



Executive Forum

January 18, 2011

Legal Traps for the Unwary Compensation Plans, Income Claims, Distributor Compliance and Other Legal Mysteries

I. Introduction

- A. My Background
- B. My Agenda
 - 1. Move you as far up the MLM legal-learning curve as you can stomach
 - 2. Make you a lousy regulatory target
- C. The Regulatory Landscape
- D. Free legal advice is worth what you pay for it.

II. Compensation Plans

- A. Potentially Applicable Areas of Law
 - 1. Anti-pyramid statutes
 - 2. Franchise and business opportunity laws
 - 3. Securities laws
 - 4. Lottery laws
 - 5. Referral selling laws
- B. The Single-Most Important Factor in the Legality, Viability, and Longevity of the Compensation Plan *and* the Company (and also the Greatest Secret in Direct Selling)
- C. The Regulatory Analysis -- What You Need to Know About How Regulators and Courts Analyze Comp Plans
- D. Start-Up Costs

- E. Comp Plan Objectives
- F. Comp Plan No-No's
 - 1. Cannot pay for distributor-recruiting
 - a. Cannot pay compensation out of enrollment fees
 - b. Can pay compensation out of product purchases
 - c. But watch out for the "operational realities"
 - 2. Required product purchases and mandatory auto-ships
 - 3. Limiting certain elements of the comp plan to purchasers of larger product packs

III. Income Claims

- A. Why Is this a Separate Topic?
- B. The Activities of Your Friendly Neighborhood Federal Trade Commission
- C. **All** Income Claims Are Deceptive and Violate Federal and State Consumer Protection Laws (With One Limited Exception)
- D. Good News -- There Is a Cure
- E. Great News -- the Cure Is a Phenomenal Marketing Tool

IV. Distributor Compliance

- A. The Primary Purpose of Compliance -- Your Longevity and Success
- B. The Primary Reason for Compliance -- Unawareness
- C. The Primary Function of Compliance -- Education
 - 1. The secondary function of Compliance -- Enforcement
- D. Laying the Right Foundation -- Distributor Agreements/policies and Procedures
- E. The Need for a Compliance Program
 - 1. The paradigm of the regulators -- "We don't expect perfect compliance, but we do expect and demand . . .
 - 2. The expectation of the regulators -- "Either you do something about your distributors, or . . .
- F. The Need to Be Pro-active
- G. Distributors Must Partner with Compliance