

Douglas M. Brooks

June 13, 2016

Federal Trade Commission, Office of the Secretary, Constitution Center
400 7th Street, SW, 5th Floor, Suite 5610 (Annex J)
Washington, DC 20024

Re: Consumer Fraud Survey 2016: Paperwork Comment, FTC File No. P105502

Dear Commissioners:

I am writing in response to the above-referenced request for comment concerning the proposed consumer fraud survey. I am an attorney in private practice for over thirty years, with a particular interest in protecting consumers from unfair and deceptive multi-level marketing programs and pyramid schemes.

I would urge the Commission to design the survey so as to reflect the incidence of fraud in vulnerable populations, including non-English speaking persons and undocumented residents. Recent pyramid scheme actions by both the Federal Trade Commission and the Securities and Exchange Commission indicate that the recruitment efforts for such frauds often focus on affinity groups in vulnerable populations that may not be fully represented in the sort of traditional telephone survey which the Commission intends on conducting. Examples include TelexFree (Brazilian), eAdGear (Chinese), Zhunrize (Chinese and Korean), Vemma (college students) and Herbalife (Hispanic).

I would note that in a recent class action against Herbalife, *Bostick v. Herbalife*, a notice of class action settlement was sent to approximately 1.5 million class members, primarily by email and, if no email address was available, by first class mail. The notice resulted in a response rate of less than ½ of 1%. I suspect that one of the reasons for the low response rate was that in recent years Herbalife has been devoting an increasing amount of recruitment efforts to the Hispanic community, including large number of poor, undocumented residents, who were not reachable through traditional class action notice programs. Similarly, I would suspect that such persons – who are particularly vulnerable to all types of fraud – are probably not reachable by traditional telephone surveys. I would urge the Commission to include some form of outreach to vulnerable minority ethnic communities to avoid underreporting the incidence of consumer fraud.

Thank you for the opportunity to submit this comment.

Sincerely,

Douglas M. Brooks