

FTC's Notices of Penalty Offenses

What Do They Mean for You?

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Today's Agenda

- Background
- Penalty Offenses Concerning Endorsements
- Compliance Today – Endorsements and Testimonials
- Penalty Offenses Concerning Education
- Penalty Offenses Concerning Money Making Opportunities

Disclaimer: This presentation is intended as a summary of the issues presented and is not intended to provide legal advice. It is provided for the general information of the attendees. Legal counsel and advice should be sought for any specific questions and before taking any action in reliance on the information presented.

Background

What Is a Penalty Offense?

Summary of Recent Events

Under the Penalty Offense authority, the FTC can seek civil penalties if it proves that:

- The company had actual knowledge that the conduct was unfair or deceptive in violation of the FTC Act; and
- The FTC had already issued a written decision that conduct is unfair or deceptive.

Recent notices:

- October 6, 2021 – FTC sent letters to 70 for-profit colleges on earnings and success claims
- October 13, 2021 – FTC sent letters to 700+ companies regarding endorsements, reviews, and testimonials
- October 26, 2021 – FTC sent letters to 1000+ companies regarding claims for money making opportunities

The purpose of the notices to prove recipients had actual knowledge that certain acts or practices previously found by the Commission to be unfair or deceptive.

Section 5(m)(1)(B) of the FTC Act

If the Commission determines in a proceeding **under subsection (b)** that any act or practice is unfair or deceptive, and issues a final cease and desist order, **other than a consent order**, with respect to such act or practice, then the Commission may commence a civil action to obtain a civil penalty in a district court of the United States against any person, partnership, or corporation which engages in such act or practice:

(1) after such cease-and-desist order becomes final (whether or not such person, partnership, or corporation was subject to such cease-and-desist order); and

(2) with **actual knowledge** that such act or practice is unfair or deceptive and is unlawful under subsection (a)(1) of this section.

In such action, such person, partnership, or corporation shall be liable for a civil penalty of not more than [\$43,792] for each violation.

Section 5(m)(2) of the FTC Act

(2) If the cease-and-desist order establishing that the act or practice is unfair or deceptive was not issued against the **defendant** in a civil penalty action under paragraph (1)(B) the **issues of fact** in such action against such defendant shall be **tried de novo**. Upon request of any party to such an action against such defendant, the court shall also **review the determination of law** made by the Commission in the proceeding under subsection (b) that the act or practice which was the subject of such proceeding constituted an unfair or deceptive act or practice in violation of subsection (a).

History of Penalty Offense

Added as part of Magnuson-Moss Warranty Act of 1975

- Response to criticism that FTC was toothless
- Meant to be a tool to address wide-ranging practices

1976 – FTC started sending out notices

- Auto rental, franchises, business opportunities, door to door sales, truth in lending, energy savings, and others
- Sent over 2000 notices

Stopped using in the early 80's; more focus on hard core fraud and obtaining redress using Section 13(b)

Used once this century—bamboo claims

Rebirth of Penalty Offense Authority

- Section 13(b) authority challenged
- Chopra Levine article calls for reinvigoration and identifies targets:
 - For profit college “fraud”
 - False earnings claims targeting workers
 - Online disinformation –influencers and fake reviews
 - Deceptive data harvesting
 - Illegal targeted marketing –FCRA

Procedural Issues

- Cases referred to the Department of Justice
- Jury Trial
- 5-year statute of limitations
- Orders before enactment of 5(m)(1)(B) can be predicate for offense though
- Predicate order needs to make specific findings that the act or practice challenged is unfair or deceptive
- Amount of civil penalty:
 - In the case of a violation through continuing failure to comply with a rule or with subsection (a)(1), each day of continuance of such failure shall be treated as a separate violation, for purposes of subparagraphs (A) and (B). In determining the amount of such a civil penalty, the court shall take into account the degree of culpability, any history of prior such conduct, ability to pay, effect on ability to continue to do business, and such other matters as justice may require. 15 USC § (m)(1)(c).

Penalty Offenses Concerning Endorsements

Fake Reviews and Misleading Endorsements

Sample Letter – Sent to 700+ National Advertisers



Division of Advertising Practices

UNITED STATES OF AMERICA
Federal Trade Commission
WASHINGTON, D.C. 20580

[DATE]

Via Federal Express
[NAME]

Re: Unlawful practices relating to the use of endorsements and testimonials

Dear [NAME]:

I am enclosing the Federal Trade Commission's Notice of Penalty Offenses Concerning Deceptive or Unfair Conduct around Endorsements and Testimonials. Companies use endorsements and testimonials in many forms to advertise and market their products and services, both in traditional and social media, as well as in the form of online reviews. As reflected by the Commission's enforcement actions and other efforts, some companies use these advertising tools in a manner that deceives consumers. We recommend that you carefully review the notice and take any steps necessary to ensure that your company's practices do not violate the law.

The notice of penalty offenses consists of Commission determinations in prior litigated cases that certain practices are deceptive or unfair and are unlawful under Section 5 of the Federal Trade Commission Act. As set forth in more detail in the notice, these acts and practices include: falsely claiming an endorsement by a third party; misrepresenting that an endorser is an actual user, a current user, or a recent user; continuing to use an endorsement without good reason to believe that the endorser continues to subscribe to the views presented; misrepresenting that an endorsement represents the experience, views, or opinions of users or purported users; using an endorsement to make deceptive performance claims; failing to disclose an unexpected material connection with an endorser; and misrepresenting that the experience of endorsers represents consumers' typical or ordinary experience. Note that positive consumer reviews are a type of endorsement, so such reviews can be unlawful, e.g., when they are fake or when a material connection is not adequately disclosed.

Receipt of the notice puts your company on notice that engaging in conduct described therein could subject the company to civil penalties of up to \$43,792 per violation.¹

We request that you distribute copies of the notice of penalty offenses and this letter to each of your subsidiaries that sells or markets products or services to consumers in the United States.

[NAME]
[DATE]
Page 2 of 2

FTC staff is not singling out your company or suggesting that you have engaged in deceptive or unfair conduct. We are widely distributing similar letters and the notice to large companies, top advertisers, leading retailers, top consumer product companies, and major advertising agencies.

Copies of the case decisions discussed in the notice are available on the Commission's website at www.ftc.gov/endorsement-notice-penalty-offenses.

The Commission's website has other important resources designed to ensure that advertisers know their responsibilities under the FTC Act. These resources include a staff business guidance document, *The FTC's Endorsement Guides: What People Are Asking*, available at www.ftc.gov/endorsements. That document contains a link to the FTC's *Guides Concerning the Use of Endorsements and Testimonials in Advertising*, 16 CFR Part 255.

If you have any questions about this letter or the enclosed materials, please contact Michael Ostheimer at mostheimer@ftc.gov or (202) 326-3556 or Michael Atleson at matleson@ftc.gov or (202) 326-2962.

Very truly yours,

Serena Viswanathan
Associate Director

Non-Compliant Practices Identified by FTC

- Falsely claiming (directly or indirectly) an endorsement by a third party, including fake reviews
- Misrepresenting that an endorser is an actual user, a current user, or a recent user
- Continuing to use an endorsement without good reason to believe that the endorser continues to subscribe to the views presented
- Misrepresenting that an endorsement represents the experience, views, or opinions of users or purported users
- Using an endorsement to make deceptive performance claims
- Failing to disclose an unexpected material connection with an endorser
- Misrepresenting that the experience of endorsers represents consumers' typical or ordinary experience
- Using fake positive consumer reviews
- Using positive consumer reviews without adequately disclosing a material connection that exists

Underlying Administrative Decisions Cited by FTC

- [Cliffdale Assocs., Inc., 103 F.T.C. 110](#) (1984)
- [Macmillan, Inc., et al., 96 FTC 208](#) (1980)
- [Porter & Dietsch, Inc., 90 F.T.C. 770 \(1977\), aff'd, 605 F.2d 294](#) (7th Cir. 1979)
- [Nat'l Dynamics Corp., 82 F.T.C. 488 \(1973\), modified at 85 F.T.C. 1052](#) (1975)
- [Mytinger & Casselberry, Inc., 57 F.T.C. 717](#) (1960)
- [Ar-Ex Cosms., Inc., 48 F.T.C. 800](#) (1952)
- [R. J. Reynolds Tobacco Co., 46 F.T.C. 706](#) (1950)
- [A. P. W. Paper Co., Inc., 38 F.T.C. 1](#) (1944)
- [Wilbert W. Haase Co., Inc., 33 F.T.C. 662](#) (1941)

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FEDERAL TRADE COMMISSION DECISIONS

Syllabus

33 F. T. C.

IN THE MATTER OF

WILBERT W. HAASE COMPANY, INC., NATIONAL AFFILIATION OF WILBERT VAULT MANUFACTURERS, AND ITS MEMBERS, ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 3808. Complaint, June 6, 1939—Decision, July 15, 1941

Where three corporations and three individuals engaged variously in the licensing of others to construct and sell concrete burial vaults made under letters patent, in the manufacture of supplies and materials for such vaults and of the vaults themselves, and in interstate sale and distribution thereof, to wit:

I. A corporation which (1) was engaged in licensing others to construct and sell its Wilbert vaults, and in the lease or sale to such licensees of various materials and supplies for use in said manufacture, and, under the trade name of "National Affiliation of Wilbert Vault Manufacturers," in conducting advertising programs to promote the sale of its vaults, (2) sold, and furnished without charge, to its eighty-odd licensees located in many of the States, advertising brochures, pamphlets, advertising mats, circulars, catalogs, leaflets, printed, and illustrated materials, and placed advertisements of its said vaults in magazines and other publications of general circulation, (3) sold and distributed, also, to its licensees, miniature Wilbert vaults for display completely submerged in water, with arrangement for lighting and inspection of the interior, with the intent of causing purchasers

Compliance Today

Testimonials and User Reviews

FEDERAL TRADE COMMISSION
16 CFR Part 255

Guides Concerning the Use of Endorsements and Testimonials in Advertising

* * * *

This document includes only the text of the Revised Endorsement and Testimonial Guides. To learn more, read the Federal Register Notice at www.ftc.gov/opa/2009/10/endortest.shtm.

* * * *

§ 255.0 Purpose and definitions.

(a) The Guides in this part represent administrative interpretations of laws enforced by the Federal Trade Commission for the guidance of the public in conducting its affairs in conformity with legal requirements. Specifically, the Guides address the application of Section 5 of the FTC Act (15 U.S.C. 45) to the use of endorsements and testimonials in advertising. The Guides provide the basis for voluntary compliance with the law by advertisers and endorsers. Practices inconsistent with these Guides may result in corrective action by the Commission under Section 5 if, after investigation, the Commission has reason to believe that the practices fall within the scope of conduct declared unlawful by the statute.

The Guides set forth the general principles that the Commission will use in evaluating endorsements and testimonials, together with examples illustrating the application of those principles. The Guides do not purport to cover every possible use of endorsements in advertising. Whether a particular endorsement or testimonial is deceptive will depend on the specific factual circumstances of the advertisement at issue.

(b) For purposes of this part, an endorsement means any advertising message (including verbal statements, demonstrations, or depictions of the name, signature, likeness or other identifying personal characteristics of an individual or the name or seal of an organization) that consumers are likely to believe reflects the opinions, beliefs, findings, or experiences of a party other than the sponsoring advertiser, even if the views expressed by that party are identical to those of the sponsoring advertiser. The party whose opinions, beliefs, findings, or experience the message appears to reflect will be called the endorser and may be an individual, group, or institution.

(c) The Commission intends to treat endorsements and testimonials identically in the context of its enforcement of the Federal Trade Commission Act and for purposes of this part. The term endorsements is therefore generally used hereinafter to cover both terms and situations.

(d) For purposes of this part, the term product includes any product, service, company or industry.

Example 1: Reviews You Solicit and Select to Post

Context:

- You are collecting customer reviews and feedback directly from customers. You are monitoring submissions and making decisions about what gets posted to your sites or social media channel.

Compliance Tips:

- ✓ The review cannot convey an express or implied representation that would be deceptive if made directly by the advertiser.
- ✓ The advertiser must possess and rely on adequate substantiation to support any claims made in the review that you post.
- ✓ The reviewer's experience must be typical of what other customers should expect; otherwise, a disclosure of the typical result must accompany the post.
 - “Results not typical” is not generally sufficient.
- ✓ Make sure the review is from an actual customer and is posted as long as the advertiser has reason to believe the reviewer is a bona fide user of the product.
- ✓ Any material connection between the advertiser and reviews must be disclosed (employees, family member, paid review).
- ✓ Be careful of cherry-picking only the good reviews!

Example 2: Customer Review Automation

Context:

- You use a review automation platform to collect and publish customer reviews, ratings, and other content on your web page. You've collected and posted hundreds or thousands of reviews this way. Given the volume, monitoring, and reviewing each review for compliance would be extremely onerous, but not impossible.

Compliance Tips:

- ✓ Do you have the bandwidth to police these reviews?
- ✓ Are there crawlers or other technology that make monitoring of these reviews possible?
- ✓ Are you filtering out negative reviews to deceptively skew positive reviews?
- ✓ Do these review constitute native advertising, requiring a disclosure to prevent deception?
- ✓ Remember that testimonials alone are not substantiation for any product claims, even if you have a lot of testimonials; adequate substantiation is required, including (when warranted) competent and reliable scientific evidence.

Example 3: Reviews Posted on Third-Party Retail Sites

Context:

- Customer post reviews to third-party retail sites (Amazon, Target, etc.) or social media channels. You do not solicit these reviews and have no control over what customers are posting or whether the review gets posted in the first place.
- You see a great review and want to repost it to your own web site.

Compliance Tips:

- ✓ It would be challenging to hold an advertiser responsible for reviews posted on third-party sites that are unsolicited by the advertiser when advertiser has no involvement in the review.
- ✓ Consider whether reviews posted to third-party sites may be inconsistent with the reviews you post to your own website.
- ✓ The advertiser becomes responsible for the review and its content the moment the advertiser reposts it. In that case, the endorsements guides apply.
 - Material connection disclosures, substantiation for any claims made in the review, typical result, using the review only as long as the reviewer remains a customer, etc.

Example 4: Third-Party Review Sites

Context:

- You contract with a third-party review site to offer a seemingly objective (albeit) positive evaluation of your products or services, framed by numerous positive reviews and “5-star ratings.” In some cases, positive reviews are written or made up by company employees, friends, and family members.

Compliance Tips:

- ✓ FTC will view it as an unfair or deceptive act or practice to “stuff the ballot box” with positive reviews. *See* FTC v. LendEDU (2020)
- ✓ Offering store credit or other compensation in exchange for positive reviews on Twitter, Instagram, Facebook, and other such site is not likely to comply unless:
 - A clear disclosure explains the reviewer was contemplated from the review
 - The reviewer was a bona fide user of the product or service
 - Other rules for endorsements and testimonials are followed

See FTC v. Urthbox (April 2019)

Compliance Guidance

- Have written policies and procedures covering, for example:
 - How to solicit and promote user reviews
 - How you will confirm the review is a bona fide user, and how you will periodically confirm this status
 - Determining whether a material connection disclosure is necessary
 - Standardized language / placement for making material connection disclosures when necessary
- Include appropriate contractual requirements for third-party involvement in soliciting or posting user reviews
- Monitor third-party activities
- Terminate third-party relationships as necessary

Penalty Offenses Concerning Education

Deceptive and Unfair Conduct in the Education Marketplace

Notice of Penalty Offenses in Education Marketplace

The screenshot shows the FTC website's navigation bar with links for 'ABOUT THE FTC', 'NEWS & EVENTS', 'ENFORCEMENT', 'POLICY', 'TIPS & ADVICE', and 'I WOULD LIKE TO...'. The main content area features a breadcrumb trail: 'Home » Enforcement » Notices of Penalty Offenses » Penalty Offenses Concerning Education'. On the left, a sidebar lists 'Notices of Penalty Offenses' and 'PENALTY OFFENSES CONCERNING EDUCATION'. The main heading is 'Penalty Offenses Concerning Education'. The text states: 'The FTC has issued a Notice that it has determined that certain acts or practices in the education marketplace are deceptive or unfair and, thus, are unlawful under Section 5 of the Federal Trade Commission Act.' A bulleted list includes: 'Notice of Penalty Offenses Concerning Deceptive or Unfair Conduct in the Education Marketplace (2021)', 'Sample cover letter sent to recipients of this Notice', and 'Related Release: FTC Targets False Claims by For-Profit Colleges'. Below this, it says 'The FTC administrative decisions cited in the Notice are available below:' followed by a list of cases: 'In the Matter of Macmillan, Inc., 96 F.T.C. 208 (1980)', 'In the Matter of E. Detective Acad., Inc., 78 F.T.C. 1428 (1971)', and 'In the Matter of Nat'l Inst. of Prac. Nursing, 48 F.T.C. 1253 (1952)'. A section titled 'ABOUT NOTICES OF PENALTY OFFENSES' explains that a Notice of Penalty Offenses is a document listing certain types of conduct that the FTC has determined, in one or more litigated administrative cases, to be unfair or deceptive in violation of the FTC Act. A final bullet point says 'Learn more about Notices of Penalty Offenses'.

Notice of Penalty Offenses in Education Marketplace

 UNITED STATES OF AMERICA
Federal Trade Commission
Washington, DC 20580

Division of Financial Practices
Bureau of Consumer Protection

[DATE]

Via Federal Express
[NAME]

Re: Notice of Penalty Offenses Concerning Deceptive or Unfair Conduct in the Education Marketplace

To Whom It May Concern:

I am enclosing a Notice of Penalty Offenses Concerning Deceptive or Unfair Conduct in the Education Marketplace (hereinafter, "Notice"). We recommend that you carefully review the Notice and take any steps necessary to ensure that your company's practices do not violate the law.

Receipt of this Notice puts your company on notice that engaging in conduct described therein could subject the company to civil penalties of up to \$43,792 per violation. See 15 U.S.C. § 45(m)(1)(B).

The Notice consists of Commission determinations in prior litigated cases that certain practices are deceptive or unfair and, thus, are unlawful under Section 5 of the Federal Trade Commission Act. As set forth in more detail in the Notice, these acts and practices include misrepresenting employment opportunities and other benefits.

This letter does not reflect any assessment as to whether you have engaged in deceptive or unfair conduct. We are distributing similar letters and Notices to companies across the country. Copies of the case decisions discussed in the Notice are available on the Commission's website at www.ftc.gov/education-notice.

If you have any questions about this letter or the enclosed materials, please contact Wendy Miller at wmiller@ftc.gov or (202) 326-3571.

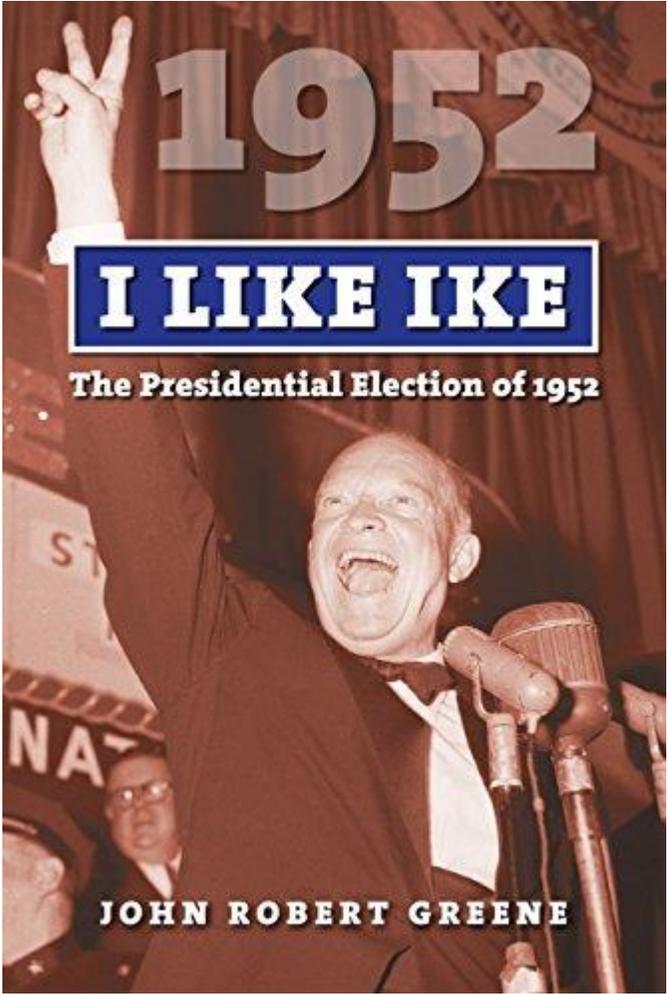
Very truly yours,

Malini Mithal
Associate Director

- On October 6, 2021, the FTC issued a Notice of Penalty Offenses Concerning Deceptive or Unfair Conduct in the Education Marketplace.
- The FTC put dozens of the largest for-profit institutions of higher education on notice that engaging in certain conduct could subject the institution to civil penalties.

Administrative Decisions that Serve Basis for the Notice

- [In the Matter of Macmillan, Inc., 96 F.T.C. 208 \(1980\)](#)
- [In the Matter of E. Detective Acad., Inc., 78 F.T.C. 1428 \(1971\)](#)
- [In the Matter of Nat'l Inst. of Prac. Nursing, 48 F.T.C. 1253 \(1952\)](#)



What Conduct Is Subject to Penalties?

It is deceptive or unfair—and thus unlawful under Section 5 of the FTCA—to misrepresent, directly or by implication:

1. the **need or demand for consumers who have graduated from**, or completed courses at, a specific institution;
2. the **employment prospects of an institution's graduates**, the **ease with which an institution's graduates will be able to obtain employment**, or the **opportunities for employment** in any field in which a course of instruction is offered;
3. the **types of jobs available to an institution's graduates**, or for **which they would be qualified** upon completion of an institution's courses or program;
4. the **number or percentage of consumers attending any course** or completing any program or degree **who have obtained employment**, or the **field or nature of such employment**;
5. the **amount of money consumers who have graduated from**, or have completed courses at, an institution **will or may earn**;
6. the **qualifications or requirements necessary to obtain employment in the fields** for which an institution offers training, **including whether experience or additional education is required or advantageous** for employment in any field or for any position; and
7. an **institution's capabilities or facilities for assisting graduates or students of any course in finding employment**, or the **assistance actually provided to graduates in finding employment, including the existence of a job placement service**.

Four Things Recipients of Educational Marketplace Notice Should Do Now

1. Review and update policies and procedures governing advertising
2. Audit ads currently in use
3. Tighten vendor management and oversight if relying on third parties to create copy and/or generate leads
4. Invest in data collection and analytics and let the data drive the ad copy, not the other way around

If you don't have the data to back up a claim—even a claim you do not intend to make—it is deceptive.

Penalty Offenses Concerning Money-Making Claims

Deceptive Earnings Claims, Misrepresentations about Atypical Profits

Sample Letter Sent to Over 1,100 Businesses



Division of Marketing Practices

UNITED STATES OF AMERICA
Federal Trade Commission
Washington, D.C. 20580

October 26, 2021

Via Federal Express

[address]

Re: Penalty Offenses Concerning Money-Making Opportunities

Dear Sir or Madam:

I am enclosing a copy of the Federal Trade Commission's Notices of Penalty Offenses Concerning Money-Making Opportunities and Endorsements and Testimonials. We recommend that you carefully review the notices and take any steps necessary to ensure that your company's practices do not violate the law.

The notices summarize Commission determinations in prior litigated cases that particular acts or practices are penalty offenses—i.e., that they are deceptive or unfair, unlawful under Section 5 of the Federal Trade Commission Act, and prohibited by a final cease and desist order. More details about the Commission determinations are contained at pages 2-8 of this letter below.

Receipt of these notices of penalty offenses puts your company on notice that engaging in the conduct described therein could subject you to civil penalties of up to \$43,792 per violation.¹

Staff is not singling out your company or suggesting that you have engaged in deceptive or unfair conduct. We are widely distributing similar letters and the notices to business opportunities, franchises, multi-level marketing companies, coaching companies, gig companies, and others. Copies of the case decisions discussed in the synopsis are available on the Commission's website at ftc.gov/MMO-notice and ftc.gov/endorsement-notice-penalty-offenses.

We request that you distribute copies of the notices of penalty offenses and this letter to each of your subsidiaries that sells or markets products or services to consumers in the United States.

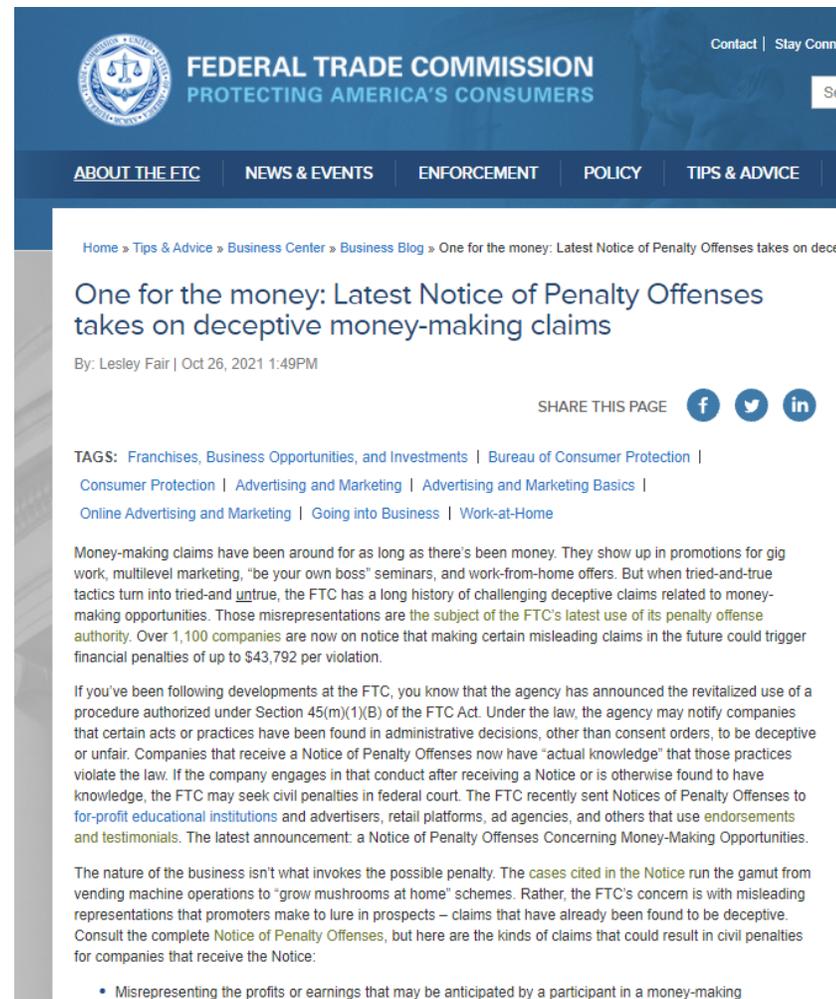
- Recipients include multi-level marketers, “gig” employers, investment and business coaching, franchises, business opportunities
- Also received the Notices of Penalty Offenses for Endorsements and Testimonials

Cases Cited in the Notice

- [Macmillan, Inc., et al., 96 FTC 208 \(1980\)](#)
- [Encyclopaedia Britannica, Inc., et al., 87 FTC 421 \(1976\)](#)
- [National Dynamics Corp., 82 FTC 488 \(1973\), as modified at 85 FTC 1052 \(1975\)](#)
- [Ger-Ro-Mar, Inc., 84 FTC 95 \(1974\), \(initial order as originally paginated\), as modified at 86 FTC 841 \(1975\)](#)
- [Holiday Magic, 84 FTC 748 \(1974\), as modified at 85 FTC 90 \(1975\)](#)
- [Universal Credit Acceptance Corp., 82 FTC 570 \(1973\)](#)
- [Universal Elec. Corp., 78 FTC 265 \(1971\)](#)
- [Windsor Distrib. Co., 77 FTC 204 \(1970\)](#)
- [Waltham Watch Co., 60 FTC 1692 \(1962\)](#)
- [Abel Allan Goodman Trading As Weavers Guild, 52 FTC 982 \(1956\)](#)
- [Washington Mushroom Indus., Inc., 53 FTC 368 \(1956\)](#)
- [Von Schrader Mfg. Co., 33 FTC 58 \(1941\)](#)

Non-Compliant Practices Identified by the FTC

- Misrepresenting the profits or earnings that may be anticipated by a participant in a money-making opportunity
- Misrepresenting that participants will be profitable
- Misrepresenting that a substantial number of participants have made the represented profits
- Misrepresenting that sales of a money-making opportunity will be made to only a limited number of prospective participants
- Misrepresenting that prospective participants will be screened or evaluated for suitability
- Misrepresenting that participants don't need experience in order to earn income
- Misrepresenting that a prospective participant must act immediately to purchase or to be considered for a money-making opportunity
- Misrepresenting that purchasing a money-making opportunity is risk-free or involves little risk
- Misrepresenting the position being offered to prospective participants, such as by failing to disclose that it is a sales position when such is the case
- Misrepresenting the amount or type of training that will be given to participants



The screenshot shows the top portion of a webpage from the Federal Trade Commission. The header includes the FTC logo and the text 'FEDERAL TRADE COMMISSION PROTECTING AMERICA'S CONSUMERS'. Below the header is a navigation menu with links for 'ABOUT THE FTC', 'NEWS & EVENTS', 'ENFORCEMENT', 'POLICY', and 'TIPS & ADVICE'. The main content area features a breadcrumb trail: 'Home > Tips & Advice > Business Center > Business Blog > One for the money: Latest Notice of Penalty Offenses takes on dece...'. The article title is 'One for the money: Latest Notice of Penalty Offenses takes on deceptive money-making claims', written by Lesley Fair on Oct 26, 2021 at 1:49PM. There are social media share icons for Facebook, Twitter, and LinkedIn. The article text begins with 'Money-making claims have been around for as long as there's been money. They show up in promotions for gig work, multilevel marketing, "be your own boss" seminars, and work-from-home offers. But when tried-and-true tactics turn into tried-and-untrue, the FTC has a long history of challenging deceptive claims related to money-making opportunities. Those misrepresentations are the subject of the FTC's latest use of its penalty offense authority. Over 1,100 companies are now on notice that making certain misleading claims in the future could trigger financial penalties of up to \$43,792 per violation.' A second paragraph discusses the FTC's revitalized use of a procedure under Section 45(m)(1)(B) of the FTC Act. A third paragraph explains that the nature of the business isn't what invokes the possible penalty, but rather the misleading representations used to lure prospects. A bulleted list at the bottom of the screenshot contains one item: '• Misrepresenting the profits or earnings that may be anticipated by a participant in a money-making

QUESTIONS?



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