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Dear Attorney General:

We ask that your office please be alert to any multi-level marketing scheme based in the state of Utah. This state has the highest concentration of multi-level marketing scheme headquarters per capita of any state in America. Now, the Utah state legislature has effectively legislated a “safe harbor” amendment to its anti-pyramid scheme statute, which legalizes the very types of schemes that have been prosecuted by the FTC and other states over the last 30 years.

The Utah legislature has passed amendments to its statute to change the definition of illegal pyramid schemes. Specifically, the law exempts endless chain schemes in which the investments and rewards are laundered through “product” purchases. As a reason for passage, the lobbying group that promoted the law, the Washington DC-based Direct Selling Association, cited the large amounts of revenue that Utah gains from these schemes.

We noted several years ago a failed effort in the Texas state legislature to legalize the “gifting” schemes by seeking to exempt endless chain recruitment schemes in which the investment is called a “voluntary gift”, not a payment. The Utah law is equally transparent in its motive – to legalize schemes that are obvious pyramid recruitment programs. FTC policy and three federal court rulings have determined that schemes in which the payments to participants are derived primarily from the investments of new recruits, rather than from legitimate retail sales to consumers, are pyramid schemes, not “direct selling” businesses.

Utah’s law directly contradicts this by stating that as long as the funds are derived from selling a product to “anyone” (meaning just the salespeople, without any subsequent retailing), the scheme is not a pyramid scheme.

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These multi-level recruitment schemes that transfer funds from later investors to earlier ones, by their design, cause 99% loss rates among new recruits. This is mathematically pre-determined by the number of people needed to join each year relative to those receiving “rebates.” In fact, this loss rate is higher than the losses that are pre-determined in the “gifting” scams. Independent studies have further verified that this type of scheme has inflicted 99% loss rates on investors year after year; therefore all promotions about “viable income opportunity” are false and misleading. However, in Utah, such carefully contrived scams are to be allowed to make claims of “extraordinary income opportunity” and to lure investors from all over America.

Utah was already notorious for scams. An Associated Press story in 2000 began this way:

“Salt Lake City — Welcome to Utah. Now watch your wallet.

The Olympic vote-buying scandal was in keeping with a state known for its dubious financial dealings and frauds, both petty and grand. So prevalent are the scams that Salt Lake City has a U.S. Securities and Exchange Commission office that fights investor fraud. It is by far the smallest city with such a presence.”

Utah has now enhanced this reputation for harboring penny stock and Ponzi investor scams by becoming the national center for pyramid sales schemes. The new law that provides safe haven to these schemes was endorsed by the Utah Attorney General. He had just received a \$50,000 campaign contribution from the most controversial of all chain-selling schemes, Pre-Paid Legal. This company is currently under a “sweeping investigation” by the AG office of Connecticut. It has been sued more times by its distributors and investors than any other company of this type. It was just ordered by a jury to pay \$9 million in restitution to consumers for deceptive practices.

We therefore believe that regulators in other states must take special vigilance when a Utah-based scheme operates in their respective states.

I have enclosed a brief report on Utah’s new law. A similar law, backed by the Direct Selling Association, some of whose members were America’s most notorious pyramid scams prosecuted by the FTC and other states, has passed in a few other states, while other states have pointedly rejected it. However, Utah’s concentration of such schemes and the extraordinary influence these schemes have in that state – already known for scams – make its new amendments much more significant and potentially harmful to consumers in the rest of the country.

Thanks for your consideration.

Sincerely,

Robert L. FitzPatrick, Pres.
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