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COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
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Good morning, Mr. Chairman and Members of the Subcommittee. I am pleased to appear before you this morning to testify about the work that the Department of Justice has been doing to combat cross-border telemarketing fraud.

With your permission, I would like first to provide an overview of the problem of cross-border telemarketing fraud, then to summarize how the Department and other U.S. law enforcement authorities have been actively combating the problem, and identify some areas where continuing activity by the Department may be needed to enhance cross-border cooperation in telemarketing fraud cases.

As I believe the Subcommittee is aware, in 1997 the U.S. and Canada established a Working Group on Telemarketing Fraud, which has served as an important forum for strengthening bilateral enforcement efforts in this area. Next week, the Working Group, which is chaired on our side by a senior attorney from the Criminal Division's Fraud Section, will be meeting in Canada and reporting to Attorney General Ashcroft and the Canadian Solicitor General at the U.S.-Canada Cross Border Crime Forum.

I. Overview

In its November 1997 report, the United States-Canada Working Group on Telemarketing Fraud stated that telemarketing fraud "has become one of the most pervasive and problematic forms of white-collar crime in the United States and Canada, accounting for as much as 10% of the total volume of telemarketing."¹ In 2001, cross-border telemarketing fraud remains a pervasive form of white-collar crime in North America, although legislative and operational initiatives by both the United States and Canada have increased the effectiveness of law enforcement efforts.

Today, criminal telemarketing fraud operations in Canada remain strongly concentrated in three major metropolitan areas: Montreal, Toronto, and Vancouver. The following summary of criminal telemarketing in each of these three areas reflects the Department's understanding of current information from U.S. and Canadian law enforcement authorities:

- Montreal The greater Montreal area is the location of approximately 5 to 10 large telemarketing operations, plus an unknown number of smaller telemarketing operations.

These operations, which use anywhere from a single operator to nearly 30 employees, concentrate on schemes offering foreign lottery chances and prizes or sweepstakes, as well as so-called "recovery rooms." (In the "recovery room" scheme, telemarketers pretend to be law enforcement agents, lawyers, or others who can help telemarketing fraud victims recover their money, but insist on the victim paying even more money to pay nonexistent "taxes" or "fees" to the telemarketers.)

- Toronto The greater Toronto area has approximately 50 to 60 fraudulent telemarketing operations, some of which can be as large as 40 or 50 employees. These operations are conducting a variety of schemes, including offering advance-fee loans, credit-card "protection," stock swaps; prizes and sweepstakes; and "investment-grade" gemstones.
- Vancouver The lower mainland area of British Columbia – including Vancouver, Burnaby, North Vancouver, Richmond, and Surrey – has approximately 220 to 250 fraudulent telemarketing operations. These operations, which typically use anywhere from 3 to 35 or 40 employees, concentrate on schemes involving foreign lotteries, investments in so-called "British bonds," credit-card protection, recovery rooms, and fraudulent billing of compromised credit cards.

Several aspects of all of the Canadian-based schemes, wherever they are located, are noteworthy. A number of these operations take extraordinary measures to increase the difficulty of successful investigation and prosecution. These measures include using cell phones (sometimes in conjunction with prepaid "calling cards"), which can be discarded after several weeks of intensive use; using stolen identity cards to open mail drops for receipt of payments that victims mail to them; using multiple mail drops that shuttle victim-related mail through multiple destinations; impersonation of FBI and Customs agents or RCMP officers, to make victims believe that law enforcement is already aware of their losses; contracting with other telemarketing "boiler rooms" to do their work; and laundering of fraud proceeds through foreign bank accounts. In addition, U.S. and Canadian law enforcement have noted the involvement of organized crime in some of these telemarketing operations, although organized crime does not dominate fraudulent telemarketing as a whole.

While the preceding summary focuses on Canadian-based telemarketing schemes, I should note that Canada has no monopoly on cross-border telemarketing fraud. U.S. law enforcement authorities have investigated and prosecuted U.S.-based telemarketing operations in the Buffalo and South Florida areas that were targeting Canadian residents, just as various Canadian-based operations have targeted U.S. residents.

II. Law Enforcement Response

Let me turn now to the response by U.S. law enforcement to cross-border telemarketing fraud. Last year, the Department of Justice and other U.S. law enforcement agencies prepared a detailed report on the status of implementation of the recommendations in the 1997 report of the U.S.-Canada Working Group on Telemarketing Fraud. In the interest of time, I will not present a point-by-point review of all of the recommendations;

instead, I have attached a copy of the 2000 status report to this statement, so that the Subcommittee has a more complete record.

With the Subcommittee's permission, I would like to focus on two of the recommendations from the 1997 Working Group Report, to highlight some of the more significant actions that the United States has taken to combat cross-border fraud.

A. Recommendation - Telemarketing Fraud as Serious Offense

The Working Group's first recommendation was "that the governments of both countries and their representative agencies clearly identify telemarketing fraud as a serious crime"2 From the early 1990s to the present, the Department of Justice has considered telemarketing fraud to be a serious white-collar crime that requires sustained attention and dedication of significant investigative and prosecutive resources. In the 1990s, for example, the Department worked in close coordination with the FBI and other law enforcement agencies to carry out three nationwide undercover operations directed at telemarketing fraud -- Operation Disconnect (announced March 1993), Operation Senior Sentinel (announced in December 1995) and Operation Double Barrel (announced in December 1998). These operations resulted in the indictment, arrest, and prosecution of more than 1,400 telemarketers in the United States and Canada by federal, state, and local law enforcement.

Since these three operations, U.S. Attorneys' Offices and the Department have continued to pursue criminal investigations against fraudulent telemarketers located in Canada. Within the past 18 months, for example, U.S. Attorneys' Offices in Boston, Los Angeles, Phoenix, Shreveport, and Tampa have brought a variety of criminal cases against Canadian-based telemarketers:

- June 7, 2001 - District of Arizona (Recovery Room) On June 7, 2001, Angelo Impellezzere, a resident of Quebec, was arrested and charged with wire fraud in the District of Arizona, while visiting an assisted living facility to meet with an 84-year-old telemarketing fraud victim. Impellezzere allegedly posed as an undercover Canadian police officer, using an alias, and told the victim, who had already lost \$80,000 to criminal telemarketers, that he needed another \$10,000 from her so that her funds could be traced back to the people who had defrauded her of the \$80,000. He was arrested when he arrived after midnight at the victim's assisted-living facility, allegedly to pick up not only her \$10,000 but another \$7,500 that he had persuaded another victim to wire to her so that he could pick up the funds at the same time.
- February 15, 2001 - Central District of California (Lottery) On February 15, 2001, a federal grand jury in the Central District of California returned an indictment against Jacques Tanguay, Christina Tanguay, Donna Mata, and Wilfred Veyt on wire fraud charges, including the sentencing enhancement for telemarketing fraud, 18 U.S.C. § 2326.3 Jacques and Christina Tanguay allegedly owned and operated a British Columbia-based lottery operation called, at various times, Global Dividends International, Horizon 2000 Investments International, and Platinum International. Mata and Veyt allegedly managed and were telemarketers in the operation. The indictment

alleges that during the course of the scheme, which ran from about November 1997 to May 2000, the defendants induced elderly victims to send more than \$2.7 million to the operation.

- February 9, 2001 - District of Massachusetts (Prize-Recovery Room) On February 9, 2001, Postal Inspectors and other U.S. law enforcement agents arrested Denis Morin, a manager of a large Montreal-based telemarketing fraud operation, at Walt Disney World in Florida. In a coordinated series of actions, Canadian law enforcement authorities arrested 26 other people connected with the operation. The room allegedly operated as a recovery room, in which callers falsely represented themselves as government officials, such as IRS and Customs employees and judges, as well as lawyers.⁴

Morin has since been indicted in the District of Massachusetts on charges of conspiracy, mail fraud, and wire fraud. The indictment alleges that the operation targeted principally senior citizens and other vulnerable members of society. One of the alleged boiler room managers arrested in Montreal, Vasilios Kolitsidas, is also a fugitive from a federal indictment in the Middle District of Florida.

- February 5, 2001 - Central District of California (Lottery) On February 5, 2001, Joseph M. Polyak was arrested in Blaine, Washington on the basis of a criminal complaint in the Central District of California alleging wire fraud violations. Polyak allegedly conducted a foreign lottery scheme under the names Imperial International Services, Premier International, 591117BC LTD, and ELC Services. The scheme allegedly involves calls to elderly victims from British Columbia. Polyak was subsequently indicted on wire fraud charges, as well as the telemarketing fraud sentencing enhancement. He is scheduled for trial on August 31, 2001.

- January 17, 2001 - Middle District of Florida (Lottery/Money Laundering) On January 17, 2001, a federal jury returned a verdict of guilty against Serges Jacques Descent on all counts of a 57-count indictment, charging him with conspiracy, mail fraud, money laundering conspiracy, and money laundering (18 U.S.C. §§ 1956 and 1957), and including the telemarketing fraud enhancement under 18 U.S.C. § 2326.5 According to the evidence at trial, in 1998 and 1999 Descent used bank accounts in St. Petersburg, Florida and Canada to channel funds from victims' checks that were sent in response to calls from a lottery room, presumed to be in Canada. Victims named in the indictment included 13 people in their 70s and 80s, and four of those victims were so frail that they could not travel to testify at trial and had their testimony taken by video deposition. Descent is scheduled for sentencing on July 20, 2001. A second defendant, Vasilis Kolitsidas, was a fugitive in this case, but was arrested in Montreal in February, 2001 in connection with the Denis Morin arrest (see above).

- January 10, 2001 - Central District of California (Lottery) On January 10, 2001, a federal grand jury in Los Angeles indicted two Canadian residents, Wilson Okike and Basil Mark Steeves, on 12 counts of wire fraud and six counts of mailing fraudulent materials relating to lotteries. The indictment alleges that Okike and Steeves operated fraudulent telemarketing firms in Vancouver called North Klassen Services, Globalot Services, Royal Flush Ltd., and Intersweeps Management Services. Okike and Steeves

had been arrested in Blaine, Washington in December, 2000.⁶ Both defendants have since pleaded guilty to charges of wire fraud and mailing of lottery materials.

- November 24, 2000 - Central District of California (Lottery) On November 24, 2000, a jury in the Central District of California convicted Eduardo Cartagena on 10 counts of wire fraud. Cartagena had managed boiler rooms in Burnaby, British Columbia, that were part of an operation called, at various times, Global Dividends International, Horizon 2000 Investments International, and Platinum International. The testimony at trial showed that the business name was changed often to avoid detection of the scheme. Cartagena's stepfather and mother, Jacques and Christina Tanguay (see above), owned the operation and also operated a boiler room in Quebec. Cartagena had been arrested in May, 2000, after he entered the United States.⁷

On May 14, 2001, Cartagena was sentenced to 70 months imprisonment and restitution to victims. The sentence was based in part on the jury's specific finding that Cartagena had defrauded at least 10 victims over the age of 55, which made him eligible for an increased sentence under the section 2326 telemarketing fraud enhancement.

- November 15, 2000 - Western District of Louisiana (Prize) On November 15, 2000, a federal grand jury in the Western District of Louisiana indicted Nelson Guerrero, of British Columbia, on six counts of conspiracy, wire fraud, and money laundering. Guerrero and others allegedly operated a fraudulent telemarketing business in Canada that telephoned victims and promised them a substantial cash prize if they sent payments to cover "taxes" and to convert Canadian currency to U.S. dollars. Guerrero also allegedly used the aliases Nelson Ramirez, Alex Roberto, and Anthony Miranda.⁸

- November 13, 2000 - Central District of California (Lottery) On November 13, 2000, a criminal complaint was filed in the Central District of California against Timothy Ryan Babuin, with respect to his role in a Vancouver telemarketing company, NAGG Holdings. NAGG Holdings allegedly sold bogus lottery tickets and bogus savings bonds to U.S. and Canadian victims.⁹ Babuin was arrested in Canada, and an extradition request has been filed with Canadian authorities.

- June 13, 2000 - Central District of California (Credit-Card) On June 13, 2000, a criminal complaint was issued in the Central District of California, charging a Canadian resident, Mark Wilson, with mail, wire, financial institution, and credit-card fraud, after a series of searches and seizures by law enforcement in Canada and the United States. Wilson, doing business as OPCO INTERNATIONAL INC. ("OPCO") and related companies, as well as AMERICAN FRAUD WATCH SERVICES, INC. ("AFWS"), allegedly operated a fraudulent telemarketing scheme in which U.S. residents were telephonically contacted from Canada in an effort to have those residents disclose their Visa and/or MasterCard numbers to the callers. Those numbers were then billed without authorization for \$299.00 each.

Wilson allegedly caused his employees to make the following misrepresentations, among others, to victims: 1) that OPCO was their credit card representative; 2) that the victims were qualified to a "gold star" membership from OPCO, which would entitle

them to certain services; and 3) that OPCO needed to verify the victims' credit card number, in order to induce the victim to read their credit card number to the OPCO employee. Wilson allegedly used several different factoring companies to process the credit card charges and, as a result, those companies incurred losses from the excessive charge backs realized. At least one factoring company could not absorb the losses. This reportedly caused a federally insured financial institution to incur losses in excess of \$100,000.00.

- **May 22, 2000 - Central District of California (Lottery)** On May 22, 2000, two Montreal telemarketers, George R. Gilham and Lisa A. Pomerantz were sentenced in the Central District of California to 30 months and 27 months imprisonment, respectively. Pomerantz and Gilham had been arrested in Los Angeles on November 17, 1999, after attempting to pick up \$140,000 in cash from an elderly victim and give her a counterfeit \$5.5 million check, purportedly for "lottery winnings." Pomerantz and Gilham reportedly drove from Montreal to Los Angeles for the transaction.¹⁰ After being indicted in December 1999 on mail fraud and related charges,¹¹ both defendants pleaded guilty in January 2000.

- **February 7, 2000 - Central District of California (Lottery)** On February 7, 2000, a criminal complaint was issued in the Central District of California, charging Michael Ghirra, of Vancouver, B.C., with wire fraud and mailing lottery communications. Ghirra was the owner and operator of WIN USA (a/k/a International Registration Australian Lottery (IRAL), International Canadian Lottery System, and Ipex Services Ltd.) from approximately April 1997 through November 1998. Ghirra reportedly had obtained approximately \$5 million from his lottery operations.

Ghirra had previously been a defendant in a civil action filed by the FTC on November 7, 1998 concerning his activities with WIN USA and IRAL.¹² That civil action resulted in the granting of the FTC's motion for summary judgment on April 13, 2000.¹³

In addition to these criminal prosecutions, I want to point out that another component of the Department of Justice, the Office of Foreign Litigation in the Civil Division, plays an important role in certain cross-border fraud litigation. That Office is authorized to file civil proceedings in a foreign jurisdiction where fraudulent activities occur. As a result, it can seek civil remedies in foreign jurisdictions like Canada, including civil injunctions and freezing of individual and corporate assets stemming from a fraudulent scheme that can eventually be paid to the scheme's victims as restitution. For example, in the criminal prosecution of a Canadian gemstone scheme, United States v. Euro-Can-Am et al., the Office of Foreign Litigation brought an action that succeeded in freezing assets in Canada until the defendants reached a global settlement with the U.S. government. The resolution of the prosecution included not only guilty plea by defendants, but a \$1 million payment to the United States for partial restitution to the scheme's victims.

Finally, through yet another of its components, the Bureau of Justice Assistance, the Department has been providing funding to the National Association of Attorneys General to support its ongoing operational and training efforts in telemarketing fraud cases,

including cross-border telemarketing fraud. Over the past three years, more than 500 state and local prosecutors and investigators have attended these training sessions.

B. Recommendation - Regional Task Forces

The Working Group Report also "recognize[d] the usefulness of regional task forces on telemarketing fraud" and recommended that such task forces "be encouraged to cooperate across the international border to the maximum extent possible."¹⁴ Two related developments have reflected that spirit of cooperation.

First, Canadian authorities have established several regional task forces to address telemarketing fraud in their respective areas. In Montreal, Project Colt, established April 1, 1998, is a multiagency project on telemarketing fraud that is staffed by the RCMP, the Sureté de Québec (Quebec State Police), and the Montreal Urban Community Police. In Toronto, a multiagency task force on telemarketing fraud – established in 2000, following the work of a multiagency consultative committee that had been established in 1997 – includes the Toronto Police Service, the Ontario Ministry of Consumer and Commercial Relations, the Ontario Provincial Police, and the U.S. Federal Trade Commission. In Vancouver, Project Emptor includes investigators from the RCMP, Industry Canada, and the British Columbia Attorney General.

Second, U.S. law enforcement agencies have been actively supporting and augmenting the work of these regional task forces. Since 1999, the FBI has conducted "Operation Canadian Eagle," an FBI operation in which agents from three designated field offices serve on temporary duty in Canada with specific Canadian law enforcement agencies to investigate fraudulent telemarketing. (Agents from the FBI's Boston field office work with Project Colt in Montreal, agents from the FBI's Detroit office work with RCMP representatives in Ontario, and agents from the FBI's Los Angeles field office work with Project Emptor.) Other law enforcement agencies, such as the Postal Inspection Service and the Customs Service, also have provided investigators to work with the Canadian task forces.

These support and investigative efforts have already paid substantial dividends for U.S. law enforcement. From May 1999 to May 2001, Operation Canadian Eagle has resulted in the charging of 49 persons by indictment or information, the charging of 13 persons by criminal complaint, and more than \$2.2 million in funds that were recovered and returned directly to telemarketing fraud victims. A number of the U.S. criminal cases I have listed above in this statement are the direct result of Canadian Eagle, Project Colt, and Project Emptor, and we look forward to similar cases being generated in the future.

III. Improvements in Cross-Border Cooperation

The Department of Justice believes that the United States has implemented substantially all of the recommendations in the Working Group Report. As the 2000 status report indicates, there are, among other things, enhanced penalties under the Sentencing Guidelines for telemarketing fraud; multiagency investigative support for cooperative projects such as Project Colt and Project Emptor; the extensive resources

of the multinational Consumer Sentinel database that the FTC maintains; and expanded telemarketing fraud training for law enforcement.

At the same time, there clearly are some areas where continuing activity by the Department may be needed to enhance cross-border cooperation in telemarketing fraud cases. First, the Department believes that it and the investigative agencies with which it works on telemarketing fraud cases need to continue to devote resources to the problem of cross-border telemarketing fraud. There is no doubt that both U.S. and Canadian authorities have more legal tools, and more collaborative arrangements such as the Canadian regional task forces and Operation Canadian Eagle, to attack cross-border telemarketing schemes effectively than they did when the Working Group issued its 1997 report. Even so, there are still strongholds of telemarketing fraud that will require both countries to continue to use those legal tools and task forces, and to devote investigative and prosecutive resources, if we are to have a decisive effect on this problem.

Second, the Department has noted a need for closer coordination between U.S. and Canadian authorities in assisting U.S. victim-witnesses whose testimony is needed in Canadian judicial proceedings. Changes in Canadian law since 1997 allow the use of videoconferencing to take testimony from telemarketing fraud victims located outside of Canada. As a practical matter, however, even a single request by Canadian authorities for assistance in arranging for video conference testimony by several witnesses can result in substantial logistical problems. The nearest available video conference site for a particular victim may be several hundred miles from the victims' residence. If the victim is physically infirm, he or she may need to be accompanied to and from the video conference site by a U.S. law enforcement representative. If there is a delay in the Canadian proceeding, the victim may need accommodations and meals at least overnight. Moreover, based on several Canadian cases in which U.S. assistance was requested in recent years, Canadian prosecutors may need as many as two dozen to three dozen victim-witnesses who can testify at a preliminary hearing or trial.

To date, agencies such as the FBI, the Postal Inspection Service, and the Federal Trade Commission have been highly responsive to such requests. Nonetheless, no single agency is, or should be, solely responsible for arranging and carrying out such assistance in all cross-border telemarketing fraud cases. The Department therefore plans to meet with these and other law enforcement agencies, to try to develop a better framework for responding to future requests from Canada for assistance with victim-witnesses in cross-border cases of all types.

Finally, the Department has a continued interest in exploring whether the processes for extradition and mutual legal assistance can be made more efficient and provide results more quickly in cross-border fraud cases. While the Department believes that the existing U.S.-Canada Extradition Treaty and Mutual Legal Assistance Treaty (MLAT) are sound, the time needed to obtain evidence under an MLAT request or to extradite individual defendants has sometimes varied widely, from a few weeks to two years or more. Some delays, of course, are inevitable when criminal defendants avail

themselves of all available legal processes to resist extradition. Nonetheless, both countries can benefit by determining how these processes might be made to function more efficiently.

Thank you for the opportunity to appear here today. I will be pleased to take any questions you have.