

Who Profits from Multi-Level Marketing* (MLM)? Preparers of Utah Tax Returns Have the Answer.

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1. Summary of what was learned from these studies

Are MLM's* (multi-level marketing or network marketing companies) legitimate? Or are they thinly disguised pyramid schemes that enrich a few at the top of a pyramid – at the expense of a multitude of unwitting downline victims? If the latter, then consumers, the press, consumer protection agencies, and investors (for publicly traded MLM companies) have been duped into accepting it as legal and ethical, when in fact it is not.

Who, if anyone, is making money in Usana, Nu Skin, Amway/Quixtar, and a myriad of other MLM programs? Until recently, there were few solid numbers to back up claims, pro or con. Previous attempts to get MLM companies to release valid data have been met with avoidance¹, and data they have provided is often misleading². But there is one group of experts that knows who is actually reporting profits – CPA's and other preparers of tax returns.

We performed a telephone survey of over 200 tax preparers in Idaho and Utah, a hotbed of MLM activity. We also did a randomized survey of households in Utah County, which has the highest concentration of MLM companies in the country. The findings led to the following conclusions:

1. Direct sales to consumers by MLM “distributors” (in quotes because they are primarily *buyers*, not *distributors****) are extremely rare, even in Utah County. Almost all MLM's are not direct sales companies, in spite of what they claim. Instead, most sales are to recruits who are led to believe that the MLM is a “business opportunity” and that aggressive recruiting and ongoing purchases of products will qualify them for ascending levels of commission payouts.

2. Most recruiting for Utah MLM's is done outside Utah, presumably because de facto market saturation in Utah has stiffened resistance to buying into the MLM's. So MLM promoters go to other states, and then from one foreign country to another to keep the scheme going. Or they sometimes start new product divisions to cycle the pyramid anew. MLM's like Nu Skin and Usana become, in effect, Ponzi schemes, by recruiting new investors in their schemes to pay off earlier investors.

3. Commissions paid by the company to “distributors” are not enough to cover their expenses, so almost all lose money, with the rare exception of those at the top of a hierarchy of “distributors.” We'll call them “TOPP's” for “top of the pyramid promoters.” This occurs because MLM

compensation plans leverage the efforts and investments of recruits so that large commission checks go only to TOPP's. However, based on extensive analysis of available public documents, about 99.9% of total participants (those beneath the TOPP's in the overall pyramid of participants) lose money. A sizable number of the few TOPP's who do profit live in Utah County.

4. In counties where no MLM's are based and where few upscale residences are located, *no* participants in MLM programs reported significant profits over any significant period of time to preparers of tax returns. Many of these preparers have noticed this and view MLM's as scams – because in a legitimate business at least a reasonable percentage who work in the business would show a profit.

5. Prospects are led to believe that they can earn a substantial full or part-time income and gain “time freedom” by investing in the program in the form of ongoing product purchases. The total of these purchases constitute disguised or laundered investments in a product-based pyramid scheme.

6. The combination of nutritional supplements with MLM as the vehicle for marketing them creates a double whammy of opportunities to defraud consumers. Consumers (at least in Utah) are not well protected by law enforcement against “recruiting MLM's” and are further left vulnerable to exploitation in the sale of nutritional supplements by liberalization of legislation affecting such products.

7. The MLM corporations which are publicly held are misrepresenting their core business when they claim to be selling direct to consumers, when in fact they are selling primarily to “distributors” – on false pretenses of being a profitable “business opportunity.”

2. When is an MLM merely a pyramid scheme?

Recently, I completed an analysis³ which compared MLM to legitimate marketing models to which MLM is often compared, such as direct sales, insurance, franchises, etc. Five key characteristics of MLM compensation plans were identified, which distinguish most MLM's from all other marketing models and which lead to large losses by downline participants. (It is in the nature of pyramid schemes for the money to go to the person at the top of a pyramid of participants, with the vast majority of participants found to be in a losing position at the bottom – regardless of when it collapses or is terminated.)

MLM programs which have the five characteristics

* a.k.a. “network marketing,” “consumer direct marketing,” etc. I prefer to draw a distinction between “product-based pyramid schemes,” or “recruiting MLM's,” and “retail MLM's,” which pay the bulk of their commissions to the person making the sale.

** a.k.a. “representatives,” “agents,” “participants,” etc.

just mentioned in their compensation plan can be considered “product-based pyramid schemes,” or “recruiting MLM’s”⁴ because their compensation plans reward the recruiting of “distributors” (through commissions from their purchases) more than selling direct to consumers. “Distributors” have to purchase products from the MLM in order to participate in the business. So the cards are stacked in favor of recruiting and selling products to new recruits, rather than selling direct to consumers.

Recruiting MLM’s incorporate these “Five Red Flags” in their compensation plans:

1. Recruiting of participants is unlimited in an endless chain of empowered and motivated recruiters recruiting recruiters.

2. Advancement in a hierarchy of multiple levels of “distributors” is achieved by recruitment, rather than by appointment.

3. Ongoing purchases (products, sales “tools,” etc.) by “distributors” are encouraged in order for them to be eligible for commissions and to advance in the business (“pay to play”).

4. The company pays commissions and/or bonuses to more than five levels of “distributors.”

5. For each sale, company payout for the total of all upline participants equals or exceeds that for the person actually selling the product, creating an inadequate incentive to sell products directly and an excessive incentive to recruit.

Where data has become available for MLM companies with all of these five red flags in their compensation plans (which is nearly all MLM’s), approximately 99.9% of participants lose money – after subtracting purchases from the company. Consumers would be wise to avoid participating – regardless of how great the products, how many “respectable” people manage it or endorse it, and whether or not law enforcement has taken any action against them. The odds of profiting from gambling in Las Vegas are far better. (See “Which Does the Greater Harm,” posted at – www.mlm-thetruth.com)

Intensive recruiting (encouraged by compensation and marketing plans with the above features) makes possible commissions from easy sales to a multitude of downline recruits who are motivated to buy products to “play the game.” This results in an extreme concentration of company commissions to TOPP’s.

I classified extremely rare MLM’s, such as Pampered Chef, which pays the bulk of its commissions to persons selling products to actual customers and which limits the number of levels on which commissions can be paid to less than 5 levels, as “retail MLM’s.” Participants in retail MLM’s may actually report profits, even without a large downline. So retail MLM’s (less than 1% of all MLM’s) were excluded from this analysis.

These “five red flags” appear in compensation plans for almost all MLM’s, including those based in Utah. Their loss rates are horrendous. Where data has been available on recruiting MLM’s, approximately **99.9%** of participants were found to lose money (based on analysis of court records, FTC and SEC filings, internal and public documents, etc). So only about one in 1,000 participants profit – the TOPP’s. The rest lose money, after subtracting all business expenses (including product purchases to “play the game”).

3. Utah – a hotbed of MLM activity – is a good place to seek answers.

There is a high concentration of MLM companies based in Utah. (Nu Skin and Usana are two notables.) Utah County, in particular, is a hub of MLM activity. With at least 11 recruiting MLM’s in a population of 398,056 (2002 census estimate), that’s about one MLM for every 33,503 people – considerably greater density of MLM’s than any other county in the country. So what better place to study the profitability of MLM programs than in Utah? Surveys have shown a fairly consistent rate of 5-6% of Utah households participating in MLM as a distributor at any given time.⁵ Approximately, one in five (21%) have participated at some time during their lifetime.

4. MLM – a business with no customers!

Most MLM claims to be doing “direct selling” in MLM is mere pretense. MLM promoters tout their programs as “direct sales” alternatives to standard retail outlets – to avoid being prosecuted by the FTC and by state regulators for conducting pyramid schemes (see FTC rule below). However, if MLM’s were in fact emphasizing direct sales, one would expect Utahns to be bombarded with persons selling products from Utah MLM’s like Nu Skin and Usana, but they are not.

A recent survey we conducted in Utah County, where MLM is most concentrated, showed that 6.9% of households (about one in 15) had been approached to buy MLM products (from recruiting MLM’s) in the past year – without being sold an “opportunity” connected with the purchases, usually at “opportunity meetings.” Only 1.1% actually made purchases from an MLM company.⁶

During the same period, 56% of households in Utah County had been approached to participate in an MLM “opportunity,” and 4.6% actually joined. Four “distributors” per customer suggests a market selling to “distributors,” not a market of direct sales to legitimate customers.

The FTC definition of a legitimate MLM includes a rule allowing no more than 30% of its sales to “distributors”. This hardly seems possible in Utah County because four times as many “distributors” are being recruited as customers are buying. In its latest SEC financial statements, Usana admitted that “preferred customers” accounted for only 15% of its retail direct sales. Based in this report, an unbiased observer would find few actual buyers other than recruits who invest in the “opportunity.”

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These findings raise some important questions:

➤ What kind of business has no customers? (only MLM's pretending to be "direct sellers")

➤ Who is buying the products that account for billions in revenues reported by Utah County MLM's? *Not residents of Utah County, where many TOPP's are located.* Their "distributors" are their main customers.

➤ If there are no direct sales to speak of, then who is making profits off of these supposed sales? (the TOPP's – and company founders and officers)

5. Who has the data? Preparers of tax returns do! Many notice no ongoing profits reported by MLM clients.

A manager of H&R Block in northern Utah, told me that during his 25 years of doing over 12,000 tax returns a year between he and his group, they could not remember a single client who had reported a significant profit over any appreciable period of time in MLM! (One reported a sizable profit one year – but went bankrupt the next.)

Another accountant told me of a seminar company that trains tax preparers across the country. The topic of MLM's often comes up in connection with "hobby losses," and the consensus is that it is extremely rare to see profits from MLM participation. And a tax software developer, who dealt with thousands of tax preparers across the country, said he had asked about 100 of them if they had ever seen a profit reported from MLM participation. None had. This was out of a total of over a million tax returns.

To confirm this, I performed a telephone survey⁷ of the people who should know if profits actually occur from MLM participation – the persons who prepare taxes for the most concentrated population of MLM participants – Utahns. What I found confirmed what we have suspected for many years, but for which we had little objective proof – except in the case of a half dozen programs, like Nu Skin, Amway, and Melaleuca, for which we already had good data. *A few TOPP's are getting rich at the expense of a multitude of downline recruits*, who invest in products to participate in the MLM program on the basis of misrepresentations regarding income potential. (See Table 1 – and other reports cited in END NOTES.)

It was tricky to get tax preparers to give out the information I sought. Since it is considered unethical for tax professionals to divulge confidential tax information of their clients, I had to approach this survey very delicately. I began by sharing that I had learned from other tax professionals. I reassured them that I was not asking them to disclose information from specific clients, but simply wanted to know if their experience corresponded with what I had learned from others. Most of them had already observed the same thing – that almost no one was reporting profits on their taxes from participating in MLM. They could not recall anyone ever reporting a significant income from MLM (with

the exception of Utah County, which will be explained later). Using this approach, only one Utah County tax accountant tax refused to cooperate.

6. Three Utah counties have thousands of MLM participants, but no MLM firms headquartered there – and none of their MLM "distributors" report ongoing profits.

Three counties in Utah were identified where there are no MLM companies based and few upper crust areas where TOPP's are likely to dwell. The three are Tooele, Uintah, and Grand Counties – to the west and east of Utah County.

I called all of the tax preparers (including CPA's) that I could reach in these three sparsely populated counties (total population 80,660) – 33 total preparers, who had an aggregate total of about 14,400 clients in 2002. Over the course of their careers, the aggregate output of these preparers was over 300,000 total tax returns. Though many clients had at some time participated in MLM, *these preparers could not recall even one client having reported significant profits over an extended period of time in MLM.* (Two clients had a few years ago reported a small income from MLM recruiting back East, but both had quit within two years – hardly the "lifetime residual income" touted by TOPP's at MLM opportunity meetings.)

7. MLM "distributors" "pay to play" the MLM game – gamblers fare better.

Though tax preparers in Tooele County reported no net income from MLM, over 300 clients had reported significant gambling winnings in Wendover, Nevada, nearly 100 miles away. Two had become millionaires. (See the chart "*Which Does the Greater Harm?*"⁸ which compares odds of winning in gambling to MLM.)

8. It's the TOPP's (and MLM company officials) who are raking it in – especially in Utah county.

Then I called preparers of tax returns in Utah County tax because I suspected most TOPP's⁹ would reside near MLM headquarters. (The earliest ones in an MLM tend to make the most money, and living near the company's headquarters should be an advantage.)

That was interesting. For comparison, I called 33 (a number equivalent to the first survey) Utah County CPA's who do taxes. Bingo! *Between them they could recall approximately 185 tax returns showing significant ongoing profits from TOPP's in MLM during their careers. Last year alone (when recall would be most accurate), these 33 CPA's taken together could recall 38 clients who had reported large profits from a variety of MLM's – mostly companies based in Utah County such as Nu Skin, Enrich (now Unicity), Morinda, Synergy, and Neways.*

These TOPP's were gaining most of their commissions from sales to a large downline of out-of-state recruits. Some

TOPP's were reaping checks ranging from tens of thousands of dollars a month to close to \$1 million a month! Having a few rich "distributors" at the top of the pyramid is critical to the success of any pyramid scheme because they model "success", which helps entice others to join. The other major benefactors from these MLM's are founders and company officials who manage the infrastructure.

Though TOPP's establish headquarters in Utah County from which to start recruiting a downline, they soon find local prospects resistant to "another MLM," so they travel to other areas where they can recruit "distributors" to whom they can sell products to "build the business." Then, as additional areas open up for recruitment, the TOPP's rush in to be the first to build a downline. And since investors must go elsewhere to recover their investments, the MLM's thereby evolve into Ponzi schemes.

Again, the finding of profitable tax returns for TOPP's residing in Utah County represents only a tiny percentage (less than 1%) of MLM "distributors." The rest lose – which poses an interesting question: *What kind of business would have hundreds of thousands of "distributors" working for nothing – almost all of them at a loss? Answer – product-based pyramid schemes, or "recruiting MLM's".*

9. CPA's' perceptions of MLM are influenced by experience with tax clients.

And what did Utah County CPA's think of MLM?

- "It's like any other business. Those who don't make the effort will fail."
- "The problem is that the majority of people who sign up and expect to make money don't really know how to sell – or don't 'work the system.'"
- "You have to work at it and be patient. If you stick with it, it can be very profitable."

Seeing TOPP's regularly as clients, MLM was not seen by Utah County CPA's as a scam.

Contrast these reactions with the opinions of CPA's and other tax preparers in the three counties where no MLM profits were reported (and where no MLM's are based):

- "There's money to be made in MLM – at the top."
- "I would never advise a friend to do MLM – unless he needs a tax write-off."

Some were even more critical:

- "It's a scam."
- "It's a pyramid scheme."
- "It's quasi-evil."

It appears that we see in MLM the most unique of business models – a profitable business with no real customers – and almost all "distributors" losing money!

10. Stocks of MLM companies are a questionable investment. Almost all distributors – on whom

the business depends – are losing money (except those at the top).

With the recent run-up in price of stocks for Utah MLM companies such as Usana and Nu Skin, one has to wonder – just how solid are these companies?. They are, after all, totally dependant for their success on the success of their "distributors." Or is it possible that MLM "distributors" need not make a profit to be a success? In a legitimate business this would be the case, but in MLM downline "distributors" continue to purchase products on the basis of false promises that things will get better. Only they seldom do. Eventually, almost all drop out, and TOPP's merely recruit more "distributors" to replace them. In this way TOPP's cycle through pyramidal recruitment in an endless chain of victims. It is astonishing and outrageous that authorities allow this charade to go on indefinitely.

Why would anyone invest in such a "business?" If the truth were widely known about these companies, no one would sign up as "distributors," and investors would be left holding the bag for collapsed pyramids!

MLM officials counter that the "better MLM's" offer a one-year return privilege for unused and unopened merchandise, usually subject to a 10% re-stocking fee. Refund requests are occasionally filed and satisfied. However, in ten years of research on this topic, I have yet to see a victim of a recruiting MLM become fully aware of the extent of the misrepresentations or fraud committed by the MLM company within one year of quitting. And they have usually used or opened the merchandise (being encouraged to do so to "build the business") and nullified the return privilege.

Unfortunately, victims seldom complain to authorities, blaming themselves for their "failure." And some fear consequences from or to their upline – which could be a sibling or best friend.

In April of 2003 I advertised for ex-distributors of Nu Skin Enterprises, Inc., to call and receive information that had been gathered about Nu Skin's misrepresentations since its founding in 1994. After reading the REPORT OF VIOLATIONS that was filed with the Federal Trade Commission and with Utah's Division of Consumer Protection, about two dozen victims of Nu Skin's program could see clearly how Nu Skin had misled them. However, after almost a year of working with them, only two persons were brave enough and determined enough to come forth and file complaints – even though some had lost thousands of dollars. Since so few complain, law enforcement rarely takes action, and the fraud goes on.

TOPP's prefer certain tax preparers. The tax preparers we surveyed could be clustered. Those who did taxes for one TOPP tended to do taxes for several. (MLM people "network" – remember?) The bulk of the TOPP's were served by a half dozen preparers. I noted that in one CPA firm, a single Utah County CPA had seen almost 100 profitable MLM returns during his 25-year career – while a partner in the same firm had never in 30 years seen one

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MLM client report significant profits (of over a few hundred dollars, which usually winds up being a loss, if purchases from the company are subtracted).

One might expect that high-rolling TOPP's would go to CPA's, rather than to tax firms with lesser credentials. To check this, I called 33 non-CPA tax preparers in Utah County (like H&R Block and Jackson Hewitt). From these firms, only five returns had shown a significant profit last year from MLM participation – all from the same tax preparer. It seems the big TOPP's prefer to use CPA's for tax work, especially when commissions – and tax liabilities – are very large.

Other observations of preparers. One tax preparer from H&R Block in Utah County, who had prepared over 10,000 returns over 32 years, said that all his MLM clients lost money, which averaged about \$1,500 each.

I called tax preparers in several other counties in Utah and Idaho – another state where some MLM's are based, but not with as much concentration as in Utah. Again, a rare few TOPP's reported profits, but the vast majority of participants reported losses. Over and over it was reported that *no MLM participants reported significant profits selling products directly to consumers. Primary customers were their downline of "distributors" – usually from other areas.*

Utah TOPP's are not recruiting successfully in Utah, but they are elsewhere. Not only are TOPP's and their local downline not selling direct to local consumers, many Utah prospects are fed up with MLM recruiting. Though 56% of households in Utah County were approached to participate in an MLM "opportunity" last year, only 4.6% actually joined – and that is for all MLM's combined!. So where are TOPP's recruiting? Primarily outside Utah, where some have recruited huge downlines from less resistant populations – many of them in vulnerable countries overseas. Nu Skin, for example, has for several years gotten most of its revenues from unwitting Asian recruits.¹⁰

11. MLM and supplements – the perfect combination for scams.

Combine MLM misrepresentations regarding distributor earnings with the supplement boom, and you have a perfect recipe for consumer abuse – or legalized fraud, as some may call it. Since the passage of The Dietary Supplement Health and Education Act (DSHEA) in 1994 – drafted by Utah's Senator Orrin Hatch¹¹, which exempted companies that make supplements from seeking FDA approval before going to market, *TOPP's in MLM's have gotten away with extravagant claims to recruit "distributors" and sell products. At least we know who's getting the money in these MLM programs – and it's not the people that buy into the "opportunity."*

12. Do MLM expenses qualify as tax write-offs?

Many tax return preparers noted that a lot of MLM participants attempt to write off expenses from MLM year after year. These expenses are often very significant. They have been allowed to deduct them for three of five years so as long as "a business intent" can be shown.

Since almost all MLM's are merely product-based pyramid schemes, should expense write-offs be allowed (beyond offsetting revenues)? Gamblers and sponsors of race horses have severe limits on expenses that can be written off. Since the odds for many games of chance have been found to be better than the odds of profiting from MLM, perhaps the same limitations should apply.

Billions in federal and state tax revenues are forfeited, to say nothing of the tens of billions of dollars lost each year by MLM participants. Perhaps if MLM's expenses were disallowed by the IRS, fewer recruits would join up.

13. What can be done about MLM abuse?

Consumer protection and other law enforcement personnel can get informed so that when MLM companies attempt to dupe them with claims of being legitimate "direct sellers," they can use the "5 Red Flags" discussed above to refute their claims. (See End Note 2 for a thorough explanation of the "5 Red Flags.") Also, *with product-based pyramid schemes, it is most effective to be proactive, rather than reactive. If an agency waits for complaints to mount up, it is usually too late to take effective action to protect consumers. The damage is already done and, in Ponzi fashion, the TOPP's will have moved on to other areas.*

Ex-distributors willing to complain are the most potent witnesses against pyramid schemes. If you suspect misrepresentation and pyramid scheme abuse, be vocal and assertive in registering your complaints. Contact your state consumer protection agency – and the FTC for action on a federal level. You may get little attention acting alone, but if enough consumers complain, the agencies may at least try to contain the abuse. Unfortunately, in law enforcement it is often the squeaky wheel that gets the grease.

You can also write letters to your local newspapers. Negative publicity is often the strongest weapon against MLM's because it makes recruiting more difficult. If you warn and save one person from being defrauded by a recruiting MLM, make copies of this report and suggest that the person use it to warn five others and that they use it each warn five others, who in turn each warn five more, etc., etc.

Questions? Review other reports on multi-level or network marketing at the web site for Consumer Awareness Institute – www.mlm-thetruth.com. Some of Dr. Taylor's "analytical tools" are also posted under "resources" at – www.pyramidschemealert.org. You will also find news and other items of interest on the site. If questions are not answered there, the author can be reached by e-mail at – jonmtaylor@juno.com

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Table 1: MLM profits reported on tax returns in four Utah counties

Location and group of tax preparers	No. of tax preparers	Aggregate total tax returns in 2002	Approx. no. of clients in MLM in 2002 (@ 6%) ⁵	No. of tax returns which showed a profit in MLM	Rate of success (@ 6%)
Counties with NO MLM HEAD-QUARTERS (all tax preparers)					
Tooele County (western Utah)	16	7,500	450	0	0.00
Uintah County (eastern Utah)	13	5,100	306	0	0.00
Grand County (southeast Utah)	4	1,800	108	0	0.00
TOTALS – 3 counties without any MLM company headquarters	33	14,400	864	0	0.00 or 0%

UTAH COUNTY – county with highest concentration of MLM companies in the country					
<i>Reported by Utah County CPA's with whom most TOPP's⁶ in Utah County file their taxes</i>	33	15,200	912	38	0.0417 or 4%
Reported by (non-CPA)tax preparers in Utah County	33	19,300	1,158	5	0.0043 or 0.4%
TOTAL – Utah County (includes both CPA's and non-CPA's)	66	34,500	2,070	43	0.0208 or 2.1%

END NOTES:

1. See "Network Marketing Payout Distribution Study," Consumer Awareness Institute, 1999. Available from the author.

2. See "Report of Violations of the FTC Order for Nu Skin to Stop Misrepresenting Earnings of Distributors," filed with the FTC, Jan. 2003.

3. See the author's analysis: "Comparative Analysis of Legitimate Distribution Models with No-Product Pyramid Schemes and Recruiting MLM's, or Product-based Pyramid Schemes." For historical perspectives and an early but thorough definitional analysis of no-product and product-based pyramid schemes, see the author's paper "PRODUCT-BASED PYRAMID SCHEMES: When Should an MLM or Network Marketing Program Be Considered a Illegal Pyramid Scheme?" (The focus is on how to recognize product-based pyramid schemes that cause the greatest harm to consumers.) Both papers are available for free downloading from the author.

4. See the author's report summarized in a white paper for the 2002 Economic Crime Summit Conference entitled "5 Red Flags: Five Causal and Defining Characteristics of Product-based Pyramid Schemes, or Recruiting MLM's." Includes many other references related to pyramid scheme legislation and landmark cases. Available from the author. See also the information available on the web site – www.pyramidschemealert.org

5. In two randomized surveys of households in four Utah counties, including Utah County, it was found that the average rate of MLM participation in Utah ranged from 5-6%, or one in 16-20 households. One was a telephone survey to households in Davis, Weber, and Tooele counties in 1996, and the other was in Utah County in January of 2004. The procedure for randomizing the selection was simply to call the first number on each page of the residential telephone directory. If the first person was not home or unable or unwilling to talk with us, we simply went on to the next person until we found a person willing to answer our questions. In both surveys, in spite of the years separating them, the participation rate was consistent – approximately 5-6% of households in the sample had participated in an MLM program within the past year. Also, in a 1996 survey in Davis, Weber, and Tooele counties, approximately 21% recalled having participated at some time during their lifetime.

6. In our current (2004) randomized survey of households in Utah County (see note #5), where there is a higher concentration of MLM companies than anywhere in the country, only 6.9% of households had been approached to buy products outside of a recruitment setting, such as an "opportunity meeting." This is not surprising, since the compensation systems of "recruiting MLM's" reward recruiting (with commissions from sales to their downline) far more than direct sales. So it would appear that the MLM promoters' published claims that their respective MLM programs focus on direct sales is mere window dressing to foil law enforcement. An admission that they are selling primarily to "distributors", and not to consumers as end users, would classify them as an illegal pyramid scheme in many jurisdictions.

7. I telephoned every tax return preparer listed in the Qwest online directory in Tooele, Grand, and Uintah counties, for a total of 33 respondents. (About six were disconnected or unavailable.) I then called the first 33 CPA's I could reach in Utah County and the first 33 tax preparers I could reach who were not CPA's. Only one CPA refused to talk with me. In addition, I called 88 preparers in other counties in Utah, each with MLM's within the county or nearby. And I called 18 tax preparers in Idaho, Michigan, and California, for a grand total of 205 tax preparers surveyed. However, only the four referenced counties were used in the comparison because of the stark contrast between counties where no MLM's were based, and Utah County, with the highest concentration of MLM's in the country.

8. "No-product Pyramid Schemes vs. Gambling vs. Sample 'Recruiting MLM' Programs: WHICH DOES THE GREATER HARM?" (2003) Contact the author.

9. The profitable tax returns are for MLM promoters who recruit aggressively to build large downlines (mostly out of state), which is the source of their large commissions. I refer to these as "TOPP's", for "top of the pyramid promoters." Nearly all downline participants lose their investment, while the MLM company profits, and its TOPP's reap sizable commissions – not from direct sales to end users (who are not close relatives of recruits), but from sales to recruits and cooperating family members who buy products to take advantage of the "opportunity."

10. op cit, note 2.

11. Matthew Heller, *Healthy, Wealthy, But Wise?* How the dietary-supplement trade became Utah's third-largest industry, and why that may not have been such a great idea. *L.A. Times*, Feb. 1, 2004, p. 1.10.