

Douglas and Nancy S. Toups



This

July 16, 2006

To: United States Federal Trade Commission
From: Douglas P. Toups, CPA and Independent Business Owner

RE: Proposed "Trade Regulation Rule on Business Opportunities" & Response:

I am a professional – Certified Public Accountant, an owner of multiple business entities, a distributor for Nature's Sunshine Products, and an IBO affiliated with Quixtar since 1999 as well as an Amway distributor since 1989. I am licensed in two other disciplines – Life and Health Insurance and Residential/Commercial Mortgages. I am also happily married for twenty-eight years to Nancy S. Toups. We are the proud parents to five wonderful contributing members of our society (along with one 6-month-old grandchild) – as we rebuild Louisiana from the ravages of Hurricanes Katrina and Rita. Also, I am a life long resident of Louisiana as well as a citizen of this great country of ours – the United States of America – active in Church, professional, community, and civic groups.

I am a strong believer in capitalism as a CPA, an entrepreneur, salesman, businessman, and as a distributors of fine products and services offered through Quixtar, Amway, and Nature's Sunshine. However, it does not take any of these disciplines nor ownership to see the problems this proposed trade regulation rule would cause should an unwise and unwarranted decision be made to enact this proposal.

These proposed rules are not beneficial at all to the consumer but poorly designed to unfairly target negatively a group of business owners – distributors, IBOs, sales people – who by and large are honest and hard working citizens of this great country. It would have grave consequences to this group of business professionals. This ruling would hold this group to unrealistic standards of business that no other profession or business must follow in its entirety. Even as a CPA, we are not held to such standards in our profession. Thus, I feel this ruling "targets" us unfairly!

I will take the time to explain my points in detail the shortcomings of each rule proposed:

1. Prohibit prospects from registering as IBOs until seven days after they receive a disclosure document.

When I was presented with the opportunity to own other businesses, register for college so I could become a CPA, and was offered the opportunity to start my networking business I was glad there were rules that I knew had to be followed. However, I would not have wanted someone to tell me you must wait seven days before you register for college – I would have not been able to attend – you see – I waited until the last day allowed to register and if someone would have told me that I might not be a CPA today. When I give a proposal to a client that client does not have to wait seven days to give me an answer as I am prospecting that client for business so why should a prospect from my networking business have to wait any time at all. If I wanted to buy a business, I offered the owners twice what it is worth to take over their place immediately; I would not have to wait 7 days to be a new business owner.

2. Require IBOs to give every prospect a list of “references” – contact information for 10 other IBOs in the area – seven days before the prospect registers.

If I have a prospect, who is not signed on under me yet and in contacting the 10 references as the FTC has suggested, my prospect makes a connection or is given a sales pitch and I lose him or her to one of those reference – is that fair to me? **NO!** My prospects in the mortgage, insurance, and/or CPA world do not have to talk to ten references. They may in fact wish to do so and I would be happy to provide them with references but they do **NOT HAVE TO!** Also, if for example, one is competing against others who have to be referenced and those referenced are more successful with more money and greater capabilities, how do new IBOs compete if they have to reference people like me – who now have Quixtar as our primary source of income? One could choose not to reference successful people but those less successful and that would be sending a prospect perhaps to someone who failed – like asking a college dropout what does it take to graduate – they cannot tell you because they have not done it. This is a two edged sword!

3. List all legal allegations – lawsuits, arbitrations, and other legal claims – against Quixtar and its IBOs from the past 10 years.

As a CPA, insurance agent, mortgage originator, and business owner, I am not required to list any of the above to my prospects. I do have to report these to the various regulatory agencies and fortunately I have had none to report. Any legal actions are a matter of public record and many can be found by doing a search on the Internet – if one thinks that the Internet search engines provide quality information – which is just as off base as many frivolous lawsuits. What is next – do doctors, lawyers, realtors, bankers, etc. have to tell their patients, clients, and etc. these things before they do business with them?

I am active with Quixtar – recruiting, selling products, training, etc. and I only use the products of Nature’s Sunshine but both of these companies have strict rules to abide by – as does the other disciplines I participate in. These companies provide the guidance, rules, and regulations for us to abide and if we do not we are not allowed to continue.

4. Require IBOs to calculate and make different disclosures for every income claim.

All reputable companies such as Quixtar provide guidance on what can and cannot be said legally for those IBOs who build their businesses according to the sales and marketing plan. This information is reviewed often by their legal and rules department to keep us in compliance with the appropriate laws and regulations. To expect IBOs to calculate and make different disclosures for every income claim would be even more confusing and disastrous because then the prospect would be open to wildly inaccurate claims. We use approved documents when presenting the income claims.

5. Require that every prospect receive "substantiation" for every income claim.

I provide our prospects with the approved documents mentioned above and I give them an idea of what is possible when they do the work we have done. I describe the impact on our lives financially and otherwise to the prospects and I do not feel that giving the prospects what I make as an IBO should be required because how my business is structured may not be what they are willing to do to achieve the same levels of success. It is better to point to the approved sales and marketing plan as what is possible then to what someone personally makes – which can easily be fabricated to look better than it is – which would not be appropriate. I do not offer my prospective clients my tax records so why should I have to do that as an IBO? I do tell the prospects that this is our primary source of income and it provides a lifestyle better than my CPA profession provided!

I would like to thank the FTC for the opportunity to respond. It has taken quite a bit of my time and we appreciate the efforts to protect consumers but please do not do things which hurt the small business owners. These proposed rules would do just that. We are much better to be self regulated as much as possible as those who do not follow the rules never make it anyway in this type of business. Please feel free to contact us via mail, phone, or email shown in our letterhead above.

Sincerely,

Douglas Toups, CPA

Quixtar Affiliated IBO