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Response to Business Opportunity Rule, RS11993

I am an independent business owner (IBO), owner of Dermott and Associates (registered with the State of New Hampshire), empowered by Quixtar, Inc. I am grateful to read that the FTC is clamping down on fraudulent operations that give my industry a questionable reputation.

I would like to raise six points, one that I do not see specifically covered in RS11993 and five that are addressed but can adversely affect my legitimate business without offering the consumer protection, which in some businesses may be needed, but not in ventures empowered by Quixtar and other legitimate companies.

For the one not specifically covered in RS11993. At least I did not find my point covered, as in Section D, No. 2b, although it may be generally covered somewhere and I missed it. Some companies set up businesses with too little financial backing to support both the promises made and marketing practices. For example, one of my brothers spent two years and lots of effort and expense building an independent business when the management of the company with which he was affiliated tried to buy inventory at bulk rate to save money. The problem was that there was not enough money to do that and at the same time pay the independent distributors. Consequently, when the distributors found inconsistent payments, they began to quit and the whole operation imploded. I have read in either a newspaper or a magazine that some companies are deliberately set up with not enough financing, knowing that the operation will eventually implode, but leaving the owners with a "killing" on their initial investment. One of the situations contributing to people's being sucked into operations that may implode is that today, with all the technological advancements, people have become used to wanting things now. Back in the 1950s, when such companies as Amway began, society's lifestyle was much slower paced and distributors and companies could start slowly and build together. But with today's fast-paced life, in order to attract potential prospects, some start-up companies intentionally, and sometimes unintentionally, promise more than their financial base can fulfill. Anything the FTC can do to regulate the situation to avoid both these maleficent and/or fraudulent operations would be a blessing for those Americans looking for a way to get ahead and a blessing to our industry in clearing up its reputation. There must be the financial backing to support both the promises and the operations.

Of course I am not concerned about Quixtar imploding. The foundation of Quixtar is rock solid and has set the industry standard and example. But five things in RS11993 do concern me. First, in Section E, No. 2a, the Commission is proposing a seven-day waiting period from documented disclosure and the time a prospect can register. When a prospect is ready to register varies from individual to individual. Some people who already know me and trust me or who are already familiar with Quixtar's reputation or who are business people who understand the advantage in the business world of having virtually no risk and no overhead are ready to sign up the night I have shown them the plan, even before viewing documentation. Of course, I still give them the documents. On the other hand, some detail-oriented people like myself and lawyers often want a few days to think the situation through. The vast majority of prospects who are interested, however, sign up within 24 or 48 hours. As a doctor of education and student of psychology, I have seen the principle of the forgetting curve repeat itself many times. The human brain begins to forget things within a few hours. Within 24 hours much is lost, and after 48 hours, the memory recall rate has dropped to the point at which usually the prospect finds it easier to say "no" than admit that he/she can't remember enough of the presentation, despite having documentation, in order to make an intelligent decision. This problem has increased with today's fast-paced society's requiring more and more of our memory's capacity. If there were a seven-day waiting period, in order to keep my same sponsoring rate, I would have to get back to prospects several times over the seven days, taking more of my time before I can really start helping them, and probably making the prospects feel pestered. Furthermore, a seven-day waiting period would require a successful IBO to have more "black packs." In my diamond's group, these contain the disclosure documentation, a couple of CD's, a book, and several booklets and flyers, costing about \$35 per "black pack," and are left with prospects after the business presentation. I have two, rotating them to new prospects every couple of days. With a seven-day wait, I would need about seven or eight of these, four times as many that are recommended at the present time. I can afford the increased cost, but what about a single mother? If she wants the same kind of results, besides baby-sitting costs she would now have an unnecessary increased expense. Of course, she can distribute just the disclosure documentation, but I can guarantee you that she would not get the same results. Without the added material and her following the principle of duplication, she will have to spend more time with less results. In short, with a legitimate operation like Quixtar, I can see no benefit to any kind of required waiting period, but for both IBO's and prospects, lost of both time and finances. Besides, if a prospect is not satisfied, he can get his money back.

Second, Section E, No. 1m, "would require business opportunity sellers to disclose litigation in which they have been involved, in whole or part" for the past ten years. For one thing, it's not clear to me whether the "seller" here is me or Quixtar. I guess it must be Quixtar. However, the only IBO I have sponsored who had the slightest interest in litigation was a lawyer. Now with a franchise requiring a large outlay of cash, a smart person would consult a lawyer. But in a

Quixtar venture, the average person would not be consulting a lawyer and thus would not know how to interpret any list of litigations, whether there is a concern or mere false accusations. Quixtar has a side website which answers more questions about Quixtar than any one individual would ever be interested in. My diamond's follow-up website has attached this Quixtar extension site in an obvious manner. Whenever I have shown the plan, afterwards I not only leave a "black pack" mentioned above but also give the prospect the address for this follow-up site. At least the litigation section is written in layman's terms, not the jargon of lawyers. For opportunities like Quixtar, I see no need to require one to disclose past litigation.

Third, I am concerned about the Reference section of Appendix A, page 19091. This provision would require me to reference ten other Quixtar IBO's. This would cause several problems. One, I myself would also be subject to many calls from prospects of other IBO's whom I may or may not know. This would be an invasion of my privacy. I already get enough calls I don't want from 800 numbers wanting to sell me something and from various political action groups. Two, if I refer one of my prospects to some other IBO, what is to stop the other IBO from registering my prospect? Would that be fair? And three, such conversations not involving people in the same line of sponsorship is called crosslining and is strictly forbidden by Quixtar rules. For either a prospect or an IBO to discuss business with someone in a different line of sponsorship, with someone who has no invested interest in the prospect or other IBO, can cause all kind of problems. For example, although all diamonds follow the basic rules and regulations, they have different philosophies on how best to present the business plan. Some diamonds like to use Power Point presentations, for they feel that we should keep up with modern technology and it does give a professional look to the plan. Other diamonds, including mine, don't want to add another expense to getting started for those prospects who may not have the funds to get a laptop in addition to the desktop computer that they already have. These diamonds focus on the principle of duplication, everyone in a line doing the same thing and speaking with one voice so as not to confuse prospects. Thus these diamonds recommend white boards, flip charts, booklets and/or just yellow pads, the cost diminishing in that order. The follow-up website mentioned in the previous paragraph also has oral and written references by government agents, business executives of Quixtar partner stores, and IBO's from many different levels of success. Furthermore, prospects sometimes choose to meet people at the monthly workshops and seminars and occasional training sessions before signing up. In Quixtar, there are plenty of opportunities to get legitimate references. But the method for referencing proposed in RS11993 would hurt both IBO's and prospects financially.

Fourth, I am also concerned about the Earning section found in Appendix A, page 19091. Quixtar has data to back the average monthly gross income for "active" IBO's. These averages are part of the business presentation and the disclosure statement. If the FTC would consider asking companies to present

such data to the FTC, such a procedure would be much more simple and easier for the average prospects to comprehend. Since there are both highs and lows, corporate averages would be more appropriate. Furthermore, Quixtar's BIZ Reference Guide, a 95-page document, goes into depth how money is earned through Quixtar and all the bonuses available at each level. I think the procedures established by Quixtar are more than adequate to explain earnings and much more understandable than that in Appendix A.

Fifth and last, I don't see why I should have to reveal my personal financial documents to a prospect. I wouldn't mind showing them to the FTC or any other governmental agency in an investigation. Personally I don't state my income to prospects. If they are curious, they can compare the pin level on my lapel pin at a workshop to the compensation figures to get a general idea of how much I am making. But my exact income is my personal information.

In conclusion, I hope that my comments and suggestions are helpful. The FTC obviously has an enormous task ahead of itself, and I get the feeling that the FTC is sincere in its efforts and is not interested in harming legitimate businesses. Unfortunately, not every proponent of business ventures understands an important principle J. Paul Getty espoused: The only way to get what you want is to help others get what they want.