

Consumer Fraud and Unfair/Deceptive Selling Methods Lecture Notes

Fraud has become a lucrative business in the United States. Every year thousands of consumers are defrauded out of millions of dollars. There are many scams and creative people thinking of hundreds of new ways to take money from other people. Here are some of the more common types of fraud:

(TEACHER NOTE: Utah has many laws prohibiting unfair and deceptive sales practices. It is impossible (and boring) to discuss all of them. For additional information, contact the Utah Division of Consumer Protection in Salt Lake City, 901-530-6601.)

In the introduction of today's class, what types of misleading sales tactics were used?

1. The teacher tried to sell the pills for a purpose they were not intended to perform
2. The teacher indicated that the pills had a sponsorship (testimonial) that they did not have.
3. The teacher used bait and switch tactics. This means that the seller baited a customer with one item, but actually had no intention of selling that item; instead, he/she switched to a different item.

It is illegal to use any of these sales tactics in Utah. Additional deceptive practices which are illegal according to Utah State law include:

- Indicating a warranty that does not actually exist
- Selling an item as free when purchased in conjunction with another item and then raising the price of the other item
- Failing to provide an estimate for repairs exceeding \$25.00
- Saying that repairs are necessary when they are not
- Saying that repairs have been made when they have not
- Offering a prize that is contingent upon observing a sales promotion without informing the consumer
- Selling an item as new, when it is, in fact, used
- Providing a substitution of an advertised consumer commodity when there was no intention to supply the original commodity
- To tell a customer that he/she has been especially selected to receive a bargain or discount when it is not true
- To tell a customer that he/she is a winner of a contest when it is not true
- Requiring a deposit from a consumer unless the deposit obligates the seller from offering the items to another buyer and is accompanied by a dated receipt.

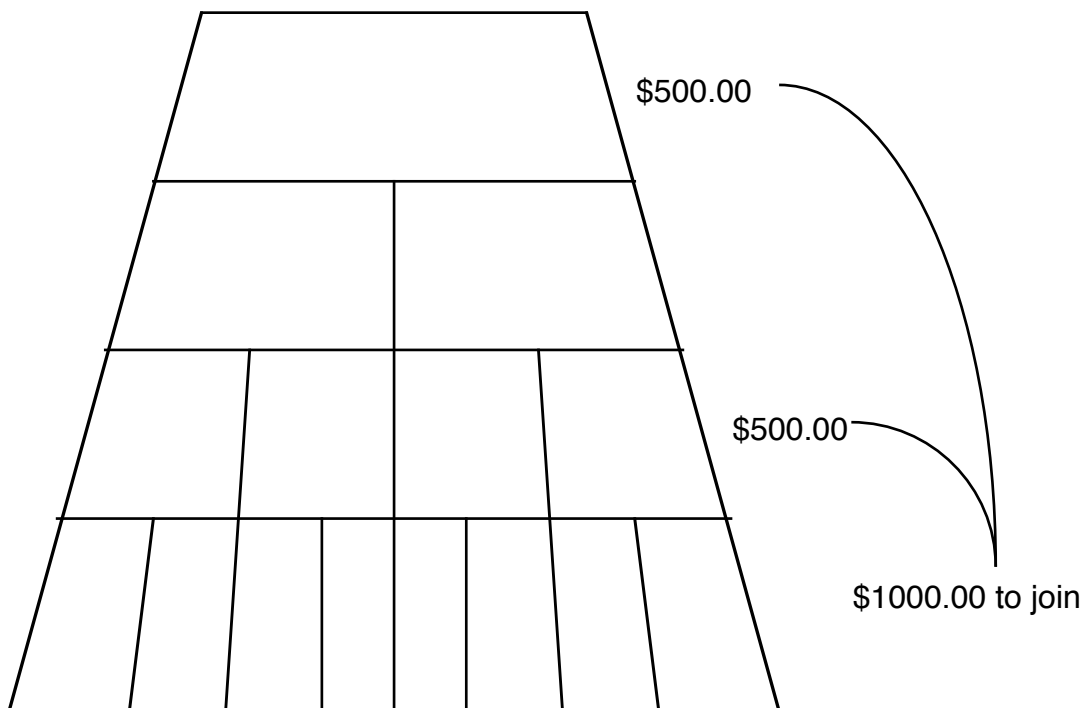
There are additional laws which prohibit unfair competition among businesses: laws that prohibit selling an item at a price less than cost, advertising goods they are not prepared to supply, and to prevent a seller from offering different prices to different customers. These laws were enacted to prohibit monopolies by allowing one competitor to use deceptive practices to put other competitors out of business.

Many states, including Utah, have what is known as the Lemon Law. This law provides that consumers who buy a new automobile or motor home with significant defects that cannot be repaired, or is a lemon, can obtain relief, through a cash refund or replacement.

An important law to be aware of is the cooling-off rule. This means that when a consumer buys an item at a home or at a location that is not the seller's regular place of business, the consumer has three days to cancel that purchase if the cost was \$25.00 or more. The consumer's opportunity to cancel for a full refund extends until midnight of the third business day following the sale. This is a rule set by the Federal Trade Commission (FTC).

PYRAMID SCHEMES*

Pyramid schemes are illegal scams in which large numbers of people at the bottom of the pyramid pay money to a few people at the top. Each new participant pays for the chance to advance to the top and profit from payments of others who might join later. A typical pyramid looks like this:



To join, you might be required to pay anywhere from a modest investment to thousands of dollars. In this example, \$1,000.00 buys a position in one of the boxes on the bottom level. Five hundred dollars of your money goes to the person in the box directly above you and the other \$500.00 goes to the person at the top of the pyramid, the promoter. If all the boxes on the chart fill up with participants, the promoter will collect \$16,000 and you and the others on the bottom level will each be \$1,000 poorer. When the promoter has been paid off, his box is removed and the second level becomes the top or payoff level. Only then do the two people on the second level begin to profit. To pay off these two, 32 empty boxes are added at the bottom and the search for new participants continues.

Each time another level rises to the top a new level must be added to the bottom, each one twice as large as the one before. If enough new participants join, you and the other 15 players on your level may make it to the top. However, in order for you to collect your payoffs, 512 people would have to be recruited, half of them losing \$1,000 each.

Of course, the pyramid may collapse long before you reach the top. In order for everyone in a pyramid scheme to profit, there would have to be a never-ending supply of potential (and willing) participants. In reality, the supply of participants is limited and each new level of participants has less chance of recruiting others and a greater chance of losing money.

THINGS YOU SHOULD KNOW ABOUT PYRAMID SCHEMES:

1. **They are losers.** Pyramiding is based on simple mathematics: many losers pay a few winners.
2. **They are fraudulent.** Participants in a pyramid scheme are, consciously or unconsciously, deceiving those they recruit. Few would pay to join if the diminishing odds were explained to them.
3. **They are illegal.** There is a real risk that any pyramid operation will be closed down by police and the participants subject to fines and possible arrest.

*Taken from pamphlet, "Pyramid Schemes: Not What They Seem" by Direct Selling Education Foundation. Available through the Utah Division of Consumer Protection or Direct Selling Educational Foundation, 1776 K Street, N.W. Suite 600, Washington, D. C. 20036.

HOME IMPROVEMENT FRAUD

Many people, especially older people, have fallen prey to this type of fraud. To prevent becoming involved with this unscrupulous practice, make sure that a contract is written and put every promise in writing. Never pay the cost of the entire job before the work is completed; a down payment of 10-30% is reasonable. Never release the final payment until the job is completed to your satisfaction and you have proof that any subcontractors have been paid. Set standards of quality for all materials used. It is always a good idea to check with the Consumer Protection Agency or the Better Business Bureau to see if there have been any complaints against the contractor. It may be helpful to ask a contractor to show you his/her Utah contractor's license and to get references from other jobs that have been done.

Many con artists will approach owners of homes that obviously need repairs and tell the owner that they were doing a job in the neighborhood and have leftover materials, then offer them a great deal. After the job is done, they claim there has been a misunderstanding and that the customer owes a lot more money than was originally quoted.

VACATION FRAUD

Some vacation packages really are good deals; others have hidden costs and fees which make them expensive bargains. Many scams offer free trips; however, the free trip can end up being very costly once you pay for all of the conditions that are attached. This can be prevented by use of a contract.

MECHANIC FRAUD

Many people find themselves miles away from home and at the mercy of a dishonest mechanic. You can avoid many of these types of problems by having your car checked by your own mechanic before you leave home. If you do have a problem while traveling, get a second opinion before having any repairs done.

TELEPHONE FRAUD

Americans lose an estimated \$1 million every hour to investment fraud promoted over the telephone. Consumers need to hang up when it sounds too good to be true. Also, there are many 900 numbers with exorbitant fees.

Legislation allows consumers the opportunity to register with the Division of Consumer Protection if they do not wish to receive telephone solicitations.

Bogus charities use the telephone to solicit money from sympathetic consumers. If you have questions or wish to verify that a charity is registered with the Division of Consumer Protection (by law, they must do so), contact the Division of Consumer Protection at 801-560-6601.

Here are some important tips to keep in mind:

- *Never give your credit card number over the phone.
- *Be wary of investing with a stranger over the phone.
- *If an offer sounds too good to be true, it probably is.
- *Ask the solicitor for the name, address, and phone of the company for which they work.
- *Verify exactly what it is the solicitor is trying to sell you.
- *Be wary of unknown charities.

HEALTH AND NUTRITION FRAUD

Since all of us desire to stay young, beautiful, and physically sound, this type of fraud has become a lucrative business adventure for many. There are many businesses which are run legally, according to the parameters of the law, but which deceive consumers into buying expensive nutrient supplements, herbs, and modern-day snake oils. They lure consumers with promises of weight loss, of adding years to their lives, of curing ailments, of providing higher nutritional benefits than regular food, and many other wild claims. Consumers need to be wise and to think sensibly to prevent succumbing to these tantalizing claims.

These are just a few of the many scams and frauds used to defraud consumers of hard-earned dollars. As a consumer, it is your responsibility to protect yourself from these situations.