

**PREPARED STATEMENT OF
THE FEDERAL TRADE COMMISSION**

on

THE PRECIOUS COINS AND BULLION DISCLOSURE ACT

Before the

**SUBCOMMITTEE ON COMMERCE,
TRADE, AND CONSUMER PROTECTION**

of the

**COMMITTEE ON ENERGY AND COMMERCE
UNITED STATES HOUSE OF REPRESENTATIVES**

WASHINGTON, DC

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I. Introduction

Chairman Rush, Ranking Member Whitfield, and Members of the Committee, I am Lois Greisman, Associate Director in the Bureau of Consumer Protection at the Federal Trade Commission (“FTC” or “Commission”). I appreciate the opportunity to testify before you today about consumer protection issues arising from the sale of coins and precious metals as investments.¹

Since the downturn of the American economy, the Commission has witnessed a proliferation of scams that target financially-distressed consumers. Scam artists lure consumers with false promises of employment and income opportunities, health insurance, guaranteed government grants, and guaranteed extensions of credit and loans.² Scam artists also are putting a new twist on an old scam – falsely touting coins and precious metals as low-risk, high-yield

¹ This written statement represents the views of the Commission. My oral presentation and responses to questions are my own and do not necessarily reflect the views of the Commission or any individual Commissioner.

² Since April 2009, the FTC has filed 40 cases challenging scams and other unlawful conduct relating to the financial downturn. In connection with the sweeps that the FTC has coordinated in the area, our state and federal partners have announced more than 500 related lawsuits and regulatory actions. For example, last month, the Commission and its state counterparts announced *Operation Healthcare Hustle*, which involved 54 lawsuits and regulatory actions against sham operations that targeted uninsured, underinsured, and unemployed Americans by falsely marketing medical discount plans as health insurance. See *Press Release, FTC, State Attorneys General, Insurance Commissioners Crack Down on Bogus “Medical Discount Plans” Peddled to the Uninsured, Underinsured, and Unemployed* (Aug. 11, 2010), available at <http://www.ftc.gov/opa/2010/08/hustle1.shtm>. In addition, over the last fourteen months, the Commission and its federal and state partners have announced over 140 lawsuits and regulatory actions as part of two law enforcement sweeps against fraudulent operations that fleeced consumers with promises of jobs or other business opportunities. See *Press Release, FTC Cracks Down on Con Artists Who Target Jobless Americans* (Feb. 17, 2010), available at <http://www.ftc.gov/opa/2010/02/bottomdollar.shtm>.; *Press Release, FTC Cracks Down on Scammers Trying to Take Advantage of the Economic Downturn* (July 1, 2009), available at <http://www.ftc.gov/opa/2009/07/shortchange.shtm>.

investments to hedge against the economic downturn and fears of a declining U.S. dollar. Often these marketers also fail to disclose hidden fees, mark-ups, and premiums added onto the purchase price of the coin or precious metal investment. By failing to disclose this key information to consumers, the marketers divert consumers from purchasing investment opportunities from legitimate dealers, and leave the consumers drowning in underwater investments.

Today's testimony will address important consumer protection issues involving coin and precious metal investments. The testimony will describe the Commission's past and current enforcement initiatives, introduce the Commission's new consumer education piece on gold and other precious metal investments, and provide comments on the proposed legislation.

II. The FTC's Law Enforcement Initiatives

The Commission has longstanding enforcement experience with investment scams. Beginning in the 1980s, the Commission brought enforcement actions against dozens of fraudulent operators that marketed bogus investments to consumers and caused hundreds of millions of dollars in consumer injury.³ Investment scams proliferated during this period when

³ See, e.g., *FTC v. Affordable Media, LLC*, Civ. No. CV-S-98-006696-LDG (D. Nev. Apr. 28, 1998); *FTC v. Hang-Ups Art Enters., Inc.*, Civ. No. 2:95-cv-00027-RMT-JG (C.D. Cal. Jan. 4, 1995); *FTC v. Nat'l Art Publ'rs and Distribs., Inc.*, Civ. No. 3:94-cv-0518-R-AJB (S.D. Cal. April 4, 1994); *FTC v. Renaissance Fine Arts, Ltd.*, Civ. No. 1:94-cv-0157-PRM (N.D. OH Jan. 27, 1994); *FTC v. The Cambridge Exch. Ltd., Inc.*, Civ. No. 0:93-cv-06300-WDF (S.D. Fla. Apr. 15, 1993); *FTC v. Western Trading Group*, Civ. No. 2:92-cv-04194-RMT (C.D. Cal. July 15, 1992); *FTC v. World Wide Classics, Inc.*, Civ. No. 2:92-cv-03363-TJH (C.D. Cal. June 4, 1992); *FTC v. First Am. Trading House*, Civ. No. 0:92-cv-06049-JCP (S.D. Fla. Jan. 21, 1992); *FTC v. Am. Microtel, Inc.*, Civ. No. CV-S-92-178-LDG (RJJ) (D. Nev. 1992); *FTC v. Solomon Trading Co., Inc.*, Civ. No. 2:91-cv-01184-SMM (D. Ariz. July 23, 1991); *FTC v. Michael L. Zabrin Fine Arts, Ltd.*, Civ. No. 1:90-cv-06033 (N.D. Ill. Oct. 17, 1990); *FTC v. Prudential Res., Inc.*, Civ. No. 90-185-RDF-RJJ (D. Nev. Mar. 19, 1990); *FTC v. Morgan Whitney Trading Group, Inc.*, Civ. No. 90-4887 (C.D. Cal. 1990); *FTC v. Lloyd Sharp*, Civ. No. CV-S-89-870-RDF (RJJ) (D. Nev. Dec. 18, 1989); *FTC v. Magui Publ'rs, Inc.*, Civ. No. 89-3818-RSWL (GX)

many Americans lost confidence in traditional investments, like stocks and bonds, due to the high inflation rates in the late 1970s and early 1980s. Bogus firms sold alternative forms of investments, such as gold or silver bullion, rare coins, precious and semi-precious gemstones, oil and gas leases, and fine art. Many of these firms were nothing more than telephone boiler rooms that used high-pressure, polished sales pitches—sometimes supported by direct mail solicitations, slick promotional brochures, and glossy ads in mainstream publications. In general, these fraudulent investment schemes bilked individual consumers an average of \$5,000 to \$10,000 by falsely promising large investment returns with little to no risk. When the promised returns never materialized, the FTC stepped in and was able to return more than tens of millions of dollars to defrauded investors.⁴

A significant portion of the Commission's activity in this area involved the sale of historic coins. The FTC has brought 17 cases against companies that sold overpriced and/or

(C.D. Cal. 1989); *FTC v. Amrep Corp.*, Civ. No. 1:87-cv-04425-PNL (S.D.N.Y. June 24, 1987); *FTC v. Atlantex Assocs.*, Civ. No. 1:87-cv-00045-LCN (S.D. Fla. Jan. 2, 1987); *FTC v. Am. Nat'l Cellular, Inc.*, Civ. No. 85-7375 WJR (C.D. Cal. 1985); *FTC v. Alaska Land Leasing, Inc.*, Civ. No. 84-5416 MRP (JRX) (C.D. Cal. July 23, 1984); *FTC v. Leland Indus., Inc.*, Civ. No. 83-3518-CBM (PX) (C.D. Cal. 1983); *FTC v. U.S. Oil & Gas Corp.*, Civ. No. 1:83-cv-01702-WMH (S.D. Fla. July 7, 1983); *FTC v. Int'l Diamond Corp.*, Civ. No. C-82-0878 (N.D. Cal. 1982); *see also infra* note 5.

⁴ *See, e.g., FTC v. Oak Tree Numismatics, Inc.*, Civ. No. 2:91-cv-01626-NHP (D.N.J. Apr. 18, 1991); *FTC v. Morgan Whitney Trading Group, Inc.*, Civ. No. 90-4887 (C.D. Cal. 1990); *FTC v. Certified Rare Coin Galleries, Inc.*, Civ. No. 1:89-cv-01307-KLR (S.D. Fla. June 26, 1989); *FTC v. Sec. Rare Coin & Bullion Corp.*, Civ. No. 3:86-cv-01067-RGR (D. Minn. Dec. 29, 1986); *FTC v. Rare Coins of Georgia*, Civ. No. 1:87-cv-02772-WCO (N.D. Ga. Dec. 21, 1987); *FTC v. Am. Nat'l Cellular, Inc.*, Civ. No. 85-7375 WJR (C.D. Cal. 1985); *FTC v. Alaska Land Leasing, Inc.*, Civ. No. 84-5416 MRP (JRX) (C.D. Cal. July 23, 1984); *FTC v. Leland Indus., Inc.*, Civ. No. 83-3518-CBM (PX) (C.D. Cal. 1983); *FTC v. U.S. Oil & Gas Corp.*, Civ. No. 1:83-cv-01702-WMH (S.D. Fla. July 7, 1983); *FTC v. Int'l Diamond Corp.*, Civ. No. C-82-0878 (N.D. Cal. 1982).

misgraded historic coins for investment purposes.⁵ These cases alleged that purported coin dealers falsely marketed their coins as good, safe investments. In reality, these dealers sold the coins with significant mark-ups, often as high as 100 to 300% over the prevailing market price. These mark-ups made a return on the investment or even a recovery of the initial purchase impracticable.

Recent complaints lodged with the FTC indicate that scam artists are luring consumers with three types of precious metal or coin scams. First, some consumers have complained to the FTC about deceptive sales pitches for historic coin investments. Recent complaints reviewed by Commission staff suggest that some dealers use high-pressure sales tactics to persuade consumers to purchase historic coins rather than bullion, and misrepresent the value of historic coin investments. For example, some consumers complain that they invested in coins only to discover, after the fact, that the investment value of the coins was far lower than they had been led to believe.

Second, consumers also report that some unscrupulous marketers pitch highly leveraged

⁵ See *FTC v. Dahlonga Mint, Inc.*, Civ. No. 4:94-civ-00070-HLM (N.D. Ga. Apr. 11, 1994); *FTC v. Goddard Rarities, Inc.*, Civ. No. 2:93-cv-04602-JMI-GHK (C.D. Cal. Aug. 3, 1993); *FTC v. U.S. Rarities, Inc.*, Civ. No. 1:92-cv-0363-JWK (S.D. Fla. Feb. 13, 1992); *FTC v. Fed'l Coin Repository, Inc.*, Civ. No. 9:92-cv-01634-ADS (E.D.N.Y. Apr. 3, 1992); *FTC v. T.G. Morgan, Inc.*, Civ. No. 4:91-cv-00638-DSD-FEB (D. Minn. Aug. 21, 1991); *FTC v. Oak Tree Numismatics, Inc.*, Civ. No. 2:91-cv-01626-NHP (D. N.J. Apr. 18, 1991); *FTC v. Golden Oak Numismatics, Inc.*, Civ. No. 91-6741 (C.D. Cal. 1991); *FTC v. Hannes Tulving Rare Coin Investment, Inc.*, Civ. No. 3:90-mc-06565 (S.D. Cal. Sept. 26, 1990); *FTC v. Certified Rare Coin Galleries, Inc.*, Civ. No. 1:89-cv-01307-KLR (S.D. Fla. June 26, 1989); *FTC v. Numismatic Cert'n Inst., Inc.*, Civ. No. 1:89-cv-1383 (S.D. Fla. July 7, 1989); *FTC v. Woodmar Corp.*, Civ. No. 2:88-cv-04645-AHS-E (C.D. Cal. August 1, 1988); *FTC v. Lynn Murphy & Co., Inc.*, Civ. No. 88-0572 (D. Ariz. 1988); *FTC v. Rare Coins of Georgia*, Civ. No. 1:87-cv-02772-WCO (N.D. Ga. Dec. 21, 1987); *FTC v. Schoolhouse Coins, Inc.*, Civ. No. 2:87-cv-05415-KN (C.D. Cal. Aug. 17, 1987); *FTC v. Numismatic Fund'g Corp.*, Civ. No. 87-4045-LDW (E.D.N.Y. 1987); *FTC v. Sec. Rare Coin & Bullion Corp.*, Civ. No. 3:86-cv-01067-RGR (D. Minn. Dec. 29, 1986); *FTC v. Rare Coin Galleries of Am., Inc.*, Civ. No. 86-2683-C (D. Mass. Sept. 16, 1986).

precious metal purchases with promises that the investments are “safe” or “low-risk” investments. Often, the marketers claim that current political and economic conditions indicate that precious metal values are poised to skyrocket, or reach a benchmark value by a certain date. Many consumers appear to buy into these specially structured deals without understanding that they are paying only a small percentage of the purchase price of the metals with the balance financed by a third party. The telemarketers charge hefty commissions and other fees that significantly reduce or completely eliminate the value of the consumers’ initial investments.

Finally, as the Commission described to this Committee in previous testimony about the Guarantee of a Legitimate Deal Act, consumers also complain about companies that purchase consumers’ precious metals, such as jewelry, watches, and family heirlooms, for the melt value of their raw precious metal content.⁶ According to consumer complaints, some purchasers of precious metals fail to provide a quote before melting the jewelry or other precious metal item into raw form. As a result, consumers who are unhappy with the offered purchase price have little recourse other than to accept the “offer.”

While the complaints relating to coins and precious metals account for less than one percent of all complaints received by the Commission each year for the past five years,⁷ they reflect that the individual dollar loss to consumers in some cases is critically high.⁸ Reports that

⁶ See *Prepared Statement of the Federal Trade Commission on H.R. 2480 (the Truth in Fur Labeling Act) and H.R. 4501 (the Guarantee of a Legitimate Deal Act)* (May 13, 2010), available at <http://www.ftc.gov/os/testimony/100513furlabelingtestimony.pdf>.

⁷ Since 2005, the Commission has received approximately 850 complaints.

⁸ From January 2010 to the present date, the Commission has received slightly more than one hundred complaints relating to “precious metals” and “coins.” Some of these consumer complaints report individual losses in the range of hundreds of thousands of dollars while other consumers do not report the amount of loss. Thus it is difficult to give a meaningful estimate of

unscrupulous marketers employ misrepresentations or fail to disclose associated fees and policies in order to sell such investments raise important consumer protection concerns. Importantly, as discussed in section IV below, the Commission believes that legislation can help to address these consumer protection concerns. In addition, Commission staff are actively pursuing various investigative leads in this industry.

III. Consumer Education

Today the Commission is pleased to announce three new consumer educational brochures that provide consumers with key information they need to know before investing in coins and precious metals.⁹ In particular, the brochures provide useful information to help consumers understand the differences among investments in gold stocks and funds, bullion, bullion coins, and historical coins.

Bullion is a bulk quantity of a precious metal, such as gold or silver, that is assessed according to weight and typically cast as bars or ingots. Bullion coins, on the other hand, are coins that are struck from precious metals, such as gold or silver. The value of bullion and bullion coins is determined by the precious metal content of the bullion or the coin. The value of historic coins, however, depends on their historical or aesthetic value, as well as on their rarity or condition. The precious metal value of a historic coin may be greater or less than its value as a collectible. Because a consumer might not know whether a particular coin is bullion or historic, our consumer education materials recommend that consumers find out the melt value of any coin before purchasing it.

the typical out-of-pocket loss to consumers.

⁹ As is the case with all FTC consumer educational materials, these brochures will be available for free on the FTC's website.

The brochures also include a glossary of industry terms that consumers need to understand in order to knowledgeably consider precious metal and coin investments. In addition, the brochures warn consumers about common scams in the precious metals arena similar to the complaint trends described above. For example, in the publication focusing on bullion and bullion coins, the FTC warns consumers about leveraged precious metal scams as well as scams that misrepresent the value of bullion coins. In the brochure focusing on historic coins, the FTC describes and warns consumers about historic coin scams that involve false coin grading claims, misrepresentations regarding the value of purported historic coins, and bogus buy back options.

IV. Proposed Legislation

The Commission supports the goals of the Coin and Precious Metal Disclosure Act. The Coin and Precious Metal Disclosure Act would address many of the consumer protection concerns raised today by requiring coin and precious metal dealers to fully disclose not only the purchase price but also all other fees associated with the sale of coins and precious metals, and the melt value and reasonable resale value for coin and precious metals. The proposed legislation further would require coin and precious metal dealers to make these disclosures clearly and conspicuously prior to consummation of the sale.

These provisions provide meaningful and tailored protection to consumers by addressing the potential abuses and possible deception in precious metal and coin investments discussed above.¹⁰ Importantly, the proposed legislation also provides the FTC the authority to seek civil

¹⁰ The potential abuses by companies that purchase consumers' precious metals for their melt value, which also are described in Section II, above, are addressed by the Guarantee for a Legitimate Deal Act.

penalties and allows for enforcement by the states, each of which can be powerful deterrents and can leverage the effective reach of the bill.

The Commission has two suggestions to improve the legislation. First, the proposed definition of the term “reasonable resale value” in Section 5 requires a coin and precious metal dealer to ascertain the resale value of a coin or precious metal by determining what other coin and precious metal dealers would pay to purchase the coin or precious metal. Ideally, this provision would tell consumers whether the coin or precious metal has been marked up significantly over the market value. The Commission is concerned, however, that as drafted, this definition could enable unscrupulous marketers to collude with each other by stating artificially high purchase prices, and Commission staff is prepared to work with the Subcommittee on this issue.

Second, the Commission believes that the bill’s exemption at Section 6 will exclude from the bill’s coverage certain collectible coins that have been the subject of consumer complaints. As noted above, much of the Commission’s law enforcement activity in this area involved historic coins that were falsely marketed as good, safe investments. In our experience, consumers believe that coins with even some modest precious metal content are likely to increase in value due, primarily, to that content. The disclosures required by the bill would directly address possible confusion consumers might have about the investment potential of coins with only modest precious metal content. Therefore, the Commission suggests eliminating the exemption at Section 6.

V. Conclusion

Thank you for providing the Commission this opportunity to appear before the Committee to discuss these important consumer protection issues and to introduce the Commission's new consumer education initiative focused on gold investment scams. The Commission remains committed to protecting consumers from frauds that take advantage of the economic downturn, and appreciates the Committee's interest in our views on the proposed legislation.