



Federal Trade Commission

Protecting Nevada's Consumers: A Common Ground Conference

Opening Remarks of Jessica Rich¹
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I. Introduction

Good morning everyone. Thank you for coming to the first Common Ground Conference hosted by the Nevada Attorney General, the Consumer Financial Protection Bureau, and the Federal Trade Commission. I am delighted to be here with you today to discuss the consumer protection issues facing Nevadans.

I would especially like to thank Attorney General Masto for teaming with us, and for arranging to have this event at such a beautiful facility. And I am thrilled to be here with Steve Antonakes of the CFPB, and all the people from federal, state, and local agencies and organizations who have worked together to plan this event.

II. Why Are We Here?

I'd like to start off by talking a bit about why this and similar events are so

¹ The views expressed here are my own and do not necessarily represent the views of the Federal Trade Commission or any Commissioner. Special thanks to Kerry O'Brien for assisting in the preparation of these remarks.

important to the FTC and, indeed, to all of us. Over the past few years, the FTC has hosted or co-hosted Common Ground events like this all over the country to strengthen connections with state and local partners, gain a better understanding of what consumers are experiencing on the ground, and make concrete plans for working together. The FTC has many tools to protect consumers, but we need help and collaboration so we can target our enforcement and educational efforts effectively, reach the different communities that need our attention, and leverage our resources through teamwork.

We are planning similar, upcoming events this year in North Carolina, New Mexico, Michigan, Missouri, Washington State, and California – and yes, we have to do it on a shoestring these days, but it’s a remarkably worthwhile investment. I guess I shouldn’t say it’s a “sure bet,” a “guaranteed winner,” or a “no risk opportunity,” but past performance does show that working with community partners to tackle problems at a regional and local level really pays off.

III. FTC Background

Let me tell you a little about the FTC, for those who don’t know us well, so you see what we bring to the table and how we can work with you.

As you may know, the FTC is the nation’s only federal agency with the dual role of protecting consumers and promoting competition. On the consumer protection side – which is what we’re here to discuss today – we are primarily a law enforcement agency. And we have broad jurisdiction to combat unfair and deceptive practices across the marketplace, with the exception of banks and common carriers engaged in common

carrier activity.

Our enforcement focus and broad jurisdiction distinguish us from – and complement – the work of our CFPB partner, which has powerful supervisory, regulatory, and enforcement tools but is focused principally on the financial marketplace. This event, in addition to being an opportunity to connect with the Nevada consumer protection community, is part of our ongoing effort to solidify and strengthen the complementary roles of the two federal agencies.

The FTC has a long history of advocating for consumers. Indeed, we'll be celebrating our 100th anniversary this year. We have a total of 1100 attorneys, investigators, economists, and other staff, many of whom work in our seven regional offices across the country. Our Western Regional office is one of the planners of this event. It has offices in San Francisco and Los Angeles, and one of its central missions is to connect and work with partners in Arizona, California, Colorado, Hawaii, Utah, and Nevada. We've got staff from the Western Region and FTC headquarters here today – please stand up so everyone can see who you are and say hello throughout the day.

The FTC uses four basic approaches to accomplish its consumer protection mission.

- **First:** We fight consumer fraud and deception through civil law enforcement.

We bring most of our actions in federal district court, where we can halt illegal practices, get powerful injunctive relief going forward, and return money to consumers. In addition to enforcing the FTC Act, which prohibits deceptive and unfair practices, we

enforce a broad array of more specific laws and rules – the Telemarketing Sales Act, Do Not Call, CAN SPAM, the Fair Credit Reporting and Gramm Leach Bliley Acts, the Children’s Online Privacy Protection Act, the Truth in Lending and Fair Debt Collection Practices Acts, and many others. We partner with states and other enforcers on these efforts wherever that helps us obtain stronger relief for consumers.

- **Second:** We promulgate and enforce rules to create a fair marketplace for consumers and a level playing field for businesses. As I mentioned, we are more of an enforcement agency than regulatory one, but we are responsible for many rules across consumer protection, including rules to implement some of the laws I just mentioned, and rules governing the marketing, for example, of used cars, jewelry, auto parts, and many other consumer products and services.

- **Third:** We educate consumers and businesses so that we can prevent fraud and deception before they occur. You can find some of our educational materials at the front desk where you checked in. Also, please check out our website consumer.gov, or (in Spanish) consumidor.gov. One key thing I want to emphasize about our education is that we want partners to *plagiarize* them. But we don’t really consider this plagiarism. We believe that if community groups take our materials and brand them as their own, they are more likely to reach the communities – your communities – that we all need to reach. Please talk to Jennifer Leach, who is here from our education division, about this, and also about how to obtain our materials in bulk, for further distribution.

- **Finally:** We engage in a broad array of policy work to promote stronger consumer protections and effect change. We develop reports on important consumer issues, such as our recent reports on the debt buying and credit reporting industries. We testify before Congress and work with Congressional staff on proposed legislation. And we hold workshops and Common Ground conferences like this to highlight consumer protection problems, share information, and create avenues for collaboration.

To do our job properly, we need to understand the marketplace so we can target our resources to areas where consumers are affected the most. What practices are fraudsters and scam artists engaged in? Who and where are they? Which practices are causing the most harm to consumers? What strategies are most effective?

Often, consumers themselves or those of you who directly interact with consumers, such as legal services organizations, are the first to sound the alarm about a new practice or new target that deserves our attention. The FTC hosts Consumer Sentinel, a database that takes in complaints from consumers and from a variety of our law enforcement and community partners, and makes these complaints available for law enforcement. In 2013, Consumer Sentinel received more than 2 million consumer complaints (excluding do-not-call). Unfortunately, Nevada was the state with the second highest per capita rate of reported fraud and other types of complaints. (Florida was number one.)

If you are a victim or know someone who is, I encourage you to file a complaint in Consumer Sentinel. It often is the first place that we and other law enforcement agencies look when deciding to launch an investigation. If you are a federal, state, or local law

enforcement agency and would like to have access to Sentinel, please become a member. FTC staff is also happy to provide training on how to use Consumer Sentinel.

But we are well aware that many consumers don't file complaints – either because they don't know they have been victimized or because they may be reluctant to complain to a government agency due to language barriers or a general lack of faith in the government to help them. That's another reason we need your eyes and ears – to tell us about scams that may not come to our attention through complaints. I also hope during today's discussion we can explore ways in which we can overcome some of the barriers to consumers filing complaints.

IV. Topic Areas

The panelists today will discuss a broad range of consumer protection topics, including mortgage and foreclosure scams, payday lending and debt collection, issues affecting immigrants, and auto financing. Before the panelists begin, I would like to highlight some of the serious problems the FTC is seeing in these areas.

Mortgage Assistance. The first panel this morning will discuss mortgage and foreclosure issues. Since the onset of the financial crisis – and resulting high levels of mortgage delinquencies, foreclosures, and debt – the Commission has devoted substantial resources to protecting consumers in this area. For example, since 2010, the Commission has filed 58 law enforcement actions against defendants offering debt and mortgage assistance relief services. A number of these actions have been announced as part of larger coordinated federal/state law enforcement sweeps. One example is

Operation Stolen Hope, announced in 2009 here in Nevada with Attorney General Mastro.

That sweep involved more than 118 actions by 26 federal and state agencies.

To complement these law enforcement efforts, the FTC in 2010 promulgated two rules to strengthen protections for distressed homeowners and others in debt. The Mortgage Assistance Relief Services, or MARS Rule, targets the key ways that mortgage relief companies are able to deceive and harm consumers. The Rule prevents these companies from collecting up-front fees before getting relief from lenders, requires prominent disclosures, and bans false and misleading claims about the services. The debt services amendments to the Telemarketing Sales Rule contains similar requirements, but are focused on non-mortgage debt services. These rules have greatly strengthened our enforcement tools and we continue to enforce them vigorously.

Payday Lending. After lunch, you will hear discussion of illegal payday lending practices. Because unbanked and underbanked consumers often turn to payday loans to meet their basic needs, the Commission has aggressively enforced laws protecting consumers from deceptive and unfair practices in this industry. In the past couple of years, we have filed a dozen cases involving the payday lending industry. Several cases challenged, for the first time, the defendants' attempts to evade prosecution through loose affiliation with Native American tribes, and many involved debt collection violations.

For example, in its ongoing action against AMG Services, the Commission alleged that defendants piled on undisclosed and inflated fees, and collected on loans illegally by threatening borrowers with arrest and lawsuits. The District Court of Nevada issued a

preliminary injunction against 15 defendants, many of which are located here in Nevada. This summer, the Magistrate Judge handed the Commission a significant victory in both this case and its overall crackdown on deceptive payday lenders, finding that these lenders remain within the reach of federal law even when, as in this case, they claim immunity for prosecution due to an affiliation with Native American tribes.

In January, the same Magistrate Judge issued a summary judgment report and recommendation, finding that the defendants' payday loan contracts violate the FTC and the Truth in Lending Acts. These contracts prominently disclose one set of loan terms but automatically enroll consumers into a more costly series of rollovers and payments unless the consumer follows poorly-described and inconspicuous steps to opt-out. Among other useful findings, the Magistrate Judge described key portions of the defendants' loan documents as "buried," "confusing," "convoluted," "circular," "contradictory," and, of course, appearing in "fine print." The ruling has significance because many payday lenders have been using the same terms in their contracts with consumers – contract terms that the Magistrate Judge has now found to be illegal. The Magistrate Judge's findings are now subject to review by the U.S. District Judge, but we are optimistic they'll be upheld.

In addition, in 2009, the FTC, along with Attorney General Mastro's office, announced a settlement with 10 Internet payday lenders and their principals, alleged to have violated federal and state law by not disclosing key loan terms and using abusive debt collection tactics, including threats of arrest and imprisonment. The defendants

operated from the United Kingdom but targeted consumers in the U.S. and misled them into believing they operated right here in Nevada.

I should add that abusive debt collection – a problem that arises quite a bit in the payday lending industry – is a top priority at the Commission in its own right. Over the years, we’ve brought over 80 cases in this area, and about two dozen in the last several years. And I am very pleased that the CFPB is forging ahead on developing a strong rule in this area – this is much needed and we are assisting the CFPB in that effort.

Consumer Protection Issues Impacting Immigrants. Later this afternoon, panelists will tackle consumer protection issues impacting immigrants. In recent years, we have seen a slew of scams hitting hard at immigrants. Notario fraud, abusive debt collection, auto fraud, and a host of others come to mind. Scammers love to target immigrants, who may not know the language and may not have immediate access to resources in the community to help them spot and avoid fraud.

To help immigrant consumers and their advocates navigate the wide range of consumer protection issues they face, the FTC, with the help of legal services advocates, put together a toolkit available at consumer.gov/immigranthelp. The toolkit provides information on scams in this area, as well as available resources for use by both consumers and advocates.

We’ve also brought with us today a pocket-sized flyer, *Who Can Help Me? Immigration Help Wallet Card* in both English and Spanish, containing much of the same information in abbreviated form. Please take it with you and spread the word about how

to combat fraud in immigrant communities.

Auto Issues. Finally, another panel this afternoon will address some of the issues consumers face when dealing with unscrupulous auto dealers. This is a hugely important area for the FTC and consumers. For most consumers, buying a car is one of the biggest financial transactions they will ever make. And in 2013, auto-related complaints ranked in the top 10 complaints that Consumer Sentinel received from Nevadans. The Dodd-Frank Act gave the Commission additional authority with respect to auto dealers, and we are taking that mandate seriously.

For example, in January, we announced Operation Steer Clear, a nationwide sweep against deceptive auto dealer ads. The sweep targeted a variety of deceptive claims used by dealers to get consumers into their showrooms – false claims of “no money down,” false claims about low monthly payments, failure to disclose hefty balloon payments, and even a phony sweepstakes. This is an area where we continue to see deception and will continue to vigorously enforce the law.

V. Looking Forward

In closing, I want to emphasize the FTC’s goals in co-hosting this event. We want to strengthen our partnerships with fellow enforcement agencies, legal services organizations, law school clinics, neighborhood service organizations, and everyone else here today that is working to protect consumers. We want to develop concrete ideas for exchanging information and tapping into our diverse experiences about what the problems are and what solutions would work best. And we want to walk off with lots of

phone numbers and email addresses and some new friendships. Together, we can work to identify and stop the most pernicious practices, and also figure out the best ways to help consumers protect themselves.