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Honors and Awards

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VOTE NOW:

Do you enjoy the insights provided each week by Venable's *Advertising Law News and Analysis*? Here's an opportunity to learn directly from Venable attorneys and have them answer your questions on two of the hottest topics facing marketers today. Venable partners **Jeffrey D. Knowles** and **Gregory J. Sater** both have session concepts in contention for a spot on the agenda at the Electronic Retailing Association's **2013 D2C Conference**. The agenda for D2C, the largest direct response industry conference in the nation, is determined via crowdsourcing.

[Click here](#) to learn more about the proposed sessions and [vote](#) for both Sater's "Producing the Perfect Beauty or Fitness Infomercial" panel (#6 on the ballot) and Knowles' "Three Rs Marketers Must Remember" panel (#15 on the ballot).

News**Venable Welcomes Randy Miller**

Randall K. Miller, a nationally recognized commercial and Lanham Act litigator, joined Venable in April from Arnold & Porter. There, he practiced for several years with **Amy Ralph Mudge** and **Randal M. Shaheen**, who joined Venable in 2012. Miller represents leading brands on a variety of advertising-related litigation and counseling matters.

[Click here](#) to learn more about Miller's move to Venable.

FTC Survey Estimates Fraud Affected 25.6 Million Americans in 2011

Last week, the Federal Trade Commission (FTC) released a statistical survey of fraud in the United States during 2011. The study estimated that 25.6 million adults, or approximately 10.8 percent of the adult population, fell victim to fraud during that period. The survey is important to legitimate marketers, as it highlights advertising channels and product categories that are most likely to receive heightened scrutiny from federal and state regulators.

The FTC fingered the Internet as the place consumers were most likely to encounter fraud. The study included email, social media, auction sites, and online classified ads in the "Internet" category. Print advertising was the second-most-frequent source of fraudulent advertising, followed by TV and radio. As far as point-of-sale, most consumers bought fraudulent items via the Internet; telephone purchases ranked second in the survey.

Regarding types of fraudulent products, weight-loss products ranked first in the survey, affecting almost one-fifth of the estimated victims. Prize promotions ranked second, affecting almost 10 percent of the estimated victims. Unauthorized billings for membership clubs, work-at-home, and business opportunities also made the FTC's top-10 list.

[Click here](#) to read the FTC's press release and access a copy of the Commission's staff report.



Law Firm of the Year, National Advertising, *U.S. News and World Report*, 2011-2012



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Analysis

New Florida Law May Axe Charitable Promos, Cause Marketing Campaigns

Last week, Florida Governor Rick Scott signed FL HB 155 into law. The law changes the Florida Game Promotion Statute and could have a significant effect on charitable promotions and cause marketing campaigns, write Venable attorneys [Melissa Landau Steinman](#) and [Kristalyn J. Loson](#) in a post to Venable's advertising blog, www.allaboutadvertisinglaw.com.

The bill was intended to clarify Florida's prohibition on electronic gambling and slot machines and to make it clear that the exception to prohibited lotteries for charitable drawings does not provide an exemption from other gaming prohibitions. Like many states, Florida provides an exception to the general prohibition against lotteries so that certain nonprofit organizations may conduct drawings and raffles, so long as the charitable organization follows specific requirements related to disclosures and rules of the raffle. However, the bill's language could also be interpreted to prohibit gaming promotions that are part of a cause marketing campaign. In cause marketing campaigns, a for-profit marketer advertises that taking an action, such as purchasing a certain good or service, will provide a benefit, typically a donation, to a charitable cause.

Steinman and Loson note that the bill moved quickly through the Florida legislature a couple of weeks ago, and was likely a reaction to the recent publicity surrounding former Lt. Gov. Jennifer Carroll's resignation. Ms. Carroll had been involved with a nonprofit that operated more than 36 Internet cafes throughout Florida, allowing players to reserve computer time and then use the computers to check instant numbers. The operation brought in millions in profits to Allied Veterans, but, reportedly, only two percent of the group's revenues went to veteran's causes.

They write that while the clear intent of the law was to close down cyber-cafes in Florida, and legitimate promotions were presumably not intentionally targeted, a plain language reading of the amended law suggests that cause-marketing game promotions are prohibited as "in connection with and incidental to" the sale of products or services. Venable is actively involved in efforts to seek clarification from regulators in Florida regarding the new law and its intended application.

[Click here](#) to read the full blog post on Venable's advertising law blog, which provides a more detailed analysis of the new law.

What to Do When the CFPB Comes Knocking

Venable partner [Jonathan L. Pompan](#) discusses strategies for weathering a Consumer Financial Protection Bureau (CFPB) investigation in the April 19 edition of *Law360*. In the article, he offered five tips for companies subject to CFPB oversight, including: being ready to respond before the CFPB issues a civil investigative demand (CID); deciding quickly whether to fight; knowing your data; coming to a meeting with details; and communicating frequently with CFPB staff.

Pompan writes that, while it may be impossible to know exactly what the CFPB will want before they demand information, companies need to know who should be involved in their response and what types of information are likely to be requested beforehand.

[Click here](#) to read Pompan's comments in *Law360* (subscription required).

[Click here](#) to view Pompan's recent presentation to the American Bar Association on navigating CFPB investigations and enforcement actions.

Upcoming Events

[Electronic Transactions Association Annual Conference - New Orleans](#)

April 30 - May 2, 2013

The ETA Annual Conference and Expo is a premier business and networking event for the payments industry. This event is the largest in ETA history, reflecting the rapid growth in the \$3.6 trillion payments business. Venable partner [Jamie Barnett, Rear Admiral \(Ret.\)](#) will speak on the intersection of electronic payments and cybersecurity. Come meet our attorneys on the show floor at booth #1117.

[Click here](#) to register.

[Understanding the Consumer Financial Protection Bureau - George Mason University School of Law, Arlington, VA](#)

May 2, 2013

Please join the GMU Law School's Law & Economics Center for a full day of informative sessions about the CFPB. Panels will include prominent practitioners, academics, and CFPB representatives. Venable partners [Ronald R. Glancz](#), [Allyson B. Baker](#), [Jonathan L. Pompan](#), and [Ralph E. Sharpe](#) will moderate and join several panels. Application for approval for this program is pending with the Virginia Mandatory Continuing Legal Education Board for 7 CLE hours (0 ethics).

[Click here](#) to register.

[New York City Bar Center for CLE - New York](#)

May 3, 2013

Please join Venable partner [Melissa Landau Steinman](#) when she presents "Sweepstakes, Promotions and Marketing Laws: Comprehension & Compliance." Topics of discussion will include the laws governing sweepstakes and skill contests, social media, mobile marketing, drafting official rules and disclosures, use of intellectual property, and the gift-card/coupon interface.

CLE credit is available.

[Click here](#) for more information and to register.

[Merchant Acquirers' Committee 2013 Conference - Las Vegas](#)

May 14-16, 2013

This year's MAC Conference is addressing "Controlling the Tidal Wave of Fraud." Please join Venable partner [Jamie Barnett, Rear Admiral \(Ret.\)](#) when he presents "Cyber Security and the Arrival of the Mobile Payments Era," a discussion of present threats from cyberspace. Also, Venable partner [Jeffrey D. Knowles](#) will present "Toto, We Are Not in Kansas Anymore," about regulatory and court challenges to payment companies.

[Click here](#) to register.

[ERA'S Government Affairs Fly-In 2013 - Washington, DC](#)

May 21-23, 2013

Please join Venable at the Electronic Retailing Association's 2013 Government Affairs Fly-In. The event presents an outstanding opportunity to learn more about the regulatory and legislative efforts affecting the electronic retailing industry and to meet with lawmakers and senior agency officials. Venable's [Jeffrey D. Knowles](#) will be among the dozen senior-level speakers from Capitol Hill, federal agencies, industry self-regulatory bodies, policy think tanks, and the electronic retailing industry.

[Click here](#) to learn more and to register.

[Internet Retailer Conference and Exhibition 2013 - Chicago](#)

June 4-7, 2013

The 9th annual Internet Retailer Conference and Exhibition, the world's largest e-commerce event, will analyze the social, mobile, global, personal, interactive, and managerial changes that e-commerce players are bringing to the new retail economy. Please join Venable attorneys at booth #464 to learn how Venable can help you grow your business and avoid the pitfalls of conducting commerce via the Internet.

[Click here](#) to register.

[Click here](#) to subscribe to Venable's Advertising and Marketing RSS feed and receive the Venable team's insight and analysis as soon as it is posted.

Visit Venable's advertising law blog at www.allaboutadvertisinglaw.com.

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