

**Testimony of  
Sally Greenberg  
Executive Director, National Consumers League on**

**The Economy and Fraud: Protecting Consumers During Downward Economic  
Times**

**Before the Commerce, Science and Transportation Subcommittee on Consumer  
Protection, Product Safety, and Insurance  
United States Senate**

**July 14, 2009**

**Introduction**

Good morning, Mr. Chairman, and members of the subcommittee. My name is Sally Greenberg and I am the Executive Director of the National Consumers League (NCL).<sup>1</sup> I appreciate this opportunity to appear before the subcommittee on Consumer Protection, Product Safety, and Insurance of the Senate Commerce, Science, and Transportation Committee to discuss the issue of fraud connected to the ongoing economic recession.

Since our founding more than a century ago, the National Consumers League has sought to protect consumers from fraudulent practices. In 1992, the League established a Fraud Center, enabling us to directly assist consumers threatened by the rampant proliferation of telemarketing and online fraud enabled by the growth of global telecommunications networks and the Internet. Via our online fraud information portal, Fraud.org, we accept consumer fraud complaints which we analyze and share with more than ninety international, federal, state, and local law enforcement and consumer

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<sup>1</sup> The National Consumers League, founded in 1899, is America's pioneer consumer organization. Our non-profit mission is to protect and promote social and economic justice for consumers and workers in the United States and abroad. For more information, visit [www.nclnet.org](http://www.nclnet.org).

protection agency partners including the Federal Trade Commission (FTC), Federal Bureau of Investigation (FBI), and U.S. Postal Inspection Service (USPIS). Thanks to the work of the Fraud Center staff, NCL was one of the first organizations to raise the alarms about the growth in fake check scams, which now account for more than forty percent of the nearly fifteen thousand complaints NCL receives on an annual basis.<sup>2</sup> Today, we are pleased to be able to share with you the results of our six-month review of fraud complaints received by the Fraud Center, covering the period January-June of 2009. Through our Alliance Against Fraud coalition, NCL also acts as a convener of thirty-nine organization from the non-profit, corporate, government, and labor communities to coordinate anti-fraud activities nationally.

The impact of fraud nationally is stunning. According to FTC estimates, 30.2 million consumers were victims of fraud in a single year.<sup>3</sup> The impact of fraud on businesses is equally staggering. According the Association of Certified Fraud Examiners, a 50,000 member professional organization, it is estimated that fraud costs organizations approximately seven percent of annual organizations revenues, or approximately \$994 billion annually.<sup>4</sup> Given these sobering statistics, we believe it is imperative that public policy makers at all levels of government -- and particularly at the federal level -- redouble their efforts to educate consumers about the threat of fraud and to vigorously enforce existing statutes and regulations pertaining to fraud.

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<sup>2</sup> According the FTC's *Consumer Sentinel Network Data Book for January-December 2008*, counterfeit check scams were the fifth-most reported scam, accounting for three percent of the total complaints received.

<sup>3</sup> Federal Trade Commission. *Consumer Fraud in the United States: The Second FTC Survey*. Pg S-1. October 2007. Online: <http://www.ftc.gov/opa/2007/10/fraud.pdf>

<sup>4</sup> Association of Certified Fraud Examiners. *2008 Report to the Nation on Occupational Fraud and Abuse*. Page 4. July 14, 2008. Online: <http://www.acfe.com/documents/2008-rttn.pdf>

## **Fraud Linked to the Recession is a Growing Threat**

Americans are clearly concerned about the link between the recession and consumer fraud. According to the Unisys Security Index, nearly three in four Americans believe that the world financial crisis will increase the risk of identity theft and fraud.<sup>5</sup> While detailed statistics are difficult to obtain, it is clear to us that rising economic hardship is affecting consumers' vulnerability to fraud. The story of one victim who contacted the Fraud Center – who we will call simply Roxanne to protect her privacy -- is typical of the complaints we have increasingly received in recent months.

In hopes of finding work, Roxanne was grateful to be contacted by a company calling itself “Service Inspection,” which was purportedly looking for mystery shoppers. After responding to the offer, Roxanne received a cashier’s check in the amount of \$4,665 in the mail. The company representative encouraged Roxanne to begin work immediately. Roxanne deposited the check and after three business days contacted her bank to verify that funds were available. The bank assured her that her that the check had “cleared,” and she began conducting the mystery-shopping work “assigned” her. After purchasing several hundred dollars worth of items from the Gap and Wal-Mart, she was instructed to wire the remainder of the funds left from the cashier’s check to “clients” (in reality, associates of the scammer) in Canada via Western Union and MoneyGram. Several days later, Roxanne was informed by her bank that the original cashier’s check had been returned to the bank as counterfeit. Unable to contact the “Service Inspection”

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<sup>5</sup> Unisys Corporation. “Unisys research Shows Economic Crisis Causing Increased Worldwide Consumer Fears about Fraud and Security Risks,” Press Release. April 20, 2009.

representative (who had likely already absconded with cash from the wire transfer), Roxanne was left owing her bank more than \$4,000.

The sequence of events in Roxanne’s story is not atypical. The majority of fake check scam complaints our Fraud Center has received involve either fraudulent mystery-shopping “opportunities” or false sweepstakes “winnings.”<sup>6</sup> For the first six months of 2009, fake check scams made up more than forty-four percent of the total complaints NCL received, of which sixty-five percent involved a fraudulent mystery shopper job or phony sweepstakes winnings, with average losses of more than \$3,000 per victim.<sup>7</sup> We believe that both types of fraud are closely linked with economic circumstances. The worsening economy has caused increased consumers interest in supplementing their declining incomes with work-from-home opportunities, in particular. NCL conducted a survey in February of this year and found that thirty-one percent of respondents were more likely to consider starting a home-based business due to the worsening economic climate.<sup>8</sup>

The impact of recession-related fraud is likely to fall disproportionately on low-income and minority consumers. As part of NCL’s February 2009 survey of consumer vulnerability to pyramid schemes, we sought to test whether consumers could differentiate a legitimate home-based multi-level marketing plan from a fraudulent

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<sup>6</sup> For more information on fake check scams, visit NCL’s and the Consumer Federation of America’s fake checks campaign website at [www.fakechecks.org](http://www.fakechecks.org).

<sup>7</sup> National Consumers League. Analysis of first six months of complaint data from NCL’s Fraud Center. July 9, 2009.

<sup>8</sup> National Consumers League. “National Consumers League 2009 Pyramid Scheme Survey: Key Findings,” February 2009. Online: [http://www.fraud.org/pyramids/survey\\_findings.pdf](http://www.fraud.org/pyramids/survey_findings.pdf)

pyramid scheme. We found that thirty-three percent of respondents were unable to detect the pyramid scheme when it was described to them. This trend was especially pronounced among African-American, Hispanic, and low-income consumers (48%, 35%, and 39%, respectively). Given that African-Americans (46%) and Hispanics (48%) were also more likely than average (31%) to consider a home-based business due to the economic recession, these populations are at increased risk of such fraud.<sup>9</sup>

Sweepstakes – many of which are fraudulent -- also appeal to consumers faced with imminent home foreclosure or mounting household debt. Consumers may fall victim to the promise of unexpected riches as a way to stave off economic ruin. Fraud complaints involving such scams (but not including a fake check) have increased in the first six months of 2009 versus our 2008 year-end statistics. Other types of fraud linked to the bad economy are also on the rise. Fraudulent business opportunity scams (which includes fake franchises and distributorships) were not among the top ten types of scams reported to the Fraud Center in 2008. In the first six months of 2009, however, they have grown to be the sixth-most reported scam.<sup>10</sup> As the unemployment rate nears ten percent, we expect more out-of-work consumers to explore the option of starting their own businesses, increasing their exposure and vulnerability to such business opportunity scams.

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<sup>9</sup> National Consumers League. “National Consumers League 2009 Pyramid Scheme Survey: Key Findings,” February 2009. Online: [http://www.fraud.org/pyramids/survey\\_findings.pdf](http://www.fraud.org/pyramids/survey_findings.pdf)

<sup>10</sup> National Consumers League. “NCL’s Fraud Center: Top 10 Scams of 2008.” June 2, 2009. Online: <http://www.nclnet.org/news/2009/2008%20fraud%20stats.pdf>

Mounting household debt is also fueling a dramatic rise in fraudulent credit counseling and credit repair services. The story of one such victim who contacted the Fraud Center – we’ll call her Patrice – is illustrative of these kind of scams. Patrice, anxious to repair her damaged credit, signed up online with a company going by the name of “Advanced Credit Systems” (ACS). The ACS “representative” claimed the company was able to “guarantee” its customers that it could repair their credit by working with lenders and via personalized credit counseling services. After speaking with the ACS “representative” several times by telephone, Patrice was instructed to make her first payment of \$1,200, which she promptly wired to a bank account specified by ACS. Immediately after Patrice transferred the funds, she attempted to contact ACS, only to find that the “representative” and ACS would no longer answer her increasingly frantic calls. Patrice never received any services in exchange for her \$1,200.

### **State and Local Budget Shortfalls Decimating Consumer Protection Capabilities**

At the same time that consumer vulnerability to fraud has increased due to the economic recession, the abilities of those entrusted with protecting consumers from scam artists have been severely curtailed. While federal agencies such as the FTC, FBI, USPIS, and Office of the Comptroller of the Currency (OCC) perform a valuable job protecting consumers from scams falling under their purview, much of the day-to-day consumer protection work in the United States is performed at the state and local level. State and local consumer protection agencies, never a darling of appropriators even before the economic crisis, are now seeing their budgets cut to the bone or worse.

For example, the Nevada Consumer Affairs Division (NVCAD) has temporarily suspended all operations for FY2010. The NVCAD was responsible for accepting consumer complaints and bringing civil actions against scam artists in Nevada. There is currently no way for consumers to submit fraud complaints to state consumer protection officials in Nevada. The Wisconsin Department of Agriculture, Trade, and Consumer Protection has had to make due with significantly fewer employees in recent years and has been subject to Governor Doyle's request that some positions remain unfilled.<sup>11</sup> The California Department of Consumer Affairs has been without a Director for more than three months due to budget woes.

The Hillsborough County, Florida Consumer Protection Agency (whose area of jurisdiction encompasses the city of Tampa) may soon be eliminated.<sup>12</sup> In Virginia Beach, Virginia, a city whose population is in excess of 440,000, the director of the city's Consumer Affairs program recently resigned her position in an effort to save the agency from being closed down due to budget issues.<sup>13</sup> Pasco County, Florida, one of the top fifty fastest-growing counties in the nation,<sup>14</sup> dissolved its Consumer Affairs Office to help make up for its budget shortfall. The 700 cases that the office took on annually will presumably also no longer be investigated.<sup>15</sup>

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<sup>11</sup> Jenkins, Janet. Administrator of DATCP Division of Trade and Consumer Protection. Telephone interview. July 9, 2009.

<sup>12</sup> Varian, Bill. "Hillsborough County budget cuts runs deep," *St. Petersburg Times*. June 4, 2009. Online: <http://www.tampabay.com/news/localgovernment/article1007144.ece>

<sup>13</sup> Moore, Nancy. City of Virginia Beach Consumer Affairs Program. Telephone interview. July 10, 2009.

<sup>14</sup> U.S. Census Bureau. Online: <http://www.pascoedc.com/PascoCounty.aspx>

<sup>15</sup> "Consumers will lose an advocate," *St. Petersburg Times*. June 19, 2008. Online: <http://www.tampabay.com/opinion/editorials/article631715.ece?comments=legacy#>

These are not isolated incidents. Across the country, state and local authorities are decimating consumer protection agencies' budgets in an effort to deal with large deficits. State and local consumer protection organizations are the proverbial "boots on the ground," in the fight to control fraud. Without action at the federal level to step into the gap created by the demise of state and local-level consumer protection capabilities, consumers will increasingly be left to fend for themselves against the growing threat posed by professional fraudsters.

### **Consumer Empowerment Must Be Paired With an Increased Federal Role**

Consumers face a double bind. The economic crisis has made them increasingly vulnerable to fraud while local agencies that investigate scams and enforce the laws are shutting their doors, leaving consumers with fewer avenues to protect their interests. Absent increased action at the federal level to investigate and prosecute scam artists and educate consumers about the threat of fraud, consumers will be caught between the proverbial rock and a hard place.

We cannot simply wait for the economy to turn around and state and local budgets to recover. The economic crisis is likely to remain with us for the foreseeable future. Experts predicted that any recovery in the U.S. economy in 2010 is likely to be modest.<sup>16</sup> We expect that this will mean continued belt-tightening for state and local governments with commensurate impacts on consumer protection agencies. Absent direct federal

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<sup>16</sup> Reuters. "Recession likely to end in Q3 2009-Blue Chip survey," July 10, 2009. Online: <http://www.reuters.com/article/bondsNews/idUSN1051292120090710>



support of state and local consumer protection efforts, consumers will need the federal government to play an increased role in protecting them from fraud. To this end, we propose the following remedies:

First, we must give the relevant federal agencies the resources they need to protect consumers from fraud. In particular, the Federal Trade Commission remains a critically underfunded and overworked agency. While the FTC continues to fulfill its traditional antitrust enforcement and consumer protection missions, its portfolio has grown – largely thanks to the explosion in Internet-related fraud -- to include implementation statutes related to identity theft, the CAN-SPAM Act, Do-Not-Call Registry, and USA SAFE WEB Act, among other areas. Despite this growing mission, the FTC's staff is only 63% of the size it was in 1979.<sup>17</sup> The lack of resources available to the FTC is perhaps best illustrated by the number of enforcement actions brought by the agency in recent years. For the twelve months ending February 2005, the FTC brought 83 enforcement actions. Every year since then, the number of actions brought by the agency has shrunk. For the twelve months ending February 2008, that number had dwindled to 23.<sup>18</sup> The FTC can and should do more to protect and educate consumers, but it will require additional resources to do so. Increasing FTC funding levels, particularly in the Bureau of Consumer Protection, to levels sufficient to meet the Commission's growing mission would be a good first step towards this goal.

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<sup>17</sup> According to the FTC, the Commission had 1,746 FTEs in 1979 (see <http://www.ftc.gov/ftc/oed/fmo/fte2.htm>) and requested 1,102 FTEs in FY2009 (see <http://www.ftc.gov/ftc/oed/fmo/budgetsummary09.pdf>).

<sup>18</sup> According to FTC Annual Reports to Congress, the Commission brought 83 actions for the twelve months ending February 2005, 60 actions for the period ending February 2006, 59 actions for the period March 2007, and 23 for the period ending February 2008 (see <http://ftc.gov/os/annualreports/index.shtm>).

Second, more resources for enforcement should be coupled with a renewed focus on consumer education and an embrace of innovative vehicles for empowering consumers to protect themselves from fraud. We would like consumers to have access to the FTC's Consumer Sentinel (CSN) database so that they can quickly search it for complaints related to suspicious e-mails, telemarketing calls, and fraudulent businesses. That database, which last year collected more than 1.2 millions complaints and now contains over 7.2 million, could be an extremely valuable tool for consumers.<sup>19</sup> Currently, only law enforcement agencies who agree to strict nondisclosure requirements have access due in part to the availability of personally identifying information within the complaints.<sup>20</sup> We would urge the FTC to convene a series of meetings among its non-profit, law enforcement, and consumer protection agency partners to determine what information within the CSN database can safely be made publicly available and searchable for the benefit of all consumers.

Third, as detailed in our testimony, low-income and minority consumers have proven particularly vulnerable to fraud connected with the worsening economy. Special attention should be given to fraud education efforts aimed at these distinct populations. For example, recently-jobless consumers applying for unemployment benefits could be provided with educational information related to work-at-home scams and business opportunity fraud. New applicants for FCC and state-level Lifeline and Link-Up

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<sup>19</sup> Federal Trade Commission. *Consumer Sentinel Network Data Book for January-December 2008*. Pg 3. February 2009. Online: <http://www.ftc.gov/sentinel/reports/sentinel-annual-reports/sentinel-cy2008.pdf>

<sup>20</sup> Complaint data from NCL's Fraud Center is periodically submitted to the Consumer Sentinel database as part of our partnership with the FTC.

telecommunications subsidy programs could be provided with information related to Internet and telemarketing fraud. This could become particularly helpful as those and other subsidy programs connected to the Universal Service Fund transition from a landline telephone-based model to a broadband and wireless telephone-based model. These materials should be made available in multiple languages to assist non-English speaking consumers who may also be more vulnerable to these scams.

Fourth, the FTC should enhance its support of fraud education efforts undertaken by national, state, and local non-profit partners working with populations at enhanced risk of fraud via targeted grant-making. While government agencies are important, non-profit consumer groups and others play an important role in interacting with consumers. NCL talks weekly to hundreds of victims of scams. We consider ourselves to be partners with government agencies in fighting fraud. However, we have the advantage of being a consumer group and many people tell us they are more comfortable interacting with us than with a government agency. NCL – and likely other non-profit members of our Alliance Against Fraud – would like the opportunity to apply for government grants to expand our work on fraud and take on innovative anti-fraud projects. Much like what the Department of Justice does with its grants program to non-profits, the FTC could do with consumer protection groups.

Finally, while we support enhanced resources for federal agencies to enforce fraud statutes and educate consumers, this is a shared responsibility with state and local government, business, and on-profit organizations. What is also needed is increased

cooperation and goal-setting among the myriad federal agencies that are active in addressing fraud within their organization's regulatory purview and these external stakeholders. Agencies like the FBI, FTC, SEC, USPIS, U.S. Secret Service, State Department and Department of the Treasury all do excellent work and are experts at detecting and fighting back against the kinds of fraud affecting their areas of specialization. What is lacking is broad, sustained inter-agency coordination on anti-fraud work. This is one reason why NCL is strongly supporting the restoration of the White House Office of Consumer Affairs which NCL, along with other national consumer groups, have called upon the Obama Administration to create.<sup>21</sup> Such an office should be charged with organizing a coordinating conference among the federal anti-fraud organizations, with input from consumer groups and other third-party stakeholders, aimed at developing a national anti-fraud strategy.

## **Conclusion**

In conclusion, the impacts of the economic crisis on consumers have been dire. Not a day passes without new stories of consumers losing jobs, homes, and retirement savings to the worsening economy. These disastrous effects are compounded by rampant consumer fraud. Economic hardship all-too-frequently leads to the kind of desperation that fraudsters prey upon, as our fraud statistics clearly indicate. Vulnerability to such scams is especially acute among those populations least able to recover from the impact of fraud.

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<sup>21</sup> "Economic Security, Health and Safety of Nation," Press release. Consumer Federation of America *et al.* December 11, 2008. Online: <http://static.uspirg.org/consumer/archives/consumerreleaseandplatform10dec2008.pdf>

The negative effects of the economic crisis on consumer fraud protection have been exacerbated by the decline – and in some cases the disappearance – of state and local consumer protection agencies. With fewer places to turn to within their communities, victims of fraud will increasingly look to the federal government to fill the void left by smaller state and local consumer protection budgets.

NCL believes we can and must do more to protect consumers from fraud in these trying economic times. We believe it is imperative that the federal government give its fraud protection agencies the resources they need to accomplish this growing mission. We strongly support efforts by Congress and the Executive Branch to investigate ways that federal fraud protection can be enhanced by greater inter-agency coordination, greater outreach to at-risk populations, and innovative projects that empower consumers to protect themselves.

Thank you, Mr. Chairman, for giving the National Consumers League this opportunity to comment on the effect of the recession on consumer fraud. We commend you for your pro-consumer record and look forward to working with you and your staff to help protect America's consumers from the scourge of fraud.