

TESTIMONY



**STATEMENT OF
BRUCE HATHAWAY**

Columbus, Ohio

Before The

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Hearing On

CROSS-BORDER FRAUD

June 14, 2001

I would like to thank the distinguished members of the US Senate Permanent Subcommittee on Investigations for providing me the opportunity to speak with you this morning. My name is Bruce Hathaway, Lt. Colonel, United States Air Force; retired and a Certified Public Accountant by trade. I am now 83 and living in Columbus, Ohio. I have come before you today to share my experiences relative to cross-border telemarketing fraud. I have asked my daughter to accompany me here today because as my caregiver she was a victim of the following circumstances as well.

My wife, Helen Hathaway - 92 years old, was confined to a nursing home in March of 1997. Unfortunately, my health insurance does not cover long term aftercare. Consequently, I was forced into a costly self-pay situation regarding her continued care. Shortly thereafter, I began entering direct mail sweepstakes hoping that the winnings could be used to offset the burden of these additional costs. At first I only received several sweepstakes mailings a week, but as my participation in these sweepstakes increased so did the frequency in which I received the solicitations. Before long I was receiving dozens of sweepstakes solicitations a week. Over the next year and a half I spent nearly ten-thousand dollars (\$10,000) entering these sweepstakes. On many occasions I believed I had won a significant payout, only to find out later I had not. Unknowingly at the time, it was my participation in these sweepstakes that made me vulnerable to future telemarketing scams.

During the month of July in 1998 my daughter, Ann Hathaway, moved in with me to assist in the care of her mother as well as myself. It was at this time that she began to question me regarding all the mail I was receiving. This is about the same time I began receiving telephone solicitations.

In August of 1998 I received a phone call from an individual identifying himself as Robert Duran. Mr. Duran claimed to be an attorney with the Canadian Law Firm Rudel, Wiseman & Associates. Mr. Duran relayed to me that their law firm had initiated a class action lawsuit against a group of United States sweepstakes companies who were defrauding Canadian citizens. As a result of this lawsuit a settlement totaling ninety-million dollars (\$90,000,000) had been awarded to their firm for disbursement. Mr. Duran further explained that all of the Canadian parties to the lawsuit had been reimbursed, and there were additional monies leftover. By utilizing information obtained from the United States sweepstakes companies Mr. Duran had identified me as a United States citizen who had been victimized by these same companies. Mr. Duran indicated that he was calling me with some great news, and that I was entitled to one hundred and ten thousand dollars (\$110,000) as my share of these settlement monies. Mr. Duran further indicated that I could pay Canadian taxes on these winnings (seven percent), and avoid US taxes. He concluded this initial conversation by adding that someone from the Canadian taxing authority would contact me to work out the taxes on my winnings.

Within days I received a call from a woman identifying herself as Mary Thompson with the Canadian Tax Bureau. Ms. Thompson indicated that I would have to pay seven thousand seven hundred dollars (\$7,700) in taxes before these monies could be released to me. I attempted to have the taxes taken out of my settlement check prior to it being sent to me but Ms. Thompson claimed that was not possible. I then explained that as soon as I received these settlement monies I would forward them a check to cover the taxes, but again Ms. Thompson refused. She indicated that she would talk to her superiors about releasing these monies to me and call me back.

Ms. Thompson called me back and indicated that I could pay two thousand dollars (\$2,000) up front and the remaining five thousand seven hundred dollars (\$5,700) would not be due until fifteen days after I received my settlement check. I agreed to this condition and Ms. Thompson told me to go to my bank and get a cashiers check in the amount of \$2,000 payable to Tony Wiseman. I explained to her that I would and she indicated that she would call me with further instructions tomorrow.

The next day I went to the bank and obtained the requested cashier=s check. Ms. Thompson did call me back and she told me to the send the cashier=s check to: Carl Benoit and Brenda Jones, CP 242 Succ. S, Montreal, PQ Canada H4E4J8. I mailed the check as requested and awaited the arrival of my settlement monies.

Several days later I received another phone call, this time from an individual named James Jann with the Canadian Tax Bureau. Mr. Jann was calling to indicate that my settlement monies were being held up pending the addition of another hundred and seventy-thousand dollar (\$170,000) claim to my initial settlement check. Mr. Jann informed me that these additional monies had to be taxed at the same rate as before (7% or an additional \$11,900). I asked Mr. Jann if I could wait until I received the first \$110,000 check before I paid taxes on my second check and he indicated that was not possible because there is only one check now (totaling \$280,000). Mr. Jann further explained that I could pay three thousand dollars (\$3,000) now and the remaining eight thousand nine hundred dollars (\$8,900) upon receipt of my settlement check. I agreed and told him I would go to the bank the next day. Mr. Jann indicated that I needed to make this check payable to Julia M. Wilson and he would call me tomorrow with additional mailing instructions. The following day I did go to my bank and obtain the cashiers check as requested. Mr. Jann did call me back and indicated that I needed to send the check to Julia Wilson's assistant, Gloria Sax @ CP 272 Succ. Mont-Royal, Montreal, PQ, Canada H3P3C5. I indicated to Mr. Jann that I would follow his instructions and put the cashiers check in the mail today. Mr. Jann further explained that I would be receiving my settlement check

totaling \$280,000 between October 5-9, 1998. He indicated that the check would be delivered via an armored car and the driver would take me to my bank to deposit the check directly into my account. Mr. Jann then reminded me that upon receipt of these monies I would be contacted to make arrangements to pay the additional tax payment (\$14,600 - 7% less \$5,000 already paid). I mailed the check and waited for the beginning of October.

On September 29, 1998, I received a phone call from an individual identifying himself as John Taylor. Mr. Taylor purported to be with the US Customs Department and indicated that he had my \$280,000 settlement check. However, Mr. Taylor indicated that before these monies could enter the United States I had to pay a ten percent customs fee. Additionally, Mr. Taylor indicated that the arrangement I had made with Mary Thompson relative to paying taxes on these monies (\$5,000 up front and \$14,600 upon receipt) was unacceptable. Taylor indicated that before these monies could enter the United States, taxes (7%) and customs fees (10%) had to be paid in full. Mr. Taylor indicated that I needed to wire an additional forty-two thousand and six hundred dollars (\$42,600 - additional \$14,600 for taxes and \$28,000 for customs fees) or he would have to send the settlement check back to Canada. Mr. Taylor further relayed to me that these monies could be wired directly from my account to the necessary account in Canada. Mr. Taylor explained that he has worked with Ms. Thompson in the past regarding other United States residents and their settlement checks. Mr. Taylor indicated that Ms. Thompson would call me regarding the specific instructions for wiring these additional monies. As soon as Mr. Taylor receives confirmation from Ms. Thompson that these additional monies have been received he will allow the \$280,000 settlement check through customs.

Immediately following the end of my conversation with Mr. Taylor, Ms. Thompson called me back. She reiterated what Mr. Taylor had just told me and apologized for any confusion. She instructed me on how to go to my bank and electronically wire \$42,600 to them. She said that upon receiving confirmation of receipt of the requested wire she would contact Mr. Taylor and have the settlement monies delivered via armored car to my

house. I followed her instructions and went to my bank and wired the \$42,600 as requested.

On October 5, 1998, I received another phone call from John Taylor. Mr. Taylor indicated that Mary Thompson had called him and there were additional monies that went unclaimed and consequently I was eligible to receive three more shares of the settlement monies (\$76,000, \$135,000 and \$1,200,000 respectively). I declined these additional monies at this time, indicating that I first wanted to receive my \$280,000 settlement check before I discussed my options relative to any additional shares. Mr. Taylor understood and indicated that my \$280,000 check should arrive via armored car this afternoon. Mr. Taylor further indicated that Mary Thompson would call me back this afternoon regarding the specifics of this delivery.

On October 7, 1998, I became concerned when I had not received my check nor a follow-up call from Ms. Thompson as indicated by Mr. Taylor two days earlier. I attempted to contact Ms. Thompson at the phone number she afforded me (514/540-4620), but was only able to leave a message requesting a callback on their answering machine. Later that same day Ms. Thompson called me back. During this conversation Ms. Thompson again brought up these additional claims and after arguing back and forth with her I agreed to two additional claims totaling two hundred and eleven thousand dollars (\$211,000 - \$76,000 + \$135,000). Ms. Thompson explained that my total settlement check would now be four hundred and ninety-one thousand dollars (\$491,000). She further explained that before these monies could enter the United States I had to pay fifteen percent taxes/customs fees on these additional two claims ($\$211,000 \times 15\% = \$31,650$). Ms. Thompson instructed me to go to my bank and wire these monies in the same manner as before. I agreed and planned on going to the bank that afternoon to complete the transaction.

Unbeknownst to me at the time of the last two phone conversations my daughter was listening, and confronted me when I was getting ready to go to my bank and wire the additional \$31,650. She indicated that before I wired any additional monies they should check this lawsuit out

and verify its legitimacy.

My daughter, Ann Hathaway, contacted the Ohio Attorney General's Office - Consumer Protection Section on this same day. Investigator Robert Morgan explained that I had been hoodwinked by a common telemarketing scam known as the "law firm recovery scam" and not to wire any additional money. Investigator Morgan indicated he would come out to my house the next morning to talk to me and discuss investigatory options.

On the following day investigators from the Attorney General's Office came to my house and met with my daughter and me. They convinced me that I had fallen victim to a scam, and not to wire any additional money. They further explained that this type of scam usually originates from Montreal, Canada making the investigation and prosecution of the suspects difficult. They told me that the recovery of the monies already sent was unlikely, however they could try to determine who was behind this scam with my help. My daughter and me agreed to assist the Attorney General's Office. The investigators placed a recording device on my telephone that enabled Ann and I to record future telephone conversations.

In addition, I signed a "consent trap and trace order" enabling the Attorney General's Office to work with my phone company's security department to trace these phone calls as well. The investigators explained that Ann and I would have to continue talking to the callers and play along with their scam in order to assist them with their investigation. After discussing methods of manipulating these phone calls, to maximize investigative effectiveness, Ann and I decided it would be best if she dealt with any future calls.

Over the next seven weeks Ann recorded phone calls from Mary Thompson, John Taylor and Mark Davis, alleged partners in the law firm Rudel, Wiseman & Associates. During these calls Ann was able to get Ms. Thompson to explain all the events that had led up to the present situation as requested by the investigators for evidentiary purposes. In addition, over this time period, Investigator Morgan was able to work with my local and long distance phone carriers to trace these calls back to

their point of origination. As suspected these calls were traced back to an address in Montreal, Canada. The investigators also instructed Ann to agree to any additional payments necessary to facilitate the release of the \$491,000 to myself. Investigator Morgan explained this information would be helpful in the event that local law enforcement on the Canadian end could be enlisted to aid in a "controlled delivery" geared to identifying and apprehending the suspects in question. After talking extensively to Mr. Davis, Ann was instructed to send three additional cashiers checks totaling seventy-eight thousand dollars (\$78,000) to secure my settlement check. Mr. Davis instructed Ann to obtain three cashiers payable as follows: 1) \$31,350 payable to Charles C. Burton 2) \$27,680 payable to Robert D. Duran and 3) \$18,970 payable to Tony Wiseman.

Investigator Morgan indicated that with this information he would contact the Montreal area telemarketing task force (Project Colt) and request their assistance relative to apprehending the suspects. Unfortunately, Investigator Morgan informed us that due to a lack of resources "Project Colt" was unable to provide any assistance relative to the present investigation. They did tell Investigator Morgan that the address where the phone calls had originated from was a known "boiler room" in the Montreal area. Investigator Morgan explained to us that he has forwarded all the investigative materials (reports, recorded phone calls, copies of checks and wires) to "Project Colt" for their continued consideration.

Investigator Morgan explained that without the assistance of Canadian authorities our investigation was dead in the water. Consequently, I had the recording device removed from my phone and my phone number changed to a private, unpublished number.

Although Investigator Morgan explained the difficulties associated with this type of cross-border fraud investigation, it was still disappointing to have the investigation abandoned due to a lack of resources on the Canadian end. Investigator Morgan explained that had these individuals been operating within the United States these same investigative methods would have

been employed, however in all probability a successful prosecution would have resulted. This fact alone concerns me.

On a personal note, I would like to tell you how this has impacted both my family and me.

First of all, the personal cost of caring for my wife has continued to increase. The aforementioned losses due to fraud only compound the situation. As a result I am concerned about my financial ability to care for my wife and myself as I continue to age. Not to mention the added stress associated with thinking of what kind of a financial burden I may be to my family. This has also forced me to question my own judgment and intellect with a resulting loss of self-confidence. I am embarrassed and try to conceal my own victimization so that family and friends do not think differently of me. I feel that nothing can be done about this crime because it was committed outside of the United States. This makes me feel helpless, and it has infuriated my daughter, causing her additional stress in an already stressful role as a loving caregiver. I have come here today as a way to seek closure. I hope that what I say will not fall on deaf ears and my words will serve as a catalyst for action from this subcommittee.

In conclusion, I would like to again thank the subcommittee members for the opportunity to testify before you today. I am honored to have had the opportunity to speak to all of you and I hope that you will think of all of the seniors across the country whom have fallen or will fall victim to a similar scam. If it is true that these criminals use the United States-Canadian border to avoid detection and apprehension from United States law enforcement, please work with the Canadian authorities to level the playing field so that we, the senior population, have a chance to enjoy the fruits of our labor as we age. Thank you for your time and consideration.

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