's guarantee of success and the guarantee that they would repurchase the grown earthworms from those who bought into the company through us.

We received our starter kit and began to grow earthworms as instructed. The company said they would buy them back from us at whatever they said was the going rate. My husband made two sales persuading two more people to grow worms for the firm. Unfortunately, the principals in the company skipped town and cannot be located to this very day.

The company did not honor any of their promises to us. They did not buy back any earthworms. Not only that, we were left in a very bad situation. Since the principals could not be located, one of those who we had sold on the company brought suit against us for $127,000. Needless to say we were heartsick. We were morally injured by the experience. We were emotionally distraught. Our health suffered from the anxiety and the sleepless nights. Our names made the front page of the newspaper under large headlines which proclaimed "Earthworm Fraud", and the natural conclusion was that we were among the conspirators, which is 180 degrees from the truth. We just settled the suit against us this past March for $10,000. In the meantime, we had to pay legal fees and carry the burden of this tragedy with us for more than 2 years.

In short, we have lost some $30,000 plus interest on this sum. We have become very disillusioned and perhaps a little cynical. We are not the same trusting people that we were before these con men came into our lives. We are happy for this chance to set the record straight. Perhaps by telling our story in public we can warn others who are this very minute being approached by con men touting various work-at-home schemes from earthworm, mink, and chinchilla raising, to envelope stuffing and knitting baby booties for profit.

The CHAIRMAN. Thank you very much, Mr. Steinleitner. That is another tragic story.

Next, Mr. Sidney Marcus, Jr., of Lusby, Md.

STATEMENT OF SIDNEY O. MARCUS, JR.

Mr. MARCUS. Chairman Pepper and members of the committee:

My name is Sidney O. Marcus, Jr. I am a retired oceanographer, age 63, and live in Lusby, Md.

My troubles began in November 1979 after I read an advertisement in the Wall Street Journal by First Guaranty Metals Co. for the sale and purchase of precious metals. I telephoned a Boston office salesman for the company. It was during this initial conversation that the salesman informed me that my only costs in buying and selling silver and gold would be commissions of 1½ percent for getting "in", and 1½ percent for getting "out" of the market, plus the interest on my investment. The contract would last for 25 years. In addition, to reassure me, he told me untruthfully that First Guaranty maintained its own inventory of precious metals, transacting 2 billion dollars' worth of business annually.

After having inspired my confidence and with the assurance that First Guaranty was an established and reputable company, I invested approximately $9,000 for the purchase of silver and gold bullion during a time when prices for both had been experiencing appreciable increases.

On December 15, 1979, in another telephone conversation with the Boston salesman, I was told that First Guaranty trades in the Chicago market, a statement I shortly thereafter found to be totally untrue. During this conversation, my suspicions were initially aroused when he also informed me that I could not establish First Guaranty's repurchase price, through whom I had to sell, because First Guaranty figured its own market prices, despite the fact that he maintained that the company traded on the Chicago market.

On December 21, 1979, First Guaranty's scheme of fraud and deceit started to become quite apparent when I ordered the sale of 80 ounces of gold, from which I should have received $10,000. When the Boston salesman transacted my sales order, he related that I should receive my cash in 5 working days. Not only did I not receive the $10,000 due me within the 5-day limit stipulated in our contract, but I have, to this day, never received any of it. After 5 days, I threatened to go to the CFTC, but the Boston salesman told me to first speak with the company's attorney in Florida. When I did, the lawyer told me he did not understand why I had not received the money and to call him back in a couple of days. I felt it should have been his responsibility to get back to me. But I called the lawyer back on December 31, when he related that wildly fluctuating markets had delayed my cash payment and made me susceptible to a margin call. This seemed quite implausible to me because my current equity position of 32.3 percent seemed an adequate cushion, being more than 25 percent above the 7 percent limit for margin calls, the company's policy.

On January 15, 1980, my problem became compounded when I ordered the sale of 4,000 ounces of silver. It was at this time that what the Boston salesman had told me on December 15 about First Guaranty establishing its own price really hit home.

My sales price was to be $5 less than the price First Guaranty established as its current sales price to prospective purchasers—an excessively high bid-cash spread which was never previously disclosed to me.

Even at this reduced price, I should have received $15,000, making my equity approximately $40,000, a 19-percent position and well above the required 7-percent margin limit. Not only did the money fail to arrive once again in the 5-day working limit, but the Boston salesman also told me that I might receive less than the $15,000, depending on how the Miami office figured it.

Of course, neither the Boston salesman, nor an unnamed salesman in the Miami office, could explain to me how the price spreads for my resales were derived. They both admitted they did not know, and neither one made any effort to find the answer for me.

On January 22, 1980, I called the Miami lawyer, insisting on adhering to the 5-day contractual limit, but he just put me off by

saying there was a backlog of paperwork. On January 24, another call to the Miami lawyer reproduced the same irrational and fraudulent ploy which affected my gold transaction—nonpayment of cash due to wildly fluctuating markets which threatened me with a possible margin call.

In one of my January conversations with the Boston salesman, I was told that CFTC agents had visited First Guaranty around the first of the year, and that the company was glad to have the CFTC visit and inspect because the company frowned on shady or illicit business and was glad to have a strong regulatory agency. The Boston salesman further warned me against dealing with so-called boiler room operators.

I understand that on June 12, 1981, the Commodity Futures Trading Commission obtained a permanent injunction against the officers of First Guaranty Metals and its parent company, Trending Cycles. The CFTC says that the firms ran an elaborate boiler room operation based in Miami and Boston and that the offices marketed so-called leverage and cash forward contracts through the use of long-distance telephone solicitations and the mail which were false, deceptive, and misleading. They said the firm targeted unsophisticated and unknowledgeable investors, while omitting material facts in their sales pitches. For example, CFTC said that the officers failed to inform customers that the firm sold commodities at one price and bought them back at a second price which was always lower, often significantly lower than the original selling price. This is exactly what happened to me. The court appointed a receiver and sought to bring about the disgorgement of unlawfully obtained profits. Some 800 other people were taken, and total losses may approximate $10 million. My personal loss was about $58,000. That is the equity, when I tried to close out. My entire investment was $9,000. If I had been dealing with a reputable firm, my profits could have been this amount or more.

Thank you for allowing me to share this story with you. I hope this committee will be able to develop reform measures to protect others from these types of abuses.

The CHAIRMAN. Thank you very much, Mr. Marcus. Has there been any indictment of these people for fraud?

Mr. MARCUS. Yes, there has been, and at the request of the Commodity Futures Trading Commission I went to Miami.

Let me correct myself—there is an indictment procedure against them in Chicago. In Miami there was a hearing on the bankruptcy for the trustee to determine what could be done with the little bit of assets it did get ahold of. I was a witness for the Government there in Miami. That has not been completed yet. They are waiting on the indictment in Chicago to be finished with, and then the defendants will be able to submit by mail their side of the story.

The CHAIRMAN. It would seem to me, in Boston, Chicago, or Miami, there ought to be indictments returned against these people, and the Miami lawyer should certainly be disbarred from the law practice.

Mr. MARCUS. I should think so, but it is being litigated. In other words, the decision has not come yet. But they do not have much to stand on in their arguments. I suppose they are delaying as much as they can.

I went to Miami to testify——

The CHAIRMAN. Has there been any grand jury consideration?

Mr. MARCUS. In Chicago, yes. I do not know what the results of it are yet.

The CHAIRMAN. Well, you have been paid nothing. You received nothing back?

Mr. MARCUS. I received nothing back.

The CHAIRMAN. Well, apparently it looks as though this is a very clever scheme. They tried to put it in such form where they thought they could get by with it.

Mr. MARCUS. If there had been some way the Commodity Futures Trading Commission could tell someone all they could tell without waiting, it would have helped me.

The CHAIRMAN. They determined they were not a bona fide organization.

Mr. MARCUS. After my investments.

The CHAIRMAN. Thank you very much, Mr. Marcus. That is another tragic aspect of this drama.

The CHAIRMAN. Next we will hear from Mrs. Bayard Moore.

STATEMENT OF MRS. BAYARD G. MOORE

Mrs. MOORE. Mr. Chairman and members of the committee:

I am pleased to be here today and have the opportunity to tell you my story. I am Betty Moore. I live with my husband, who is disabled, in McKeesport, Pa.

In the summer of 1977 my husband and I read an ad in the "Business Opportunities" section of our local newspaper. The advertisement was a solicitation for investors interested in purchasing a business franchise specializing in selling pies, tarts, and cookies.

We responded to the ad and met with the principals of the company. They made the franchise sound like a "no lose" proposition. They assured us we had an opportunity of a lifetime—to get in on the ground floor of a franchise that would expand as rapidly and successfully as McDonalds. The principals further assured us that our investment in their company would be an ideal way for us to prepare for our retirement years. They also suggested we should consider purchasing a franchise for each of our children just as soon as the profits from our first franchise permitted it. That sounded ideal; everyone would have a business to run.

We checked with our lawyer, who agreed that an investment in the pie franchise would be a sound decision. So, in September of 1977 my husband and I mortgaged our house and purchased a pie franchise for about $25,000.

The CHAIRMAN. You say, "We checked with our lawyer, who agreed that an investment in the pie franchise would be a sound decision."

Your lawyer was taking a big risk with your——

Mrs. MOORE. He was also the attorney for the bank, a small city bank, and they are not very ready to dispense money to people. They really did help. They investigated everything and could come up with nothing wrong about it, because everything about it was still so good.

The CHAIRMAN. Go right ahead.

Mr. MOORE. Our franchise agreement called for actions and services to be performed by the franchisor too numerous to completely itemize today. I shall just try to make you aware of a few of their more flagrant violations.

To begin with, the company projected an annual net profit of about $26,000. To achieve its profit, about 100 pies were to be sold daily. In the beginning, we did that. Later, as we were about to close, if we sold 10 pies we were doing good. The company promised an advertising budget of 2 percent of their gross income. At first, the advertising was provided. After a few months, the advertising stopped. We contacted the media and sought to purchase advertising out of our own pockets. We were refused and were told the company had not paid for past advertisements. After that, we were never successful in getting the newspaper, radio, or other media sources to advertise for our pie franchises.

The company promised to train my husband and I. They never did.

If I had not been an insurance accountant before that of books—we kept very good records.

What essentially killed our business was the quality of the pies the company provided. The pies delivered became increasingly poor in texture and in taste—to the point where the company, by letter, invited the franchise owners to find another supplier for pies and then close their bakery. We attempted to confront the principals with their many broken promises, but they simply refused to return our calls.

I could go on and on about broken promises, but you could only get the full picture by also talking to the 27 other pie franchises in our tristate area and dozens nationwide who invested in this scheme. Many of the pie franchise owners also were retiring and expecting to use the profits from their franchises to support themselves or their children in their retirement years. All of us were forced to close within months after opening, and we lost everything—our entire $25,000. Moreover, we are left making loan payments until 1988 of over $400 a month, because we mortgaged our house to make the investment. I know of another elderly couple in West Virginia who will also be making mortgage payments for the next 8 years. I know of yet another couple in Florida who lost everything and were literally forced to live out of their car. A younger couple, I know they paid $50,000 for the rights to do this, they never received one bit of equipment, never operated a store of any kind, the last I heard they drove up to a friend with a pie tree in Ohio, with their children and possessions in a car, and that is all they had left.

Mr. Chairman, I want you to know that I and many others who invested in this franchise believed that it could have been a success. The principals in the company never had any intention of making it one. When we first opened our pie business, the quality of the pies was excellent, and the store was beautifully furnished. Customers flocked to buy our pies. Later we learned that the company put a lot of money into decorating and insuring that our franchise appeared successful. We were the showcase—the front for the ripoff scheme. They used our franchise as a model for prospective franchise buyers to inspect before getting into their business. I am ashamed to say, because our business was good, we passed the word on to quite a few. The company sold as many franchises as they could in the first few months we were in the business. Then, took the money and ran. We do not know how many were taken and how much money was lost, but I would guess it involved millions of dollars. One couple invested $50,000 for the exclusive right to a pie franchise servicing the entire State of Florida. They received nothing for this money—they never even got to open for business.

We did ask for help from local law enforcement officials in our area and in Washington, D.C. After a preliminary investigation we learned both of the principals in the company had in the past been indicted for fraud, one of them twice, and that the latter had been proven guilty and served time. There was a group of investors from Florida. A local TV station had on a scam perpetrated by these two men, sold franchises for $5,000 to people and offered them a rack in stores with good chocolate candy. They did not get the locations, they got the racks and one supply of inferior candy. That is while this investigation was going on.

The irony of it all is that shortly after the principals skipped town, and the investigation into our franchise began, we learned that the same two principals had moved South and were actively engaged in selling candy franchises to other unsuspecting victims.

We know that we will not get our money back. But we do hope that our testimony will help prevent others from throwing their life savings away.

Thank you.

The CHAIRMAN. Where did this company purport to have their headquarters?

Mrs. MOORE. Little Washington, Pa. They had very, very beautiful offices there. Behind the offices was the bakery. From that one bakery, they serviced the tristate area, they serviced Washington, West Virginia, Pennsylvania. They never got another bakery open to service them. So you can see how pies traveling that far would deteriorate. This man even sold a franchise to his own mother-in-law for $25,000.

The CHAIRMAN. Well, yours is another tragedy. Thank you very much for telling us this story.

The CHAIRMAN. Mr. Waters.

STATEMENT OF WILLIAM E. WATERS

Mr. WATERS. Mr. Chairman and members of the committee:

I am 61 years of age. For 25 years prior to my retirement I was in charge of distribution for a large firm which sold dairy products in the Southwest. I now work as the manager for several swim and tennis clubs.

On the eve of my retirement in November 1978, I was looking for a profession to pursue which would not be too taxing and which would afford the opportunity to make a reasonable income. I saw an ad in the San Antonio Express placed by the Jurlor Marketing Corp. which held out the promise that a reasonable income could be made from an investment of coin-operated video games. I called an 800 number listed in the ad and the company sent me some literature. Thereafter they made arrangements for me to visit the company's offices in Cincinnati, Ohio. I made the visit after Christmas.

I was impressed with the possibilities and the machines. I decided to buy six of them at about $3,000 each, for a total investment of $18,000 on my part. I gave a $1,000 deposit initially, and sometime in January 1979 I wired the remaining $17,000 to the company. The company was to deliver the machines in 30 to 45 days and to provide me with high-traffic locations. Nothing happened.

In March I began to make calls, but company officials ducked my calls. I could seldom get through to the person in responsibility. In the midst of all my troubles with the firm they tried to interest me in a suntanning franchise that they were offering. They said they would provide me the locations and the suntanning booths and sunlamps. Of course, they wanted more money. I refused to pay more.

My son is an attorney and he did his best to go after the firm. He quickly came to the opinion that there was little chance we would ever get our money back. We wrote to the Better Business Bureau and other groups, but there was nothing that anyone could do.

I was happy to hear that the two principals involved were finally apprehended and convicted on fraud charges. Each received a 4-year sentence. No one knows how many people were cheated out of how much money. Investigators were able to prove at least $200,000 in fraud in the trial that ended this June, but aspects of the case are continuing.

I am sad that I lost my money. The video games looked swell. Chief Postal Inspector Fletcher has shown you a picture of the type that I purchased. I know that a few people actually did get these vending machines, but they were not operable. This was a classic ripoff from the beginning.

I hope by being here I can alert the American public to the kinds of frauds that are perpetrated against the elderly and others.

The CHAIRMAN. One thing that just occurred to me is that this fellow got 4 years, the two principals got 4 years each, if they got $200,000, they made $50,000 a year.

In other cases we learned about crooks making millions and the authorities were only able to find $191,000. That was Mrs. Nord who said only $191,000 was eventually discoverable, and apparently they took in $12 million or more.

Maybe the court ought to take into account whether some people are willing to pay the price. I think I know the man who went to prison on fraudulent conduct, and now he is a rich man. He has the stigma of having been a prisoner and being convicted of a crime, but he has a big house and a big automobile and a lot of money. So I suppose he came out all right in the long run, if he was willing to sacrifice his honor for material gain. In these sentences, the court should take into account whether these people are just running the risk of getting caught and then hide the money somewhere and be very rich when they get out.

Nearly all of you were first involved by seeing an ad in the paper. Mr. Fletcher, I wonder if there is any duty or whether there should be any moral duty on the part of the press before taking ads to make some sort of an examination into the connection of the enterprise where they invite money from the public.

You know, there are a lot of people, who everything they read in the paper, it is like in the Bible; it would not be in the paper if it were not true.

A good many of you mentioned the Wall Street Journal that is certainly regarded as a leading publication in the field of finance and investment. You read an ad giving the names of big national companies all throughout the paper, you read an ad that the XYZ Co. offers this and the like. You read the Wall Street Journal and feel it would not be there if it were not a reliable concern. What have you to say about that, Mr. Fletcher?

Mr. FLETCHER. Whenever we have a false representation order in connection with a fraud scheme, after the administrative hearing has been concluded, we send copies of the complaint to the newspapers in which the scheme was advertised in the hope that the newspapers will exercise more judgment in terms of the ads they are placing.

I think this will only be effective in medical frauds where there are outrageous claims made which on the face of them, are fraudulent.

Part of the difficulty is that practically every one of these business opportunity schemes, with the exception of the work-at-home scheme—we have never found a work-at-home scheme that produces income, are patterned after valid operations. Worm farm operations, for instance, and people have made money in commodities. The more successful the business, the more legitimate phony ones may seem to be. It is difficult for a newspaper to screen these kinds of things.

The CHAIRMAN. The thought just occurred to me, would it be a reasonable exercise of discretion to say before we will accept an ad soliciting money from the public, you must submit to us a statement from the Better Business Bureau of the area where you operate that you are a reputable concern?

Mr. FLETCHER. Some papers and magazines do exercise about as much discretion as they can in terms of screening a newspaper. You are starting to get over into the first amendment area, which makes it difficult.

I think—although I have listened to the stories here, some of the people have made all the efforts you can reasonably expect them to do in investigating some of these frauds——

The CHAIRMAN. Would the bill we proposed, H.R. 3973, support your efforts here? Would that help the Post Office Department to uproot these frauds and prosecute them more effectively?

Mr. FLETCHER. Yes, sir, we are very encouraged by the bill. It will help us act quicker in cutting the money off from the promoters of these schemes as fast as we can.

The CHAIRMAN. Do most of these schemes in one way or the other get into the mails to give you jurisdiction?

Mr. FLETCHER. Yes, practically all.

The CHAIRMAN. Mrs. Fenwick, would you like to make an opening statement?

STATEMENT OF REPRESENTATIVE MILLICENT FENWICK

Mrs. FENWICK. Yes, I was with the former Prime Minister of Italy, and I was delayed.

This is a wonderful session, but we hear one tragedy after another. I know exactly what you say, the more successful schemes resemble the more legitimately run businesses. Although I cannot understand how a lawyer could not find out how those two men had been convicted.

In New Jersey, we worked very closely with the FTC and Postal Service. What we did was to require that any money going through the mail had to go to an address. Is that a law or New Jersey regulation?

Mr. FLETCHER. Just New Jersey.

Mrs. FENWICK. I think that would be useful. We found that the company would advertise with only a post box number. When we went after the company it would simply change its name and post box number. The "Bellway Co.," P.O. Box 52. Whan can you do with that?

I think in this bill, we should require that the Inspector General should have the power to insist that when money is requested through the mail, there must be an address and the name of the person in addition to the corporation name so that then you accuse the man if he has given a name and is not easy to trace. I do not know how far that would go, and I would hope it would not violate in any way first amendment rights. We are only talking about when money is requested through the mail. How does that strike you?

Mr. FLETCHER. Offhand, I am not sure whan kind of problem it would be.

There are a lot of legitimate businesses, Sears, Roebuck & Co., for example, which do use post office boxes, and they are in effect requesting money through the mails for merchandise ordered and so on. So it is something that will require more thought.

Mrs. FENWICK. I see what you mean, but we have to do something.

Mr. FLETCHER. This is a problem that needs addressing by everybody at all levels of government and private organizations. We have a role and I think the legislation the chairman has introduced will help, but everybody has a responsibility in this, public and private.

Mrs. FENWICK. Yes, but you know, that is nobody's responsibility. The trouble is, we are never all going to be alert. And it seems we have to have some teeth somewhere to catch people.

Mr. FLETCHER. When you were a State official, you had actions you could take that we as Federal officials cannot.

Mrs. FENWICK. We ought to find out what we can do here, this is where we are operating now. And we would like to learn from you any suggestions beyond those already proposed.

Thank you.

The CHAIRMAN. Thank you, Mrs. Fenwick.

Mr. Pryor.

Mr. PRYOR. The lack of recourse for the victims seems to be one of the paramount concerns and issues as to how to correct, taking each of these individual cases here that we have had this morning, the recourse for them really has been sort of indirect, maybe a few of these individuals have been indicted, but as far as getting any money back there was nothing there.

I am wondering if as far as through the mails, I do think we may have a first amendment concern with regard to newspaper publications, but through the mail, and that is how an elderly citizen receives so much of their communication, I am wondering if we could not utilize the full force of the State offices of the attorney general, because I think all 50 of the States now have within each office a consumer branch or a consumer advocacy program or agency of some sort. And I know Good Housekeeping has a seal of approval or something of that nature. I wonder if through the mail, we could not require those submitting publications through the mail to have a stamp basically of approval from the attorney general's office in that respective State. What sort of bureaucracy would you have to create?

Mr. FLETCHER. Some kind of bond. We have a program in our inspection services where we monitor publications. We have inspectors assigned to review certain publications for the most blatant sort of things which in our experience, indicate fraud. But in a lot of cases, the initial ad may not appear to be fraudulent. In addition a salesman comes out, as in Mrs. Nord's case, and makes verbal misrepresentations, perhaps a bonding situation might be something to consider.

Mr. PRYOR. I yield back the remainder of my time.

The CHAIRMAN. Thank you.

Mr. Marks.

Mr. MARKS. I do not want to detract from the seriousness of these stories, but I must say, Mrs. Nord, you have given me the greatest idea yet to get even with my mother-in-law, if I could just make a pie.

The very troublesome stories we have heard here this morning do not appear to have covered the waterfront. There have to be hundreds and hundreds of more schemes. I think the frustration the chairman has and the committee and certainly I have is how can we better protect our citizens from these schemes.

At one point in time I was not certain the Federal Government could be as helpful as State governments. However, I think we have to begin to direct our pressures from here down to the States.

I am curious, Mr. Fletcher, not only because one of those machines took advantage of a constituent from my district, which happens to be Erie, Pa., but I am curious, are there certain States which do more than others in an effort to protect their citizens? I wonder if you would mention a couple of those States.

Mr. FLETCHER. Yes, California, New York, New Jersey—there are others that do not come readily to mind. We have contacts and liaison with the protection units in the States' attorneys general offices because frequently we may get on to something that the States can handle more quickly, something that is a local problem more than a Federal problem.

Mr. MARKS. Is there a coordination between the State offices and your offices?

Mr. FLETCHER. Yes. In some States, we get a lot of cooperation, from others not as much.

There was a meeting under Virginia Knauer's auspices of people in the various States. So I think there is an effort being made in this area to provide better coordination and cooperation.

Mr. MARKS. The chairman and the Senator both mentioned the question about the media.

I noticed that most of these schemes initiate themselves through the newspaper, yet I would assume that television and radio also offer an entry to these people with these schemes.

To your knowledge, are the television people, the local stations, and are the local networks—the local stations more than the networks any more able to look into the background of some of the offers made to these people?

Mr. FLETCHER. You get much less in television and radio than you do in newspapers and magazines. It costs too much to advertise. I have seen some of our medical fraud offered on television, hair growers and this type of thing. But it is very limited.

Mr. MARKS. Are the major newspapers, as far as you know, allied in some way through their association that gives them the opportunity to delve into the various schemes that are set forth in their advertising pages?

Mr. FLETCHER. Some do, some do not. Generally, they all feel there is a limit to what they can do. We have had fraud schemes originate from advertisements in the Wall Street Journal, but again, these are the ones that mimic more successfully the more legitimate ones.

We have had what we consider a blatant advertisement in connection with medical fraud which I know the chairman will be looking into in the Washington Star and other large newspapers, full-page ads which are blatantly fraudulent on their face.

But I think most of the responsible newspapers would like not to publish fraudulent advertisements or be a party to this process, but it is very difficult for them to screen out some of the very more cleverly worded advertisements.

Again, if you are interested in this franchise, or interested in this, call this number or write this box, then the real misrepresentation may be made not in the newspaper ad, but in person by a salesman. It is a difficult, difficult area.

Mr. MARKS. Thank you, Mr. Fletcher. Thank you, ladies and gentlemen.

The CHAIRMAN. Thank you very much.

Have you any other suggestions?

By the way, Mr. Fletcher, suppose these culprits, people engaging in these sorts of nefarious schemes, fearful of being caught in the use of postal facilities, which is a Federal crime, say we will use the telephone, we will not ever use the mails? Is there law today that would make them subject to fraud?

Mr. FLETCHER. Yes, there is a wire fraud statute.

The CHAIRMAN. If they operated wholly in the State, that would be up to the State.

Mr. FLETCHER. If you use the mails in a State, then it would still be Federal.

The CHAIRMAN. Suppose they just used the phones?

Mr. FLETCHER. It is very difficult not to use the mail in the transaction. The mail fraud statute prohibits use of the mails or "causing" the mails to be used in connection with a fraud scheme. It may be that somebody will write you a letter, one of your victims may transmit something to you. So the fraud operator himself does not have to use the mail. It is a pretty broad statute.

The CHAIRMAN. Did you have a question, Ms. Fenwick?

Mrs. FENWICK. In New Jersey we had treasure chest scheme, devised by a company from Ohio. They were willing and anxious to pay a fine to the State of New Jersey, but I made them give back $15 or $5 to each of the people who had been defrauded.

But the pyramid scheme has been declared fraudulent and it is often easy to control medical advertising. One company was advertising an aphrodisiac which on the face of it was fraud. It was not effective.

It is enough to boggle the mind. I cannot see why we cannot say, you cannot offer these items or issue these advertisements for merchandise.

I know you mentioned Sears, Roebuck & Co. but Sears, Roebuck & Co. gives an address. You know where Sears, Roebuck & Co. is, and we could easily require them to put their address on their request. We found that to be the most useful thing, because it stopped the ease with which these people would move from one fraudulent scheme to another. We have to do this.

The CHAIRMAN. Thank you, Mrs. Fenwick.

Thank you. Our reporter does an excellent job.

Well, I want to thank every one of you, Mr. Fletcher, Miss Nord, Mr. Steinleitner, Mr. Marcus, Miss Moore, and Mr. Waters, for your extremely good testimony.

We have several additional statements from fraud victims, and I will submit them for the record at this point.

[The material submitted by Chairman Pepper follows:]

INDEX TO ADDITIONAL STATEMENTS

The following statements were prepared by the staff of the House Select Committee on Aging on the basis of Court documents or letters of complaint to the U.S. Postal Service, Federal Trade Commission or other Federal or State regulatory agency. Telephone interviews were conducted to reconfirm facts alleged in these documents.

PREPARED STATEMENT OF HOMER BRANSTETTER, HARTSVILLE, MO.

Mr. Chairman and Members of the Committee, my name is Homer Branstetter. I am 69 years old and have been a farmer all of my life. I live in Hartville, Missouri. Sometime in late 1973 a salesman for the Progressive Farmers Association (PFA) arrived at my home and told me that PFA was a newly formed company operating as a farmers co-op in the state of Missouri and that investing in PFA was much safer than putting money in the bank.

The salesman told me that if I were to invest $360 a year for 12 years that I would receive a certificate called an "estate builder" which would be worth $15,791.50 at maturity. He promised me a great deal more buying and selling power if I belonged to PFA. He told me that they were going to build a store in Springfield, Missouri at which members could buy cars, tractors, trucks and many other items at 10 percent above cost, thereby cutting out the middleman. He told me that this store would be a market place for farmers to bring their product and sell it to the public.

He told us PFA would bring farmers closer to the consumer. He told us that we had better move fast if we were going to get in on the charter membership of the first 1,000 investors who were supposed to get a much higher dividend than the next 5,000 investors. I gave my check for $360 to the salesman to purchase one of the estate builders. A few weeks later a second salesman from PFA dropped by and told me that time was running out for the first 1,000 investors and suggested that I buy another certificate. It was a high pressure sales pitch. He said the funds were needed to build a slaughterhouse and large retail outlet stores in the Springfield area. He stated that these stores would be established in such a way that farmers could lease a retail stall and sell produce and meats directly to consumers. The salesman provided pictures of the proposed buildings and blueprints to be erected. He made it all sound good so I invested another $360 for a second estate builder.

A year later a third PFA salesman arrived with more tales about the growth of PFA and encouraged me to buy PFA bonds which he said paid 9 percent interest which was much higher than we could get anyplace else. He also said we could withdraw our money anytime we wanted from the bonds. We relied heavily on this promise before withdrawing $30,000 from our savings account for one bond with a face value of $30,000.

We heard that PFA salesmen were selling mortgages which were estate builders secured by property of some kind supposedly in the same amount as principal on the promissory note. We found our later that the property which they had purchased for $100,000 had been valued at $4 million by means of a fraudulent appraisal.

A few weeks before PFA went bankrupt another salesman appeared at our house and offered to sell us stock in the company. We decline the offer.

At the trial or from Postal Service investigators we learned that about 100 percent of the money that we paid in went to commissions split among the salesmen and PFA officers. Obviously, we would not have invested had we known this point. Needless to say, none of the stores ever opened. The slaughterhouse was never built and all the promises about bringing the farmer and the consumer together went up in smoke.

We were glad to hear that these PFA people have been found guilty of fraud and racketeering. They have stolen $12 million or more from some 6,000 people like me who are finding it very tough just to get by in these times of high inflation. I hope you can do something to stop those who prey on the poor and the elderly so that others will not have to suffer the heartache that we have.

PREPARED STATEMENT OF DARA H. BRINSON, REIDSVILLE, N.C.

Mr. Chairman and Members of the Committee, my name is Dara Brinson and I live in Reidsville, North Carolina. I am 73 years old.

My problems began on March 31, 1979 when I bought $5,000 worth of International Investors stock; the company is a Bradford Trust Company mutual fund. From the phone calls I received subsequently I feel they must have broadcast my name on the evening news.

First Guaranty Metals Company was one of the first to call offering to sell me gold on margin. I was ignorant of stock market procedures and I assumed they were talking about gold futures. I had read a little about grain futures in my farm magazines.

I ignored this and the other calls I received until December 16, 1979. At that time a second salesman from First Guaranty called trying to sell me silver on margin. He quoted me prices which I had heard on the radio. He told me to get in on the action because silver was going to go sky high. On December 19, he called again with the same message. I asked him what was the smallest amount that I could buy. He told me it was 2,000 ounces and that if I were interested to wire $7,500 to the Company's account at a Miami bank by 2:00 p.m. that day. I arranged to have the money transferred. Later this same afternoon the salesman called me back to confirm the receipt of my money.

The salesman began to call me every day to tell me that the price of silver was going up, up, up, and that I had enough equity to buy more without paying more money. So I told him to buy me another 1,000 ounces. This went on until I had purchased 10,000 ounces. The last buy on my part was Juanuary 3, 1980. When the price of silver hit the $40 an ounce mark, I ordered him to sell my $400,000 worth of silver. The salesman told me that I would be losing money because they were not trading on the market and their selling price was lower than the market price (by as much as $12 an ounce I found out later).

Sometime in the middle of January the price of silver slumped and the salesman called me telling me that my equity was getting low and that I might be called on to put up more money or be closed out. The next day I received in the mail a margin call for $44,959.08 to be paid by the 14th of January. I did not know what to do.

I went to an attorney that I used before who told me he was not familiar with the market. Time was short so I decided to raise the money which I did only by borrowing $29,000. I sent the money to First Guaranty Metals as usual.

A few days later, I went to see my broker to sell my International Investors stock. After that was completed, I showed him the papers on First Guaranty Metals Corporation. He said he didn't understand them either. He took me to a friend of his who is a Vice President with Webber-Jackson and Curtis Inc., members of the

New York Stock Exchange. This man suggested we call the First Guaranty Metals salesman and without his knowing it, allow my broker and the Webber-Jackson broker to listen in on the line. We placed calls to the firms in Boston and Miami offices. After it was over, they advised me to hire an attorney because I had been defrauded.

My new attorney told me what I had bought was an open ended call for silver of First Metals with no downside protection. He said I could not sell what I have on any exchange and that the prices they charged me were probably on the high side of the "bid-asked" spread. Basically, I could only sell my silver back to the people I bought it from but at a much lower price.

I understand that on June 12, 1981 the Commodity Futures Trading Commission obtained a permanent injunction against the officers of First Guaranty Metals and its parent company, Trending Cycles. The CFTC says that the firms ran an elaborate "boiler room" operation based in Miami and that the officers marketed so-called leverage and cash forward contracts through the use of long-distance telephone solicitations and the mail which were false, deceptive and misleading. They said the firm targeted unsophisticated and unknowledgeable investors, while omitting material facts in their sales pitches. For example, CFTC said that the officers failed to inform customers that the firm sold customers at one price and bought them back at a second price which was always lower, often significantly lower than the original selling price. This is exactly what happened to me.

The Court appointed a receiver and sought to bring about the disgorgement of unlawfully obtained profits. Some 800 other people were taken and total losses may approximate $10 million.

The officers entered into a consent agreement which prohibits them from bringing about further violations and from disposing, destroying, mutilating, concealing or altering any of the company records. The FBI issued search warrants and the criminal case against these officers and the salesmen who cheated me and thousands like me remains active today.

Thank you for allowing me to offer this statement. I hope this Committee can bring about the enactment of reform measures to protect others from this kind of abuse.

Prepared Statement of Nita M. Brumley, Lubbock, Tex.

Mr. Chairman and Members of the Committee, my name is Nita Brumley and I live in Lubbock, Texas. I worked for 24 years in a local hospital as a staff nurse anesthetist. A few years ago I opened my own business in which I contract out my services as a free lance nurse anesthetist.

During a period in which I was trying to establish my consulting service, I was looking for part time work that I could do during my idle time. I answered an ad in our local paper placed by Investment Services International. The ad promised that several thousand dollars could be made working part time selling jewelry.

In answer to the ad, a meeting was set up between myself and a company representative at a local motel. He told me I needed to give a deposit of $695 on the spot and that if I were accepted by management, I would be required to give an additional $2,780 for a total of $3,475.

For my money I was to receive five jewelry showcases, a hundred pieces of costume jewelry for each showcase, high traffic locations for the showcases and a projected twenty sales per week per showcase.

Even though it constituted a good chunk of the money that I had set aside for retirement, I made the investment after checking with the Better Business Bureau, (BBB). I was to learn later that the company had paid an insider at the Hartford BBB who sent letters of endorsement for the company to affiliated offices throughout the country.

Needless to say, I lost all of my money but I was in good company since about a thousand people nationwide had been taken in by this scheme which ran for six months in 1978 and then collapsed like a house of cards. I testified at the trial in Hartford some months ago and learned that total losses may approximate $2 million. Like me, most investors received nothing for their money.

The parties who masterminded this fraud were convicted and sentenced to jail for a couple of years which in practice will mean that they will serve a few months and then be eligible for parole. This hardly seems like a sufficient deterrent to me.

I hope there is some way that you can strengthen the hand of the U.S. Postal Service which appears to be the most effective agency in stopping these kinds of frauds. Much more needs to be done to stop the growing number of white shoe con men who perpetrate these schemes on the unsuspecting.

I appreciate the opportunity to present this statement.

Prepared Statement of Dallas Colvin, Iberia, Mo.

Chairman Pepper and Members of the Committee, my name is Dallas Colvin. I am 59 years old. I live in Iberia, Missouri. For many years I worked for the Missouri National Guard until I was retired on a disability because of a heart condition. I am one of some 6,000 people who were defrauded in an elaborate securities scandal perpetrated in three states known as PFA which stands for Progressive Farmers Association. I had promised to appear before you personally this morning to tell you how I lost $49,926 in this scheme. Unfortunately, my physician has ordered me not to make the trip. I apologize to you but I wish you well in your important work.

My involvement with PFA started in 1973 when a man came to my home whom we had known because he had previously sold us insurance. He told us he learned about this marvelous new investment opportunity and that he was going through his list of old customers and thought of us. He told us that we should buy one or more "estate builders" which would involve our paying $360 per year for 10 years and at the end of 20 years we were supposed to get about $16,000 for each estate builder. Instead of paying $360 per year for 10 years we could pay $4,000 at once and be fully qualified for the $16,000 pay off. He said we were getting more than a financial investment: we would have more buying and selling power if we joined PFA. We were told that they were going to open stores where we could purchase goods and services at substantial discounts. The idea was to bring suppliers together with purchasers and cut out the expenses of the middleman. The idea sounded good.

I invested $1,082 for the first years payment on three estate builders. On June 8, 1974, I paid off these three securities in full at $4,000 each paying a total of $12,000. I did this at the urging of a PFA salesman who told me they needed the money to get going.

On November 4, 1974, another salesman came to visit who told me more money was needed for the buildings which were to be constructed in Springfield and elsewhere. I was pressured to buy a bond with a face value of $10,000 which was represented to be as safe as bank bonds.

In January of 1975, I was persuaded by yet another salesman who told me how well things were going at PFA and to buy stock in PFA. I gave my check for $8,692 on the 20th.

On June 27, 1975, another EPA salesman came to me with mortgages which he said were securities backed by land. He showed me a financial statement showing the firm had acquired $4 million worth of land. I did not learn until later that they bought aired land for something like $100,000. The company had obtained fraudulent estimates to make their balance sheet more favorable and to facilitate the sale of securities backed by a deed of trust on this land. I paid them $6,000 for these secured instruments. On September 15 of the following year, I paid another $1,000 for a PFA bond with a face value for this amount. A month later on October 5, 1976, I purchased something like $11,000 in stock.

Throughout this entire nightmare, I was driven by a desire to provide for myself in the future since I could no longer work and to provide for my family and relatives in the case of my death.

I relied on the statements made to me and the materials given to me by salesmen with the company. I felt I had every reason to rely upon the accuracy of the statements made to me because I assumed a fraudulent operation of this size certainly could not escape the scrutiny of Federal and statement government officials. Even to this day, I wonder why the company could operate in three states from 1973 through 1978 and rob so many people without coming to the notice of the law enforcement community. If I had known that my money was not being invested to build the farmers co-op stores—and it is clear that none of them were ever built—and that my money was simply divided up between the salesmen and the principals of the corporation, obviously, I would not have invested.

What troubles me is that I don't believe anything has changed since I was caught up in this web with 6,000 others. True, the operators of PFA have been convicted of fraud and racketeering late last year and are now appealing their conviction. However, I don't see any changes in State or Federal law or any increase in enforcement efforts by the agencies charged with responsibility to make these schemes impossible.

I remain scared by this experience. I am still sad and depressed over the loss. I don't see any way I'll ever see my $50,000 again, but I would appreciate anything you can do to help others.

PREPARED STATEMENT OF ROBERT C. DAGENHART, SR., MOUNT HOLLY, N.C.

Mr. Chairman and Members of the Committee, my name is Robert C. Dagenhart, Sr., and I live in Mount Holly, N.C. I am a retired Colonel in the United States Army and a Veteran of World War II. I am semi-retired at the present time because I suffer from a disability.

In July of 1978 I responded to an ad in the *Charlotte Observer* which stated that thousands could be made in owning and servicing vending machines. The ad had been placed by Sentinal Distributors, Incorporated of Palo Alto, California, allegedly operated by Robert F. Donovan.

I met with a salesman and agreed to buy 10 candy and gum vending machines and 7 cases of Wrigley's gum for which I paid $9,085. I was promised the best locations in town to be picked jointly by me and the company locator. This person was also to give me on the job training. I was told that I could make a minimum of $8,290 profit in the first year based on the assumption that each machine on the average would do 15 vends a day.

The company promised to relocate my machines within 90 days if I was not satisfied and said that I would be eligible for an expansion plan, but they would not answer my letters and I never received either the machines or the candy and gum that I ordered.

I requested a refund of my money plus 5½ percent interest on January 2, 1979 but there was no response.

As I stated, I am a disabled American Veteran and I have worked all my life to accumulate $9,085. That sum represented almost my entire life's savings. I planned to leave this money to my son in my will. I thought that a distributorship in Sentinal Distributors, with vending machines in place in profitable routes would be an equally suitable legacy. Now the money is gone and I am left with bitterness and empty hopes.

I am glad Mr. Donovan was convicted and sentenced to 3 years in jail plus 5 years probation, provided that he makes a restitution of $180,000, on June 22, 1981. I only wonder what took so long. Why did so many people have to be cheated before the man's schemes could be brought to an end. Why is there no way for some of us to get our money back? The perpetrated had to do something with the money. The question is what and where. There has to be some way that we can bring about restitution to victims such as myself.

I hope this Committee will move swiftly to enact protections for the increasing number of us who are fleeced every year. In doing so, I think this Committee should take note that not only the frail and feeble elderly are cheated. Some of these schemes are sophisticated enough to take in all but the most cautious among us. There needs to be increased enforcement activity at the Federal level to prevent this from happening. Seemingly, controls are very lax at the present time.

PREPARED STATEMENT OF RICHARD DECKER, NORTH NORWICH, N.Y.

Mr. Chairman and Members of the Committee, my name is Richard Decker and I live with my family in North Norwich, New York.

In January 1979, my wife and I signed a contract to purchase 3 vending machines at roughly $1,000 a piece from a subsidiary of CAB Enterprises of Atlanta, Georgia.

We were to receive three machines along with secure, high traffic locations and a guarantee of the return of our investment plus 10 percent in the first year. We were told we could make a good income by working only 4 to 10 hours a week servicing the machines.

I gave a cashiers check for $3,180 to the firm's representative who visited our home.

I received nothing in return for my money. My wife and I complained to the company with no result. We then began to write letters and learned that the company had similar subsidiaries who dealt in distributorships for religious books, jewelry and nurseries in addition to vending machines. We learned that all of these firms were under the direct or indirect control of Claude A. Blanc and/or his family.

We learned that the Georgia Securities Commission had issued an order of prohibition against the company and that the Court had appointed a receiver in November 1978 freezing the assets of the company.

Prior to our investment we were never advised of the company's checkered history or of its on-going problems with authorities. On the contrary the firm was represented to us as upright, respected, national in scope and solvent.

My wife and I are still very angry that we could have been taken in by such a scheme. We are sad that so many others have been taken and that authorities could do nothing to stop this operation which apparently has been in operation for many years.

We implore this Committee to fashion a remedy which would give people like us access to the Federal courts when it is proven that there is a scheme which is national in scope, crosses state lines and affects large numbers of senior citizens. Only by fashioning some kind of private right of action will we prevent people like my wife and I from being hurt in business and investment cons.

We appreciate anything you can do.

PREPARED STATEMENT OF ALBIRDA DIAL, ANTHONY, TEX.

Mr. Chairman and Members of the Committee, my name is Albirda Dial. I live with my husband, Barney, and 42 year old daughter, Connie, in Anthony, Texas which is about 20 miles north of El Paso. In April of 1978 we responded to an ad in the "Business Opportunity" section of the El Paso Times. The ad had been placed by a man named Thomas Conte, an officer in Tom Thumb Plant Centers of Tuscon, Arizona. The ad featured several dollar signs, words to the effect: "Plants, Plants, Plants—Grow Plants in Your Own Backyard." There was also a statement in the ad that thousands of dollars could be expected a year from this enterprise.

Since Barney was about to retire and suffers from emphysema, we were looking for something that he could do that would not be too taxing as a way of supplementing his social security retirement income. Since my daughter had polio as a child and has been confined to a wheelchair ever since, we were also looking for a business in which she could contribute and Tom Thumb Plant Centers looked ideal.

We called the number on the ad and made an appointment with Mr. Conte who arrived at our home armed with pictures of greenhouses and papers showing projected profits. The ad had suggested we could make $13 to $14,000 a year. He told us that he would guarantee that we could make at least $9,500 a year for our initial investment of $6,500. He said that for that amount of money he would provide:

(a) A fully functional greenhouse 14' x 27' in our back yard; (b) some 4,000 healthy starter plants; (c) the soil for the first planting; (d) all the pots we needed, (e) perlites, (f) fertilizer; and (g) insecticides.

He described our investment as a turnkey operation meaning that in exchange for our $6,500 he would provide us with everything that we needed to produce healthy plants. He said that if we raised plants of good commercial quality he would buy them back from us after eight weeks paying us a minimum of 80 cents a plant. He said: "I don't see any way where you can get hurt because you pay off relatively fast. In other words, each time you get paid that's that much less you have in your investment."

Mr. Conte gave us the impression he had been in the plant business for 5 years and that he had several outlets that were waiting for plants. He implied there was so much demand that he had to order plants from California because he did not have enough growers. He indicated that he needed four growers in our area and that he had just signed three. He created such a sense of urgency and made it sound so attractive that we thought we might as well sign. After a second meeting of April 6, we did just that. We took out a mortgage on our home in order to make the $6,500 investment. We were to give half of the money before construction started and the rest upon completion. Construction was to be complete and the greenhouse fully operational from 3 to 4 weeks after we gave the $3,000 deposit. We made the payment and construction started on May 3, my husband's birthday.

From the very beginning of construction we suffered disappointment after disappointment. The quality of the construction was extremely shoddy. Promises made to us about materials and structural aspects of the greenhouse were broken with seeming unconcern. I would like to offer the Committee a few examples.

The men constructing the greenhouse came from Tuscon. They were in such a hurry to get home that they took all manner of shortcuts. The roof was supposed to be of frosted fiberglass to reduce the effect of the desert sun. We were told they quit making the frosted and ordered the clear fiberglass. The fiberglass was mounted crooked on the roof so that the panels did not match properly. The greenhouse leaked like a sieve. We complained and the company sent back its workmen who merely squirted sealing compound in a few places and left again. We called again to complain. No response. We had been promised that the clear fiberglass would be painted or that the company would install a shade cloth over it. Nothing happened. The temperature inside the greenhouse hit 120 degrees. Finally, after more calls the company sent back the workmen who threw parachutes over the roof and haphazardly nailed through the fiberglass, often missing the wood beams and thereby causing more leaks. After a number of calls we came to the conclusion that more pleas would be useless and my husband had to climb up on the roof himself. He used more than a dozen tubes of caulking compound before the roof was reasonably waterproof.

Even though the contract called for us to make the final payment of $3,500 after the greenhouse was complete, Mr. Conte came by and told us he needed the money and that if we would pay him the balance, he would discount our contract by $500. We paid the remaining $3,000.

But the battle continued. The more work the men did, the more they left undone. We had to call the plumber and the electrician. The heater they installed in the greenhouse was not connected. The thermostat was not operational. The vent pipes were not wrapped in asbestos. The air conditioning did not work effectively. We were promised 6 grow lights but got only 2 and even then they were not connected. They promised to move gas and water lines that ran under the greenhouse but did not do so. We called and called but nothing happened so my husband wound up making the repairs or we paid to have them done. The company told us to save our receipts. They said they recognized this was their responsibility and that they would pay us back.

Later we discovered that they had failed to construct two tiered benches to accommodate the plants as called for under the contract. We needed as much room as possible to store the plants. When we called they said not to worry because the oversight was purposeful. They said they were planning to put a sprinkling system in for us. Soon, they told us the bad news that the sprinkling system would not work in our greenhouse because of some flimsy excuse.

The company had promised to build cement walk ways in the greenhouse so that my daughter could navigate her wheelchair through it to tend the plants. The men even measured her wheelchair. The company on its own decided the walkways would be of wood and not cement. It would not have done any good to protest. The men threw down large pieces of plywood, put wooden blocks under the corners and nailed not into any foundation, but into the sand. Needless to say the plywood pulled up easily and the platforms were anything but safe and secure. Once again my husband was left to try to make something out of the mess they left. "Save your receipts, they told us."

The 4,000 plants we were supposed to receive to start our business were never delivered. We received about 500 plants altogether and they were badly infested with tomato worms and leaf rollers. We protested and asked for insecticides. Nothing. We had to buy some insecticide from a local nursey. We asked for more of our promised plants and were given excuses about the shipper having problems and a blight in California had destroyed their expected supply. We found out later the plants we had received initially came from 15 miles from our home.

We finally completed the greenhouse ourselves. We bought plants and tried to sell them with little success. There were recurrent rumors that the company was going bankrupt. We asked about our money, they said to be patient. We raised numerous plants of good quality but they did not buy back a single one from us. The only money we received was a $162.00 check in repayment for shipping expenses we had paid in June. By January 1979 the company severed their relationship with us and went bankrupt. We were left with a $6,500 mortgage which we are still paying off at the rate of $153.00 a month. We learned that they swindled over 30 people, most of them elderly, for a total in excess of $150,000.

We hope this Committee can do something to protect other older Americans from those who would steal their hard earned dollars through fraud and deceit at the very time in their lives when they need income the most.

Prepared Statement of Sharon Finney, Beeville, Tex.

Mr. Chairman and Members of the Commitee, my name is Sharon Finney and I live with my husband and family in Beeville, Texas.

In June of 1978, I noticed an ad in the Business Opportunity section of the Corpus Christi Times. The ad had been placed by National Nurseries, a subsidiary of C.A.B Enterprises owned and operated by Claude A. Blanc of Atlanta, Georgia. The ad held out the promise that we could make $1.00 a month in our own home by growing plants. I was very interested in the ad because I was teaching at the time and I wanted a way to be able to earn money while staying at home to raise my children. I had always been interested in plants; this looked ideal.

I called an 800 number given in the ad and spoke to a salesman who sent me some material which promised a reasonable income predicated upon hard work. A few days later a salesman called upon us. He told us that National Nurseries was a viable concern and a subsidiary of a well established corporation. He said that for $5,955 they would provide us with a 15 by 20 foot greenhouse on our land, with all the plants and supplies we needed to get started and a guarantee to buy back the

plants which we had raised presumably for sale in National Nurseries outlet stores. We were guaranteed that we would make back 100 percent of our investment within 15 months. We gave them a $600 deposit to hold our franchise until they could check our credit references. A few days later we were told we qualified and that we should send a cashier's check for the remaining $5,395 to CAB Enterprises in Atlanta. We followed these instructions.

About two months later, after much complaining on our part the company finally sent workmen to put up our greenhouse. They were a fly-by-night crew—literally. They arrived at our house at 8:00 p.m. They turned on their headlights and while consuming several cases of beer put together the shoddiest greenhouse that you have ever seen. They didn't finish their work until 2:00 a.m. I complained bitterly and was told that this was just a contingency crew and that the company's official builder would be in touch with us. Once again after numerous complaints a man finally arrived who worked hard to make the greenhouse acceptable to us.

I was saddened to see that the greenhouse was not equipped with the professional equipment that we had expected. Instead of the standard heavy duty nursery spray we received a plastic sprayer that would retail for 99 cents. Instead of professional temperature and heating we received a plug in space heater which obviously was inadequate to do the job.

We got our greenhouse built so late and our supply of plants was also so tardy that we were not ready when the company called to tell us they were coming to pick up some of our plants. I now have severe doubts they ever intended to buy back a single plant.

On or about March of 1979 we got notice from the company that Mr. Blanc had sold his business to a man named Robert Yuill and that the successor in interest was going to close down the greenhouse aspect of the operation. We were told that Mr. Blanc no longer had any association with the National Nurseries firm although this is contraverted by statements of others.

In about May of 1979, National Nurseries declared bankruptcy and thousands of individuals all across American lost their investment. I was heartbroken. I had borrowed the money and was paying off a loan at the rate of $182.75 a month. Last month I just made the last payment on that loan.

I spent even more money to hire an attorney who told me that there was no way that I could recover my investment. I wrote letters to Congressmen, and to the Federal Trade Commission but nothing helped.

In retrospect it is clear to me that we were taken for more than $6,000 in this elaborate scheme. I hope the Committee can do something to prevent others from having to suffer the way that we did.

Prepared Statement of Doris Joan Fisher, Washington, D.C.

Mr. Chairman and Members of the Committee, my name is Doris Joan Fisher. I have a home in Boca Raton, Florida. I am presently living with my family in Washington, D.C.

I am here to tell you of the unhappy experience I had with Claude A. Blanc Enterprises then of Ft. Lauderdale, Florida and more recently of Atlanta, Georgia.

In late 1974, looking to the future and toward a secure retirement, I contracted with a CAB subsidiary called Fountain of Youth. On November 8, 1974, to be precise, I signed a contract to purchase 10 water purification vending machines. As the name suggests the machines featured a filtration system and vended purified water. I had seen or heard about similar machines which were very much in demand in Florida and I assumed they would be a good investment. My check for $6,734 was given to the company's representative.

A few days later I signed a contract for 10 more of these machines on condition that the first group of 10 be delivered before the end of 1974. We received notice that the machines had arrived at a local transfer firm sometime after Christmas so I paid the money for the second group of 10 machines. In January, a company representative arrived to show me locations he had picked out for the machines. I found out later he had not obtained permission to install them at the location—he had just picked out the locations.

We were told to wait for the arrival of a second company man who would connect the machines to water lines and make them operable. This second man never arrived.

On March 31, 1975, my patience was at an end so we decided to get a U-Haul and pick up the machines ourselves. A few days later we opened the crates in order to install some of the machines ourselves and were sadly disappointed. Some of the machines were just empty cabinets. Others had pipes which were broken. Still others had no filter or broken filter systems and the coin mechanisms were sometimes defective or missing. None of the 10 machines—which were supposed to be brand new—were operable.

I had given Claude A. Blanc Enterprises more than $20,000 and I had nothing but junk to show for it. I hired an attorney which cost me even more money but to no avail. I wrote to the Better Business Bureau and the Federal Trade Commission but nothing happened. I had been taken and I was powerless to do anything about it.

In the meantime I have learned that I am not alone. There must be thousands of people in America who are alumni of the same CAB ripoff club as I. Your committee has several statements from others some of them elderly and I am sure the files of the FTC and state consumer agencies are replete with complaints—all to no avail.

For example, Jerry Pratt of Apple Valley California wrote to President Carter on September 25, 1979 saying he had lost $3,180, all the money he had in the world, to a CAB subsidiary and received nothing in return. The same thing happened to Richard and Janet Decker of Norwich, New York a month earlier. Mr. R. B. Lal of Henrietta, New York paid $3,210 to the company representative in April 1979 and never heard from them again. Walt Guyer of Wilmington, Delaware and Donna Zithevich of Penns Grove, New Jersey both lost $6,000. They were told that Carte Blanche Credit Card Company was the parent of this vending machine supplier. This is false. Sharon Finney of Beeville, Texas lost some $4,000 in a greenhouse and plant growing scheme. Charles Gardner of Lancaster, California lost about $10,000.

It has been several years since we lost our money but the pain lingers on. The closer I get to retirement age the more important the event seems. There is some security in numbers but I cant help wondering how it was possible for so many of us to loose so much money. What's wrong with our system that will permit this kind of long-term ripoff of so many by so few?

I hope that this committee can find the answer and do something to protect consumers from similar schemes.

Prepared Statement of Charles L. Gardner, Lancaster, Calif.

Mr. Chairman and Members of the Committee, my name is Charles Gardner. I live with my wife in Lancaster, Los Angeles County, California. I am 61 years of age.

On March 22, 1978 I read an ad in our local paper the Lancaster *Daily Ledger-Gazette* placed by a C.A.B. Enterprises whose home office is Atlanta, Georgia. The firm takes its name from its founder and principal, Claude A. Blanc.

The ad promised an guaranteed net profit of $360 per week for each $3,000 invested in vending machines to dispense canned soup and other hot foods. The ad said the firm had secure locations in place and wanted local people to service the machines. The company agreed to provide training and to repair the machines for one year.

I suffer from acute respiratory distress and I am limited in the kind of work that I can do and the locations where I can work. It is necessary for me to supplement my income in order to survive and this looked like just the thing I could do.

I answered the ad and was sent promotional materials. I filled out a card expressing my interest in the opportunity. A company salesman arrived at my house in April of 1978. He told me the firm was highly reputable, located nationwide, and that I had an unique opportunity to make money. He repeated the ad's promise that I would make a guaranteed $360 net per week profit by working 8-10 hours a week and if I invested $3,000 for 3 machines. He said I would make back my entire investment in the first year plus 10 percent. He told me I could count on 15 to 20 machines at $1,000 each to make even more money.

He told me that I could expect $6 a day profit per machine of $60 per day for all 10 machines which comes to something like $420 a week profit. He gave me the company's guarantee in writing that I would make at least $360 a week or be entitled to get my money back.

I paid the $10,000 and waited for my machines. I was supposed to be in business within 30 days. Some two and a half months later the machines finally came. Two weeks later a locater finally arrived to place the machines. It soon became apparent to me that the company did not have the promised secured locations. We scrounged around to see who would accept placement of the machines. The company man put the machines in place in these locations and left town. Two of my placements were rejected immediately. Though I asked, the two machines were never replaced. Therefore, I operated only the eight machines I had faithfully for eight months. I never averaged even one vend per machine per day much less 15 or 20 vends per day. The locations, needless to say, turned out to be less than highly lucrative.

I had also been promised in writing that I would have exclusive rights to represent the company in Los Angeles County, California and in the Antelope and San Fernando Valleys. I found out that this promise, too, was casually abrogated. Soon after my contract was signed the company signed a similar agreement with another investor in my area, a certain Richard Sterner. I subsequently learned that Sterner and a great many other investors in California joined me in feeling that they had been taken by the company. I understand that the State of California is contemplating legal action against the firm.

My pleas to the company to honor its guarantee or give me my money back fell off deaf ears. I have lost my $10,000 investment plus $4,000 I paid to purchase a second hand station wagon to service the machines. I hope your committee will look into this matter further and learn how many people nationwide have been taken by the assorted enterprises under the direct and indirect control of Claude A. Blanc.

Prepared Statement of James W. Goar, St. Paul, Minn.

Mr. Chairman and Members of the Committee, my name is James W. Goar, I am 67 years of age and I live in St. Paul, Minnesota.

Sometime in early 1978, I saw a television ad placed by a firm called Federal Gold and Silver. The company's chief executive officer appeared with stacks of gold coins in front of him talking about the escalating value of gold. I looked up the company and found an ad in the yellow pages of our phone book. I made inquiries and they appeared to be a legitimate firm.

I placed a phone call and talked with a sales person about this opportunity. I told him that I was going to be 65 in December and looking forward to retirement. I told them I wanted to buy 50 gold Krugerands which were selling for about $100 a piece at the time.

The coins were delivered to my bank which increased the firm's credibility with me. Within hours of their delivery I received a call from a salesman from the same concern who told me I was foolish to pay the entire amount in cash. He said that all good investors were buying on margin and putting up only 18 to 20 percent of the purchase price. He said with the price of gold going up as fast as it was I would make a killing.

I initially resisted this pitch but with successive calls I agreed. Thereafter I received a call telling me that the price of gold had gone up and that my investment had grown by this and such. I was told the gains I made were being reinvested to buy more gold. When the price of gold began to tumble, I received call after call telling me I had to come up with so many thousands of dollars or loose my entire investment. I was hard pressed to meet these payments. A couple of times the company let me give them postdated checks which I issued with the expectation that I would soon have money coming in. On one occasion in asking me about any resources which I might tap they inquired if it was true that I was the custodian of my 92 year old mother's estate. I said yes. They suggested that I "borrow" some of her funds to make the payments. I indignantly refused. I tried to sell out many times but was not permitted to do so.

To make a long story short, the firm and its principals were indicted for fraud. Several hundred people were taken for $2.5 million. The firm had not purchased gold as we had been led to believe. The principals were found guilty and sentenced to 10 years in jail in February of this year. I lost $60,058 which constituted the entire total of my retirement fund. If I had been dealing with a reputable dealer I would have made ironically $2 to $4 million. As it now stands, I have lost my pension fund and I was forced to go back to work.

I told your staff I would like nothing better than to appear before you and tell my story so that you might take action to prevent others from being taken. Unfortunately, I am self-employed as a manufacturers representative in sales. If I don't make sales, I don't get paid and because of what has happened to me I cannot afford to take the time to come to Washington.

I appreciate the opportunity to provide you with this statement.

Prepared Statement of Arthur Shaffer, Columbia, S.C.

Mr. Chairman and Members of the Committee, my name is Arthur Shaffer and I live with my family in Columbia, South Carolina. I am pleased that you have called these hearings on business and investment frauds perpetrated against the elderly. My family and I have been victimized in a cruel scheme which had a devastating effect on our lives. I regret that prior commitments prevent my being here in person, but I hope that this statement will help you make up your minds that you are dealing with a serious problem with widespread implications. Having gone through this tragedy we are convinced that something must be done and done soon.

I am 57 years of age and presently serve as Circulation Manager for The Columbia Record. I am a retired Army Officer holding the rank of Captain; I served in World War II, Korea and Vietnam. At times, material to this story, I was the City Manager of The Record. In early 1978, I read an ad in our newspaper placed by a firm based in Hartford, Connecticut called Investment Services International (ISI). The ad gave the impression that a reasonable amount of money could be made with hard work and a modest investment in vending machines. I was looking for something which could be done part time out of our home to provide additional income upon my retirement and if something should happen to me I thought that this investment would provide my wife with reasonable means of helping support for our 5 children.

I did my best to check out the company with the Better Business Bureau through Dun and Bradstreet and with the business office of our paper. I received favorable reports and decided to go ahead. I called the number on the ad and met with the company's representative in a motel in our city. The meeting was billed as an interview of prospective clients by the ISI representative. He said we qualified and proposed to sell us 6 vending machines in high traffic locations, to provide us with merchandise for the machines at stated prices as well as promising us the right to participate in a guaranteed expansion plan. We were told the price was $9,000 in cash or cashier's check, but that we could expect to recover our investment in the first year.

I paid the money and received an acknowledgement from ISI's Chairman of the Board during the first week of September. The weeks went by and no machines were delivered. My calls and letters went unanswered. Frustration on my part turned to anger and anxiety. Late in October I suffered a heart attack which I am sure was brought on by the worry and hassle over this investment. By Christmas day, I had recovered enough to write to the company demanding my money back plus 6 percent interest. Again, no answer.

I wrote to various officials with no positive response. Finally, in January 1979, I was approached by a Postal Inspector who told me that ISI was being investigated for fraud. I was only too happy to tell him that I had been cheated out of $9,000 and that I had never received a thing from the company.

In January of this year the principals of ISI were convicted and sentenced to jail sentences of 2 years and 18 months along with 5 years probation and the requirement of their making restitution in the amount of $50,000 each. Also convicted was an official with the Hartford Better Business Bureau who filed positive reports on the company for a fee with other BBB offices. ISI, of course, is bankrupt. Several thousand other Americans like me have been taken for millions of dollars. My health has been damaged and my faith in the free enterprise system has been greatly shaken. It is clear to me that we need greater governmental protections against these consciousless con men. I hope you will do something to help.

Prepared Statement of Leland Spargo, Quartz Hill, Calif.

Mr. Chairman and Members of the Committee, my name is Leland Spargo and I am the victim of a nationwide fraud scheme. I live in Suartz Hill, California.

On October 29, 1974, I entered into a contract with CAB Vending of 17935 Sky Park Circle, Irving, California. This firm was headed by John Blanc. The parent firm, Claude A. Blanc Enterprises Inc. Was at that time based in Ft. Lauderdale, Florida.

I purchased 10 hot food vending machines. The price was $3,915.32 down and the remaining $3,500 in payments secured by a promissory note. I paid the required good faith money which was $1,915, putting $2,000 in escrow waiting delivery and placement of the machines at profitable high traffic locations as promised.

I waited a reasonable time. I couldn't get through to the company. I went to the office and found they had closed their doors and disappeared. I have received nothing for my money.

After much investigation, I located the parent firm, whose credentials were used to provide good references, but they disclaimed any affiliation with the local California company. They told me they did not know the whereabouts of John Blanc.

After still more search, I found the exact same subsidiary headed by John Blanc, Brother of Claude Blanc, operating out of Birmingham, Alabama. I have reason to believe that these enterprises are part of a large scheme to defraud the citizens of this country utilizing phony business opportunities promoted largely through the mails.

In subsequent years, I have come in contact with numerous people who have been caught in this same web. The company moved its operations to Atlanta and broadened their net beyond vending machines into other schemes.

I have written to the Attorney General, the FBI and other law enforcement agencies but I have no indication that any action was taken. I find it unbelievable that schemes of this scale can be perpetrated over such a long period of time without someone coming to see that justice is done.

My family and I the hundreds of other victims I know would be most grateful if the Committee would follow up on this matter.

Prepared Statement of Earl Sultze, Soquel, Calif.

Mr. Chairman amd Members of the Committee, my name is Earl Sultze and I live in Soquel, California. I am 70 years of age. I have been a double amputee since 1925, but I have fought all my life to make it on my own; to remain independent and a productive member of society. At the present time I run a saw, knife and scissor sharpening business. Prior to moving to California from Chicago, Illinois in 1970 I worked as a Linotype and all around printer.

Shortly after moving to California I was looking for some business that I could get into. I saw an ad in our local paper about the vending machine business which sounded good to me. I paid Robert Donovan, President of Certified Vending of San Mateo, California, $4,998.70 for 10 "Chocolate Shoppe" vending machines and 10 cases of candy. The purchase agreement called for delivery within 120 days or the company would be liable for a full refund plus 6 percent interest. Shipment was not made and weeks stretched into months so I hired an attorney.

My attorney found out that Donovan had been an associate of James Stewart Amber who was convicted of fraud in the sale of vending machines sometime in 1970. Before that, Donovan had been an insurance agent. My attorney learned that he was operating a half a dozen different enterprises of a questionable nature in 1975. We filed suit to get our money back but Donovan filed for bankruptcy on October 15, 1975 with $700,000 in unsecured claims. We heard that in 1977 he had opened essentially the same kind of business and that the Federal government filed a $26,900 tax lien against him in July 1978. In January of 1979 he was finally indicted thanks to the good work of the Inspection Service of the Post Office Department.

Mr. Donovan was convicted on mail fraud and charges related to the fraudulent sales of vending machine distributorships. He was sentenced to 3 years in jail with 5 years probation provided that he make $180,000 in restitution and that he make all of his company books available for inspection.

Court records indicate that from 1977 through 1978, operating as Sentinal Distributors Inc. and Sentinal Vending Supply, Mr. Donovan and his associates had ripped off at least $540,000. Of 82 vending machines sales which were documented by investigators, 47 people received nothing and the 35 who did receive the machines had difficulty keeping them operating or the locations promised by the company in its advertising and in the contract it signed with investors turned out to be worthless. Interestingly, court records show that some of the original Certified Vending forms which Donovan had used in 1974, were used in the sales of vending machines by the successor, Sentinal Distributors.

It is some satisfaction to me that this man who cheated me eight years ago has been convicted and at long last will serve some time in jail. I feel very sorry for the hundreds of people that joined me as victims of these business and investment opportunity schemes. I can only guess that millions and millions of dollars have been taken from the poor, the disabled and the elderly. I am sorry there is not more protection out there for those of us who simply want to make an honest living.

The way I see it at the present time, most of these professional con men see business fraud as an easy way to make big money. They do not appear to have any fear at all that they will be caught, less fear that they will be prosecuted and no fear at all they will serve time. Even if they are convicted and sentenced to jail, many feel the risk has been worth it if they have been able to squirrel away a few million in a Swiss bank account someplace.

Thank you for the opportunity to present this statement. I'll never see my money again, but I'm heartened to know this Committee cares about people like me and is trying to help.

PREPARED STATEMENT OF FRANK R. WEICHOWSKI [1], CRUM LYNNE, PA.

Mr. Chairman and Members of the Committee, my name is Frank P. Weichowski. I live in Crum Lynne, Pennsylvania.

I retired from the Postal Service in 1977 after working 26 years as a machine operator. I have a high school education and very little experience with securities or commodities investments.

In November 1979, I answered an ad in the Philadelphia Inquirer which had been placed by Domestic Oil Corporation of 67 Wall Street, New York City. The ad said something like: Exxon Is Making Money, Mobil Is Making Money in Black Gold, Why Shouldn't You? I sent in the coupon provided in order to learn more about the investment opportunity. I did not include my phone number.

However, I soon received calls from a company salesman who sold me on buying one unit of crude oil on a six month contract. They said one unit consisted of 1,000 barrels and that the price was $8,950. They told me I should be able to double my money and emphasized that the price of oil was going up and would probably go up much higher because of the crisis with Iran. They told me I could get my money back any time I wanted by liquidating the contract. I was left with the impression that my money would be pooled with that of others to buy crude oil which would be sold at a profit on the Spot Market and that we would all share in the profit.

At the salesman's insistence, I wired $8,950 to the company's account with the Sterling National Bank and Trust Company of New York on December 5, 1979. On December 12, I received an acknowledgement showing I had purchased a contract for 1,000 barrels of oil at an aggregate cost of $42,850. My deposit of $8,950 was shown as a separate fee and a balance that I owed was shown at $33,900. I was flabergasted.

I went to see a lawyer who told me that I had purchased a contract for defered delivery of crude oil and that my $8,950 was a non-refundable fee which was, in effect, the salesmans commission. I had the right under my contract on June 5, 1980 to purchase and take possession of 1,000 barrels of oil provided that I paid the company $33,900 on that date. Then presumably, I could sell these 1,000 barrels on the open market for a higher price and make a profit. The attorney told me that oil would have to go up to $43.10 per barrel on the Spot Market in order for me to break even and offset the effect of the $8,950 fee that I paid. I figured I had been had. I complained to the New York and New Jersey Attorney General Offices.

On July 6, 1981 a Federal District Judge confirmed and adopted a magistrate's earlier findings that 67 defendants including Domestic Oil Corporation, and their Opec American Petroleum, had engaged in selling off-exchange crude oil futures contracts in violation of the Commodity Exchange Act. A total of 30 companies were involved in the scheme and 37 individuals located in the United States and Panama. The CFTC found that these individuals illegally sold crude oil contracts, used false and misleading sales and promotion material, failed to disclose adequately the risk of the transactions and willfully deceived, cheated and defrauded their customers. The CFTC worked with the New York Attorney General's Office. Attorney General Robert Abrams described the scheme which operated in eight states and one foreign nation as a high pressure national boiler room operation. He said he had obtained assistance from 31 states in the investigation. "It appears to be one of the largest potential frauds my office has investigated in decades," said the New York Attorney General.

To date eight people have pleaded guilty to criminal charges and have been sentenced to terms varying in length from one to four years in jail.

PREPARED STATEMENT OF STANLEY HILTENBEITEL, SR.

Mr. Chairman and members of the committee, my name is Stanley Hiltenbeitel, Sr. and I live with my family in Loveland, Ohio. I am a chemist by profession. Late in 1977 I was looking for some type of business opportunity which would allow me to supplement my income and which could be run largely by my wife and son. I found an ad in our local paper which led me to a small business seminar which was held in our community.

At this seminar there were numerous business and investment opportunities presented most of which looked quite legitimate. We soon became very interested in a vending machine operation. The salesman boasted of a special relationship with the Dannon yogurt company. We were told that the vending machines I looked at were specifically designed to vend Dannon yogurt and that Dannon specifically endorsed the seller who went by the name of General Merchandising. We were given no indication that the machines in question were in conformity with state and local health regulations and that we could be assured of a very good income if we purchased the machines and related distributorship rights. We were also promised that the company would provide us with high traffic locations.

[1] Excerpted from a statement given the New York Attorney General's Office.

Before I invested I did everything a man could reasonably be expected to do. I checked with the Better Business Bureau and was told that the Company had a good record. I called the name I was given at Dannon yogurt and received rave reviews. Sometime later doubts were raised about whether the person I talked with was speaking on behalf of Dannon. Relying on what I assumed was the blessing from Dannon, a well known and reputable firm, I was ready to invest.

I bought 10 machines and a refrigeration trailer paying $23,050 in early 1978. My son bought 12 juice vending machines from the same concern and paid $21,600. Our idea was to have companion machines geared to the health food crowd.

I took delivery of the machines and set out to obtain permits from city health departments to operate the machines. The City of Cincinnati and the State Board of Health refused to give me the required permits. They told me the machines were not equipped with health protection cutoff switches as required and were therefore in violation of state law. This means that if the power failed there would be no refrigeration allowing for the growth of bacteria in the yogurt, and the machines would still vend to anyone who put money into them, I was shocked and I was angry. I was given so many hours to collect the machines or face massive fines because they posed a health hazard. In short, I had just paid $23,050, had the machines no more than a week or so and was out of business. I had the machines in storage until a few weeks ago when I sold them essentially for junk. There is no doubt in my mind that General Merchandising knew the machines did not meet health standards when they took my money.

My son took delivery of his 12 machines. Most of the locations he was given were dreadful. From the beginning he had a problem keeping the machines operating. The problem was that the coin mechanism was in the refrigeration compartment so condensate would form and prevent the machine from vending. We went through 23 defective coin mechanisms trying to keep the machines operable. Each time, we would have to send the part back to the factory. Obviously my son realized no where near the volume of income and activity he had been promised. Finally, he gave up in disgust.

We brought suit against General Merchandising which we soon learned had gone bankrupt and left the state. We also named Dannon and the vending machine manufacturer in the suits. Our suits were recently settled. My son and I received only $9,000 back between the two of us. This is only a small amount of the $50,000 or so we invested in this scheme including legal fees and the like. We are very sad and upset to lose our money in this ripoff scheme. It is sad to think that there is little preventing others from being taken in the same way. I hope there is something this Committee can do to protect others from being taken the way that we were in this vending machine racket.

The CHAIRMAN. Now we will be hearing testimony from two inviduals who are presently serving time in Federal detention centers in West Virginia and Florida after being convicted of running elaborate frauds which employed hundreds of people. Mr. Hap Seiders and Mr. Earl Wilt, through their testimony, will assist us in understanding just how and why these schemes are developed. Also testifying will be Ms. Sandra Bourbon, chief investigator, Department of Consumer Affairs, with the State of Georgia, an acknowledged national expert on this subject.

Our first statement will be by Mr. Seiders; we will appreciate your statement.

A PANEL, CONSISTING OF: SANDRA BOURBON, CHIEF INVESTIGATOR, DEPARTMENT OF CONSUMER AFFAIRS, STATE OF GEORGIA; HAP SEIDERS, FEDERAL PENITENTIARY, MORGANTOWN, W. VA.; AND EARL WILT, FEDERAL DETENTION CENTER, EGLIN AIR FORCE BASE, FLA.

STATEMENT OF HAP SEIDERS

Mr. SEIDERS. Mr. Chairman and members of the committee:

My name is Hap Seiders. I am 28 years of age. I am a convicted felon currently serving a 10-year sentence at the Morgantown, W. Va. Federal Penitentiary for operating a fraudulent investment scheme involving rare coins.

I am pleased to appear before the committee as you look into the subject of frauds perpetrated against the elderly. I am here voluntarily to tell you about how such schemes are conducted, and to provide you with firsthand information that you could not otherwise obtain. My hope is that you will close some of the loopholes in the law which make it easy to defraud consumers. I was promised nothing in return for my testimony here this morning.

To begin with a little about myself, I was born in Harrisburg, Pa. I was raised in rural Perry County. After the sixth grade I had little interest in school. I got into trouble. I was convicted of committing a burglary and incarcerated in a facility for juveniles for about 10 months at age 16. By this time I had committed some 50 or more burglaries, all against businesses. At the detention center I came in contact with boys from the city who at this young age were already hardened criminals.

The experience at the detention center gave me an appreciation for school. I went back, completed my high school diploma, and was trained as a computer specialist. I got a job which paid $77 a week in 1972. I married and had a family.

I had always been interested in coins. Though I had little money, I had managed to buy a few coins starting when I was 8 years old. I continued to study coins and became something of an expert. While working as a computer specialist I had a small part-time legitimate business in coins on the side. It was not unusual for me to make more per week trading coins than I made in the computer field. I was soon promoted to systems analyst and learned a great deal about the world of business. My earnings from coins kept pace or exceeded my salary. I finally got the courage to let go of my job and try the coin business full time.

I did very well right from the beginning. It was much, much easier than I thought. I began to apply the business knowledge I had accumulated. My operation was legitimate until I learned how many dealers there are who dabble in counterfeit coins. Because the bulk of their business may be legitimate, they seldom if ever are caught. I began to introduce a few counterfeit coins in my operation out of a desire for even greater profits. I would take out ads in coin magazines and sell the items as genuine. When I did not get caught I introduced more and more counterfeit coins.

In 1975 I got into trouble. The coin magazines are very strict. They investigate the complaints very diligently, and where problems are verified, those accused are refused the right to advertise. This happened to me not so much because of the discovery of counterfeit coins but because I had expanded tremendously and did not have the staff I needed so I was late in filling my orders. To get around the problem, I hired people to front for me and used different corporate names and addresses. I paid people $1,000 a week to provide this service for me. Then I purchased a list of names and began direct mail solicitations.

In the years 1976, 1977, and 1978 I developed a gross income of about $3 million a year. My net income would have been a quarter

of a million dollars or more each year. I felt like I was playing Monopoly, and ironically, I lost a lot of money in legitimate business, investments in the stock market, restaurants and the like, and legal fees and the requirements to make up restitution have eaten up the rest of what I made.

I ran a scheme in which I would offer rare coins for auction by mail. This is an example. This is a silver dollar which has been minted by someone other than the U.S. Government. I was an expert and could make a coin look any way I wanted them to look. I bought this coin for $100. As you can see, it looks like a 1799 silver dollar. If it were genuine, it would be worth about $5,000. In my ad, I would say the highest bidder would get the coin. I played on people's greed.

The CHAIRMAN. You made that yourself?

Mr. SEIDERS. No, it was struck outside the United States.

The CHAIRMAN. Is that a legitimate or counterfeit coin?

Mr. SEIDERS. The coin there is a counterfeit. The collector's coin in about 1978 the coin would be worth about $5,000 to a collector or investor, if it was genuine. Today, I have been 2 years removed from the market, and the coin would be worth about $15,000 if it were legitimate.

There were any number of people who thought they would send in a low bid "just in case" to see if they might get a windfall. Maybe they thought I was sleeping or needed cash, and so on. In the case of this coin, I would get several offers for say $3,500 to $4,100. I would accept the $4,100 offer and send an invoice. Those who received my invoices could not send me their money fast enough. They thought they were getting a real bargain and they wanted to push through their end of the deal before I changed my mind or something. When I received the cashier's check for $4,100 I sent the coin. The coin looks authentic to all but the most discerning, and I had made myself a quick $4,000. I did that in pretty large volume over the years.

Mr. Chairman, I am not proud of what I did. I am very sorry. I felt some guilt at first, but then I began to rationalize that I was not hurting anyone. I fooled myself into thinking that what I was doing was not a crime. We all get swindled one way or another. For example, the minute you drive a new car off the lot it is worth half of what you paid for it. I justified it to myself because some of my competitors in the field were doing it and none of them had been caught, even though they boasted of schemes going back many years. I further justified it because I could get stuck with the counterfeit coin myself. I became an expert in detecting the coins; therefore, it was impossible for me to be swindled myself. I figured if I could get stuck with it and pass it on to a customer and not know it, I might as well know it and reap the benefits.

For the most part I tried to prey on the wealthy people. I figured they had a lot of money and so forth; and I figured they would probably lose their money to another con man if I did not relieve them of it.

I particularly regret the times that I and my sales team defrauded the elderly. With the rate of inflation being what it is and human nature being the way it is, many people, particularly the elderly, were lured into making questionable investments. The elderly are vulnerable, they make easy marks for the con man. There are many reasons for this.

For one thing, they grew up in a different, more trusting, less cynical era. For another thing, the elderly usually have some money somewhere; either they bought a house 30 years ago and it has appreciated tremendously or a spouse has passed away leaving the proceeds from a life insurance policy.

The third thing is that they are not accustomed to spending a lot of money or investing throughout their lifetimes, and they make easy marks for fast talking salesmen because of their limited business experience.

After a person retires he obviously has much more leisure time and does not really know what to do with the time, and it's such a change after maybe working at a job for 30, 40 years and all of a sudden having all of this leisure time on their hands, they try to find something to do.

The final factor is what I call a desire for immortality; they are often consumed with the desire to do something or leave a little something for their children or grandchildren. All these factors together with the notion of continuing to provide for themselves in independence throughout their later lives combines to make them easy targets and deserving of special protections.

I think prevention is the ultimate cure, because in many cases after the elderly are swindled they are just too embarrassed or too heartbroken to admit that they have been swindled, so prevention is the ultimate cure.

The one thing that I have learned from being in prison is there are a million schemes from phony stocks and commodities to land deals which can be targeted against the elderly, and there are thousands of con men in prisons who are being reeducated who can hardly wait to get out to try some of the new schemes that they have learned in prison.

There is so much money involved and the chances of getting caught, prosecuted, and sentenced to jail are so slim that many con men look at jail time as an acceptable professional risk.

I would urge you to strengthen the hand of the Postal Service, whose investigators are effective but who are hamstrung by the lack of authority which prevents them from moving until there is evidence that a significant number of people have been injured. By then it is too late. The money is gone, and the remedies for recovering money are very limited.

I think the Internal Revenue Service should play a greater role investigating such frauds, because tax fraud goes hand in hand with any other kind of business or investment fraud.

Finally, I think that experts like myself, who have been convicted and who have worked for the Government in the course of our trials, should be enlisted in the fight against fraud and given credit against our sentences if we perform effectively.

It might be a little embarrassing thing for me to say, but I feel this committee is very important and is extremely serious, and I will be very frank. I had Federal agents investigate me for about 7 years before I was finally convicted. I found them to be basically average people, average intelligence, and working on many cases.

You know, they are absolutely no match for a financial protégé who is defrauding people. And, of course, the Government cannot really attract experts such as that to combat crime by offering small salaries as opposed to the millions and millions of dollars the expert can make in the field of defrauding people.

So that is all the more reason I feel that people like myself should be enlisted to work with the Government and so forth and given time against the jail sentences, because a prison sentence I cannot relate to, I put in money equivalent on it, you know, the years of my life lost that I will never regain under any circumstances.

You were talking a little bit earlier about new laws or precautions discussed. You discussed new laws or precautions for further protection of people being swindled.

These are simply a small obstacle for the smart con man to circumvent and that is why, well, you know for instance, the advertising for one thing, soliciting, like when I used to advertise in coin journals. I really would get a front to advertise for me. I would already have references made up. I would get other friends.

Of course, the newspapers required very good references to get your advertising in. So I could either have one of my friends give a reference or I would pay somebody to give a reference for me. So it is very, very simple to get an excellent reference for advertising.

I think that is all the more important reason that people like myself should be working with you, where we can be an asset to society instead of a liability or rotting away in prison. I think it costs somewhere between $20,000 and $40,000 a year to keep a Federal prisoner incarcerated.

I appreciate this opportunity to provide you with these views and I thank you very much.

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

Ms. Bourbon?

STATEMENT OF SANDRA BOURBON

Ms. BOURBON. Mr. Chairman and members of the committee, my name is Sandra Bourbon. I am in charge of business opportunity fraud for the State of Georgia, and also in charge of enforcement of the Georgia business opportunity law.

First of all I would like to read to you an advertisement, a business opportunity advertisement which recently appeared in the Atlanta newspaper:

A chance to turn $10,000 into $100,000 net or more within months. This opportunity is so fantastic it cannot be described in this ad. If you're sincere and have from $10,000 to $100,000 to invest, call Mr. Marcus.

This type of advertisement we encounter all the time in newspapers and it generates a lot of complaints. The first thing we have to do to find out who ran the ad and in order to do that, we have to set up Mr. Marcus undercover. We have to take a lot of time and effort to find out the name of the company and to complete our investigation, hopefully, before we have any victims.

We estimate in Georgia 30 percent of the victims of business opportunity fraud are the elderly. The Georgia Office of Consumer

Affairs handled approximately $15,000,000 in business opportunity complaints last year and the complaints continue to rise.

What is business opportunity fraud? The most common complaints we have received in the last couple of years have to do with the following:

First, coin-operated vending machines or video game machines. Complaints are generally gross misrepresentations of earnings claims, non-delivery of machines, or poor locations.

For example, Mr. Mayer in Illinois, who is in his late seventies, invested $9,090 in hot food vending machines from American National Marketing and Associates. The company folded without delivering the machines. A salesman estimated that the company took in $1 millions in 3 months with almost no overhead, since nothing was ever delivered.

Second, Rack Jobberships—film, pantyhose, toys, Christian books. A typical complaint is one filed by Mr. and Mrs. Krause in California. They paid $4,000 to Christianity and Brotherhood for Christian books and racks on locations. They received nothing. Others were less fortunate in their dealings with the company: they received the books, "I Love Idi Amin", and the locations provided were in liquor stores.

The third category is energy saving equipment distributorships or dealerships. This is very popular now in Georgia. These companies sell devices which purport to save on residential or commercial power bills, such as microprocessors, windmills, tankless water heaters, solar panels. A distributorship costs usually between $25,000 and $75,000.

Why do people invest in these frauds? There are a variety of gimmicks to delude potential investors.

One, newspaper advertisements which make outrageous promises.

Two phony credit reference companies, such as Better Business Reporting Service and Toll-Free America, which charge the client company $1,000 for their bogus reports.

Three, high-gloss brochures depicting quality merchandies, when flimsy, defective, used, or no merchandise is delivered.

Four, misrepresentations of earnings claims, such as "Earn $40,000 a year, part-time, no selling required."

Five, phony investor references.

Six, promise of excellent locations, with location guarantee, while no locations or very poor locations are secured.

Seven, phony investment guarantees—"Recoup the initial investment within a year, or obtain a refund of investment"—phony refund or repurchase agreements, none of which the company intends to honor.

There are many problems associated with stemming business opportunity fraud. We regulatory as well as law enforcement agencies are seriously outnumbered. This hampers educational programs as well as enforcement of the law. In my case I am the only investigator for the State of Georgia who handles business opportunity fraud under our State law.

Certain agencies are restricted in sharing information: State agencies such as Pennsylvania, Illinois, Washington, Oregon. Federal agencies, such as IRS and, until recently, FTC have not been

cooperative in sharing information with other agencies. Newspapers have not cooperated in screening business opportunity advertisements.

The Georgia business opportunity law requires businesses to furnish to the media an advertising identification number, which is issued when the company has registered with our office. Great plan, if we can ever make it work.

There is a lack of competent, well-trained local prosecutors. The U.S. attorney's office in the northern district of Georgia selected an attorney over a year ago who was to train local prosecutors. The program was apparently never implemented.

In Georgia our two or three district attorney generals who understand white collar crime cases are as overloaded as our attorney general's office, which is not as familiar with the prosecution of criminal cases. In court many cases are lost because the juries fail to understand sophisticated fraud.

The length of time required to investigate and prosecute business opportunity fraud oftentimes strains a limited staff. There seems to be an emphasis on prosecuting crimes of violence, not white collar crime, which was reenforced by a statement made recently by our newly appointed U.S. attorney.

Prosecutors generally never seek restitution. If IRS in its investigation and prosecution of a crook discovers assets, it is forbidden from sharing this information with other agencies or, heaven forbid, the victims. The end result of these deficiencies is that the crook is never convicted.

Whoever said, "Crime doesn't pay?" The odds are great that the con artist will get away with his shabby scheme. Respect for the law can only be achieved by enforcement of the law.

Are there any solutions? One of our favorite crooks, Claude Blanc, made a startling suggestion: He volunteered to become chief investigator of our agency for only $20,000 a year. He would work 2 days a week out of his home and "guaranteed" to clean up the State of Georgia.

We have no doubt that he could do so, but with a clear field he would have had no competition, so we would have created a monster. We did not take him up on his offer.

The States are contributing to fund a new consumer information newsletter, an "early-warning system" to advise us on "who's doing what to whom." The newsletter will be issued by the Iowa attorney general's office. FTC is beginning to share verbally information with other agencies. We hope this long-needed cooperation will last. Each year more States are passing business opportunity legislation, keeping the heat on the crooks, because the States required registration as well as disclosure.

I should add this disclosure is information that is provided to the potential investor 2 days before he makes a decision as to whether to buy a vending machine distributorship or something of that nature.

If the company offers the potential investor any kind of investment guarantee or refund or repurchase agreement, which is usually something phony, the company has to post a $75,000 bond. This means that if the consumer is defrauded that he would perhaps have access to restitution.

We also have the legal jurisdiction to question fraudulent advertisements or sales representations. In other words, if we see a phony looking ad in our local paper we have the jurisdiction to obtain the information from the company to substantiate the types of claims that are made in the ads.

We are asking the newspapers to place a statement in the business opportunity advertisement section that would advise potential investigators to call our office, the office of consumer affairs, to check out the company before investing.

I give these people as much information on the company as possible. And I also advise them generally as to the type of investment they are trying to make. I give them some pointers, whom to call, how to obtain objective information before they spend their money.

In conclusion, the only way we will ever stem business opportunity fraud is through the combined efforts of educating potential investors, "cleaning up" the advertisements in newspapers and magazines, obtaining information through a network of agencies using our combined techniques, and more effective prosecution with adequate sentencing and restitution.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Ms. Bourbon, for your very excellent statement.

I would like to ask the staff of this committee to note particularly Ms. Bourbon's suggestions about trying to liberalize the law to require the Federal Trade Commission and Internal Revenue Service to be more generous to the disclosure of information that they acquire in respect to prosecutions or aiding in the preparation of prosecutions respecting this kind of fraud.

Please look into that.

Our next witness on this panel is Mr. Earl Wilt.

We would appreciate hearing your statement.

STATEMENT OF EARL WILT

Mr. WILT. Mr. Chairman, members of the committee, guests, my name is Earl Wilt. I am 37 years old. I am a convicted felon currently serving an 18-month sentence at the Federal Detention Center at Eglin Air Force Base in Florida. I pleaded guilty to charges relating to perpetrating commodities fraud. I agreed to help the Government with its broader investigation and to testify on behalf of the Government at various trials.

I also readily agreed to testify before this committee, which is investigating various kinds of frauds perpetrated against the elderly. Unfortunately, I have become involved in several such schemes and I can give you firsthand information about how things are done. I am here voluntarily. No one has promised me anything. I hope this committee and the public at large will benefit from this appearance; I am anxious to make amends and to once again take my place as a law abiding member of society.

A little bit about myself. After some college I pursued a career for myself in sales. Several people had remarked to me over the years that I was a natural born salesman. I worked for the Dupont Corp. and numerous other legitimate corporations and did very well.

I met a salesman in New York who told me he had made up to $6,000 a week selling commodities. It turned out that he was employed in what is called a "boiler room operation". This refers to any large room where there are banks of telephones with 50 or more people making calls in an effort to sell commodities or whatever. After being involved as a salesman in several of these operations I decided to go into business for myself.

The first thing that you needed was an impressive sounding name. I invented Morgan, Harris & Scott, Ltd., and later Harrison-Prescott as names for my various firms. The next thing you need is an address hopefully in the heart of Wall Street. I rented a place at 59 John Street in New York City. I recruited a crackerjack sales force, many of whom had been in the business before and brought with them their list of names from other employment and we started selling what I later learned to be fraudulent commodity offerings. After June of 1978 when the Commodity Futures Trading Commission banned trading in commodity options we began selling essentially the same things as contracts for deferred payment. The deferred delivery scheme for gold, silver, or currency or other commodities works as follows:

It involves the contacting of potential investors by telephone salesmen using high pressure sales techniques. In the initial telephone contact or "front", the commodity is described as constantly increasing in value with profit expectations between 40 and 50 percent, and in some cases much higher, of the original investment. This phone call is followed by the firm mailing sales promotional literature to the customer.

A few days later the potential investor receives another telephone call, "the close." The salesman again describes the profitability of the commodity. He may also state a hypothetical profit had the investor purchased when the first call was made. The investor now sends either by wire, bank transfer, or by the U.S. mail what he believes to be a downpayment for the total contract price. This initial payment is really a nonrefundable commission sometimes called a "contango fee". Upon receipt of the funds, our firm will mail a confirmation order or contract. When the contract reaches maturity and the investor wants to liquidate it, he is "informed" of the true nature of the initial payment in small print.

Perhaps an example would be illustrative. Lothar Schmidt of Carrollton, Tex., was contacted by one of my brokers in early 1979. The broker, or so-called broker, absolutely guaranteed Schmidt that he would make a $15,000 profit if he would invest $3,500. Schmidt was reluctant but the salesman persisted and even though he had never traded in commodities before, Mr. Schmidt put up $3,500 to buy a 90-day contract for 50,000 Swiss francs. A reputable commodities firm registered on the commodities exchange would have placed an order for this amount on the floor of the Exchange, but we did not trade on any commodity exchange. Initially we bought a contract from a wholesaler called Euro-Swiss International Corp.

This was to back up the contract that we sold to the public. Most of our customers including Schmidt were never informed that commissions to salesmen represented about half of the money that they were sending in, rather than a small percentage, as is customary in the legitimate commodities business. The result was that the actual investment we made in each case was rather small.

To go over it again, a deferred delivery contract gives the purchaser the right to buy a particular amount of a commodity at a certain price at a later point in time. As an example, Chairman Pepper, you might buy a contract to purchase 100 ounces of gold at $300 an ounce on December 1, 1981. We would ask for $5,000, which you might assume is the total amount of your investment, but that is really only our fee. On December 1, if the price of gold has gone up to $400 an ounce, Chairman Pepper could pay the remaining $30,000, take possession of the gold from us and sell it on the open market for $40,000, making it a net profit of only $5,000. If the value of gold dropped to $200 an ounce on December 1, Chairman Pepper certainly would not want to execute his right and thus pay $30,000 for gold that was only worth $20,000.

In summary, if the value of the commodity decreased, stayed the same, or increased slightly these deferred contracts were worthless. Only if the commodity increased dramatically would we stand to be on the hook. In order to provide for that contingency, I took out similar deferred delivery contracts from a wholesale commodity supplier, Euro-Swiss Corp. in New York.

In the beginning it was my intention to make money for myself from the extremely large percentage of fees that would be taken out of moneys forwarded to us from our customers. We were selling them what amounted to an option to buy a certain commodity at a future time. I am certain our customers felt they were buying more than the right to buy something. The fact is, that the great bulk of their payment purchased nothing but our services.

Our first customers were advised to invest in certain precious metals, my belief being that these commodities would in fact fluctuate upward; and they did. Thus, the customers profited. But this profit was a paper profit.

Behind these options was an agreement made between my company and others to back up the contract purchased by our customers with the commodity involved or cash. When our successful customers realized their profits I went to our backers who had been fully paid and they reneged on me.

Sometime in the summer of 1979 the CFTC went into court to obtain an injunction to stop further sales by my firms and to seek the appointment of a receiver. Not long thereafter, postal inspectors served grand jury subpenas and obtained the books and records from my firms. Two days later, on August 9, 1979, I agreed to plead guilty and to help the Government in an undercover investigation of the wholesaler, Euro-Swiss, which dealt with some 34 other firms like ours. I agreed to wear a hidden body tape recorder on approximately 27 different visits. The principals of Euro-Swiss instructed me to backdate contracts and to help them to secrete assets from the receiver appointed by the court as well as cover up other crimes which they had committed. My work was instrumental in bringing about the conviction of these individuals who each received 10-year sentences for mail fraud, perjury, obstruction of justice, and wire fraud.

I was allowed to plead guilty to one count of mail fraud by the U.S. attorney's office in the Southern District of New York and I

received an 18-month sentence on April 8 of this year, and I am currently serving that sentence.

The court records show that in the year that we were in business some 300 customers in 41 States were defrauded and sold at least $2.4 million in commodity investments. We paid out only $115,798. Most people lost their entire investment. I hadn't planned for things to turn out quite that way. I had no idea that the wholesaler we relied upon to back up these contracts was also a fraud.

Mr. Chairman and members of the committee, there are thousands and thousands of boiler room operations which are operating this very minute. They are highly profitable. They sell whatever is hot at the time, whether it's oil or coal or diamonds. The latest rage, scam, in my opinion, is strategic metals and tax shelters on oil. Some States have excellent consumer protection departments; others do not. There needs to be more enforcement. The Postal Service does an excellent job but some way must be found so that they can act more quickly to protect the investor.

Thank you for conducting this hearing and allowing me to appear before you this morning. Senior citizens have traditionally been a target for boiler room operations. They deserve special protection.

I am here with my counsel, Fisher and Fraser of New York, and I would be glad to answer any questions you may have.

I also have a few suggestions of my own on how to curb this type of crime.

The CHAIRMAN. We would welcome your suggestions. Go right ahead, Mr. Wilt.

Mr. WILT. I am not an attorney. However, being in the industry or this business for a period of a little over a year there are certain things that salesmen in this business or owners in this business are quite afraid of, particularly postal authorities.

They are not really concerned about local law enforcement agencies. They laugh at them. They figure they are going to get a smack on the hand. They are concerned about the IRS, but not really that much. They are very concerned about the FBI because some people in this business have been arrested by the FBI.

If you were to license under some governmental agency or various governmental agencies any company who does business on an interstate basis selling securities of any nature, I think you would scare a lot of them away from even starting out.

It has to be interstate in order for firms like this to really get any serious money. They do not want to have the local law enforcements breathing down their necks.

As an example, I operated in New York. We never called New York clients, customers. We never called people from New Jersey. We never called people from Connecticut, Massachusetts, Delaware, Pennsylvania, anybody in our immediate area. There were two reasons.

One of the major reasons was the further away from our office our customers were the less likelihood when they lost their money, if they lost their money, that they would get in their automobile and come and demand that they get a refund.

I have stated that I have had 300 customers, and not one, not one ever came to New York.

If I had the power and the legislative power I would require that all companies be bonded, all companies including the legitimate ones be bonded, and also that the owners and principals be bonded as well. Also, a list of these bonding companies be made available with all offering literature that goes through the mail.

I don't know what cooperation you might be able to get with the telephone company, but I will tell you my experience. I had started off with five or six telephones, all WATTS lines, for obvious reasons. When I began to expand the telephone company came down and they knew or so I think they knew what I was doing. That is, I was conducting a boiler room operation.

In order to protect themselves they required that our initial deposits of approximately $200 per phone was increased to $500 and then to $750 and then to $1,000 per phone. But, of course, they were only interested in their own protection. I think that somehow we can tap or you could tap on into that. I was paying $35,000 a month in one office on telephones alone.

I would make legislation to forbid the use of false names or misleading titles that are used religiously by everyone that I know in this industry. Salesmen do not want to use their real names; again, for obvious reasons. If I were to use my real name and my client lost his money and decided to sue me, he would sue Earl Wilt, so why not it be Harry James or some other name. Then he cannot find me.

There is another reason of course. A lot of the salesmen that are in these types of industries have very shady backgrounds, and many of them have been already convicted of one crime or another.

I would also require that anybody that is licensed in these agencies or in these businesses file a notice of change of address should it occur within a specified period of time for fear of fine or possible loss of license, especially the principals of the firms.

I would restrict people who have felony convictions. I would require offshore corporations who have affiliations with U.S. corporations to be registered as such with disclosure statements listing the names and the addresses of those offshore holding companies and the owners in all offering literature that goes through the mail.

The reason for that, as you may know, a lot of companies will start up in Florida or New York which seems to be a haven right now, and in order to disguise or move their moneys so that they are not recaptured if the owners are convicted of any fraud, they will set up offshore corporations, have the offshore corporations be responsible for these contracts that they are selling to the retail public, and at any point in time all they have to do is have the offshore corporations, which again may be backed up with a second offshore corporation, file bankruptcy, which forces the corporation in the States to be in involuntary bankruptcy, which means then the corporation in the States does not pay off to the consumer.

Also, many customers don't realize what they have gotten into immediately until after the money has been mailed. I would make it mandatory that they have the right, if they desire to get a full refund of their investment, initial investment within a specified period of time, say 3 days, or 2 days, whatever it might after they have mailed or wired their funds in.

I would require financial statements to be available to the clients. They never were, many clients wanted to know who they were dealing with. They never were. I would list all licensees, State and Federal, to be put in all offering literature with a list of the principals of the corporation.

I would also have segregated accounts and list the names of the banks and accounts.

There are many, many other suggestions. It must be stopped.

Thank you.

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

We are running a little late in time, but I would just like to ask two or three questions of you two gentlemen.

What impresses I think all of us on this committee hearing your testimony is that you two gentlemen are very able men.

You have already shown by your own testimony that before you got into criminal operations you were making a success in your business; you were doing it very well, very creditably and had you continued following the legitimate line of your business development undoubtedly would have made an outstanding success.

Unhappily, you yielded to the temptation to try to make a lot more money very quickly and got into questionable operations.

May I ask each one of you if you don't feel like it's a violation of your privacy how much money, Mr. Seiders, did you come up with net as a result of all of your operations? How much did you make out of your illicit schemes?

Mr. SEIDERS. As I said earlier, I don't really know the exact figure, but it was probably between $1 and $2 million net, and over a period of a couple of years the bulk of it in 1977 and 1978. But the money I lost and so forth on legal fees and so forth I really have nothing right now.

The CHAIRMAN. Did you say in your statement you lost a lot of your money in various other operations?

Mr. SEIDERS. Yes; I lost in legitimate businesses such as the stock market and so forth. Like I said, I have been a poor farm boy transformed.

The CHAIRMAN. Did you wind up in a profitable position as a result of your illegal operations?

Mr. SEIDERS. Right now or before or what? No; at this point I would say no. I sort of did what I wanted to do. I always wanted the American dream and see what it felt like to be a millionaire, and I did that. I was sort of satisfied with that at this point. If I ever wanted to do it again I would——

The CHAIRMAN. What I was getting at, did you calculate that you might get caught and you would estimate about how much sentence of detention you would get and how much that would be a year if you divided the number of years you got in your sentence by the number of dollars that you had been able to amass?

Mr. SEIDERS. No; I never really figured it out. But I will say in my sentence all I received was 5 years of probation for a couple million dollars swindle, then the reason I got the 10-year sentence is because, for some foolish reason, I was mesmerized with the thought of making money, and so forth, and I just continued to do it and I got caught again, and you know, it was 10 years then.

The CHAIRMAN. What would your answer to these questions be, Mr. Wilt?

Mr. WILT. First off, it's been documented that I benefited to the tune of approximately $125,000 during the entire time that I operated on Morgan-Harris & Scott.

Second, it was not my original intention to go into business to play the odds, if you will, that I was going to make so many millions or whatever and that if I got caught that I would spend a year or 2 years, 5 years or whatever number of years and that I could equate by the year that each year I spent in jail I had already made $200,000 a year or something like that.

That was never my intention. I never thought of that. However, a lot of them do. They calculate, and if they feel that they are only going to spend or they are going to get a 5-year sentence for a $5 million fraud and that they are going to get out in 2, well, that figures to me at about something close to a little over $2 million a year while they are serving time in prison.

So to people with that type of mentality, crime, of course, does pay.

My figure came down to less than 5 percent of the entire amount of money that my customers invested. However, I must say this, that the salesmen who seemed to always skirt prosecution make many times more money than some owners of the corporations.

I had a salesman who at the rate that he was going would make himself well over $500,000 or $600,000 a year and would not pay any income tax. And they don't get prosecuted and, of course, they don't get jail sentences, and they go from one scam to another. Since I have been in the business I have told some of the salesmen who have worked for me.

I am sure they are not aware of it. But I have followed them and I have seen them go from commodities options to deferred deliveries, to oil, to diamonds, to strategic metals and God knows what the next scam is going to be.

But they will stay in it because they don't go to jail.

The CHAIRMAN. Thank you. I am sorry we can't go more into detail about it.

The staff is very anxious that we invite you to give us an example, either of you gentlemen, of the sort of sales pitch that you make in trying to sell to an elderly person. Maybe it would sound natural if some elderly person hears it. Maybe it would be informational, would you imagine?

Use the phone there where you are. Let's assume I am an elderly person possibly with a few thousand dollars to invest.

Somehow or other you have already found out. You don't just call miscellaneously, do you?

Mr. WILT. Yes; we do, sir.

The CHAIRMAN. You do? How would you operate it?

Mr. WILT. Good morning, Mr. Pepper; is this Mr. Pepper I am speaking to?

The CHAIRMAN. Yes, it is.

Mr. WILT. How are you this morning, sir?

The CHAIRMAN. Well, I am quite all right; thank you.

Mr. WILT. Fine. Do you remember, sir, that, oh, about maybe 2, 3 months ago I called you on the phone and I was telling you that in my expert opinion that the price of gold was going to rise.

The CHAIRMAN. Yes; I do recall your conversation.

Mr. WILT. Fine, sir.

Sir, I have an apology to make. I don't know why you and I didn't speak a little bit longer and a little bit more in detail because I have calculated, sir, since 3 months ago that had you been involved in the gold market you would have made approximately $30,000 to $40,000. But I am not going to let that happen again, sir.

You have been following the gold market and you realize that the gold market is going to continue to rise, perhaps to as much as $1,000 an ounce in the next year or two. Right now it's selling at $240 an ounce.

Before I take too much more of your time, sir, what I would like to do is I would like to send you off some literature that will explain in detail the history of the gold market, the advantages of buying and selling or owning for posterity, if you will, gold.

However, I've got to ask you a question. Sir, when I spoke to you before you said to me that well, give you a call back if gold moves. Well, now I am calling you back now and I don't want to call you back in 6 months and tell you that you lost another $30,000 because you didn't involve yourself.

Do you have between say $5,000 and $10,000 that if I could show you, if I could prove to you that I could take that $5,000 or $10,000, invest it for you in the gold market, that within 3 months I could double or possibly triple your money; do you have that type of money to invest, sir?

The CHAIRMAN. Well, I guess I could get up that amount if I really were persuaded, as you say; that it would make me that profit.

Mr. WILT. Thank you, sir. Rather than taking up any more of your time right now, sir, I am going to send this literature off to you. You should receive it in a couple of days. I will get back to you sometime next week. I hope I am not too late; but I will get back to you sometime next week and we will further discuss it.

The CHAIRMAN. What did you say your name was, sir?

Mr. WILT. My name is John Smith.

The CHAIRMAN. Well, thank you very much, Mr. Smith. I will be glad to receive anything you wish to send me.

Mr. WILT. Now, sir, what I would do, I send the literature; I wait a week and I call you back and now I am back.

Mr. Pepper, how are you again today, sir? My name is John Smith. I called last week and a couple of weeks ago and so forth. How are you?

The CHAIRMAN. All right.

Mr. WILT. Have you done as I have instructed you to do, sir? Have you done what I told you to do, sir?

The CHAIRMAN. What is that?

Mr. WILT. I told you to watch the newspaper.

The CHAIRMAN. Yes; I know you did. Well, yes, I have.

Mr. WILT. Isn't it amazing what is happening to gold.

The CHAIRMAN. I started looking in the newspapers and watching gold. It sure has been going up.

Mr. WILT. I was right, wasn't it, sir?

The CHAIRMAN. Yes.

Mr. WILT. I am usually right. That is why I am one of the most professional people in this business. That is why I am highly respected on Wall Street. I am sure you have heard the name of our firm, Morgan, Harris & Scott?

The CHAIRMAN. Yes; I have heard the name Morgan.

Mr. WILT. Well, you say you read the Wall Street Journal?

The CHAIRMAN. Yes.

Mr. WILT. I know you have seen us in the Wall Street Journal; as a matter of fact, we are licensed by various governmental agencies and State agencies. Well, let's get down to how we can make money for you.

Then I go through a process of explaining how the gold market is going to move and why, and I give the reasons and so forth and so on, and now I say to you, Mr. Pepper, are you now prepared to send in that $5,000?

The CHAIRMAN. Well, I have been talking to my family about it, and they think it does look like a pretty good thing. I might do it. We want to think about it a little bit more; but I might do it.

Mr. WILT. Think about it, sir? What is there to think about? By the time you think, sir, you may lose another $10,000. Time is of the essence, sir; you must get involved today, not tomorrow. As a matter of fact, I may not have time to call you back again, sir. We must get involved today.

The CHAIRMAN. Well, I think I——

Mr. WILT. So what type of business are you in?

The CHAIRMAN. Well, we will probably send it off to you.

Mr. WILT. What type of business are you in, sir?

The CHAIRMAN. Well, I am sort of retired now. I am not doing anything.

Mr. WILT. Well, then, if you are retired, sir, you——

The CHAIRMAN. But that is about all of the money I have got.

Mr. WILT. That's exactly why an investment like this is suited for you, sir. You have no other source of income. The damn government gives you a check for $150 a month or something like that. My goodness, with the price of inflation and so forth and so on, it's a wonder there are not riots in this country; old people like you cannot survive on government pensions.

I have a way; we have a way that will take your investment and increase it three to four times and backed with the security of gold which the Federal Government doesn't even back up their dollar bills with.

So you see, sir, that what we are offering to you is a sound investment. You cannot, in my opinion, lose one nickel. You can, in my opinion, increase your savings for your years to come many fold.

The CHAIRMAN. Thank you very much. I appreciate your calling, Mr. Morgan.

Mr. WILT. That is Mr. Smith.

The CHAIRMAN. I would appreciate if I could make a little more money.

Mr. WILT. I am going to thank you, sir, because you were intelligent enough to get involved this time. If I ever call you again, and I will because I am going to stay right on top of your contracts, you will thank me.

Now, sir, this is how we are going to send the money, and this is the part that I really think there should be tighter government regulations on.

I then would find out from you the name of your bank. I would tell you to stay by your phone because someone from my accounting department would contact your bank. Speed is of the essence, of course. The market waits for no one.

I would then get on the phone myself, because now I am from the accounting department, before I was the chief broker, trader, whatever I want to be, and this is what these salesmen say.

You would be astonished at some of the titles that they claim to have.

I would then make sure that I spoke to a clerk at that bank in the wire transfer department, and it would go something like this:

Good morning; good morning; what is your name?

My name is Sandra Smith.

Well, that is fine, Miss Smith. My name is John Smith.

How are you?

Fine, Miss Smith. You have a depositor by the name of Mr. Pepper; is that correct?

Yes; I do.

Fine; Miss Smith, what day is today?

She would give me the date; could you tell me what time you have out there in Oklahoma?

She would give me the time. Please write that down, Miss Smith. This is a very important conversation.

Mr. Pepper is sitting by his phone right now; and this is what I want you to do. I want you to call Mr. Pepper on the phone. I want you to tell Mr. Pepper who you are and that you are from his bank. I want you to tell him that I have called you from the firm, Wall Street firm of Morgan, Harris & Scott, and he will give you verbal instructions, notice that, verbal instructions.

This is the pressure. And he will give you verbal instructions to wire from his account to the following account, and now write this down, and then I would give her our account number, $5,000. I will stay on the phone, Miss Smith, while you get these instructions. Please call him, and she would put me on hold; she would call the customer, the customer I just hung up from two moments ago; he just agreed. He has not had time to talk to his attorney; he has not had time to talk to his wife; he hasn't even had time to think. I pressured him. He says OK.

Mr. WILT. He says OK, thank you Miss Smith. I hang up the phone. It is done.

The CHAIRMAN. Well, it is a tragic story, your advantage of the elderly, and it shows how important it is to employ every technique the law can command to thwart the execution of this fraud.

The CHAIRMAN. Mr. Marks.

Mr. MARKS. Thank you, Mrs. Bourbon, for coming. And we appreciate the job you are trying to do. If I remember correctly, you mentioned a number of States which are not not cooperating with each other. May I have that list again?

Ms. BOURBON. I just mentioned some States I could think of offhand, the State of Pennsylvania, Illinois, Washington, Oregon, California is generally. Usually these State agencies tell me they are not allowed to give out information, even to other agencies, they are prohibited from doing so.

Mr. MARKS. Who do you contact in those States, for instance, the State of Pennsylvania?

Ms. BOURBON. I call the agency closest to the city where the company might be located. I talk to whoever is in charge of business opportunity fraud for that particular office.

Many times, you see, they refer their complaints to my State, even though the business may be located in Pennsylvania.

Mr. MARKS. Thank you.

Mr. Seiders, I was curious, in your testimony, particularly in light of the fact you gave us that coin to look at, do mints in this country make those counterfeit coins for you, or do you have to go out of the country for them?

Mr. SEIDERS. I dealt through a middleman. The people who actually produced the coins, I made sure I never knew them, for obvious reasons, I could not cause him any trouble and he could not cause me any trouble.

Mr. MARKS. How do you go out and find people who mint these coins?

Mr. SEIDERS. I found a man in my district, he had spent 2 years in jail for murder. He was involved in the counterfeit coins and murdered the owner of a coin shop.

Mr. MARKS. Are most of these counterfeit coins as far as you know made in this country?

Mr. SEIDERS. A lot of gold used to be made in Lebanon before the Middle East crisis. I heard rumors that in Italy there is a lot made. A counterfeit coin is not held illegal except in a country where it is legal in. For instance, I had coins from Mexico and so forth and the Secret Service never confiscated them because there are no laws against them.

Mr. MARKS. Mr. Wilt, the chairman asked you a question before which you answered very quickly when he asked you how do you get the list of these people, and you said at random. You must have a selective list in Pennsylvania or wherever it is.

Mr. WILT. The best source used to be from Dun & Bradstreet. We would buy mailing lists and we could request particular information or particular types, such as doctors, farmers, certain segments of the country, elderly, people with large investments.

Mr. MARKS. Now these lists you are purchasing, I take it you are purchasing from legitimate concerns.

Mr. WILT. Yes.

Mr. MARKS. They are in business to make up these lists?

Mr. WILT. Well, in the particular case of Dun & Bradstreet, we know they go out and their service is for credit references. There are others whose sole business it is to sell mailing lists.

Mr. MARKS. Are these legitimate firms?

Mr. WILT. I do not know how legitimate it is or is not. Again, I am not an attorney, but I can say that some of the practices used to acquire the potential investor is not legitimate.

Example: We bought from a firm and paid $8 apiece for a newspaper advertisement of about that size (indicating). That said something to the effect, "Gold—minimum investment $5,000, possible return or profit in short period of time, $20,000. Do you have $5,000 to invest in the world's only true commodity?" Something like that. "If so, please fill out this form and send it in with your name and address."

Those leads were considered excellent leads because we were prequalifying the buyer. We knew ahead of time that he had $5,000.

Remember this is a business. It is illegitimate, but it is a business, and business expenses are there. So, we want to make sure we do not spend as much money—or we want to make sure we spend our money properly.

Mr. MARKS. Just one other question. Miss Bourbon, does the State of Georgia have any restrictions on mailing lists that are given to people who want to buy this for sales pitches?

Ms. BOURBON. No, not that I am aware of.

The CHAIRMAN. Mr. Bonker, any questions or any statement?

Mr. BONKER. No statement, other than to congratulate you for these hearings. But to Mr. Wilt, Smith, or whoever you are posing as today, Mr. Seiders—what would you estimate the percentage of victims, who would be your clients, who were senior citizens? Twenty percent, 15, 30?

Mr. WILT. It is really hard for me to give you that, because although I owned a company, I made very, very few telephone calls. So, I was not in direct communication with the clients. However, from conversations with my salesmen about their clients, I would venture to say that it could range 20 percent, better, but not the majority of the commodity fraud that we were involved in.

Mr. BONKER. What did you use as a source list?

Mr. WILT. Well, for older people, retired people, you could merely go to a telephone book of Florida, for example, an area where we knew ahead of time that there was a large retirement community.

Mr. BONKER. Then are you saying that senior citizens were a primary target, if you were to go to a source list of senior citizens, or were you concentrating on professional types who had money to invest?

Mr. WILT. We were focusing on businesspeople who had money to invest. However in the scope of doing business we would always try different techniques and avenues to get a client. It did not matter whether he had $5,000 from his retirement or whatever.

Mr. BONKER. I am still trying to get at the source list; if you are talking about professional people, they would not be home during the daytime.

Mr. WILT. We had 10 telephone crews calling in the evening as well.

Mr. BONKER. Considering the time change——

Mr. WILT. We would not operate late. We would operate until 10.

Mr. BONKER. If you are calling at 10, it is 7 in Washington State. You will not make calls between 6 and 7?

Mr. WILT. No, those people we would get were people who got home early or retired people. Then we went to telephone books.

Mr. BONKER. So, you used telephone books as a source list?

Mr. WILT. Yes.

Mr. BONKER. With respect to your recruitment practices, it seems to me I would be rather leery about the type people I employed, because if they are smart enough to handle this type work, they are probably smart enough to figure out there is something dubious about the activity, and anyone could turn you in. It must have been a dubious process to get people who were smart enough to get the message across——

Mr. WILT. Basically, we relied on the greed of the salesmen.

Mr. BONKER. In all your years of operation, you did not have anyone ask questions?

Mr. WILT. In the beginning, and I was not in the business in the beginning, they used to advertise in the newspaper, telephone salesmen, earn $300 to $500 a week or earn $1,000 a week, call this number. Then in New York State, the authorities started sending in people. Well, the owners of the companies quickly realized they were plants, so they abandoned that type recruitment.

Most of the people from that point on had either been in the business, and again went from one scam to another scam. As the scam was shut down, a new one would develop, and they would stay in it. The owners would be sent away, sentenced, forbidden to be in the business again, but behind every owner, there were salesmen with just as much greed, and they would start their own company.

When we had people who came in and questioned the morality of what we were doing, we just asked them to leave. We told them what we were doing was legitimate, because I originally believed, in the beginning, that what we were doing was legitimate; I even had a legal opinion from my then attorney, who is now also serving 10 years in prison, who outlined for me that what I was selling was legitimate.

So in the beginning I did not question the legality of what I was selling, so I did not have to argue with him. I just made it clear that by picking up this telephone and by selling a $5,000 contract to a customer, they were going to get over a $2,000 commission. That was all you need to say. They either wanted to make that $2,000 or it was against their conscience.

There were even more higher professional salesmen called loaders. These are the real scums. These guys will take a customer who has just spent $5,000 and it is these people's responsibility to go back and not ask for one contract but to ask for 5 or 10 at $5,000 a contract. They are totally unmerciful.

Mr. BONKER. It is an interesting enterprise; I appreciate your suggestions as to what we can do about it. There is nothing like a person working inside to give advice as to correcting the problem.

The chairman held hearings earlier in which the FBI reported abuse in medicare and medicaid programs, and the figures were astronomical as to what it is costing the Government. We had hearings in Washington—incidentally, I understand Washington State was a target——

Mr. WILT. Not a target. Any area where there are farmers or people that are not as sophisticated as those in New York—but the industry should try to police itself.

Mr. BONKER. In any case, what we discovered in the FBI revelations and subsequent hearings, everybody knows abuses are out there, everybody can cite chapter and verse as to how people are being ripped off, but we have failed at least in our State to come up with one single prosecution. White collar crime is so complicated and elusive, and through the use of very skilled attorneys you can delay and frustrate the process where nobody gets prosecuted. It is an awesome double standard. At least through your revelations and those of your colleagues, at least we can compile some evidence and make a case, but frankly speaking, Mr. Chairman, I am pessimistic about effective enforcement that would come as a result of these hearings today, but I thank you for conducting them.

The CHAIRMAN. Thank you, Mr. Bonker.

Miss Bourbon, since we have the protections of the first amendment relative to the press, nevertheless, would it be possible for someone like you to go to say the Atlanta papers, which are outstanding and reputable papers, and ask them to set an example of not putting any of those ads in their papers, any ads soliciting money from any kind of a scheme from the public that might go to the elderly, the ill, and the like, without having some testimonial of the responsibility of the advertiser, either through your department or the Better Business Bureau? We could do it voluntarily, excluding advertisements which had no repute behind them.

Do you think we would be able to make progress with the States?

Ms. BOURBON. In many States, the newspapers are very cooperative. They screen the business opportunities by sending out fairly sophisticated application forms which have to be completed by the company placing the ads. Then the newspaper calls the State agency and says "Cabco wants to place an ad. What do you have on them?" Then if the agency says there are numerous complaints, the newspaper will automatically decline the ad.

Work-at-home schemes involve perhaps $10, $20, $25. The ones I am involved with are much more expensive and complicated schemes, and of course we are more concerned with screening ads of that nature. I am working with the newspapers, but it is sort of a love-hate relationship. On one side I am trying to cooperate with them, and on the other side I have informed them to make them comply with our law, that we probably would subpena a lot of records from them and tie them up quite a bit if they do not cooperate.

So I think eventually we will get some type cooperation from them.

The CHAIRMAN. Thank you very much.

Miss Bourbon, we would appreciate it if from time to time you have suggestions come to your mind, you pass them on to our staff. We would like to continue to work with you.

Gentlemen, Mr. Seiders and Mr. Wilt, we appreciate you coming here today. You have made a valuable contribution to the information we are trying to put together in this matter. We appreciate the help you are giving to try to prevent the recurrence of these tragic frauds upon so many of our people.

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The CHAIRMAN. Our next panel will consist of enforcement officials who will briefly describe for us what they are doing to crack down on such frauds and what we might do to enhance their efforts in accomplishing this task. We will hear from the Honorable James Sneed, Director of the Consumer Protection Division of the Federal Trade Commission, and Mr. John Tifford, program adviser for franchising and business opportunity ventures. Also on the panel will be Mr. John Cotton, Deputy Director of Enforcement, and Mr. Dennis Klejna, Acting Deputy Director of Enforcement, at the Commodity Futures Trading Commission.

A PANEL, CONSISTING OF: JAMES SNEED, DIRECTOR, CONSUMER PROTECTION DIVISION, FEDERAL TRADE COMMISSION, ACCOMPANIED BY JOHN TIFFORD, PROGRAM ADVISER FOR FRANCHISING AND BUSINESS OPPORTUNITY VENTURES; AND JOHN COTTON, DEPUTY DIRECTOR OF ENFORCEMENT, COMMODITY FUTURES TRADING COMMISSION, ACCOMPANIED BY DENNIS KLEJNA, ACTING DEPUTY DIRECTOR OF ENFORCEMENT

STATEMENT OF JAMES SNEED

Mr. SNEED. Thank you, Mr. Chairman. I appreciate the opportunity to proceed today. In the interest of time, I will summarize my statement and submit the whole thing for the record.

The CHAIRMAN. Without objection.

Mr. SNEED. I want to testify on certain features of business opportunities which may be particularly attractive to the elderly.

Business opportunities offer many attractions for investors. These may include a source of supplemental income, an undemanding business environment, the need for minimum training or easily learned business skills, and, generally, a relatively modest financial investment.

These features may be particularly attractive to the elderly. Often, they are only seeking an opportunity to supplement a limited-fixed income. The appeal of flexible hours and the absence of any necessity for learning new skills may be particularly appealing to those who have already put in a lifetime of work. Because these businesses fit the lifestyles and economic needs of many older individuals, they are especially vulnerable to exaggerated claims or fraudulent operators.

While business opportunities may offer many benefits to the elderly, the elderly also stand to lose more if the investment is not a success. For most, their future earning power is reduced so any money lost is not easily recouped. The attraction of such opportunities coupled with the potential for economic loss mean that investing is a decision an elderly person should not make without careful consideration.

In the mid-seventies the Federal Trade Commission took a careful look into abuses in the sale of franchises and business opportunities. We found that often investors did not have the information to make an intelligent investment decision or to verify the company's sales claims. They had no way to analyze the costs and expenses of the business, to assess the validity of sellers' claims about earnings and profits, to speak with other investors in order to learn how their actual experience compared to the company's claims, to review the background, business experience, litigation, and bankruptcy history of the company's officers and directors, to examine the company's financial statements, or to learn about a host of other subjects relevant to their investment.

In response to these problems, the Federal Trade Commission promulgated a trade regulation rule on December 21, 1978, entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures." This rule, which became effective October 21, 1979, requires sellers to furnish prospective investors with information about the seller, the nature of the proposed business, and the terms of the proposed business relationship.

We think that business opportunity fraud has been reduced since our trade regulation rule went into effect in October 1979. We have noticed a decline in the number of complaints we receive from consumers concerning those business opportunities that are covered by our rule. We believe that there is a direct correlation between our rule and the reduction in these complaints.

On the other hand, our rule obviously has not and will not eliminate all forms of business opportunity fraud. For one thing, not all business opportunities are covered by the rule. Work-at-home schemes in which the seller promises to repurchase the product from the buyer (such as worm farms) are one example of noncoverage. Pyramid schemes are another example. In addition, the Commission does not have the statutory authority to secure criminal sanctions against fraudulent sellers. The Commission's authority is limited to civil relief such as injunctions, civil penalties, and consumer redress. This type of relief is not generally effective against operators like these who quickly appropriate any consumer investment for their own personal use, thus keeping the company relatively judgment free, and leaving a worthless business shell for its consumer victims. In such circumstances, victims rarely get any meaningful financial redress. Small, mobile, fly-by-night operators can generally be dealt with effectively only by criminal enforcement authorities.

It is obviously important that States take an active role in protecting their citizens from business opportunity fraud. This can involve criminal prosecution and less drastic measures, when appropriate. While the Commission has established a minimum standard of nationwide business opportunity regulation, any State may promulgate standards to supplement or complement those set by the Commission, so long as they provide equal or greater protection.

And some States have done so. These have included, for example, laws which require registration or filing of disclosure documents with State officials before business opportunities can be offered to citizens of that State, laws that require sellers to post full performance bonds in order to satisfy any judgments that defrauded consumers may obtain against the company, and some State laws which require that payments to sellers be placed in escrow until the seller completes all of its contractual obligations to an investor.

The commission has been working to get this message across to potential purchasers. We have participated in consumer education conferences. We have prepared and distributed consumer education material recommending necessary procedures for investigating proposed business opportunity purchases. We have taken exhibit space at business opportunity trade shows and set up our own exhibit to stress the need to investigate before investing. All of these activities have been done with an eye toward educating consumers about the need for careful investigation prior to purchase. The Commission's main thrust has been to avoid problems before they arise by emphasizing presale measures. Investors who know their rights and understand the need to investigate before buying can avoid problems. In our view the best protection is self-protection.

In conclusion, Mr. Chairman, we believe that the purchase of business opportunities can be risky—especially for the elderly—despite the existence of the Commission's trade regulation rule and various State laws. While we intend to continue to vigorously enforce our rule, we must recognize that there are limits to what the Commission can do. Ultimately, further reductions in business opportunity fraud will require a more cautious investor and more effective tools for obtaining redress.

I very much appreciate the opportunity to testify today and would be pleased to answer any questions from the committee.

[The prepaid statement of James Sneed follows:]

PREPARED STATEMENT OF JAMES H. SNEED, DIRECTOR, BUREAU OF CONSUMER PROTECTION, FEDERAL TRADE COMMISSION

Thank you Mr. Chairman. I am pleased to have been invited to testify today concerning the FTC's role in the area of business opportunities and the elderly.

Consumers have had mixed success with business opportunities investments. Some investors have done well while others have lost part or all of their investments because of fraud or poor judgment. My testimony focuses on the problems of investors, with emphasis on the causes of these problems and current efforts by the Federal Trade Commission and various states to deal with them.

A "business opportunity" is, as the name implies, an opportunity to start one's own business. The opportunity may take any number of forms, such as a unique marketing plan, or the availability of a special product or service. The type of business can involve practically anything, from growing worms to stuffing envelopes, and from washing trucks to servicing vending machines. A glance at the classified section of most newspapers will confirm the wide variety and availability of business opportunities for purchase. On almost any weekend, a business opportunity trade show will be be in progress in at least one American city. At these shows, sellers of business opportunities attempt to sell their businesses to prospective investors.

Business opportunities appeal to many people. They are attractive because a person can be his or her own boss. The psychological attraction of this opportunity should not be underestimated. To many people self-employment means self-respect and independence. It means control over one's future without having to accommodate the wishes of others and without being told what to do. In reality, even most successful businesses do not provide the independence hoped for by investors, but the possibility of such independence is a powerful sales tool.

Business opportunities also offer other attractions for investors. These may include a source of supplemental income, and undemanding business environment, the need for minimum training or easily learned business skills, and, generally, a relatively modest financial investment.

These features may be particularly attractive to the elderly. Often, they are only seeking an opportunity to supplement a limited fixed income. The appeal of flexible hours and the absence of any necessity for learning new skills may be particularly appealing to those who have already put in a lifetime of work. Because these businesses fit the lifestyles and economic needs of many older individuals, they are especially vulnerable to exaggerated claims or fraudulent operators.

While business opportunities may offer many benefits to the elderly, the elderly also stand to lose more if the investment is not a success. For most, their future earning power is reduced so any money lost is not easily recouped. The attraction of

such opportunities coupled with the potential for economic loss mean that investing is a decision an elderly person should not make without careful consideration.

For many consumers, business opportunities investments have brought rewards or personal satisfaction. Unfortunately, for others, investment failures have been accompanied by serious financial losses. While some losses could not have been prevented, some have resulted from fraudulent operators and a lack of knowledge on the part of consumers about how to evaluate a business opportunity.

This situation became the focus of commission scrutiny in the mid-70s when the Federal Trade Commission took a careful look into abuses in the sale of franchises and business opportunities. We found that, often, investors did not have the information to make an intelligent investment decision or to verify the company's sales claims. They had no way to analyze the costs and expenses of the business, to assess the validity of sellers' claims about earnings and profits, to speak with other investors in order to learn how their actual experience compared to the company's claims, to review the background, business experience, litigation and bankruptcy history of the company's officers and directors, to examine the company's financial statements, or to learn about a host of other subjects relevant to their investment.

Because of these problems, the Federal Trade Commission promulgated a trade regulation rule on December 21, 1978, entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures". This rule, which became effective October 21, 1979, requires sellers to furnish prospective investors with information about the seller, the nature of the proposed business, and the terms of the proposed business relationship. Sellers who make any claims about actual or potential sales, income or profits of the proposed business must furnish additional information to prospective purchasers. All disclosures must be made at least ten business days before any sale is made. Disclosures are made by means of disclosure documents whose form and content are set forth in the rule. Among the types of information included in the disclosures are the seller's certified financial statements, the names and addresses of other purchasers, information about the business experience, litigation and bankruptcy history of both the seller and the individual officers and directors, and information on a variety of other matters affecting the daily operation of the business. The rule does not require registration of the offering or the filing of any documents with the Federal Trade Commission in connection with a sale.

Further, our rule does not regulate the substantive terms of the relationship between seller and buyer. The Commission believed then—and continues to believe today—that the parties themselves are in the best position to decide about the specific terms of their agreement. The rule's objective is to ensure that potential investors receive complete and accurate information about their proposed investment. This information must be provided sufficiently in advance of the time of purchase so that investors are able to make an informed investment decision and verify the seller's representations. The buyer and seller negotiate their own deal, without any interference from the government but with more information and understanding. Naturally, this does not mean that all the risks inherent in such investments have been eliminated. What it does mean is the investors are aware—in advance—of the nature of the risk they are taking.

We think that business opportunity fraud has been reduced since our trade regulation rule went into effect in October 1979. We have noticed a decline in the number of complaints we receive from consumers concerning those business opportunities that are covered by our rule. We believe that there is a direct correlation between our rule and the reduction in these complaints.

On the other hand, our rule obviously has not and will not eliminate all forms of business opportunity fraud. For one thing, not all business opportunities are covered by the rule. Work-at-home schemes in which the seller promises to repurchase the product from the buyer (such as worm farms) are one example of non-coverage. Pyramid schemes are another example. In addition, the Commission does not have the statutory authority to secure criminal sanctions against fraudulent sellers. The Commission's authority is limited to civil relief such as injunctions, civil penalties and consumer redress. This type of relief is not generally effective against operators like these who quickly appropriate any consumer investment for their own personal use, thus keeping the company relatively judgment free, and leaving a worthless business shell for its consumer victims. In such circumstances, victims rarely get any meaningful financial redress. Small, mobile, fly-by-night operators can generally be dealt with effectively only by criminal enforcement authorities.

It is obviously important that states take an active role in protecting their citizens from business opportunity fraud. This can involve criminal prosecution and less drastic measures, when appropriate. While the Commission has established a minimum standard of nationwide business opportunity regulation, any state may promulgate standards to supplement or complement those set by the Commission, so long as they provide equal or greater protection.

And some states have done so. These have included, for example, laws which require registration or filing of disclosure documents with state officials before business opportunities can be offered to citizens of that state, laws that require sellers to post full performance bonds in bonds in order to satisfy any judgments that defrauded consumers may obtain against the company, and laws which require that payments to sellers be placed in escrow until the sellers completes all of its contractual obligations to an investor.

However, despite federal and state laws and regulations, we can all agree that problems arising from the sale of business opportunities remain a real source of concern. There are always operators who openly flout the law and disregard regulations issued to protect consumers. We realize that no matter how many laws are on the books, not all problems disappear.

Because it is impossible to stop every fraudulent operator, it is essential that purchasers be educated in assessing the real risks of such investments. A consumer who is naive about the risks is an easy target for fraudulent sellers. Consumers must be alerted to the need for exercising caution and prudence in making business opportunity investments. Consumers must understand that there is no such thing as an easy deal, or spectacular profits with no work, or guaranteed risk-free investments. Prior to purchase they must also analyze whether they are suited—in ability and resources—to owning the business.

The Commission has been working to get this message across to potential purchasers. We have participated in consumer education conferences. We have prepared and distributed consumer education material recommending necessary procedures for investigating proposed business opportunity purchases. We have taken exhibit space at business opportunity trade shows and set up our own exhibit to stress the need to investigate before investing. All of these activities have been done with an eye toward educating consumers about the need for careful investigation prior to purchase. The Commission's main thrust has been to avoid problems before they arise by emphasizing presale measures. Investors who know their rights and understand the need to investigate before buying can avoid problems. In our view the best protection is self-protection.

In conclusion, Mr. Chairman, we believe that the purchase of business opportunities can be risky—especially for the elderly—despite the existence of the Commission's trade regulation and various state laws. While we intend to continue to vigorously enforce our rule, we must recognize that there are limits to what the Commission can do. Ultimately, further reductions in business opportunity fraud will require a more cautious investor and more effective tools for obtaining redress.

I very much appreciate the opportunity to testify today and would be pleased to answer any questions from the Committee.

The CHAIRMAN. Mr. Sneed, just two questions.

Do you think it would be effective for the Federal Trade Commission to try to induce the press of the country to cooperate by requiring some sort of authority—some sort of justification for publishing these ads, some sort of assurance that the one making the ads and soliciting the funds through that newspaper is a responsible entity?

Would it do any good for you to try to persuade the press of the country to cooperate voluntarily?

Second, would it be possible for you to put on the TV, for example, and radio, some little ads? The people who are at-home people, especially the elderly—

Be careful about putting your money into any kind of investment or entering into any kind of scheme unless you have affirmation from either the Better Business Bureau or your bank or some responsible authority in your community?

Would it do any good to do that?

Mr. SNEED. I think because of serious 1st amendment concerns the media and newspapers have, it would be difficult. Though I think, as other witnesses have indicated——

The CHAIRMAN. What about the second question?

Mr. SNEED. We have been somewhat active, we have attempted through consumer education measures to warn consumers at the point at which they are being solicited at trade shows where a number of business opportunity ventures gather to sell their wares to consumers. We are trying to be active.

The CHAIRMAN. I am sorry, I am going to have to interrupt you. I have to leave at 2 o'clock, and I want to give Mr. Cotton a chance to speak.

The CHAIRMAN. Mr. Cotton, we welcome your statement.

STATEMENT OF JOHN COTTON

Mr. COTTON. Mr. Klejna will present the statement for the Commission.

Mr. KLEJNA. As the testimony has indicated, these are the kind of problems our Commission has attempted to spend a large portion of its limited resources in crushing. The selling practices of the firms, as Mr. Wilt very vividly demonstrated, leaves a great deal to be desired. These are firms basically here today and gone tomorrow.

The elderly citizens in the United States are obviously very vulnerable to this high sales tactic.

This Commission does not keep statistics with respect to ages and occupations, but nevertheless, it has been our experience that the elderly are often victims of fraud. We will continue to remedy that in the future. We also assist in criminal prosecutions when we can.

That is a very abbreviated comment, Mr. Chairman. I know you are in a great rush.

[The prepared statement of Mr. Klejna follows:]

PREPARED STATEMENT OF DENNIS KLEJNA

My name is Dennis Klejna. I am Deputy Director for Market Integrity in the Division of Enforcement of the Commodity Futures Trading Commission. With me today is John Cotton, the Division's Deputy Director for Customer Protection.

The Commission appreciates the opportunity to assist this Committee in its efforts on behalf of America's senior citizens. Mr. Cotton and I have been asked by Chairman Philip Johnson to convey his deep regrets in not being able to appear personally. He was required to honor a long standing obligation to attend a planning session which is critical to shaping the future management of the Commission.

Our Commission is one of the newer and smaller of the independent federal regulatory agencies, yet we have a very large task. Congress created our Commission in 1974 and assigned it jurisdiction over the trading of commodity futures contracts on all designated contract markets in the United States; over the trading of leverage contracts, options and all other off-exchange contracts involving commodities. The Commission's mission is to regulate and police these markets to ensure their efficient operation and fairness.

Growth of investor interest in futures contracts has been remarkable. Trading volumes on several of the exchanges which our Commission regulates have doubled during the last five years. Right now our Commission regulates 11 exchanges, 154 different contracts, 4,138 floor brokers, 377 futures commission merchants, 42,698 associated persons of FCMs and 3,061 commodity trading advisors and commodity pool operators. More troublesome, however, has been the proliferation of firms engaged in selling off-exchange instruments, many of which have engaged in fraudulent sales operations and other unlawful practices.

Most of the firms selling off-exchange instruments today are selling what the Commission considers to be illegal contracts, that is, the investment vehicle is either an off-exchange option contract, the sale of which is banned, or is a futures contract which, by law, may only be traded on a contract market designated by our Commission.

The selling practices of the firms which have been marketing these illegal off-exchange instruments in the past five years or so have, as might be expected, left much to be desired. These are sometimes firms which are here today and gone with the customers' money tomorrow. Often such a firm consists only of a core of hard-sell salespersons and a bank of telephones. The salespersons are highly talented con artists. Frequently the firm secures a prestigious mailing address in one of the nation's financial centers and uses a prestigious sounding name which easily can be confused with a well known legitimate business.

Uncertain economic conditions and the high inflation rates of the recent past have facilitated the world of these unscrupulous firms and their salespersons. Preying upon the fear of our citizens that bank savings and other conservative investments are not keeping pace with inflation, slick salesmen have convinced normally cautious people to send money—sometimes large amounts of money—to an unknown voice at the other end of a telephone line. These citizens are convinced to purchase an investment they do not understand, offered by a firm they know nothing about. These people are not stupid; they are vulnerable; they act in haste; they are victims of fraud.

Americans of all ages and occupations are susceptible to this kind of investment fraud—especially when plied by smooth talking con artists. While we do not maintain statistics on investor victims by age group, it stands to reason that many older Americans provide an economic profile which is particularly attractive to con men. Many elderly Americans live, at least in part, on income derived from invested life savings. When their investment income does not keep pace with inflation they become particularly vulnerable to these forms of investment fraud. The effects of such fraud on elderly investors can be devastating.

The resources available to us to combat commodity-related fraud are limited. Our primary enforcement tool is litigation and litigation is a very expensive and time-consuming process. We try to pick carefully the cases which we bring, choosing those which will have the greatest deterrent effect on those in the industry or on those considering entry into the industry. We also attempt to select those cases which will offer significant protection to public customers, either by enjoining fraudulent practices before a large scale illegal selling operation can ensnare unsuspecting customers or where the firm has sufficient assets to justify the appointment of a receiver. Many firms spend customer money as fast as they receive it and move on before we can catch them and freeze their assets.

During the first 11 months of fiscal year 1981 the Commission obtained federal court orders of permanent injunction against 120 individuals or firms and the appointment of 9 receivers who have taken control of approximately $12,000,000 of customer funds and are pursuing additional claims on behalf of public customers. In addition, the Commission has succeeded in obtaining court orders and itself has entered orders which should result in the restitution of another $1,140,000 to public customers.

To increase the effectiveness of our enforcement program, we also actively cooperate with other federal and state law enforcement agencies and assist them in bringing legal actions against some of these firms. Recently, we have done so by joining with state agencies as co-plaintiffs in actions in federal court—we have joined in five such actions in the last twenty months—by providing expertise and expert witnesses and by sharing information to the extent our statute permits.

Within the last eleven months, 39 persons have been convicted of various federal crimes in commodities related prosecutions. Several of these criminal prosecutions resulted from civil actions brought by the Commission and in a number of these cases our staff provided substantial support to the criminal prosecutors. The Commission itself does not have jurisdiction to bring criminal action, although violation of some provisions of our Act carries criminal penalties.

Also, the Commission has attempted to educate the public to the dangers posed by these fraudulent firms. The Commission sends out a customer fact sheet to all persons who contact the Commission and express an interest in investing in commodities related instruments. Our Division has written law enforcement officials in each state asking for cooperation in publicizing customer abuse in the marketing of off-exchange commodity investments. Chairman Johnson has recently written to the Attorney General of each state asking for assistance in closing down commodity scams.

But clearly more needs to be done to control the sale of illegal off-exchange instruments.

First, we will continue to manage our scarce enforcement resources in order to get as much public benefit from our own program as possible.

Second, the role of the states in prosecuting the illegal sale of off-exchange instruments must be increased. Many state agencies are becoming much more active in these prosecutions. Congress and the Commission should do everything reasonable to encourage this trend.

Finally, we will continue to publicize the dangers of buying these illegal off-exchange instruments. The watchword for all investors should be caution. Experience has demonstrated to us that if an investment sounds too good to be true, it probably is too good to be true.

I would like to thank the Committee for giving us the opportunity to appear here today and to thank all of you for whatever assistance you can give us in helping to protect investors and assure the integrity of this nation's commodities markets.

[From the Consumer Fact Sheet—Commodity Futures Trading Commission]

Get the Facts About High Pressure Sales Techniques

High pressure salesmanship should always arouse suspicion. Fast talking pitchmen have been honing get-rich-quick spiels for centuries. The goal is to separate the victim from his or her money.

Since high pressure techniques often include false or deceptive claims, the Commodity Futures Trading Commission urges you to be wary. The easiest target is a person who is eager for a chance to cash in on quick profits. Before committing your money to a contract on any commodity, understand what you are getting into, what risks are involved and, most important, what you stand to lose. The chance for large, quick profits is usually accompanied by a very high risk.

The Commodity Futures Trading Commission has jurisdiction over most commodity transactions—futures contracts, option contracts, leverage contracts, managed futures accounts, commodity pool operations, and over professional commodity trading advisors.

What's the Product?

The products vary: Gold, silver, copper, coffee, sugar, crude oil, heating oil, foreign currencies and financial futures, to name a few of the currently "hot" commodities.

Commodity instruments (contracts) are called by many names—futures contracts, leverage contracts, managed accounts, commodity pool funds. Various other catch phrases have been introduced into the field. Beware of them. The salesperson may talk about "limited risk forward accounts", "deferred delivery contracts", "gold or silver bullion contracts" or "long term forward accounts."

Some of the representations you may receive over the phone are legitimate; others are not. Be especially wary about any unsolicited, long-distance calls you may get from some salesperson you don't know representing some company you've never heard of before. Before you send your money to anyone, there are a few precautions you should take:

Know the Product, the Seller, and the Conditions of the Contract

Your best defense against being fleeced is a "prove-it-to-me" attitude.

Do remember

Resist pressure to make hurried, uniformed decisions.

Get all representations in writing before you buy.

Be skeptical of promises or "practically guaranteed" spectacular profits.

Be informed about market conditions.

Consider the risks of losses in relation to your own financial position and cash needs.

If you receive unsolicited contacts, this leaflet provides some questions which will help you to learn more about the salesperson and the proposal he is making.

Most Important: Make Notes of the Conversation

Questions to Ask

About the seller

How did you get my name?

Are you and your company currently registered with the Commodity Futures Trading Commission or any other regulatory agency? How long have you been registered?

Is there a well-known brokerage firm or bank that I can call which will recommend your firm?

How long have you and your company been in business? How long have you been offering this particular contract?

What specific services will you provide?

Will you send me a current financial statement and a summary of your recent recommendations?
Who owns the company? May I speak with him or the general manager? What is your boss's telephone number?

About the purchase

What will be the total cost to me? How much is taken out in commissions, fees, discounts and other charges? What is the most I stand to lose? When and how often will I have to send money? Will I be subjected to margin calls or storage charges or interest charges? Might I have to pay more than the price you're quoting me?
How much of the figure you're quoting is actually used to purchase the commodity?
What is the current price on the open market for this commodity? Are your quotations the same as those reported regularly on the commodity exchanges and in the newspaper market pages? Where can I verify your market quotes?

About the market

What is the basis for your recommendations?
Exactly how much does the market price have to move in my favor for me to get all of my money back and start making a profit?
Do I lose all of my money if the market price stays the same or moves against me? How much does it have to move against me for me to lose all of my money?
What other liabilities am I assuming if I purchase this contract?
How does this contract work? How can I get out of the market? How quickly do I get my money if I make a profit, or if I get out to cut my losses?

About customer safeguards

What is the specific name for the type of contract you are offering me? Do you guarantee it to be a legal contract?
If I make this purchase, will it be in my name, and how will it be backed up? What proof can you provide me?
What kind of a written confirmation do I get? How quickly?
Does your firm keep customers' monies separate from the firm's operating funds? In what bank and where is it located?
The commodity you're offering, where do you get it and where is it stored? Must I take delivery, or can I take my profits in cash?

About the company

If a firm or an employee of the firm is registered—and most must be to deal legally with the public—the CFTC can confirm that registration quickly and advise if the public record shows that the CFTC has any prior or pending legal actions against the firm or the individual.
The CFTC, being a federal agency, cannot make any recommendations nor vouch for the reliability of any firm or individual. Nor can it advise as to the frequency of customer complaints.

WHERE CAN YOU GET HELP?

If you are considering contacting an attorney, some local bar associations can provide names of lawyers with experience in the commodities field.
For commodities traded on a commodity exchange, if the broker is not responsive to a properly submitted complaint, you have the right to ask for voluntary arbitration of disputes by the governing exchange. Arbitration, however, may preclude seeking money damages through the CFTC's Reparations proceeding or through other judicial remedies.
For possible violations of the Commodity Exchange Act or CFTC regulations in dealing with brokers including floor brokers, brokerage firms, trading advisors or pool operators: As a customer, you may file a complaint with the CFTC, or you may take the matter to civil court. For further information, call (202) 254-3067.
For suspected fraud, misrepresentations, unauthorized trading and other violations of the Act and regulations, contract the CFTC, the attorney general in your state, or your local district, state or commonwealth attorney.

The CHAIRMAN. Thank you. Mr. Cotton, have you anything to add?
Mr. COTTON. I do not.
The CHAIRMAN. Have you anything to add, Mr. Tifford?
Mr. TIFFORD. No.

The CHAIRMAN. Well, gentlemen, thank you very much. If you have any suggestions on this matter, drop us a note about it or call up the staff. We would appreciate any recommendations you can make, because we want to try to be helpful in curbing this terrible abuse that is going on as to the elderly people all over the country.
Thank you for coming.
Hearing concluded. Thank you, reporters.
[Whereupon, at 1:50 p.m., the committee adjourned, to reconvene at the call of the Chair.]

END

APPENDIXES

SELECT COMMITTEE ON AGING,
HOUSE OF REPRESENTATIVES,
September 18, 1981.

MEMORANDUM

Re: September 11, 1981 Hearing on Frauds Against the Elderly: Business and Investment Schemes.

To: Members of the House Select Committee on Aging.
From: Claude Pepper, Chairman.

BACKGROUND

Senior citizens constitute 11 percent of the population but account for almost 30 percent of the victims of crime in the United States. While violent crime is on the increase, a much sharper increase is reported in economic and non-violent crimes, which is to say fraud. Reinforcement for the proposition that the elderly are easy prey for con men is apparent in early replies to an on-going survey of U.S. Police Chiefs being conducted by this Committee.

It has also been noted in law enforcement circles that in times of high inflation, high unemployment and general economic turbulence, the incidence of fraud increases. Senior citizens are sought out because of their particular vulnerability. Senior citizens sometimes have relatively little background in investments; they may also be more open and trusting than the general population. In this present time of high inflation and social security cuts the elderly have been more and more pushed by fear to gamble on an investment or business opportunity presented by an earnest young salesman who appears to have their interest at heart. Equally as appealing are schemes advertised in newspapers offering seniors a way to augment their incomes whole working at home.

The hearings will relate to the range of schemes perpetrated against the elderly which play upon their need for ore income. Witnesses will include seniors who lost large amounts of money, two people who were convicted of operating large scale frauds, along with representatives of appropriate regulatory agencies.

Following are some examples of each type of fraud.

I. WORK AT HOME SCHEMES

Senior citizens are enticed by ads in their local papers which tell them that they can earn several hundred dollars a month stuffing or addressing envelopes. They have to pay a fee of $15 to $100 to do so. Typically, they lose their money and the firm is never heard from again. Other ads implore the elderly to watch TV and get paid for doing so or to make wreaths and placques at home which the company promises to buy back from the person. As always, there is an obligatory fee to participate and the company seldom if ever buys back the products. Senior citizens are also attracted to ads which purport to put them in the nursery/plant growing business or the earthworm business. Once again many if not all of these schemes perpetrated through the U.S. Mail are a fraud.

For example: Mr. S. H. of El Cajon, California was one of several people in that part of California defrauded by a Texas firm which encouraged investors to grow earthworms. The company said that it would buy back the adult worms at $44 a pound and falsely asserted that large profits would be possible because it had developed a special large worm which ran 350 to the pound. Mr. H. invested $11,130 because of the representations made by him. All he ever received was $231 which the company paid him for one shipment before it went out of business.

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II. SECURITIES

Senior citizens, like the general population, are sometimes netted in phony security schemes. A classic example, to be highlighted at Friday's hearing, involved Progressive Farmers Association (PFA). PFA was touted as a farmer's cooperative whose purpose was to build a chain of retail stores where farmers could sell directly to consumers. The company sold notes, bonds and stocks over a 5 year period, all of which were worthless because the company officers were converting the proceeds to their own use after paying salesmen their commission. Some 6,000 people were taken for more than $12 million in the scheme which operated in Missouri and Oklahoma.

For example, Mr. R. M. of Greenfield, Missouri, a 73 year old farmer, lost $84,000. Mr. C. D. of Iberia, Missouri, who was 58 and retired on disability because of a heart condition, lost $49,926.

III. FRANCHISES

Franchise operations are big business. They constitute about 25 percent of all retail sales and 13 percent of the gross national product. Franchising developed when small businessmen with a popular product and limited capital were looking for a means of expanding. Under this arrangement, the company offers a trade-named, quality product, operating know how, equipment and supplies in a given territory to individuals in return for their initial investment and usually a percentage of gross revenues.

Thankfully, most franchise investments are open and above board but the lure of high profits has made them an ideal device for con-men. The Federal Trade Commission contends that its trade rule on Franchises which requires each investor be presented with detailed information which is on file with the commission has served to limit the number of such frauds recently. Some District Attorneys and consumer fraud experts say that the fraud continues to increase.

Some of the most popular franchise frauds relate to sun tanning salons, ice cream parlors and travel and vacation operations. Fast food franchises are extremely popular. At the hearing, a witness from Pennsylvania will testify about how she and others each lost $25,000 in a fast food restaurant franchise which featured home-made pies.

A more exotic example involves a North Carolina man who was among more than 1,000 bilked by a company which sold franchises to manufacture and sell cockroach traps. Investors paid $600 for the franchise plus additional sums for materials. They were told that there was an established market for the product and a sales crew standing by to sell the product which was touted as being superior to everything on the market. They were told they had exclusive rights to make the product and distribute it in the territory they purchased. None of these promises turned out to be valid. The product turned out to be a small cardboard box which they had to assemble with a sticky non-poisonous substance attached to it. The idea was that once they entered the box, cockroaches would get caught in the sticky material. The investor made a number of these traps but the company refused to buy any of them. He tried to sell them himself at the company's suggested price of $13 each only to find a similar and arguably better product for sale in stores for less than $1. Court records place the total losses at more than $500,000.

IV. DISTRIBUTORSHIPS

Senior citizens sometimes respond to ads which purport to offer exclusive rights to distribute a particular product in a certain geographic area. Among the most popular are vending machine and jewelry distributorships.

For example, thousands of people were defrauded by a vending machine company based in Delaware. Mr. E.F. of Virginia Beach, Virginia lost $6,950. He said he responded to an ad which said that he could make a guaranteed $600 a week in profits for full time and $150 a week in profits per week for part time work. He said that every promise the company made to him was broken: (a) inferior machines were substituted for what he paid for without his consent, (b) the machines broke down constantly and the company failed to repair them as promised, (c) his territory was not protected as promised, (d) the locations were far from acceptable, generating little traffic, and he received no training as promised, and (e) the company failed to meet its guarantees.

V. COMMODITIES

Gold, silver, oil, coal, sugar, wheat, and foreign currencies all can be sold on the commodities market. Fortunately, most firms are reputable, but there is a growing number of outlaw firms who illegally sell off-exchange instruments to the unwary. There are two basic ways to invest. The first is to pay the entire price and take

possession of the item. The second is to buy on margin which involves putting up a percentage of the total purchase price with the balance being due on a certain date in the future.

Typically, commodity schemes involve a "boiler room operation," which is a room with perhaps 100 telephone with salesmen making cold calls or calls to people who have responded to newspaper advertising. High pressure sales are the name of the game. Seniors often believe that they are paying the full price for a commodity only to learn that they are paying a non-refundable fee for the privilege of buying to come up with the money needed to meet one or more margin calls made by the company when the price of a commodity drops. Still others pay money and receive nothing at all.

For example, Mr. R.C. of Monona, Wisconsin, age 63, lost $66,000 in a gold investment. He was told that he would have to come up with an additional $314,000. Mr. G.C. of Quakertown, Pennsylvania lost $83,000 in a similar swindle; all he received was 35 gold coins worth $14,000. Mr. D.H. age 73, of Reidsville, North Carolina lost $53,454 in silver investments.

VI. REGULATORY AGENCIES

The primary jurisdiction with respect to stopping fraud and other crimes rests with the States. In addition to criminal jurisdiction which is exercised through the State's Attorney Generals and District Attorneys, there is residual authority under some state civil fraud statutes. However, the act creating the Commodities Futures Trading Commission pre-empted state law and made the CFTC the exclusive agency to police commodities. This has caused some resentment among State officials.

The Securities and Exchange Commission continues to police securities fraud fairly effectively. The Federal Trade Commission has authority to issue trade regulations to protect consumers and has done so in the area of franchises. Finally, the single most effective agency in deterring fraud against the elderly is the U.S. Postal Service. The Postal Service has a section called the Inspection Service with trained investigators under the direction of the Chief Postal Inspector. The Postal Inspector has been instrumental in bringing a great number of these schemes to an end through the mail fraud statute.

The problem with the postal service, however, is that it lacks authority it needs to move quickly. The Chief Postal Inspector was the prototype for the Inspector General's offices created in every other government agency and yet, the Congress has not given the Chief Postal Inspector the authority—i.e., the power of subpoena—that it has given to all the other Departmental IGS. Congressmen Pepper and Rinaldo have a bill which would remedy this problem which is cosponsored by many on the Committee, H.R. 3973. The bill would give subpoena power to the Chief Postal Inspector. The bill would not cost any money and would not create any new bureaucracy in Washington. It simply allows the service to do its job more effectively.

APPENDIX 2

U.S. DISTRICT COURT, SOUTHERN DISTRICT OF NEW YORK

80 Cr. 3 (KTD)

UNITED STATES OF AMERICA, PLAINTIFF,

against

EARL WILT, DEFENDANT

THE DEFENDANT'S SENTENCING MEMORANDUM

(Fisher & Fraser, Esqs., Attorneys for Defendant, 442 East 58th St., New York, New York 10022, (212) 759-9400)

This is, in essence, the story of a good and hard-working salesman who became entangled in a corrupt business. Seduced by the money, he acquiesced in questionable sales practices, and then found himself sucked deeper and deeper into a morass. Though Earl Wilt rationalized his involvement by believing his customers would eventually make a profit, he found to his dismay that the forceful retail selling of commodity options was merely the tip of the iceberg. For under the retailer stood the underwriter companies with impressive names and European headquarters who were obligated to pay returns on the investment of the customers' monies. As it turned out, however, the underwriters pocketed huge sums and refused to pay when the options advanced in value. Thus Wilt found himself in a business that could only stay afloat if its customers sank.

The government's exposure of the fraudulent practices came almost as a relief to Wilt. He agreed to cooperate even before charges were brought against him. And his cooperation was full and complete, including not only helping in the government's investigation, but trial testimony leading to convictions of those the government deemed most culpable.

Now extricated from the options business, Wilt has returned to his former self: a decent man in pursuit of a lawful livelihood.

BACKGROUND

At age fifteen, Wilt began to work weekends at a farmers' market auction house. At sixteen, he started working as an auctioneer. For the next eleven years, he worked each weekend in the auction business, in farmer's markets, carnivals, circuses—in short, wherever there was an auction. At the same time, he finished high school, graduating from William Penn High School, New Castle, Delaware, 1962, and attended one year of business college at Goldy College, in Wilmington, Delaware.

In 1963, at the age of nineteen, he began working full-time as a salesman, first for an industrial glass and plastics firm, and then, in 1964, for E. I. duPont Company. For the first three years at duPont, he held down four jobs: he worked for duPont; two nights a week, he worked as a short-order cook in his mother's restaurant; two nights a week, he worked as a furniture salesman; and on the weekends, he continued working in the auction business.

He remained at duPont for the next seven years, marketing a product called Corfam, a synthetic material used in the manufacture of shoes. Selling this material to shoe manufacturers gave him a quasi-technical background in shoemaking. By the time he left duPont, he was ranked tenth out of their 1300 salesmen.

In 1971, duPont sold its remaining inventory of Corfam to the George Newman Company in Boston, Massachusetts, and the Newman company hired the defendant to help set up a shoe manufacturing plant and marketing plan for the Corfam.

From 1972 to 1975, he worked for Chillwick Corporation, and then for the Barlow Company, both importers and exporters of "shoe upper" material. From 1975 to 1977, he worked for two manufacturers of "shoe upper" material.

In January, 1977, he moved to New York, to run a new division for Suvretta Trading Corporation, a general import-export business. The new division didn't work out, so in March of 1977 he left Suvretta to go into business for himself. With no capital, he began Inventory Placement Company, working out of his apartment on 211 Thompson Street, buying and selling "shoe upper" materials.

THE PRESENT OFFENSE

While trying to get his fledgling business off the ground, Wilt became friendly with Kevin Mitchell and Michael Schwartz, two fellows who shared an apartment in the defendant's building. They were both sales managers at Fairchild, Arabatzis and Smith, a commodity options firm at 59 Wall Street. While they were both considerably younger and less experienced than the defendant, they were making considerably more money—between $3,000 and $5,000 per week.

In July, 1977, Mitchell and Schwartz asked the defendant to come work with them at Fairchild. Wilt knew nothing about commodities or the stock market in general—in fact, he had never even owned a stock or a bond—but he was impressed by their large salaries, secure in his abilities as a salesman, and sure he could catch on. He was also hopeful, at the age of 34 and after 13 years in the shoe business, of bettering himself, of finding a more interesting livelihood, and generally in fulfilling his abilities and talents. This new opportunity offered a chance. He accepted.

He worked for Fairchild for two weeks at night, while continuing his own business during the day. After two weeks, he quit. He didn't like Arabatzis or the blatant high pressure sales tactics, and felt disillusioned.

Wilt continued to operate his own business until January of 1978. Then his two friends convinced him to give Fairchild another try. Things had changed since Wilt had been there, they said. They sweetened the pot by telling him that he could have unscheduled hours and continue his own business out of the Fairchild office.

So Wilt returned to Fairchild. Although a born salesman and previously a successful one, he had a great deal of trouble making a go of it at Fairchild. In retrospect, although he was already learning "the hard sell" used by the business, he was still uncomfortable with the tactics he was using; he knew they just weren't right. He tried to maintain a certain degree of integrity—so, for example, he used his real name when dealing with customers, although the other salesmen used fictitious names.

In April, 1978, Michael Schwartz approached Wilt. He said he was fed up with Arabatzis and was going to open his own commodity options firm, a franchise for a larger organization—the parent company of Donny Securities, and its subsidiary, Bollard Precious Metals. Schwartz' firm, Phillips & Brown, would sell the Bollard package and the customers would collect directly from Bollard. The defendant agreed to be Schwartz' sales manager and to set up his books and records.

By August, 1978, Phillips & Brown was running into trouble. Wilt and Kevin Mitchell, one of Schwartz' partners, were not getting along. At the same time, Schwartz was having bitter arguments with Bollard on the one hand, and his partners (Kevin Mitchell, Barry Vort, and Schwartz' father) on the other. Finally, their volume of sales was poor. In short, the business was a mess.

At around that time, principals from Donny Securities approached the defendant privately and suggested that he start his own franchise for them. They had heard that Schwartz was going to jail for a parole violation and did not believe that Phillips & Brown would survive. They offered to set the defendant up with office space, desks and telephones, and the defendant decided to accept their offer.

On June 1, 1978, the Commodities Futures Trading Commission (CFTC) banned the selling of commodity options. So Wilt's new company, Morgan Harris & Scott (MHS), did not sell commodity options; rather, it sold "deferred delivery contracts." In the minds of many, this is a distinction without a difference. Still, the attorneys for Donny Securities (Gusrie Green & Kaplan) assured Wilt that the selling of deferred delivery contracts was legal. And, of course, many other firms were doing the same thing.

However, the defendant felt that deferred delivery contracts were against the spirit, if not the letter of law. He knew he was dealing with people who were often less than upright, and he knew that his ventures were extremely high-risk. But he wanted to believe that selling deferred delivery contracts was legal, and that so long as he backed up his contracts, his customers would have a fair opportunity to realize a profit.

From August to November, Morgan Harris & Scott (MHS) sold the Bollard package. But by November, it was already in trouble. For, as the contracts began to fall due, the customers started to complain that Bollard was not paying off. When confronted, the principals at Bollard told Wilt that they had not paid the customers because they had not been paid by their underwriter in London.[1]

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[1] The defendant was having other problems with Bollard. Bollard principals accused him of buying and selling contracts from other companies (his agreement with them was he would sell the Bollard package exclusively). In November, Bollard principals literally raided the MHS offices, taking the defendant's corporate checkbook to see if he was dealing with other companies. They made telephone calls to the defendant's home, threatening him.

Shortly thereafter, Jim O'Connor came to see the defendant. O'Connor said that he was the United States representative for London Swiss, Bollard's underwriting company. He said he had heard about Wilt's problems with Bollard, and that he was also having problems with Bollard, because Bollard had not paid London Swiss for some contracts, and was "bucketing" (not backing) other contracts. He suggested that the defendant deal directly with London Swiss, move to another location, and begin selling directly under the MHS name rather than under the aegis of Bollard Precious Metals.

A couple of weeks later, O'Connor returned with Bernard Coven, the American attorney for London Swiss.[2] The defendant told Coven he could not afford to break away from Bollard and assume the cost of rent, telephone, and the like. Coven assured him that Wayne Baird, the owner of London Swiss, would lend him $10,000 start-up money. So the defendant secured a lease and informed Bollard he was leaving.

In December, Wilt met with Baird, who refused to loan him the cash to start the new office, but rather offered to extend to him 30 days' credit on the purchase of underwriting contracts.

So the defendant opened his new office already under an operating deficit. To make matters worse, the Attorney General, as part of a general investigation into the commodity options market, had subpoenaed Wilt's books and records.

In January, 1979, the defendant hired Coven to sue Bollard. He and Coven wrote letters to Wilt's customers, telling them to get in touch with the defendant and Coven if they had trouble collecting their money from Bollard, and they would assist the customers in getting their money.

In January and February, the defendant and Coven met twice with Assistant Attorney General Ronald Eisenman. Prior to those meetings, the defendant had been meticulously instructed by Coven as to what to day and what not to say, with the emphasis being on what not to say. Wilt was scared and uncertain, but relied on his attorney for advice.

However, for a brief period, the defendant's better judgment surfaced. After a second meeting with Eisenman, Wilt decided, over Coven's objection, to get an opinion from the CFTC as to the legality of selling deferred delivery contracts. At Wilt's request, a meeting was held with four CFTC members, and he was informed that they felt he was selling commodity options. The defendant tried to make an argument that deferred delivery contracts were distinguishable. The CFTC members responded: bring in the supporting documents (sales literature, etc.) and we will render a decision.

Unfortunately, Wilt never returned with the documents. He allowed himself to be convinced by Coven that he would only be subjecting himself to more trouble. But he remained uncertain of what he should do, fearful of the trouble he might be getting himself into, and somewhat distrustful of Coven.

Thus, sometime in February or March, Wilt telephoned Mr. Eisenman, without Coven's knowledge. He told Mr. Eisenman that he was considering hiring another attorney, that he wanted to talk to Eisenman alone, that if he was doing something wrong, he wanted to know about it. Mr. Eisenman, quite properly, refused to speak with the defendant outside of the presence of his attorney.

At the same time, the contracts purchased from London Swiss began to fall due, and payment was not forthcoming. Wilt tried for some time without success to collect the money. He even went to England to try to iron things out with Baird. London Swiss ended up owing MHS over $550,000 and MHS in turn owed that amount to its customers.

Faced with what seemed an insurmountable problem, the defendant took another step in the wrong direction. He resorted to "roll-overs"—convincing customers to put their money into another contract, rather than taking the money due them—hoping that the second contract would prove unprofitable to his clients. But still believing he must back up the contracts he sold, he looked for another underwriter. He found three: Euro-Swiss, an underwriting company that Coven and O'Connor were starting; Rex Conex, run by a trader named Marvin Kaplan; and Jack Ringer, another trader.[3]

From March through May, the defendant struggled to keep things afloat and earn back the money he owed to his customers from the London Swiss fiasco. He owed his salesmen as well as his customers. In May, his best salesman, Sam Mizrahi, invited him to Mexico City for a long weekend. Mizrahi was aware of all the

[2] Both O'Connor and Coven were later convicted in the United States District Court for the Southern District of New York, with Wilt testifying for the government.

[3] Kaplan ended up owing the defendant's customers $330,000, Jack Ringer owed $200,000. After MHS went into receivership, Euro-Swiss, the only underwriters who actually paid him, also defaulted.

problems facing the company. He proposed a way out. He suggested rolling the customers over to Mexican pesos, a commodity which was practically guaranteed not to increase in worth. Since the contracts would almost certainly not increase in value, they could get away without paying the premium to an underwriter. Rather, they would send it to "Altacreto", a construction type company which Mizrahi's brother-in-law owned. While in fact "Altacreto" would not cover the contracts but would merely receive the monies, it would appear that the contracts were covered. Under this scheme, 80 percent of the premium would come back to the defendant, 20 percent would go to Mizrahi. When the defendant agreed to this scheme, his fall was complete.

When the premiums started coming in on the Mexican contracts, Wilt took $5,000 (in total, the value of the premium for one contract) and put it in a personal savings account. The rest of the premiums he pumped back into the company to pay debts.

From that point on, the defendant's main thrust was to get into a position where he could close the company down. Euro-Swiss was paying on the contracts as they became due, and the defendant hoped to divide what he would continue to get from them among his customers and get out of the business.

On August 3, 1979 he fired all his salesmen and announced that he was closing the company. He anticipated that for the following six months he would continue to receive money from Euro-Swiss, and that money would at least partially satisfy all his customers.

He had no inkling of what was to follow. On August 6, 1978, the United States Postal Authorities searched MHS pursuant to a search warrant. Three days later, prior to any charges being brought against him, Wilt agreed to cooperate and pleaded guilty to state and federal charges.

THE DEFENDANT'S COOPERATION WITH THE GOVERNMENT

The extent of the defendant's cooperation is outlined fully in Assistant United States Attorney Audrey Strauss' letter, so we will not duplicate it here. Rather we will highlight a few notable facts.

First, we think it is relevant that the defendant's decision to admit his guilt and cooperate with the government followed immediately upon the Postal Authorities' execution of a search warrant at the offices of MHS, even before any formal charges had been brought against him. He did not wait to see what kind of case the government had against him; he did not entertain the idea of contesting his guilt. This decision marks the beginning of his regeneration.

Second, his cooperation has been extensive. For over a year and a half, he has met countless times with government representatives. He has worked in an undercover capacity, including being outfitted with a body wire on a number of occasions and making several taped telephone conversations. He testified for four days for the government in *United States* v. *Coven*, 80 Cr. 607.

In *United States* v. *Coven*, which resulted in the conviction of the two defendants, AUSA Strauss made it clear that Wilt's cooperation was critical to the government's case:

> We needed him (Wilt) to make the case in the sense that he was the person on whom we placed the Nagra body recorders and sent up to Euro-Swiss for the purpose of conducting the investigation and making the tape recordings. We could not place a recorder on Inspector Bruce Woods and send him up and expect Mr. Coven was going to talk to him the way Mr. Coven was willing to talk to Mr. Wilt. We needed Mr. Wilt to make this case.

United States v. *Coven*, 80 Cr. 607 (T:2119).

The defendant's cooperation with the government continues even now and will continue in the future. He has recently met with Assistant United States Attorney Todd in relation to an investigation involving Michael Garbi (one of the defendant's chief salesmen) and National City Trading, a firm Garbi started after MHS closed down. It is anticipated that the defendant will be participating further in that investigation, and will testify before the grand jury and at trial, should that be deemed necessary.

The defendant's extensive cooperation is the best evidence possible that he has left illegal activities far behind him.

THE SENTENCING OF EARL WILT

It is clear from the defendant's behavior since August of 1979 that he is an intelligent man who has reflected upon his conduct and fully realizes the extent of his wrong doing. It is also clear that his involvement in illegal activities is a thing of the past.

It is hard to conceive of anything more the defendant could have done to demonstrate his repentance and to right his wrongs. He has fully cooperated with the government in every possible way, and has been completely forthright in admitting his wrongs. He has been cooperative with the court-appointed receiver for MHS, and testified for the receiver in *Glusband* v. *Euro-Swiss,* 79 Civ. 5955. He even permitted television reporters to interview him on national television, and explained what he had done to his investors, and how others could avoid being similarly cheated.

Not just the fact of his willingness to cooperate, but also the completeness and intensity of his cooperative efforts are relevant to the sentencing determination:

From some cooperating defendants a veritable cataract of disclosure gushes forth saturated with sincerity and intensity; whereupon the shackles on justice fall away and the community indeed becomes the beneficiary. On the other hand, with many there is a guarded and hesitant "revelation," a bit of evidence here and there coupled with a long and fervent recital of material already well known to the prosecuting officials, as the defendant usually is fully aware.

United States v. *Rannazzisi,* 434 F. Supp. 619, 623 (S.D.N.Y. 1977).

In this case, it might be useful to "proceed through the short list of the supposed justifications for criminal sanctions" to determine whether the defendant's incarceration would be appropriate. *United States* v. *Bergman,* 416 F. Supp. 496, 498 (S.D.N.Y. 1976).

The defendant's behavior in the past year and a half demonstrates that the goals of specific deterrence and rehabilitation have already been met. Once extricated from the commodity options arena, the defendant has proved to be both honorable and penitent. In addition to his cooperation with the government, which has been, in many ways, a full-time job, he has returned to what he does best: selling tangible items at a fair price. He has started a modest but successful furnishings business in Tom's River, New Jersey, as far away from the commodities market as he could get. It is most improbable that this defendant will commit similar, or any, offenses in the future. It is equally improbable that any rehabilitative purpose could be served by sending this defendant to prison.

Nor would incarceration serve the purpose of deterring other potential violators. In a very real sense, the notion of general deterrence is inapplicable to someone who has actively cooperated with the government, as this defendant has done. For, a sentence of imprisonment would likely deter not potential violators, but rather potential cooperators.

The real issue here is society's right to demand retribution. To what extent should society punish someone who has done wrong and has then devoted a year and a half making for that wrong? We believe that, in such a situation, incarceration is inappropriate. However, the people he hurt, the victims of his scheme, deserve acknowledgment and response. Since the defendant is such a capable person, we believe he should be sanctioned economically. Probation, conditioned on a program of restitution, would be far better serve the investors who lost money on his account than would a sentence of imprisonment.

In a life of legitimate business activities and hard work, the year that MHS was in operation represents a detour in a life which has otherwise been, and will continue to be, useful and productive.

In light of the above, we respectfully suggest that the competing needs of the public and the offender can best be balanced and resolved in this case by a sentence of probation, conditioned upon a program of restitution to be worked out by state and federal probation authorities.

Earl Wilt has learned his lesson.

Earl Wilt: Outline of Sentencing, April 9, 1981

John S. Martin, Jr., United States Attorney for the Southern District of New York, announced that Earl Wilt, formerly a New York commodities broker, was sentenced today by the Hon. Kevin T. Duffy, United States District Judge to 18 months' imprisonment. Mr. Wilt had pleaded guilty on January 3, 1980 to one count of mail fraud stemming from his activities in defrauding investors of more than two million dollars through fraudulent sales of contracts for deferred delivery of commodities including gold and silver. Mr. Wilt had also pleaded guilty on January 3, 1980 to State charges of grand larceny in the second degree and a violation of the Martin Act based upon the same illegal conduct. In that prosecution, which was brought by the Office of the Attorney General of the State of New York, Mr. Wilt was scheduled to be sentenced on April 10, 1981.

In a letter to Judge Duffy, the Government noted that Mr. Wilt had cooperated with the Government and that his cooperation had resulted in the convictions of James F. O'Connor and Bernard J. Coven, who operated a wholesale commodity investment company called Euro-Swiss International Corp. Coven, an attorney, and O'Connor were each sentenced on March 27, 1981 by the Honorable Robert L. Carter to 10 years' imprisonment.

From December 1978 through March 1979, Wilt attempted to cover contracts which his companies sold by purchasing equivalent contracts from London Swiss. Ltd., a corporation located in London, England. However, London Swiss defaulted on all of its contracts with Morgan Harris & Scott and, consequently, Morgan Harris & Scott did not have sufficient funds to pay its customers on contracts which matured with money due and owing to the customer. Rather than reveal this fact, Wild instructed his salesmen to convince the customers to invest the monies owing to them in additional commodities contracts. Under Wilt's instructions, salesmen also induced new sales by telling potential customers that 54% of the company's prior customers had been "winners." The salesmen fraudulently omitted to reveal that almost none of the so-called "winners" had received any of the monies due and owing to them.

Wilt's companies fraudulently sold to approximately 300 customers in 41 states of the United States $2.4 million worth of commodity investments. Of that money, only $115,798.45 was returned to customers, with most of the investors suffering a loss of their entire investment.

Audrey Strauss, the Assistant United States Attorney in charge of the prosecution, summarized the charges on which Mr. Wilt was sentenced as follows:

Earl Wilt began his operations in September, 1978, when he started doing business through Morgan Harris & Scott, Ltd., located on the third floor of 55 John Street, New York. Subsequently, the operations were moved to the seventh floor of 59 John Street. After March 1977, Wilt was the president and sole principal of Morgan Harris & Scott. Beginning in June 1979, Wilt also conducted his operations through two other companies, Harrison Prescott, Inc. and Euro-American Currency Corp.

From September 1978 through July 1979, Wilt used these companies to conduct a large-scale telephone sales operation designed to defraud members of the public through the sale of contracts for deferred delivery of commodities, such as gold, silver, platinum, Mexican pesos, British pounds, Swiss francs and Belgium francs. Wilt's companies charged customers a fee ranging from $1,000 to $12,000 for each such contract. Wilt's salesmen, who had no special knowledge of the commodities markets and who often assumed one or more false names, would deliver prearranged "pitches" designed to push customers into hasty investments. Only after the customer had wired or mailed funds did he learn that his money did not even pay for any part of the investment in the underlying commodity.

Outline of Information and Guilty Plea, January 3, 1980

Robert B. Fiske, Jr., United States Attorney for the Southern District of New York, announced that Earl Wilt, a New York commodities broker, pleaded guilty today to charges that he defrauded investors of more than two million dollars through fraudulent sales of contracts for deferred delivery of commodities including gold and silver. Mr. Wilt waived indictment and entered a plea of guilty before Hon. Kevin T. Duffy to one count of mail fraud, carrying a maximum penalty of five years' imprisonment and a fine of $1,000 or both. Mr. Wilt also pleaded guilty today to State charges of grand larceny in the second degree and a violation of the Martin Act based upon the same illegal conduct. That prosecution was brought by the Office of the Attorney General of the State of New York.

Mr. Fiske noted that today's proceeding marked the sixth indictment or information, and the fifth conviction, charging fraud in the area of commodities investments filed by this Office over the past 18 months, in addition to several indictments charging the making of false statements by commodities brokerage salesmen. He stated that "we hope that this conviction, together with the others that have preceded it, will alert the public to the dangers inherent in this kind of investment."

Mr. Fiske expressed his appreciation to the United States Postal Inspection Service for its assistance in this successful prosecution. Mr. Fiske also expressed his appreciation to the Office of the Attorney General of the State of New York for its cooperation in the prosecution of this case.

Audrey Strauss, the Assistant United States Attorney in charge of the investigation, summarized the Information to which Mr. Wilt pleaded guilty as follows:

Earl Wilt began his operations in September, 1978, when he started doing business through Morgan Harris & Scott, Ltd., located on the third floor of 55 John Street, New York. Subsequently, the operations were moved to the seventh floor of 59 John Street. After March 1977, Wilt was the president and sole principal of Morgan Harris & Scott. Beginning in June 1979, Wilt also conducted his operations through two other companies, Harrison Prescott, Inc. and Euro-American Currency Corp.

From September 1978 through July 1979, Wilt used these companies to conduct a large-scale telephone sales operation designed to defraud members of the public through the sale of contracts for deferred delivery of commodities, such as gold, silver, platinum, Mexican pesos, British pounds, Swiss francs and Belgium francs. Wilt's companies charged customers a fee ranging from $1,000 to $12,000 for each such contract. Wilt's salesmen, who had no special knowledge of the commodities markets and who often assumed one or more false names, would deliver prearranged "pitches" designed to push customers into hasty investments. Only after the customer had wired or mailed funds did he learn that his money did not even pay for any part of the investment in the underlying commodity.

From December 1978 through March 1979, Wilt attempted to cover contracts which his companies sold by purchasing equivalent contracts from London Swiss, Ltd., a corporation located in London, England. However, London Swiss defaulted on all of its contracts with Morgan Harris & Scott and, consequently, Morgan Harris & Scott did not have sufficient funds to pay its customers on contracts which matured with money due and owing to the customer. Rather than reveal this fact, Wilt instructed his salesmen to convince the customers to invest the monies owing to them in additional commodities contracts. Under Wilt's instructions, salesmen also induced new sales by telling potential customers that 54% of the company's prior customers had been "winners." The salesmen fraudulently omitted to reveal that almost all of the so-called "winners" had not received any of the monies due and owing to them.

Wilt's companies fraudulently sold to approximately 300 customers in 41 states of the United States $2.4 million dollars worth of commodity investments. Of that money, only $115,798.45 was returned to customers, with most of the investors suffering a loss of their entire investment.

Ms. Strauss said that Judge Duffy had set the sentencing of Mr. Wilt for February —, 1980.

APPENDIX 3

Pictures of Witnesses Testifying at Hearing*

Wayne Kidd, Chief of the Fraud Section, Inspection Service U.S. Postal Service demonstrates broken, poor quality or unworkable vending machines received by investors to Chairman Pepper. Many investors in such machines received nothing at all testified Kenneth Fletcher, Chief Postal Inspector of the United States. See page 25.

*Photos by Marilu P. Halamandaris, as a courtesy to the Committee.

William Waters of San Antonio, Texas testified he invested $18,000 for a vending machine distributorship and received nothing for his money. See page 34.

Mrs. Mabel Nord, Licking Missouri, testified that she and her husband lost $21,360 in a phony securities investment. See page 28.

Ed Steinleitner of Allentown, Pennsylvania testified that he and his wife had lost $30,000 in an investment in an earthworm growing franchise and work at home scheme. See page 29.

Sidney Marcus of Lusby, Maryland testified he lost about $57,000 in investments in commodities, gold and silver with a firm that was not legitimate. See page 30.

Mrs. Bayard Moore testifed that she and her husband lost $25,000 in an investment in a fast food franchise which featured home made pies.

Hap Seiders told of making over $3 million a year in a counterfeit coin scheme which targeted the elderly and others. He was convicted and is currently serving his sentence. See page 53.

Earl Wilt ran a multi-million dollar "boiler room" operation selling questionable commodity contracts in several states. Mr. Wilt was convicted and is currently serving out his sentence. See page 59.

Sandra Bourbon, nationally recognized expert on business, investment and consumer fraud testified that the elderly are disproportionately victimized by phony business investment schemes. See page 53.

Earl Wilt demonstrates the sales pitch which a con man would use to sell questionable commodity contracts.

Congressman Claude Pepper plays the victim caught in Wilt's net. See page 66.

END