

Report to the Commission on
PROJECT SCOFFLAW
From the Bureau of Consumer Protection

August 2003



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Executive Summary

Scofflaw: a contemptuous law violator

The Commission established Project Scofflaw in 1996 to detect and prosecute violators of FTC-obtained district court orders. The Project has institutionalized Commission procedures to improve our ability to detect recidivists and deter violations through civil and criminal contempt actions. In appropriate cases, the Commission refers matters to the Department of Justice to punish recidivists through criminal contempt actions for violating FTC court orders or for violating criminal statutes. Contemptuous defendants face the possibility of fines, penalties, other monetary judgments, and incarceration. Through such actions, the FTC stops illegal conduct and demonstrates to would-be scofflaws that the Commission will take all appropriate steps to ensure compliance with court orders and protect consumers from further violations.

2002 Case Statistics

- C **Criminal Sentences/Restitution.** Five defendants ordered to 26 years incarceration or home detention and to pay \$15 million in restitution.

- C **Civil Contempt.** Four defendants prosecuted and judgments obtained for over \$39 million in redress.

Case Statistics Since Project Inception in 1996

- **Incarceration/Home Detention.** A total of 54 years for 17 defendants.

- **Monetary Awards.** \$58 million.

I. Introduction

Project Scofflaw aims to detect and prosecute violators of FTC-obtained federal court orders through *civil contempt* actions, allowing the FTC to stop the deceptive acts as quickly as possible, and *criminal contempt* actions, where the defendants face the possibility of incarceration. This Report to the Commission from the Bureau of Consumer Protection discusses Project Scofflaw's initiatives and results since the *Report to the Commission on Project Scofflaw's First Five Years*, issued in January 2002 (Five Year Report). The Five Year Report discussed Project Scofflaw's history, its initiatives, and the results of 27 civil and/or criminal contempt prosecutions filed during the project's life.¹

Since the release of the Five Year Report, 3 of the 4 defendants then under indictment or awaiting sentencing have since been sentenced; 2 additional defendants have been convicted and sentenced for criminal contempt; and 4 new civil contempt actions have been filed. The 5 defendants sentenced since the Five Year Report have been ordered to serve approximately 26 years, combined, incarceration or home detention² and have been ordered to pay, in total, \$15 million in restitution. The 4 civil contempt actions have resulted in at least \$39 million in redress.³ These results bring the FTC's criminal and civil contempt remedies achieved since the Project's inception to sentences totaling almost 54 years incarceration against 17 defendants and \$58 million in monetary awards.

In addition, the Bureau of Consumer Protection, along with the FTC's Bureau of Economics and Office of Policy and Planning, filed comments with the United States Sentencing Commission concerning proposed amendments to the sentencing guidelines, policy statements, and commentary to implement the Sarbanes-Oxley Act of 2002.⁴ The Bureau of Consumer

Protection also reviewed and streamlined existing model order language that is designed to allow the Commission to track defendants and their activities. Additionally, the Bureau of Consumer Protection conducted staff training on the use of the revised provisions and how to bring civil and criminal contempt actions.

II. Background

Project Scofflaw was initiated to reflect the agency's commitment to combating fraud and deterring recidivism. Since its inception, Project Scofflaw's goals have been to strengthen the FTC's ability to oversee defendants' compliance with court orders, to bring civil contempt actions for noncompliance, and to refer especially egregious noncompliance to the Department of Justice (DOJ) for criminal contempt prosecutions. Specifically, Project Scofflaw's initiatives have included:

- C **Coordinating more closely with DOJ** regarding potential criminal contempt actions
- C **Developing, implementing, and revising model order provisions** requiring, *e.g.*, defendants to maintain records of future activities, and report to the FTC staff on their location and employment activities
- C **Implementing post order procedures** regarding, *e.g.*, obtaining and reviewing mandatory compliance reports defendants are required to submit to show how they are complying with the final order
- C **Monitoring compliance** of randomly-selected defendants through the use of database searches and other investigative techniques
- C **Conducting comprehensive staff training** about use of the new provisions and how to bring civil and criminal contempt actions
- C **Initiating scofflaw investigations** based on complaint data and other leads
- C **Assisting DOJ in criminal prosecutions.**

Project Scofflaw also encourages and assists in criminal prosecutions of hard-core fraud. In these prosecutions defendants face incarceration based on violations of criminal statutes, whether or not they are already under a civil order. Thus, under Project Scofflaw, referring hard-core fraud cases to DOJ or state and local criminal authorities for prosecution is a high priority.

III. Project Scofflaw Initiatives

During 2002, in addition to cases, the Project filed comments on the federal sentencing guidelines; revised model district court order monitoring and compliance provisions; conducted compliance review; and provided staff training, as discussed below.

A. United States Sentencing Commission Comment

The Bureau of Consumer Protection and Economics and the Office of Policy and Planning filed a comment with the United States Sentencing Commission recommending that the Sentencing Commission increase penalties for “lower loss” frauds of less than \$120,000 and enhance penalties for obstruction of justice offenses.⁵ The Sarbanes-Oxley Act of 2002 directed the Sentencing Commission to implement amendments to the United States Sentencing Guidelines that would not only address high-loss complex fraud cases, but would also raise penalties for white collar crime generally.⁶ The Sentencing Commission requested comments on proposed amendments to the appropriate sentencing guidelines such as the Obstruction of Justice guidelines, policy statements, and commentary to implement the Act. The staff submitted its comment to share with the Sentencing Commission some of the FTC’s experiences in stopping and deterring deceptive conduct, especially by recidivists.

“Lower Loss” Frauds. The staff’s comment noted that, currently, there are perverse incentives that make criminal prosecution less likely when law enforcers have acted swiftly to stop fraud in progress. For example, the comment cited a case where the FTC quickly moved against defendants who used deceptive emails or “spam” to dupe consumers into placing expensive international audiotext calls. The defendants sent thousands of consumers an unsolicited email stating that each recipient’s “order” had been received and that his or her credit

card would be billed \$250 to \$899. The email instructed consumers to call a telephone number in the 767 area code if they had any questions. Most consumers did not realize that 767 was the area code for Dominica, West Indies. The email was, in fact, no more than a ruse to connect victims to a pay-per-call audiotext entertainment service with sexual content that charged expensive international rates. As a result of the FTC's quick action, victims lost only a little over \$85,000.

Even though the fraud was egregious, it is unlikely that DOJ or a local United States Attorney's office would have chosen to prosecute the case. In determining whether to accept an FTC referral, DOJ conducts, in essence, a cost-benefit analysis, weighing the costs of bringing a resource-intensive criminal prosecution against the benefits, if successful (*i.e.*, incarceration and the deterrent effect that follows). In that case, the amount of loss, and thus the likely sentence, would likely have been too low to outweigh the resources necessary to prosecute the matter.

Disparity in Contempt Sentences. The staff's comment further noted that, based on our experience, there is potential for disparate sentences for those who violate a federal court order under the current sentencing framework, depending on the judge's decision as to which guidelines to apply. Sentencing guideline § 2J1.1 (Contempt) directs the court to apply sentencing guideline § 2X5.1 (Other Offenses), which, in turn, directs the court to apply the most analogous offense guidelines. In the context of the violation of an order prohibiting false representations, the most analogous guideline should be § 2B1.1 (Larceny, Embezzlement, and Other Forms of Theft; Offenses Involving Stolen Property; Property Damage or Destruction; Fraud and Deceit; Forgery; Offenses Involving Altered or Counterfeit Instruments Other than Counterfeit Bearer Obligations of the United States). The application note to § 2J1.1, however,

specifically mentions § 2J1.2 (Obstruction of Justice) as a sufficiently analogous offense to apply to contempt. Accordingly, in sentencing contemnors, some courts have applied the Fraud sentencing guidelines while others have applied Obstruction of Justice guidelines. The judge's decision on which guidelines are the most analogous significantly affects the resulting sentence.

The experiences of two contempt defendants, Dennis S. Goddard and Kenneth Sterling, are illustrative. In 1994, the FTC filed a federal court action against Goddard for defrauding millions of dollars from consumers through a telemarketing scheme offering rare coins as an investment opportunity.⁷ He stipulated to a permanent injunction requiring him to post a bond before offering investment opportunities and prohibiting specified false representations. Goddard then violated the order, defrauding numerous consumers out of over \$1 million as part of another investment scheme that involved a large number of participants. In 2000, Goddard pleaded guilty to a four count information charging him with criminal contempt.⁸ The court applied the Fraud guidelines to calculate Goddard's "offense level" to be level 20,⁹ and sentenced Goddard to 24 months incarceration.¹⁰

In contrast, another recidivist, Kenneth Sterling, received a significantly shorter sentence than Goddard because the court applied the Obstruction of Justice guidelines. In 1995, DOJ, on behalf of the FTC, sued Sterling in federal court for defrauding millions of dollars from consumers through a vending machine business opportunity scheme.¹¹ He stipulated to a permanent injunction requiring him to comply with the FTC's Franchise Rule¹² and prohibiting specified false representations. Thereafter, he and many other participants engaged in the exact activity prohibited by the order, and defrauded numerous consumers out of more than \$600,000. The court found him guilty of criminal contempt, but applied the Obstruction of Justice

guidelines to calculate his offense level to be level 10, and sentenced him to seven months incarceration.¹³ If the court had applied the Fraud guidelines, Sterling likely would have received a sentence in the range of 33 to 41 months.

The staff's comment noted that although these two matters both involved clear cut violations of prior court orders, similar substantial consumer injury, a large number of participants, and multiple victims, one contemnor received significantly less punishment because that court applied the Obstruction of Justice guidelines rather than the Fraud guidelines. Promulgating enhancements to the Obstruction of Justice guidelines that account for serious offenses, such as cross-referencing the fraud loss table and accounting for the number of participants and victims, would diminish the disparity in potential sentences. Con artists then would be on notice that they face significant jail time if they violate a federal court order, better deterring recidivist conduct.

B. Model Order Provision Revisions

The project coordinators reviewed and streamlined the model order provisions that have been in use since 1998. As a result of the revisions, there are five model provisions that provide a structured model to provide general consistency among cases, while allowing the staff flexibility to tailor an order to the facts of each case.

Compliance Reporting Provision. The defendant is obligated to demonstrate in detail to the FTC staff the manner and form in which the defendant is complying and has complied with the order. The time by which the defendant must submit this report may vary, but generally it is 180 days after entry of the order. The defendant also must notify the FTC of location and employment changes (*e.g.*, changes in residence, mailing addresses, telephone numbers,

employment status, and the structure of business entities). In addition to providing the FTC with useful information for any needed follow-up, this requirement alerts the defendants that the FTC will be watching their future activities.

Compliance Monitoring Provision. Several of the provisions that facilitate post-order compliance investigations have been combined into one provision. The defendant must, upon written notice from the FTC staff:

- C submit additional written reports, sworn to under penalty of perjury;
- C produce documents;
- C appear for deposition;
- C and/or provide entry during normal business hours to any business location in the defendant's possession or direct or indirect control to inspect the business operation.

In addition, the FTC is authorized to use investigative techniques, including posing as consumers and taping sales pitches, to gather information regarding the defendant's activities, as well as to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. Moreover, the FTC is authorized to obtain discovery from any person, without further leave of court, in the manner otherwise provided by the Federal Rules of Civil Procedure, and to obtain any documentary material, tangible things, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)) pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

Record-keeping Provision. The defendant must create and maintain specified categories of documents that are relevant to the type of activity that was the subject of the case. The records generally include accounting records; customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business; customer complaints and refund requests; and copies of all sales scripts, training materials, advertisements, or other marketing materials.

Service Provision. The defendant must submit a signed, notarized acknowledgment of receipt of the order. The form of acknowledgment, however, is no longer attached as part of the order, providing the defendant more flexibility in complying with the provision.

Distribution of Order Provision. The defendant must give the order to all principals, officers, directors, and managers and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of the order. Additionally, the defendant must obtain from each such person a signed and dated statement acknowledging receipt of the order.

C. Compliance Monitoring

The Five Year Report listed as a Future Action that Project Scofflaw team members would be conducting sweeps to determine whether defendants are providing accurate information about their current location and activities. As part of these sweeps, perhaps better described as surveys, the staff selected defendants and conducted database searches and used other investigative techniques looking for any evidence of inaccurate information or non-compliance. In some matters, defendants have been targeted for additional investigation.

D. Staff Training

The project coordinators, experienced staff, and DOJ personnel trained the staff on use of the sample provisions (*e.g.*, how and when to use) and assessing which cases merit further investigation. They also trained the staff on how to prosecute civil and criminal contempt actions.

IV. Case Results

In the last year, 5 defendants have been sentenced to serve approximately 26 years, combined, incarceration or home detention and to pay, in total, \$15 million in restitution. One defendant awaits sentencing. In addition, the FTC has filed 4 civil contempt actions, stopping ongoing deceptive conduct and resulting in judgments of at least \$39 million in redress.

A. Criminal Actions

- Lee Sacks was sentenced in October 2002, in the U.S. District Court for the Central District of California, to six months incarceration for criminal contempt for violating an asset freeze. Sacks, an attorney for defendant Kenneth Taves in *FTC v J.K. Publications*, assisted the defendant in accessing accounts in the Cayman Islands that the defendant failed to disclose in court-ordered sworn financial statements so that the defendant could pay Mr. Sacks' legal fees. Shortly after learning of this transaction, the FTC filed a civil contempt motion against Mr. Sacks, which he settled by repaying the funds he received. The United States Attorney in Los Angeles subsequently prosecuted Mr. Sacks for criminal contempt. Sacks must serve at least one month of his sentence in jail and may serve some or all of the remainder either in a half-way house or home-detention.
- Robert Ferrara, in October 2002, was sentenced in the U.S. District Court for the Western District of Missouri to 125 months (10 years, 5 months) in prison for criminal contempt in connection with his role in a business opportunity scheme. The Court also ordered Ferrara to pay \$102,674.90 in restitution to the victims.¹⁴

In 2000, DOJ had filed a case against Emily Water & Beverage Co., Inc., and its principals for violating the Franchise Rule while selling a bottled-water vending machine franchise. After confirming that the “Robert Ferrara” associated with Emily Water was the same Ferrara already under order in *United States v. Ferrara Foods*, DOJ prosecuted Mr. Ferrara for criminal contempt.¹⁵

- C Dennis W. Vaughan, III, was sentenced in the U.S. District Court for the District of Kansas, in August 2002, to 84 months in jail for criminal contempt of the final order in *FTC v. Parade of Toys, Inc.*, conspiracy to commit wire fraud, and money laundering.¹⁶ In addition, he was ordered to pay \$13,800,400 in restitution to the victims of these criminal activities, including \$1.3 million in restitution to consumers in the criminal contempt matter. Vaughan was indicted for promoting a business venture in violation of a permanent order banning such conduct and failing to notify the FTC of changes in his employment.¹⁷
- C Robert Febre was sentenced in May 2002, in the U.S. District Court for the Northern District of Illinois, to 14 months for criminal contempt of the final order in *FTC v. Robert Febre*. The FTC had sued Febre for violating Section 5 of the FTC Act while promoting a number of business opportunity and work-at-home scams; we won on summary judgment and obtained a \$16 million judgment. In violation of the final order, Febre subsequently operated a new credit identity credit repair scam and deceptively offered a business opportunity scam that claimed consumers could make money by soliciting credit card applications. In

addition Febre sold ten classic cars, including a Delorean, that were subject to a preliminary injunction asset freeze.

- C Ronald Michel was sentenced in December 2001, in the U.S. District Court for the Central District of California, to 84 months in jail for one count of money laundering, two counts of wire fraud, and two counts of mail fraud for conduct that violated the final order in *FTC v. Golden Oak Numismatics, Inc.* The stipulated final order prohibited Michel, in connection with the marketing or sale of coins, investments or investment services, or with the telemarketing of any product or service, from misrepresenting the risk of, or likely returns on, an investment. Nonetheless, Michel almost immediately created the first of several telemarketing companies to promote investments in wireless cable systems and misrepresenting likely returns.

B. Civil Actions

In the last year, the FTC has initiated 4 civil contempt actions, resulting in judgments for at least \$39 million in redress as well as other relief, including a preliminary order for a recall or repackaging/relabeling of specified products.

- C Enforma Natural Products, Inc., and several of its executives have been ordered to show cause why they should not be held in civil contempt for violating, on two separate occasions, the 2000 order in *FTC v. Enforma Natural Products, Inc., et al.* In January 2002, the FTC filed a civil contempt application against Enforma and Andrew Grey, its president and CEO, and Michael Ehrman, another Enforma executive,¹⁸ in connection with post-order advertising for purported weight loss

products “Fat Trapper Plus” and “Exercise In A Bottle.” The FTC filed a second civil contempt action in July 2002 against Enforma, Grey, Twenty-Four Seven, LLC, and Donna DiFerdinando, Enforma’s director of marketing, in connection with post-order advertising for purported weight loss products “Acceleron” and “Chitozyme.”¹⁹ In October 2002, the court entered a preliminary injunction prohibiting certain claims for Acceleron and Chitozyme and ordering a recall or repackaging/relabeling of these products. In December 2002, the court entered a preliminary injunction prohibiting certain claims for Fat Trapper Plus and Exercise In A Bottle and ordering a recall of these products.²⁰ These matters remain in litigation.

- C Wade Cook agreed to settle charges that he and his companies violated a 2000 order, entered in *FTC v. Wade Cook Financial Corp. and Wade Cook Seminars*, barring unsubstantiated earnings claims at financial seminars and requiring rate of return disclosures and redress payments. The stipulated order resolving the civil contempt motion extends a redress program for investors who paid to attend Cook's clinics, but did not make more money trading stocks than they paid for the seminars. It also puts systems in place to assure compliance with the requirement that Cook disclose the rate of return on stock market investments made by the Wade Cook Financial Corp.
- C Diversified Marketing Service Corp., H.G. Kuykendall, Jr., H.G. Kuykendall, Sr.; C.H. Kuykendall; National Marketing Service, Inc.; NPC Corporation of the Midwest, Inc.; and Magazine Club Billing Service, Inc., were held in civil

contempt in connection with telemarketing magazine subscriptions in a manner that violated a 1996 order in *FTC v. H.G. Kuykendall, Jr., et al.* In March 2002, the court ordered the defendants to pay \$39 million in consumer redress for violating the order, which barred various deceptive selling practices by the telemarketers.²¹

V. Future Actions

As part of Project Scofflaw, the FTC's staff continues to pursue leads and tips about defendants who may be engaging in prohibited conduct, conducting full-scale investigations as needed. In addition, Project Scofflaw team members continue to conduct surveys to determine whether defendants are providing accurate information about their current location and activities.

Endnotes

1. At the time the Five Year Report was issued, 12 defendants had been convicted, serving a combined 28 years of incarceration or home detention, and ordered to pay almost \$4 million in penalties, fines and restitution. Four other defendants were under indictment or awaiting sentencing. Eleven defendants had been prosecuted for civil contempt.
2. Two defendants have appealed their sentences.
3. The defendants in 3 of the civil contempt actions have appealed.
4. Pub. L. 107-204.
5. The FTC's release announcing that the staff had filed the comment and a copy of the comment are available at the FTC's website at <http://www.ftc.gov/opa/2002/12/fyi0268.htm>.
6. *See, e.g.*, the legislative history for Sections 805 and 905 of the Act. "This section would require the United States Commission to review and consider enhancing, as appropriate, criminal penalties in cases involving obstruction of justice and in serious fraud cases." 148 Cong. Rec. S7418 (statement of Sen. Leahy). "Our bill requires the sentencing commission to go back and recalibrate the sentencing guidelines to raise penalties for white collar offenses affected by this legislation." 148 Cong. Rec. S7426 (statement of Sen. Biden).
7. *FTC v. Goddard Rarities, Inc.*, No. 93-CV-4602 (C.D. Cal.).
8. *United States v. Dennis S. Goddard*, No. 2:00cr00450 (C.D. Cal.).
9. The Sentencing Guidelines rely on a sentencing table that contains 43 levels, known as "offense levels." Each level in the table prescribes a sentence range, for example 33-41 months. The offense level is calculated by applying the appropriate offense category guidelines, and then adjusting the offense level to account for specified mitigating and aggravating factors such as victim-related adjustments and role in the offense.
10. The sentence range for level 20 is 33-41 months. Goddard, however, received a downward departure from the applicable sentence range pursuant to § 5K1.1 for providing substantial assistance to authorities in the investigation or prosecution of another person.
11. *United States v. American Vending Corp.*, No. 0:95cv06640 (S.D. Fla.).
12. 16 C.F.R. Part 436.
13. *United States v. Kenneth Sterling*, No. 0:99cr06105 (S.D. Fla.).
14. Under the applicable criminal statute, restitution is ordered without regard to a defendant's ability to pay, and it is unclear whether Mr. Ferrara has the financial resources to pay restitution.

15. Ferrara has filed a notice of appeal challenging the sentence.
16. Vaughan pleaded guilty to 4 counts of criminal contempt and one count of conspiracy to commit wire fraud and three counts of money laundering to resolve separate charges brought by the U.S. Attorney's Office in Kansas for his criminal activities in connection with the original FTC action.
17. Vaughan filed a motion to withdraw his guilty plea, claiming that he had been ill-advised by counsel and misinformed of the sentencing guidelines. In denying the motion at his sentencing hearing, the Court stated that granting Vaughan's motion would be a huge waste of judicial resources and that Vaughan's motion was as clear a case of buyer's remorse. Vaughan has filed a notice of appeal challenging the sentence.
18. Ehrman was not a defendant in the underlying action. The FTC named him in the contempt application as being in active concert or participation with Enforma and Grey.
19. Twenty-Four Seven and DiFerdinando also were not defendants in the underlying action. The FTC named them in the contempt application as being in active concert or participation with Enforma and Grey.
20. The Ninth Circuit denied defendants' and respondents' separate emergency motions to stay each of these preliminary injunctions and those matters remain pending on appeal. The court has expressed interest in investigating others who may have been involved in the post-order advertising and claims substantiation.
21. In December 2002, the Tenth Circuit affirmed the district court's finding that the defendants violated the order. The Tenth Circuit, however, remanded the case for further proceedings on the amount of redress. The Tenth Circuit also has granted the FTC's motion for rehearing *en banc* for the limited purpose of reviewing the appellate opinion stating that the amount of the redress as a civil contempt sanction must be determined by a jury and that the plaintiff must establish the appropriate amount by clear and convincing evidence. A hearing is set for October 2003.

PROJECT SCOFFLAW CASE SUMMARY

U.S. v. Utah Bureau of Collections, Inc. and Douglas **Beardall**, C-80-0574-A (D. Utah)

Underlying Final Order

(1981) debt collection

Contemptuous Conduct

(criminal) violated order and FDCPA by failing to provide debtors with required notices and making misrepresentations

Result

(2000) 24 months in jail for contempt, mail fraud and perjury

FTC v. Giving You Credit, Inc. and Keith **Berggren**, No. 96C2088 (N.D. Ill.)

Underlying Final Order

(1996) credit repair services

Contemptuous Conduct

(civil) continued to misrepresent credit repair services

Result

(1997) banned from credit repair services

FTC v. Satellite Broadcasting Corp. and Joe **Champion**, No. SACV-95-336 (C.D. Cal.)

Underlying Final Order

(1996) FCC license investment scam

Contemptuous Conduct

(criminal) made misrepresentations re: investments in software in violation of order

Result

(2000) sentenced to 21 months in jail for mail and wire fraud

FTC v. Michael **Chierico**, 96-1754-Civ. Moore (S.D. Fla.)

Underlying Final Order

(1996) toner-phoner scam

Contemptuous Conduct

(civil 2x) continued to fraudulently telemarket toner and failed to pay court-ordered redress

Result

(1998) 4 days of jail; ordered to pay \$3 million, including \$2 million in redress; (2001) banned from telemarketing and direct mail of office supplies

FTC v. American Fortune 900 and Rory **Cypers**, CV96-305-RAP (C.D. Cal.)

Underlying Final Order

(1996) 900-number investment scam

Contemptuous Conduct

(criminal) failed to post bond and fraudulently telemarketed precious metals as investments

Result

(1999) 60 months incarceration for contempt

U.S. v. Ronald **Dante** dba Perma-Derm Academy, 90-CV-945 (C.D. Cal.)

Underlying Final Order

(1991) misrepresented training and certification given to attendees of his permanent makeup workshop

Contemptuous Conduct

(criminal) failed to make required disclosures re: permanent makeup classes and misrepresented potential earnings in connection with paralegal training

Result

(1998) sentenced to 67 months in jail for contempt

FTC v. Fortuna Alliance and Augustino **Delgado**,
No. C96-799M (W.D. Wash.)

Underlying Final Order

(1997) illegal pyramid scheme

Contemptuous Conduct

(civil) failed to provide additional \$2.2 million for consumer refunds

Result

(1998) court ordered defendants to pay 15,622 consumers refunds

FTC v. Infinity Corp. and Gregory **Duvall**, CV 95-4819-R (C.D. Cal.)

Underlying Final Order

(1996) Franchise Rule violations in offering medical billing franchises

Contemptuous Conduct

(civil) continued to misrepresent medical billing services opportunity

Result

(2001) 1996 agreement modified to add performance bond and more stringent restrictions

FTC v. Pase Corp. and Robert J. **Febre**, No. 94C 3625 (N.D. Ill.)

Underlying Final Order

(1996) work at home scam

Contemptuous Conduct

(criminal) credit repair scam, business opportunity scam and violating asset freeze

Result

(2002) stipulated to obstruction of justice charge; sentenced to 14 months in jail (maximum sentence under guidelines)

U.S. v. Ferrara Foods and Robert **Ferrara**,
4:2002cr00016 (W.D. Mo.)

Underlying Final Order

(1984) Franchise Rule violations re: snack food distributorships

Contemptuous Conduct

(criminal) involved in new business opportunity scheme to sell bottled water franchises

Result

(2002) Ferrara sentenced to 125 months in prison and ordered to pay \$102,674.90 in restitution

FTC v. Keith **Gill** and Richard **Murkey**, No. 98-1436 (C.D. Cal.)

Underlying Final Order

(1999) credit repair

Contemptuous Conduct

(civil) Murkey continued to sell credit repair services in violation of ban, and both defendants failed to comply with order's monitoring provisions

Result

(2001) Murkey must pay consumers full restitution and is subject to \$5,000 daily fines if he violates ban, misrepresents credit repair services or demands payment for such services; Gill and Murkey subject to \$1,000 daily fines if fail to send rescission notices

FTC v. Goddard Rarities and Dennis **Goddard**,
93-CV-4602 (C.D. Cal.)

Underlying Final Order

(1994) rare coins investment opportunity

Contemptuous Conduct

failed to post bond and misrepresented 900-number investment opportunities

Result

(2000) sentenced to 24 months in jail for contempt

FTC v. Enforma Natural Products and Andrew Grey et al., CV-00-04376-JSL (CWx) (C.D. Cal.)

Underlying Final Order

(2000) prohibits unsubstantiated claims for weight loss products, including Fat Trapper and Exercise in a Bottle supplements

Contemptuous Conduct

(civil 2x) (1) continued to advertise Fat Trapper and Exercise in a Bottle products and (2) started selling new weight loss products, Acceleron and Chitozyme, by making false and unsubstantiated claims

Result

(10/30/02) court ordered Acceleron and Chitozyme products recalled or relabeled and enjoined fat trapping, weight loss and metabolism enhancement claims for them

(12/9/02) court ordered Fat Trapper Plus and Exercise in a Bottle products recalled and efficacy claims prohibited

FTC v. Meridian Capital Management and Jeffrey Jordan, CV-S-96-63 PMP (D. Nev.)

Underlying Final Order

(1997) recovery room scam

Contemptuous Conduct

(criminal) violated asset freeze

Result

(1997) sentenced to 3 months in jail for contempt

FTC v. Diversified Marketing Service Corp. and H.G. Kuykendall et al., No. CIV-96-388-M (W.D. Okla.)

Underlying Final Order

(1996) deceptive telemarketing of magazine subscriptions

Contemptuous Conduct

(civil) continued to deceptively telemarket magazine subscriptions in violation of agreed-to ban

Result

(2002) defendants held in civil contempt and ordered to pay \$39 million in consumer redress

FTC v. Golden Oak Numismatics and Ronald Henry Michel, No. 91-6741 (C.D. Cal.)

Underlying Order

(1993) fraudulent telemarketing of rare coins investment opportunity

Contemptuous Conduct

(criminal) ran fraudulent investment scheme involving wireless cable

Result

(2001) pled guilty to two counts of wire fraud, two counts of mail fraud and one count of money laundering; sentenced to 84 months in jail

FTC v. Jordan Ashley and Thomas Norton, 93 2257-Civ-Nesbitt (S.D. Fla.)

Underlying Final Order

(1995) greeting card franchise scheme

Contemptuous Conduct

(civil) failed to notify Commission of new employment

Result

(1999) jailed until complied with reporting requirement

U.S. v. Elliston Funeral Home and Edward Olenec, No. 92-C-4294 (N.D. Ill.)

Underlying Final Order

(1992) Funeral Rule violations

Contemptuous Conduct

(criminal) failed to provide employees with copy of court order and failed to provide price lists to consumers

Result

(2000) sentenced to 1-month home detention for contempt and fined \$125,000

FTC v. Metropolitan Communications Corp., Joan **Orth**, et al., 1:1994cv00142 (S.D. N.Y.)

Underlying Final Order

(1997) FCC license investment scheme

Contemptuous Conduct

(criminal) violated asset freeze

Result

(1997) sentenced to 6-months home detention

FTC v. Paradise Palms Vacation Club and James R. **Quincy**, C81-1160D (W.D. Wash.)

Underlying Final Order

(1988) time share travel scam

Contemptuous Conduct

(civil) failed to post performance bond and make required disclosures

Result

(1996) court ordered defendant jailed approximately 60 days until paid \$50,000

U.S. v. Mark **Reiber** dba Credit Repair Counselors, C-1-98-171 (S.D. Ohio)

Underlying Final Order

(1999) credit repair scam

Contemptuous Conduct

(civil) continued to misrepresent credit repair services

Result

(2000) 1999 order modified to ban him from offering credit repair

FTC v. PAL Financial Services, Inc., Media Management, Inc., and Lonny **Remmers**, SACV-95-473 (C.D. Cal.)

Underlying Final Order

(1996) investment scam involving satellite television programming

Contemptuous Conduct

(criminal) operated new telemarketing scam and failed to post performance bond

Result

(1998) sentenced to 46 months in jail for contempt

FTC v. JK Publications and Kenneth Taves (and Lee **Sacks**), CV 99-0044 (C.D. Cal.)

Underlying Final Order

(2000) original defendant Kenneth Taves involved in illegal billing scam for x-rated internet sites

Contemptuous Conduct

(criminal) Lee Sacks, Taves' attorney, violated asset freeze by helping Taves access an off-shore bank account that Taves failed to disclose in court-ordered sworn financial statements

Result

(2002) Sacks sentenced to 6 months in jail for contempt

FTC v. Worldwide Classics and Ronald **Schaefer**, 92-CV-3363 (C.D. Cal.)

Underlying Final Order

(1993) stamps and art investment scam

Contemptuous Conduct

(criminal) continued to misrepresent investment opportunity

Result

(2000) sentenced to 37 months for mail and wire fraud

U.S. v. American Vending Corp. and Kenneth **Sterling**, 99-CR-6105-ALL (S.D. Fla.)

Underlying Final Order

(1996) vending machines business opportunity

Contemptuous Conduct

(criminal) violated Franchise Rule and made misrepresentations in connection with vending machine business opportunity

Result

(1999) sentenced to 7 months in jail for contempt

FTC v. Think Achievement and William **Tankersly**, 2:98-CV-12-TS (N.D. Ind.)

Underlying Final Order

(2000) postal service job scam

Contemptuous Conduct

(civil) failed to repatriate assets
(criminal) asset freeze violation

Result

(2001 - civil) defendant jailed 6-1/2 months; relief-defendant spouse jailed 6 months
(2001 - criminal) Tankersly sentenced to two concurrent 27-month sentences for contempt

FTC v. J.K. Publications and Kenneth **Taves**, CV 99-0044 (C.D. Cal.)

Underlying Final Order

(2000) illegal billing scam for x-rated internet sites

Contemptuous Conduct

(criminal) violated asset freeze and failed to disclose all assets

Result

awaits sentencing

FTC v. Telecommunications of America and Barry **Taylor**, No. 95-693-CIV-ORL-22 (M.D. Fla.)

Underlying Final Order

(1996) pay telephone business opportunity scam

Contemptuous Conduct

(civil) greeting card rack business opportunity scam

Result

(2000) \$656,257 judgment and banned from franchise or business opportunities

FTC v. National Art Publishers and Distributors, Inc. and Benjamin **Valenty** (S.D. Cal.)

Underlying Final Order

(1994) art investment scam

Contemptuous Conduct

(civil) continued to make misrepresentations in selling art as investment

Result

(1997) 1994 order modified to impose stricter ban on telemarketing and payment of \$150,000 for consumer redress

FTC v. Parade of Toys and Dennis W. **Vaughan**, III, 97-CV-2367 (D. Kan.)

Underlying Final Order

(1999) business opportunities scheme

Contemptuous Conduct

(criminal) promoted business venture in violation of ban and failed to notify FTC of new employment

Result

(2002) sentenced to 84 months in jail for contempt, conspiracy to commit wire fraud, and money laundering; also ordered to pay \$13,800,400 in restitution to victims

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