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2 HIF266.170

3 LEGISLATIVE HEARING ON H.R. 6149, THE COIN AND PRECIOUS METAL

4 DISCLOSURE ACT

5 THURSDAY, SEPTEMBER 23, 2010

6 House of Representatives,

7 Subcommittee on Commerce, Trade, and Consumer Protection

8 Committee on Energy and Commerce

9 Washington, D.C.

10 The Subcommittee met, pursuant to call, at 2:07 p.m., in
11 Room 2322 of the Rayburn House Office Building, Hon. Bobby L.
12 Rush [Chairman of the Subcommittee] presiding.

13 Members present: Representatives Rush, Schakowsky,
14 Sarbanes, Weiner, Barrow, Waxman {ex officio}, Whitfield,
15 Terry and Scalise.

16 Staff present: Timothy Robinson, Counsel; Michelle Ash,
17 Chief Counsel; Michael Ostheimer, Counsel; Will Wallace,
18 Special Assistant; Elizabeth Letter, Press Assistant; Kevin
19 Kohl, Minority Professional Staff Member; Brian McCullough,

- 20 Minority Senior Professional Staff Member, CTCP; and Shannon
21 Weinberg, Minority Counsel, CTCP.

|
22 Mr. {Rush.} The Subcommittee on Commerce, Trade, and
23 Consumer Protection will now come to order. I want to extend
24 my greetings to all who have gathered here.

25 The subcommittee is holding today's hearing on a bill,
26 H.R. 6149, the Coin and Precious Metal Disclosure Act. The
27 bill, which was introduced by Mr. Weiner of New York, will
28 cover the sale of gold bullion, collectable coins made from
29 other precious metals, and certain coins for investment
30 purposes.

31 H.R. 6149 requires dealers prior to selling these items
32 to make clear and conspicuous disclosures in writing and
33 orally of all fees that consumers could incur in association
34 with the sale of these covered items. The required
35 disclosures would extend to the purchase price the melt value
36 of the covered items and the reasonable resale price of the
37 covered items to other dealers. Many of us have seen at
38 least one of the television advertisements placed by Goldline
39 International and others that tell consumers to strongly
40 consider purchasing precious coins in order to preserve or
41 protect the value of consumers' investments in precious
42 metals. One of the risks that these advertisements and
43 commercials cite repeatedly and consistently is that the U.S.
44 government could potentially confiscate gold bullion. This

45 is just one example, but I think is one of which many of you
46 can relate.

47 These advertisements and the reported sale practices of
48 these dealers concerned Congressman Weiner and myself enough
49 that we sent a letter to Goldline asking the company to
50 respond to a number of questions. Today the CEO of Goldline
51 is with us as one of our six witnesses, and we are very
52 appreciative of our witnesses. In our letter, we asked
53 Goldline to reveal more to us about, one, the company's sales
54 staff training; two, sales staff compensation, commission and
55 incentive structures; three, the average differential in
56 value between the sale prices of gold bullion, gold coins and
57 how much Goldline would pay to purchase those items back from
58 consumers. We also asked Goldline to tell us the following:
59 whether it encourages its sales staff through training or in
60 sales discussions to refer to government confiscation of gold
61 when they speak to consumers, whether sales staff receive
62 different commission percentages for selling bullion than for
63 selling collectable coins, and what is that difference.
64 Finally, we asked Goldline to tell us whether Goldline is
65 required to be licensed or is qualified in any jurisdiction
66 to act as an investment advisor.

67 And Mr. Carter, I want to please extend my thanks to
68 you, and please thank your president and CEO for his prompt

69 response to us in a letter, that I might add is gold
70 embossed, that was dated August 12, 2010. That letter was
71 useful to me and my staff as it better defined some of the
72 terms and words that Goldline uses in his existing
73 disclosures to consumers, and I would like to request
74 unanimous consent for the entry of both letters, both mine
75 and Mr. Weiner's letter to Goldline, and Goldline's response
76 into the hearing record.

77 [The information follows:]

78 ***** COMMITTEE INSERT *****

|

79 Mr. {Rush.} I would also like to take this opportunity
80 to request another unanimous consent, and that is for the
81 entry of four more documents into the hearing record. One is
82 a letter addressed to me from the National Consumers League
83 dated September 21, 2010, supporting H.R. 6149. The second
84 is a statement for the record on behalf of the Industry
85 Council for Tangible Assets dated today, September 23, 2010.
86 There is an additional letter from the Professional
87 Numismatists Guild dated September 20, 2010, and finally, a
88 letter from the American Numismatic Association dated
89 September 21, 2010, addressed to myself and to Ranking Member
90 Whitfield. Hearing no objection, these unanimous consent
91 requests will be granted.

92 [The information follows:]

93 ***** INSERTS A, B, C, D *****

|
94 Mr. {Rush.} I am very thankful to all of the witnesses
95 for agreeing to share their valuable time with us in the
96 interest of examining this bill and to making this bill a
97 better bill.

98 [The prepared statement of Mr. Rush follows:]

99 ***** COMMITTEE INSERT *****

|
100 Mr. {Rush.} With that, I yield back the balance of my
101 time and now I recognize the ranking member of the
102 subcommittee, Mr. Whitfield, for 5 minutes for the purposes
103 of an opening statement.

104 Mr. {Whitfield.} Well, thank you, Mr. Chairman, and
105 today we do have a hearing on H.R. 6149, the Coin and
106 Precious Metal Disclosure Act.

107 I might say that after reviewing information about the
108 gold industry, we know that under current law certain fees
109 and price disclosures are already required by the federal
110 telemarketing sales rule. Now, this legislation would
111 require many new conspicuous disclosures including fees,
112 markups and reasonable resale and the melt value of the
113 metal. I am particularly interested in hearing testimony on
114 why reasonable resale and melt value information would
115 benefit a customer and whether they are reasonable for a
116 seller to disclose. Prices for many items including gold can
117 fluctuate greatly day to day, and it would be problematic if
118 legislation required an estimate that could mislead a
119 consumer.

120 Moreover, it is not clear to me by the coin and precious
121 metals sellers in the private sector should be singled out to
122 disclose a resale value when it is not required of the

123 federal government. For example, my staff went out today and
124 purchased this from the United States Mint. It is Native
125 American \$1 coins. There are 25 of them in here. The cost
126 of the roll is \$35. But the melt value of the roll turns out
127 to be in the markup of the gold compared to the melt value,
128 there is a 2,393 percent markup on this from the federal
129 government, and on this collective set of quarters that comes
130 from the U.S. Mint, the retail value of this is \$32.95 and
131 yet the melt value of this is only \$19.20. So even the U.S.
132 government is going a tremendous job of marking up the price
133 of their products as well.

134 One other aspect of this that does bother me a little
135 bit is, I have read a number of articles in the news media
136 about this hearing, and it is disheartening to see that
137 certain political commentators are mentioned frequently in
138 these articles. Glenn Beck's favorite gold company is
139 getting called up to Capitol Hill for a grilling. Democrats
140 on Capitol Hill have targeted a big advertising sponsor of
141 Glenn Beck and other popular rightwing commentators.
142 Congress will hold hearings Thursday about the practices of
143 Goldline, the precious metal dealer, that is broadcast and
144 advertises on popular conservative political personalities
145 such as Glenn Beck, Mike Huckabee and Fred Thompson.

146 Now, hopefully that is not the reason we are having

147 these hearings, but it is disheartening to see that kind of
148 news coverage on it that a hearing might be held simply
149 because someone is advertising on a conservative talk show
150 host program.

151 But we do have some experts here today. We have people
152 with Goldline. We have the FTC. We have some consumers who
153 have been harmed by some of their purchases. So it is
154 important that we have this hearing. We know that the
155 Federal Trade Commission already does have expansive
156 jurisdiction to tackle many consumer protection problems and
157 they have their priorities, and I don't really believe that
158 this is one of their priorities but I may be wrong.

159 Anyway, we look forward to the testimony of all the
160 witnesses today, and I want to thank the chairman again for
161 holding this hearing and giving us an opportunity to explore
162 this issue.

163 [The prepared statement of Mr. Whitfield follows:]

164 ***** COMMITTEE INSERT *****

|
165 Mr. {Rush.} The Chair now recognizes the author of the
166 legislation, Mr. Weiner of New York, for 2 minutes for the
167 purpose of opening statement.

168 Mr. {Weiner.} Thank you, Mr. Chairman. I appreciate
169 the opportunity to hold this hearing.

170 You know, we are here talking about a classic consumer
171 issue that affects those people in the middle class and those
172 struggling to make it. This is exactly what this committee
173 was empowered to deal with, and I am glad that we are taking
174 up this important issue.

175 The television gold industry is an industry that is led
176 by one particular company that has built up an industry on
177 fear, lies and rip-offs. Fear of the impending collapse of
178 our economy is virtually a staple of every single statement
179 from the executives of Goldline and other companies that sell
180 these products. They get people scared about their future.
181 Then they quickly transition to a lie, that if you buy
182 certain types of coins it is a good hedge against the
183 downturn in the economy. Mr. Whitfield just held up some
184 coins that he can freely buy, no scarcity whatsoever, as many
185 as he wants. Yet the only value to the coins that are being
186 sold is their scarcity. If not that, then the small amount
187 of gold that is in that coin, and that leads us to the rip-

188 off. Once people have been convinced by their fear and the
189 lies to purchase these products, they are profoundly ripped
190 off. They are products that it would take years if not a
191 generation, if ever, to make any money back on almost
192 irrespective of how high the marketplace rose.

193 They are finding themselves being sold a product that is
194 supposed to hedge against the collapse of the dollar when in
195 fact you would have to see years of continuing increases in
196 gold prices in order to be able to make up your losses. I
197 didn't make up this data. This is freely accessible to
198 people. They can go take a look. The exact same products
199 that are being sold by Goldline are being sold for a fraction
200 of the price on the open market.

201 But let me tell you what this hearing is not about. It
202 is not about whether you should buy gold. Some people say
203 yes, some people say no. It is not about whether or not
204 Glenn Beck is doing a disservice to his viewers for shilling
205 for this company. That is his problem. That is Fox News's
206 problem. They made a right decision by telling him he had to
207 end his contractual obligation and be a spokesman for this
208 company. This is, what is the right and wrong way for
209 consumers to do it and should they be protected. Should
210 middle-class Americans who are being exploited every single
211 day by this company and this industry be stopped and

212 protected by legislation, and that is what I hope we get to
213 today.

214 [The prepared statement of Mr. Weiner follows:]

215 ***** COMMITTEE INSERT *****

|
216 Mr. {Rush.} The Chair recognizes the gentleman from
217 Louisiana, Mr. Scalise, for 2 minutes.

218 Mr. {Scalise.} Thank you, Mr. Chairman. I look forward
219 to today's hearing and hearing from the witnesses, but it
220 just seems rather odd that when we are sitting here and the
221 country is asking Congress to be focusing on creating jobs,
222 when unemployment is almost 10 percent, and you can see here
223 from when President Obama took office to today we are almost
224 hovering at 10 percent unemployment, the American people want
225 us to be focusing on jobs. They want us to be focusing on
226 controlling spending.

227 And so when you look at what is happening and why people
228 across the country are so concerned about the direction of
229 our country, a lot of people are going out and looking for
230 other things to do. They are sitting on their money. They
231 don't want to invest in the things that government has
232 control over, so people have been buying gold. Now, you can
233 see right here, this is a chart of the 5-year gold average
234 over the last few years. When President Obama took office,
235 you can see a trajectory going up. Now, I don't think there
236 is any TV host that had anything to do with controlling the
237 price of gold yet people are buying gold because they are
238 scared to death about the spending that is going on in

239 Washington. If you look at Moody's, the rating agency,
240 Moody's is talking about downgrading the United States's debt
241 rating. This is serious business, and it is because of the
242 out-of-control spending in Washington. It is because of
243 these policies like a government takeover of health care by
244 the liberals running this Congress that people are so scared
245 to death about what is happening in the country that they are
246 buying gold. And so what is the answer of the liberals
247 running Congress? It is to go beat up on the people selling
248 gold instead of fixing the problems that are happening in our
249 country, instead of addressing the problems with creating
250 jobs, addressing the problems with out-of-control spending.

251 And so if you look at what is going on and why we are at
252 a point now where we are looking at this legislation, it
253 doesn't do anything to solve some problem that is out there.
254 The FTC can address a problem. It has to do with politics.
255 In fact, here is a letter from a sitting Member of Congress.
256 It is nobody in this room. But it is a sitting Member of
257 Congress who wrote a letter trying to raise money off of this
258 issue, specifically mentioning the author of this bill in an
259 attempt to raise money for campaign purposes. So yeah, there
260 is politics going on here, but if we really were focused on
261 things the American people want us to be focused on, we would
262 be so concerned why so many people are buying gold since the

263 day President Obama took office. It is because of the out-
264 of-control spending and because of all these government
265 takeovers and all the problems that are leading to higher
266 unemployment.

267 We ought to be focused on creating jobs. We ought to
268 control the spending in Washington, not beating up on the
269 people selling gold to people who want to buy it.

270 Thanks, and I yield back.

271 [The prepared statement of Mr. Scalise follows:]

272 ***** COMMITTEE INSERT *****

|
273 Mr. {Rush.} The Chair now recognizes the chair of the
274 full committee, Mr. Waxman, for 5 minutes for the purposes of
275 opening statement.

276 The {Chairman.} Thank you very much, Mr. Chairman.

277 I am interested in the hearing today. I want to find
278 out what people who are experts in consumer protection think
279 about this bill, whether it is needed. We do have a Federal
280 Trade Commission and I am glad they are going to be
281 testifying.

282 I do think that there is a very important role to
283 protect consumers from unfair practices, but I must say after
284 hearing Mr. Scalise's comment, the only politics I have heard
285 injected is all the political statements he just made. If
286 people want to buy gold for whatever reason, that is their
287 business, but to insist they are buying gold because liberals
288 have control of Congress, that seems to me a little
289 farfetched. People can decide they want to have a greater
290 diversity in their portfolio. They can decide to buy gold as
291 a hedge against inflation. People can have an interest in
292 investing in gold for whatever reason. That is their right.
293 And in fact while other investments have declined in value,
294 the price of gold has nearly doubled in the past 3 years. I
295 don't think that is because Barack Obama is President of the

296 United States unless that is the sales pitch that is made. I
297 am not aware of it.

298 I also don't think it is appropriate to hold a hearing
299 because this is a substance that is being advertised on Glenn
300 Beck or Rachael Maddow or anybody else. The question is, are
301 consumers being informed of the information that they are
302 entitled to make the best judgment, and then quite frankly
303 after people have their information, they may not still make
304 the best judgment. A lot of people make mistakes. They
305 don't read the information that is given to them. They don't
306 pay attention to the whole other aspects that might be
307 involved in investing decisions. But government can't tell
308 people what to do. That is up to them.

309 So I am interested in what comes out of this hearing. I
310 know we did have a bill that we passed out of the committee
311 and I think out of the House dealing with whether purchasers
312 of precious metals could melt down or destroy a consumer's
313 jewelry or gold before receiving an affirmative acceptance of
314 an offer to purchase the jewelry for a specific price. But
315 this is a different issue. This is a question of how much we
316 need to inform consumers and whether there is a problem
317 sufficient for us to change federal law to do that.

318 I thank you for the hearing, and it should be an
319 interesting one, and I expect we will learn a lot. I yield

320 back my time.

321 [The prepared statement of Mr. Waxman follows:]

322 ***** COMMITTEE INSERT *****

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323 Mr. {Rush.} The Chair thanks the chairman.

324 The Chair now recognizes the gentleman from Nebraska,

325 Mr. Terry, for 2 minutes.

326 Mr. {Terry.} Thank you, Mr. Chairman, but I am going to

327 waive so I will have more time for questions. Thank you.

328 [The prepared statement of Mr. Terry follows:]

329 ***** COMMITTEE INSERT *****

|
330 Mr. {Rush.} The Chair now recognizes the gentleman from
331 Maryland, Mr. Sarbanes, for 2 minutes.

332 Mr. {Sarbanes.} Thank you, Mr. Chairman. I don't need
333 2 minutes.

334 I just want to thank Congressman Weiner for bringing
335 attention to this issue and echo what Chairman Waxman said,
336 which is it is just a matter of making sure people have good
337 information at their fingertips and then they can make sound
338 judgments, and the problem here is that oftentimes the
339 information is far away from the reality of the situation.

340 And so we are looking forward to the testimony. We are
341 looking forward to moving forward on this piece of
342 legislation, and I yield back. Thank you.

343 [The prepared statement of Mr. Sarbanes follows:]

344 ***** COMMITTEE INSERT *****

|
345 Mr. {Rush.} The Chair thanks the gentleman. The Chair
346 thanks all the members for their opening statements.

347 [The prepared statement of Mr. Green follows:]

348 ***** INSERT J *****

|
349 Mr. {Rush.} Now we want to recognize our witness for
350 the first panel, and I want to introduce him. He is a
351 private citizen. His name is Dr. Julius A. Bazan. He lives
352 in Lynbrook, New York, and he is going to testify regarding
353 his experiences with this product and with this company. And
354 so Dr. Bazan, it is important for you to know that this
355 subcommittee has a standing practice that we will swear in
356 all the witnesses, so would you please stand and raise your
357 right hand?

358 [Witness sworn.]

359 Mr. {Rush.} I want to thank you to much for taking time
360 out from your busy schedule to be a participant in this
361 hearing, and you are recognized for 5 minutes for the
362 purposes of your opening statement.

|
363 ^TESTIMONY OF DR. JULIUS A. BAZAN, PRIVATE CITIZEN, LYNBROOK,
364 NEW YORK

365 } Dr. {Bazan.} Thank you very much.

366 I would like to say I have a little bit of difficulty,
367 if you would gentlemen would speak up so I can hear you.

368 As was mentioned, you know, I am originally from
369 Czechoslovakia. I have been in the United States for 31
370 years, and I have been living in Lynbrook in New York and
371 have been practicing neurology for 25 years.

372 I am also an investor and I have been investing in the
373 stock market in mutual funds, even commodities and options,
374 for about 20 years. However, after 9/11 I lost about 60
375 percent of my investments, maybe probably more. So I decided
376 about 8 years ago to get out of the market. I was just
377 having my account in Ameritrade, and I was thinking what to
378 do with my money. At that time it was clear that the dollar
379 was declining, the value was losing, and I was thinking about
380 what kind of investment I would be able to make.

381 Around the same time, you know, you listen to the news
382 about gold and you listen to these advertisements and all
383 different spokesman that you mentioned and you are exposed to
384 these bombardments every day, especially I remember Goldline

385 because I didn't know anything about gold but whatever they
386 were saying was making sense to me because, you know, gold
387 was holding its value and actually was increasing in value,
388 so I said if I invest in gold, maybe I can maintain the value
389 of my dollar, you know, going forward.

390 So I decided I would like to invest in gold but I didn't
391 know what company to choose. However, at that time Goldline
392 was advertising on a daily basis and you were basically
393 bombarded. There was no other company which I could find to
394 invest in gold. So eventually I decided to contact Goldline
395 by phone number and I decided to open an account. Then
396 eventually I was able to transfer the money and I was
397 contacted by one of the salesmen from Goldline, and we
398 decided, you know, how to invest the money. Initially I was
399 thinking to purchase the bullion but I was told that bullion
400 is not a good value to invest in because in the 1930s the
401 government confiscated the gold and set the prices of the
402 bullion and that would not be a good investment. On the
403 other hand, I was told that coins have much better sell
404 value, they are increasing in price and that will be an
405 excellent investment for me because I can preserve my
406 capital.

407 So not knowing anything about it, I eventually decided I
408 will invest in gold coins as the representative suggested,

409 and at that time I didn't know actually that his decision to
410 sell me coins was based on commissions. It looked like if I
411 was to purchase bullion, he would be getting about 5 percent
412 of commission. However, if I bought coins he would get 35
413 percent of the commission. So anyhow, I bought the gold and
414 I was waiting for about 6 months. I got the promise that it
415 is very likely that gold price will reach \$3,000 in one year.
416 However, after 6 months I didn't see the price of gold move
417 too much. It stayed around \$1,100. So I decided, because I
418 found another investment opportunity, that I will liquidate
419 my holdings in gold.

420 To my shock, when I called the representative, he
421 mentioned that there is something called spread, which I
422 didn't know too much about, which now I understand is the
423 difference between selling and buying the price of the gold.
424 And he told me, I had my initial investment which was
425 \$140,000. He said that my investment now is worth only
426 \$83,000. So essentially it meant that that the day I
427 purchased this gold, my value, he took about \$60,000 in
428 profit and left me holding a bag, \$83,000. So I essentially
429 felt robbed. It felt like legalized robbery. And so in any
430 case, I decided to sell gold at that time, and that is my
431 story.

432 [The prepared statement of Dr. Bazan follows:]

433 ***** INSERT E *****

|
434 Mr. {Rush.} Thank you so much. We sympathize and are
435 sympathetic to you for your loss of your dollars and your
436 substantial loss to your individual retirement account, which
437 I understand you lost as a result of your investment. Again,
438 you have the sympathies of both myself and the other members
439 of this subcommittee.

440 I have a few questions that I want to ask you, and I
441 have 5 minutes in which to ask these questions. How many
442 transactions did you conduct with Goldline?

443 Dr. {Bazan.} This was just one purchase but I bought
444 multiple different coins, but the bulk of it was in premium
445 gold eagle. I believe they call it golden proof eagle, which
446 at that time I was sold for \$3,300 and I understand that the
447 melt price of that coin was only \$1,000 when I bought it.
448 And on the market price, I think it was hiked up by about 30
449 percent or 35 percent. I was charged for one coin \$3,300
450 while the melt price was only \$1,000.

451 Mr. {Rush.} So am I to assume that you only spoke with
452 one salesperson?

453 Dr. {Bazan.} Only one salesman, yes.

454 Mr. {Rush.} Were you ever informed of fees that would
455 incur in association with your transaction?

456 Dr. {Bazan.} No, absolutely not, no discussions of any

457 fees or any commissions or anything else.

458 Mr. {Rush.} Okay. Before contacting Goldline in July
459 2010, when you wanted to sell your investment, did you hear
460 or see any disclosures about how much Goldline was marking up
461 the proof American eagle coins you agreed to purchase?

462 Dr. {Bazan.} No.

463 Mr. {Rush.} Or how much the spread was on those coins?

464 Dr. {Bazan.} I had no information about prices of coins
465 at that time.

466 Mr. {Rush.} After purchasing the coins, did you receive
467 any disclosures?

468 Dr. {Bazan.} No.

469 Mr. {Rush.} Thank you.

470 I will now yield the ranking member 5 minutes for the
471 purposes of questioning the witness.

472 Mr. {Whitfield.} Is it Dr. Bazan or--

473 Dr. {Bazan.} Bazan, yes.

474 Mr. {Whitfield.} Well, Dr. Bazan, thank you very much
475 for taking time to be with us today, and I also would like to
476 offer my apologies for the loss of your investment. I do
477 want you to know, I have lost a lot of money in investments
478 as well and that is something that we all deal with.

479 I believe I heard the chairman ask you if you had
480 received any sort of disclosure when you purchased this gold,

481 and I may be wrong, but it is my understanding that before
482 this company will actually sell gold product to a purchaser,
483 that they send this out, which is called an account and
484 storage agreement, and on the back it says ``client
485 acknowledges that he or she has read and understands all of
486 the terms and conditions of the account and storage agreement
487 and shall be bound by them.'' And I was just reading through
488 here, and I know that the very first thing it says here is
489 that ``this is speculative, unregulated and volatile and that
490 prices may rise or fall.'' And then it says ``profit can
491 only be made if prices rise over the investment period in an
492 amount sufficient to overcome the spread as set forth in
493 paragraph 13.'' Did you receive this at all before you
494 purchased--

495 Dr. {Bazan.} I don't know if it was in this form, but
496 of course you mentioned the storage fees. You know, I was
497 aware of the storage fees. I mean, my question was about the
498 purchase fees and those prices I didn't know nothing about.

499 Mr. {Whitfield.} You didn't know anything about the
500 purchase fees?

501 Dr. {Bazan.} Nothing about the price but I know about
502 the storage fees.

503 Mr. {Whitfield.} Okay. And how long did you actually
504 keep the gold?

505 Dr. {Bazan.} The gold, I bought it sometime in December
506 of 2009 and kept it until May of 2010, 6 months.

507 Mr. {Whitfield.} Six months. Well, I noticed that in
508 another one of their documents, it does specifically say, it
509 says, ``If you are purchasing coins, bullion or rare currency
510 for investment purposes, they should be considered a long-
511 term investment. We believe that rare coins and currency
512 should be held for at least 3 to 5 years and preferably 5 to
513 10 years to maximize any potential for gain.'' Did you see
514 that in any of these documents or did you consider that?

515 Dr. {Bazan.} I don't think I read it. However, you
516 know, I was aware of the risk I am taking. However, I was
517 under the impression that when I am buying these coins I am
518 buying them at the market price. So of course I naturally
519 assumed if the price of the gold will go down, I will lose my
520 money. However, I didn't expect at the time of the purchase
521 to lose \$60,000 the minute I purchased that gold.

522 Mr. {Whitfield.} Yes. Well, you know, I just read this
523 legislation, and I haven't read it thoroughly and I don't
524 know what the actual definition is for a precious metal
525 dealer, but once I want to go back to the U.S. Mint, because
526 you can go to the U.S. Mint today and you can buy a 2010
527 American buffalo 1-ounce gold proof coin, 1 ounce, and that
528 is \$1,560. Well, the actual price of gold today is around

529 \$1,290 per troy ounce, so buying this from the federal
530 government, you walk out the door and you have already lost
531 approximately \$300. And so if this legislation is actually
532 going to be going after private dealers, then I am just
533 wondering are we being discriminatory if we don't do
534 something about what the U.S. government is doing.

535 Dr. {Bazan.} Well, you know, that price was \$1,000. He
536 sold me that 1 ounce for \$3,300. There is a big difference
537 between the price.

538 Mr. {Whitfield.} One ounce for how much?

539 Dr. {Bazan.} This one coin is 1 ounce. I paid \$3,300
540 for it.

541 Mr. {Whitfield.} Were you aware of the price of gold on
542 that day in the market, 1 troy ounce of gold?

543 Dr. {Bazan.} Yeah, I know those prices of \$1,200. I
544 was told that that was a numismatic value of that coin, that
545 it was an additional \$2,000 worth of numismatic value on that
546 coin.

547 Mr. {Whitfield.} So even though you knew the price of
548 the gold for that day, it was your understanding that the
549 value of the coin was what you paid for it? I mean, is that
550 what you are saying?

551 Dr. {Bazan.} Well, I assumed that the \$3,300 was the
552 price of that coin on the market, so if I go to redeem it I

553 understand I will lose some money and I would not be able to
554 recover \$3,300, but I didn't expect that I will lose \$2,000
555 on that coin.

556 Mr. {Whitfield.} Well, like I said, we do appreciate
557 your being here today and being willing to talk about this
558 issue. I might say, and of course, I may be totally wrong
559 because I am in a rural area of this country but I haven't
560 had any constituent write to me about this issue. Now, that
561 doesn't mean that there are not a lot of people maybe in the
562 same boat you are, but thank you for being with us and we
563 look forward to the other testimony.

564 Dr. {Bazan.} Thank you very much.

565 Mr. {Rush.} The Chair recognizes Mr. Weiner for 5
566 minutes for the purposes of questioning.

567 Mr. {Weiner.} Thank you, Mr. Chairman.

568 Just to pick up on what Mr. Whitfield said, Dr. Bazan,
569 you are a perfect witness because you are not alone. The
570 same exact experience led to 50 Better Business Bureau
571 complaints, \$170,000 consent order signed by this company in
572 Missouri because they are ripping off Missouri constituents,
573 28 FTC complaints. They are under investigation by the L.A.
574 district attorney, the Santa Monica District attorney. There
575 is a class action lawsuit against them in South Carolina.
576 ABC News just this morning reported that three of their high-

577 ranking current employees were banished from selling
578 securities of their fraudulent activities.

579 But you are perfect for another reason. I talked about
580 the fear, the lies, the rip-off. Your case speaks to all
581 three. You called because you were fearful and you were
582 probably led to be fearful maybe by a document like this that
583 Goldline puts in all of its pitch packets. It is a scary
584 looking executive order saying that gold can be seized at any
585 time. Gold bullion, don't get into gold bullion because it
586 can be seized. Now, they don't explain to you that this
587 executive order hasn't been enforced since the 1970s. It was
588 only seized then because it was the currency backer for the
589 dollar, which it no longer is, and they don't explain to you
590 well, if you want to really get frightened, they can seize
591 your coins as well. And then you are told oh, no, it is a
592 better value not to be in bullion, which you called for, but
593 for these coins.

594 Let me explain to Mr. Whitfield and the rest of the
595 committee how these coins operate. Numismatic coins have
596 their value derived from two things. One is the amount of
597 gold in it. If you are really scared about the economy and
598 you want to buy gold, that is the little element that you
599 care about. There is another element, though, in fairness.
600 It is the scarcity. Mr. Whitfield demonstrated the scarcity

601 of these products by calling up the Mint and buying some.
602 There is no scarcity. If tomorrow the dollar goes into rapid
603 inflation, maybe it will, maybe it won't, you will have those
604 coins. Good luck buying a loaf of bread with those coins,
605 because if you went on eBay today, you will find that those
606 coins are readily available for nowhere near the price is
607 being sold at, which brings us to the rip-off, and this is
608 the part I want Mr. Whitfield and Mr. Scalise to understand.
609 This gentleman thought when he spent \$3,000, he got \$3,000
610 worth of gold. Is that a preposterous assumption? Is he a
611 naïf? Is he naïve? No, it is a reasonable assumption. I am
612 buying gold, here is my \$3,000, give me \$3,000 worth of gold.
613 He gave them \$140,000. That moment he lost about \$80,000.
614 That second, he was ripped off.

615 This is not about whether or not you should buy gold,
616 Mr. Scalise. It is not about whether or not you can buy a
617 coin, Mr. Whitfield. You have to understand, these people
618 are being told to buy these coins for investment purposes.
619 If you want to buy a nice van Gogh because it is very scarce
620 and you think it will still be valuable in generations to
621 come, more power to you. But no one is saying that in these
622 ads. None of these salesmen are saying that. They are
623 saying it is a hedge against a downturn in the economy; they
624 will have value. And to say that the disclosure says that

625 there is a 30 percent spread value, well, you know, Dr.
626 Bazan, that what that means for consumers is a 54 percent
627 markup. It is a clever use of language, but that is really
628 what it is.

629 Look, it is fair to say we should get a few extra
630 dollars because we are storing it or we should get a few
631 extra dollars because we have these high-quality salesmen
632 like the ones who were investigated by the FCC. But it is
633 simply wrong to leave our constituents, middle-class people
634 struggling to make it who are getting the bejesus scared out
635 of them based on these lies, who are then taken from a
636 bullion investment and put into a coin investment based on
637 the out-and-out near fraud of saying that those things are
638 going to retain value better and then taking the exact same
639 product and saying we are going to provide triple and
640 quadruple what this is available for elsewhere. This is why
641 we need improved laws. And I say to my friend, Mr.
642 Whitfield, yes, you can open this thing and say 30 percent,
643 it is right here, does that make it less of a rip-off? Does
644 it make it less of a rip-off? Does it mean that consumers
645 shouldn't be protected? Dr. Bazan, who is an articulate,
646 smart guy, was it so naïve of him to believe that if I invest
647 \$100,000 in gold I am going to have \$100,000 in gold?

648 These coins, this firm, this industry is an orchestrated

649 effort first to scare people, then to lie to them--the coins
650 are a better deal--and then to rip them off on those coins.
651 That is what happened to this gentleman. That is what
652 happened to all these people that I just listed and that is
653 why we need improved disclosure.

654 And I say to Mr. Whitfield, you concluded, ``I haven't
655 heard a lot of complaints.'' Well, here is something you
656 might be interested to know. If you complain to Goldline and
657 they agree to settle with you, do you know you have to sign
658 an agreement saying you won't file a complaint with the
659 Better Business Bureau, you won't file a complaint with
660 Congress, you won't call Congressman Whitfield? What kind of
661 reputable company does that? So not only you are only going
662 to try to settle this with you, your complaint, if you don't
663 talk about it. Well, I am glad you are here to talk about it
664 and so I am.

665 Dr. {Bazan.} Thank you.

666 Mr. {Rush.} The Chair wants to announce that there is a
667 vote that occurs on the Floor. There are five votes
668 remaining, and there are less than 5 minutes to get to the
669 Floor. So this subcommittee will have to recess for
670 approximately 40 minutes until we conclude voting on the
671 series of votes that are now occurring on the House Floor.
672 So please accept our apologies for the recess but we have to

673 get to the Floor in order to vote on these important matters
674 on the Floor.

675 So the subcommittee now stands in recess until 10
676 minutes after the last votes.

677 [Recess.]

678 Mr. {Rush.} The subcommittee will come to order again.

679 The Chair now recognizes Mr. Scalise for 5 minutes for
680 the purposes of questioning the witness.

681 Mr. {Scalise.} Thank you, Mr. Chairman.

682 Is it Mr. Bazan?

683 Dr. {Bazan.} Yes.

684 Mr. {Scalise.} What was the motivator to make you want
685 to buy gold? I think you were kind of talking about that
686 earlier, but can you give--

687 Dr. {Bazan.} The main thing was to hedge against
688 inflation. Of course, we knew that the dollar was losing its
689 value and investment was going down so the only way I
690 believed to protect myself was to invest in gold to hedge
691 against inflation.

692 Mr. {Scalise.} And the value of the dollar obviously
693 dropping, when did all this really start? When did your
694 interest in buying gold come about?

695 Dr. {Bazan.} I mean, at that time there was a lot of
696 talk about gold and, you know, indeed the price of gold was

697 going up. That was the only investment which sounded
698 reasonable. I didn't want to trade too much so I put it in
699 gold and keep it there and see what happens.

700 Mr. {Scalise.} And obviously with the price, and I know
701 I have shown the chart earlier with the price of gold, there
702 are dramatic increases. I am not sure exactly when--

703 Dr. {Bazan.} The problem, the minute I bought the gold,
704 they charged me 35 percent on my commission so I invested 140
705 and at that moment I had only \$83,000 so that means that I
706 will have to wait years before I can recover my losses. I
707 was hoping that I am buying it at market price and I was
708 deceived. There was no discussion about price of gold, and I
709 was almost forced to buy coins instead of bullion because I
710 was told that government will confiscate the bullion or they
711 fix the price and it may be useful, and the coins are the
712 only way to go because they will always increase in price and
713 government cannot touch them, which is a lie.

714 Mr. {Scalise.} Right, but ultimately you could have
715 brought--

716 Dr. {Bazan.} Say again?

717 Mr. {Scalise.} Ultimately you did have the option to
718 buy either one?

719 Dr. {Bazan.} And I bought all the coins, which was
720 suggested by the representative.

721 Mr. {Scalise.} And then how long did you hold it for?

722 Dr. {Bazan.} For 6 months.

723 Mr. {Scalise.} Six months. All right. Thanks.

724 Yield back.

725 Mr. {Rush.} The Chair doesn't see any other members

726 from this side.

727 Mr. Bazan, we certainly appreciate you taking time out

728 from your schedule to be with us.

729 Dr. {Bazan.} Say again, please.

730 Mr. {Rush.} I said we certainly appreciate you taking

731 the time out from your busy schedule to be here with us, and

732 again, you have our sympathy and our sincere regrets for your

733 experiences, and we intend to continue to take a serious look

734 at this issue and try to resolve this issue so that we can

735 bring your situation and similar situations experienced by

736 other Americans to a screeching halt, so again, thank you so

737 very much, and we wish that you will continue to be the kind

738 of citizen that you would be a courageous citizen. Thank you

739 so very, very much.

740 Dr. {Bazan.} Thank you.

741 Mr. {Rush.} The Chair would ask the second panel now,

742 would you please take a seat at the witness table.

743 I want to welcome all those who are the witness desk,

744 those who comprise the second panel for this subcommittee

745 hearing, and before we begin, I want to introduce each and
746 every one of the members of the second panel. Seated to my
747 left is Ms. Lois Greisman. Ms. Greisman is Associate
748 Director of the Marketing Practices Division for the Bureau
749 of Consumer Protection for the Federal Trade Commission.
750 Next to Ms. Greisman is Mr. Charles Bell, who is the Program
751 Director for Consumers Union. And seated next to Mr. Bell is
752 Mr. Scott Carter. He is the Executive Vice President of
753 Goldline International. And seated next to Mr. Carter is Mr.
754 Howard Beales. Dr. Beales is Associate Professor at the
755 George Washington University School of Business.

756 Again, I want to thank each and every one of you for
757 participating in this hearing and sacrificing your time for
758 this committee and this Congress.

759 It is the practice of this subcommittee to swear in
760 witnesses, so I would ask that each of you stand and raise
761 your right hand and answer this question.

762 [Witnesses sworn.]

763 Mr. {Rush.} Please let the record reflect that the
764 witnesses have all answered in the affirmative.

765 And now each one of you will be recognized for 5 minutes
766 for the purposes of an opening statement. Ms. Greisman, we
767 will recognize you for 5 minutes.

|
768 ^TESTIMONY OF LOIS GREISMAN, ASSOCIATE DIRECTOR, MARKETING
769 PRACTICES DIVISION, BUREAU OF CONSUMER PROTECTION, FEDERAL
770 TRADE COMMISSION; CHARLES BELL, PROGRAMS DIRECTOR, CONSUMERS
771 UNION; SCOTT CARTER, EXECUTIVE VICE PRESIDENT, GOLDLINE
772 INTERNATIONAL; AND HOWARD BEALES, PH.D., ASSOCIATE PROFESSOR,
773 THE GEORGE WASHINGTON UNIVERSITY SCHOOL OF BUSINESS

|
774 ^TESTIMONY OF LOIS GREISMAN

775 } Ms. {Greisman.} Thank you, Chairman Rush, Ranking
776 Member Whitfield and member of the committee. I am Lois
777 Greisman, Associate Director in the Bureau of Consumer
778 Protection at the Federal Trade Commission. I appreciate the
779 opportunity to testify before you today about consumer
780 protection issues arising from the sale of coins and precious
781 metals as investments.

782 As you know, the Federal Trade Commission's written
783 testimony has been provided. My own statement and any
784 responses to questions you may have solely represent my own
785 views.

786 With the downturn of the American economy, the
787 Commission has committed substantial resources to shut down
788 scams that harm financially distressed consumers with a

789 particular focus on job and business opportunity scams,
790 foreclosure rescue scams, scams preying upon the economic
791 stimulus package and scams targeting those seeking health
792 insurance. With the economic downturn, we also see scams
793 focusing more directly on investment opportunities as people
794 seek low-risk, high-yield investments and not surprisingly,
795 coins and precious metals often are promoted as such good,
796 safe investments.

797 We are well aware of consumer complaints involving
798 precious metals and coins of investment and are looking
799 closely into some of the issues raised, and as always, we are
800 consulting with our colleagues at the State and federal level
801 and in particular the SEC and the CFTC. While I cannot
802 address whether we are or are not looking at any particular
803 area or entity, I do want to highlight some of the problems
804 we have seen thus far and then turn to the new consumer
805 educational materials we are issuing today.

806 Now, although the written testimony notes that the
807 volume of complaints received by the Commission is quite low
808 both for coins and precious metal, there are three main
809 categories of complaints. First, complaints that some
810 dealers use high-pressure sales tactics to persuade consumers
811 to purchase collectible or historic coins rather than bullion
812 coins and that they always may misrepresent the value of

813 those collectible coin investments. Second, there are
814 complaints that some unscrupulous marketers urge fast
815 investment in a particular metal before the price skyrockets.
816 In fact, consumers end up entering into risky and high-
817 leveraged investments. Finally, as you are well aware from
818 prior testimony on the Guarantee of a Legitimate Deal Act, we
819 have seen complaints about companies that purchase consumers'
820 jewelry and family heirlooms for their melt value but fail to
821 provide a price quote before actually melting those items.

822 Now, the Commission takes investment fraud very
823 seriously. The fact that we have not brought any law
824 enforcement action in recent years is not to be taken as an
825 absence of concern in the area of precious metals and coins.
826 To the contrary, the revamped consumer educational materials,
827 and I believe each office has been provided them, entitled
828 ``Investing in Gold: What is the Rush'', highlights the
829 Commission's concern with ensuring that consumers understand
830 the differences among investments in gold coins, bullion
831 coins and collectible or historic coins. In fact, the
832 consumer educational materials consist of three discrete
833 brochures.

834 As each of these brochures makes clear, these kinds of
835 investments require a level of sophistication that one can
836 acquire only by serious research. You have to know what you

837 are buying and whether you were buying it as a collectible
838 item or for the value of the precious metal itself. We hope
839 these brochures will provide a solid starting point for
840 consumers.

841 Finally, I do want to touch upon the Coin and Precious
842 Metal Disclosure Act. This Act would address many of the
843 consumer protection concerns that we have mentioned by
844 requiring coin and precious metal dealers to disclose not
845 only the purchase price but also other fees associated with
846 the sale of the coins and precious metals as well as the melt
847 value and reasonable resale value for coins and precious
848 metals. Critically, I know that our revised consumer
849 educational materials do suggest that the consumer ask for
850 information on the melt value of a coin before making any
851 purchase.

852 Now, as the testimony notes, we do have some concerns
853 with respect to the proposed definition of the term
854 ``reasonable resale value'' in section 1 of the bill and we
855 would be pleased to continue to work with staff to address
856 those concerns. Also, as noted in the testimony, we do not
857 support the exemption of section 6 because it would exclude
858 from the bill's coverage certain collectible coins that have
859 been the subject of consumer complaint.

860 With that, I thank you very much for the opportunity to

861 address the subcommittee. I look forward to working with you
862 and to answering your questions. Thank you.

863 [The prepared statement of Ms. Greisman follows:]

864 ***** INSERT F *****

|

865 Mr. {Rush.} Thank you very much.

866 Mr. Bell, you are recognized for 5 minutes.

|
867 ^TESTIMONY OF CHARLES BELL

868 } Mr. {Bell.} Chairman Rush, members of the committee,
869 thank you so much for the invitation to testify here today on
870 ways to protect consumers who purchase gold coins and metal
871 bullion. We commend you for holding this hearing to focus
872 attention on ways to protect consumers and encourage a safer
873 marketplace.

874 As you know, Consumers Union is the independent,
875 nonprofit publisher of Consumer Reports and Consumer Reports
876 Money Advisor. We work to empower consumers by informing and
877 educating them about the top consumer issues of the way, and
878 we also as part of our work report on scams and fraud both to
879 alert consumers and also advocate for public policy measures
880 for greater protection.

881 As I summarize in our testimony, over the last several
882 years we have seen numerous news reports and complaints
883 received by regulators and law enforcement agencies
884 indicating that consumers are experiencing significant
885 problems in transactions related to gold coins and metal
886 bullion and we think that those problems are indeed worthy of
887 attention by your subcommittee.

888 Many of the problems that we have seen come to public

889 light are related to high-pressure sales tactics that entice
890 consumers to buy coins that have high markups, that turn out
891 to have much less resale value than the consumer initially
892 expected.

893 Consumers are also at risk because sellers of gold coins
894 and bullion may not be licensed or regulated either by the
895 Securities and Exchange Commission or the Commodities Futures
896 Trading Commission, and sales representatives may not be
897 licensed as investment advisors, even though they present
898 their products as an investment and may be perceived by the
899 consumer as a financial advisor. So we are concerned that
900 coin and bullion sellers are subject to relatively limited
901 public oversight, and that state consumer protection
902 authorities may only be able to offer limited help for
903 consumers who feel they have been defrauded.

904 Through our publications, Consumers Union has urged
905 consumers to be cautious in buying gold coins, and to be
906 particularly wary of high-pressure sales tactics over the
907 phone. We emphatically agree with the Federal Trade
908 Commission that this is an area where consumers need to do
909 extensive homework before making a purchase decision. We
910 generally advise consumers who are interested in investing in
911 gold as a portion of their portfolio not to buy physical
912 gold, but instead to purchase shares in an exchange-traded

913 fund that purchases gold for clients and holds it in a bank,
914 because of the much lower trading fees and annual expenses.

915 By contrast, companies selling gold coins may mark them
916 up by significant margins of 20-30 percent or significantly
917 more such that it will take many months or years for
918 consumers to even break even.

919 We then summarize issues and concerns that have been
920 raised by a number of companies in the marketplace. We have
921 seen complaints on this issue over the years ebb and flow but
922 we believe that for a significant number of customers there
923 has been an ongoing problem for many years, and while the
924 number of complaints that was noted may seem small as a
925 portion of business transacted by the industry, it is
926 generally accepted in most customers relations work that for
927 each official complaint that is lodged with a company or
928 government authorities, there are a significant number of
929 other consumers who experience similar problems but did not
930 complain, and this is especially so in things like financial
931 scams where the consumer or investor may be very embarrassed
932 and they may hope that the situation will get better with the
933 passage of time and they may be very reluctant to talk about
934 it.

935 So we also believe that in the stories that have come to
936 public light, we often see a significant financial loss

937 experienced by the customer and bitter disappointment
938 expressed by people who felt that there was significant
939 upside to the investments, did not understand the structure
940 of what they were putting their money down for, so we think
941 that there is a significant potential for misunderstanding
942 about the value of the coins they are purchasing and the fees
943 and services related to transactions.

944 We are also concerned that the prospective purchase of
945 gold coins and bullion may be an impulsive decision for some
946 consumers who may be responding to well-placed TV or Internet
947 ads as was noted earlier today. This does not excuse
948 consumers for looking out for their economic interest but it
949 does raise the possibility that large number of customers in
950 times of high gold prices and/or economic distress may be
951 enticed through slick advertisements to quickly agree to
952 Internet or telephone offers without carefully considering
953 their options. And so for those customers, we think they
954 need to be aware that there is a high cost to national
955 television advertising and companies that use that business
956 model may be use very aggressive sales practices to try to
957 upgrade them to products that are more lucrative or
958 remunerative for the sales advisor that is selling that
959 product that is earning a high commission.

960 So with that in mind, we believe that the draft bill

961 that is being considered here today would be very much in the
962 public interest of consumers to have much more prominent,
963 conspicuous disclosures in the sale of coins and precious
964 metal bullion. These disclosures, in our opinion, should
965 include the item's purchase price, melt value and reasonable
966 resale price as well as any fees that the customer will incur
967 if the purchase is completed. We strongly favor provisions
968 to make those disclosures orally to consumers if the sales
969 are being solicited by telephone and to ensure that the FTC
970 and State attorneys general have appropriate authority to
971 investigate deceptive practices.

972 We believe that the people who are selling these
973 products have a very good idea of what they are worth and
974 they have access to information through numerous trade groups
975 and industry sources that regularly compute the value of
976 these coins and the person that generally may not have that
977 information is the less experienced and less sophisticated
978 consumer.

979 So we think that we have an opportunity to craft a bill
980 here that would be very much in the consumer and public
981 interest. The stories we have seen do not inspire confidence
982 that consumers are getting the information that they need,
983 and we hope this bill will give them that information. And
984 other organizations in the consumer protection community such

985 as the National Consumers League we expect will strongly
986 support this legislation. Thank you.

987 [The prepared statement of Mr. Bell follows:]

988 ***** INSERT G *****

|
989 Mr. {Rush.} The Chair thanks the witness.

990 And now the Chair recognizes Mr. Carter for 5 minutes

991 for the purposes of an opening statement.

|
992 ^TESTIMONY OF SCOTT CARTER

993 } Mr. {Carter.} Mr. Chairman and members of the
994 committee, I am Scott Carter, Executive Vice President of
995 Goldline International. Thank you for this opportunity to
996 discuss Goldline's role as an industry leader in the precious
997 metals and rare coins markets.

998 Goldline has long supported the comprehensive disclosure
999 of information for an individual to make an informed decision
1000 about acquiring precious metals and rare coins. Indeed,
1001 Goldline believes its disclosures represent the best
1002 practices in an industry of more than 5,000 precious metals
1003 and rare coin dealers. These disclosures include clear
1004 examples and explanations of the risks and costs associated
1005 with acquiring precious metals, information which we provide
1006 throughout the sales process.

1007 In the highly competitive precious metals industry,
1008 there are numerous sources available to compare prices and
1009 policies. This intensive competition coupled with existing
1010 regulation protects individuals when choosing if and where
1011 they acquire precious metals. We believe that H.R. 6149 does
1012 not improve the information currently required under
1013 regulations and imposes requirements that cannot be met by

1014 the industry. As presently written, the proposed legislation
1015 appears unworkable and may actually result in inaccurate
1016 information being conveyed to the consumer.

1017 Goldline has been offering precious metals to
1018 individuals since 1960 and has grown to more than 300,000
1019 full-time employees. Over the years Goldline has assisted
1020 thousands of people to acquire and liquidate precious metals
1021 and rare coins. We are proud to be rated A+ from the Better
1022 Business Bureau.

1023 Goldline provides each of our clients with a risk
1024 disclosure booklet, Coin Facts for Investors and Collectors
1025 to Consider. Coin Facts is written in a large, easy-to-read
1026 font and contains important information regarding the
1027 acquisition of precious metals. In Coin Facts, Goldline
1028 explains its pricing policies in extensive detail and
1029 provides a mathematical example to ensure its clients
1030 understand how this pricing works. Goldline also provides
1031 important information about its sales staff and commission
1032 structure in Coin Facts.

1033 Also, even though gold prices have increased every year
1034 in the past 10 years, like any asset, precious metals can
1035 rise and fall in value. Accordingly, Coin Facts clearly
1036 spells out the risks of owning precious metals for a
1037 potential client. For example, we recommend that coins and

1038 bullion are appropriate for no more than 5 to 20 percent of a
1039 portfolio and we believe that assets should be held for at
1040 least 3 to 5 years, preferably 5 to 10 years. Goldline's
1041 marketing and risk disclosure materials encourage prospective
1042 to conduct their due diligence before they acquire any
1043 product. Additionally, Goldline discloses its pricing, fees
1044 and risks involved in acquiring precious metals and rare
1045 coins in its account and storage agreement which all clients
1046 must read and sign before they finalize their purchases.

1047 The entire sales process beginning with an individual's
1048 initial inquiry to Goldline and culminating with an
1049 expiration of the applicable cancellation and refund period
1050 often occurs in a span of days or weeks. During this time,
1051 Goldline clients can easily conduct their own due diligence
1052 to compare products, prices and policies among the thousands
1053 of competing precious metals dealers.

1054 In addition to providing comprehensive information to
1055 Goldline customers about the risks and costs of acquiring
1056 precious metals, Goldline has an internal compliance program
1057 to ensure best practices among its sales staff. This
1058 compliance program was reviewed by lawyers and former senior
1059 regulators with expertise in consumer protection,
1060 telemarketing, numismatics and regulatory compliance.
1061 Goldline's policies are administered by a full-time

1062 compliance department with regular input and assistance from
1063 outside counsel. Among other things, Goldline's compliance
1064 program trains the sales staff about the requirements of the
1065 FTC's telemarketing sales rule, Do Not Call obligations,
1066 state telemarketing requirements including seller
1067 identification and disclosures, and the importance of
1068 adhering to Goldline's compliance rules and code of contact.

1069 Mr. Chairman, in my written testimony I discuss our
1070 concerns about H.R. 6149 in greater detail. Today I
1071 specifically would like to note that the requirement in the
1072 bill that sellers disclose the reasonable resale value of a
1073 product would create an insurmountable burden on precious
1074 metals dealers and likely would mislead consumers.

1075 Mr. Chairman and members of the committee, thank you,
1076 and I would be happy to answer any questions from the
1077 committee.

1078 [The prepared statement of Mr. Carter follows:]

1079 ***** INSERT H *****

|
1080 Mr. {Rush.} The Chair thanks the gentleman and now
1081 recognizes Dr. Beales for 5 minutes for the purposes of an
1082 opening statement.

|
1083 ^TESTIMONY OF HOWARD BEALES

1084 } Mr. {Beales.} Thank you, Mr. Chairman. My name is
1085 Howard Beales. I teach at the business school at George
1086 Washington University and I have long experience at the FTC.
1087 I directed the Bureau of Consumer Protection from 2001
1088 through 2004 when we created the national Do Not Call
1089 Registry, one of the most popular government consumer
1090 protection measures ever undertaken. Both inside and outside
1091 the agency, I have studied the FTC's approach to consumer
1092 protection issues for over 30 years.

1093 Thank you for asking me today to discuss these important
1094 issues. Although I have consulted with Goldline on issues
1095 relating to their marketing practices under the FTC Act, the
1096 views I express in this testimony are my own.

1097 The cornerstone of the FTC's consumer protection mission
1098 is its fraud program through which the Commission has
1099 returned hundreds of millions of dollars to defrauded
1100 consumers. As the FTC has detailed, the agency has a long
1101 history of activity against deceptive investment claims.
1102 Common themes in these cases are false claims that high
1103 returns are virtually certain in a short period of time. The
1104 cases involving commodities also feature misrepresentations,

1105 usually expressed, of the relationship between the selling
1106 price and the market value of the item combined with grossly
1107 inflated prices.

1108 Such claims are a far cry from Goldline's practices.
1109 Instead, Goldline's marketing and sales practices include
1110 extensive disclosures, encouraging consumers to carefully
1111 consider their purchases.

1112 First, Goldline's advertising relies on consumers
1113 calling the company to get additional information.
1114 Typically, customers call with initial questions and call
1115 back several times over a period of days before making a
1116 purchase. Thus, consumers have both time and the opportunity
1117 to check out competing sellers and other sources of
1118 information. The fact that a sale typically takes several
1119 calls suggests that consumers are exercising the kind of due
1120 consideration that should be given to a purchase that is
1121 typically in the range of \$15,000 to \$20,000 for first-time
1122 buyers.

1123 Goldline provides potential customers with a clear,
1124 well-written disclosure document, Coin Facts, explaining the
1125 market and the company's practices in detail. In my
1126 experience, Goldline's pamphlet is a vast improvement over
1127 the disclosure documents that typically accompany other
1128 investment opportunities. In addition, all first-time buyers

1129 of Goldline's higher-margin products have an unconditional
1130 cancellation period of at least seven days, providing
1131 significant time for any consumer to consider their potential
1132 purchase, compare prices and offerings, and access relevant
1133 information from readily available sources. Of course, even
1134 sophisticated consumers can be misled. Goldline, however, is
1135 very different from the type of company typically found
1136 engaging in deceptive investment promotions. A substantial
1137 fraction of its sales are repeat purchases, which only occurs
1138 when customers are satisfied with what they receive.
1139 Goldline also has an A+ rating from the Better Business
1140 Bureau.

1141 Second, Goldline's advertising and sales material do not
1142 guarantee or promise a profit or a specific return. In
1143 contract to the quick profit claims that are the hallmark of
1144 past cases, Goldline advises consumers that rare coins and
1145 currency should be held for at least 3 to 5 years but
1146 preferably 5 to 10 years. Goldline makes no representation
1147 that it is selling at wholesale or at the lowest price.
1148 Instead, Goldline provides straightforward disclosures of its
1149 spreads. It also provides a very clear example of how this
1150 differential would affect a consumer's purchase of a coin
1151 from Goldline and how much that coin would have to increase
1152 in value for the consumer to earn a profit. Rather than

1153 illustrating a best-case scenario, the example is based on
1154 Goldline's maximum spread where the necessary appreciation is
1155 greatest.

1156 Third, Goldline's advertising and sales practices are
1157 filled with sound caution. It advises consumers to balance
1158 their portfolio and place no more than 5 to 20 percent in
1159 precious metals. In short, Goldline is the antithesis of the
1160 get rich quick seller making gross misrepresentations so
1161 common in past FTC cases.

1162 Under H.R. 6149, the bill would essentially require
1163 disclosures to reveal the seller's markup on the product. In
1164 other markets, we rely on competition to police seller
1165 markups. In retailing, for example, it is not disclosures of
1166 the market at full service department stores that keep
1167 markups slow; it is the competition from other department
1168 stores and other retailers such as Walmart. What matters to
1169 consumers is the cost of the transaction, not the seller's
1170 markup. As long as information about prices at competing
1171 sellers is readily available to consumers who are interested
1172 and it certainly is in the coin and precious metal market,
1173 there is no reason to disclose the seller's markup.

1174 Although providing consumers with more information
1175 almost always sounds appealing, it can in fact create
1176 consumer confusion. For example, the FTC's Bureau of

1177 Economics conducted an experimental study of the effect of
1178 disclosing the yield spread premium in mortgage transactions,
1179 which is essentially part of a broker's compensation. When
1180 the disclosure was included, consumers apparently focused on
1181 the disclosure rather than the overall cost of the
1182 transaction. As a result, they were less able to identify
1183 the low-cost mortgage.

1184 The reasonable resale value disclosure may create
1185 similar problems. Like the yield spread premium, it risks
1186 focusing consumer attention on an aspect of the transaction
1187 that is not relevant to the overall cost. Confusion seems
1188 particularly likely when the resale value is disclosed along
1189 with the melt value. The melt value is simply irrelevant
1190 because it will always be reflected in the reasonable resale
1191 value of any product whose value is tied to spot prices.

1192 Moreover, in a market where prices change constantly,
1193 consumers may misunderstand what the reasonable resale value
1194 disclosure means. If consumers understand the disclosure as
1195 a claim that they can actually expect to resell the item at
1196 the disclosed price, they may be seriously misled. The risk
1197 of this misinterpretation is increased because consumers will
1198 almost inevitably assume that they are being provided with
1199 this information because it should be important in their
1200 decision.

1201 The Federal Trade Commission has an important role as a
1202 referee in policing the market economy. Like other products
1203 and services, the best protection remains the common law
1204 principles that the Commission enforces. Goldline's
1205 practices are entirely consistent with these principles. The
1206 proposed legislation is at best unnecessary and it may in
1207 fact create consumer confusion.

1208 Thank you again for the opportunity to testify today and
1209 I look forward to your questions.

1210 [The prepared statement of Mr. Beales follows:]

1211 ***** INSERT I *****

|
1212 Mr. {Rush.} The Chair thanks the witnesses, and the
1213 Chair recognizes himself now for 5 minutes for the purposes
1214 of questioning the witnesses.

1215 Ms. Greisman, the FTC has brought cases of these
1216 companies that sold overpriced or misgraded historic coins
1217 for investment purposes. Do you concur with that, that the
1218 FTC has brought cases against companies that have sold
1219 overpriced or misgraded historic coins for investment
1220 purposes? Is that a fact?

1221 Ms. {Greisman.} That is correct. In fact, there have
1222 been 17 such cases dealing with what we allege to be fraud in
1223 connection with coins.

1224 Mr. {Rush.} Since 2005, the FTC has received
1225 approximately 850 complaints relating to coins and precious
1226 metals. In Mr. Carter's testimony, he stated that there have
1227 been relatively few complaints about Goldline submitted to
1228 the FTC or to the Better Business Bureau. Do you believe
1229 that a number of complaints received by FTC or the Better
1230 Business Bureau accurately reflect the number of consumers
1231 who purchase coins or precious metals for investments who are
1232 misled or feel as though they were misled?

1233 Ms. {Greisman.} No, sir, I do not. I mean, as Mr. Bell
1234 pointed out, the percentage of consumers who complain, and we

1235 know this from consumer research that we have done, is a
1236 small percentage relative to those who may have suffered
1237 injury.

1238 Mr. {Rush.} Do consumers who overpay for such
1239 investments sometimes not learn that they have overpaid until
1240 they try sometimes years later to sell their investments?

1241 Ms. {Greisman.} We have seen that.

1242 Mr. {Rush.} And even though, there are some who might
1243 not realize that they have overpaid. Is that correct?

1244 Ms. {Greisman.} That is correct, sir. There are lots
1245 of reasons consumers may or may not choose to complain.

1246 Mr. {Rush.} Can you think of any other reason that
1247 investors in coins or precious metals might not complain to
1248 the FTC or the Better Business Bureau?

1249 Ms. {Greisman.} There can be any number of reasons,
1250 Chairman. I mean, certainly consumers tend to complain most
1251 immediately to the company from which they purchased whatever
1252 good or service it was, and whether or not they seek out the
1253 Better Business Bureau or the Federal Trade Commission or a
1254 State attorney general's office depends on many factors.

1255 Mr. {Rush.} Mr. Carter, when a customer complains
1256 directly to Goldline alleging that the company made a
1257 misrepresentation about the products it sold, what are your
1258 steps that you take to resolve the matter? What are your

1259 guidelines?

1260 Mr. {Carter.} Mr. Chairman, we take every complaint
1261 seriously, as it was stated. Forty percent of our business
1262 is reorders so it is very important for us to have a quality
1263 customer service process. The initial step we take is to
1264 assign the client that has a complaint to a special manager,
1265 a liaison whose sole role is to take care of the client and
1266 resolve the issue. We review the account. We ensure that
1267 our processes with regard to disclosures and account
1268 agreements being signed and information has been taken care
1269 of and all applicable processes have been done correctly by
1270 the company. In addition to that, we many times are working
1271 with the client to come to a solution that is amenable to
1272 them so that we can resolve the issue and we do that with
1273 great care, and I am proud to say that most of our complaints
1274 are resolved and most of our issues with regard to customers
1275 are handled effectively by the company.

1276 Mr. {Rush.} And the 40 percent that you mentioned, is
1277 that 40 percent of the total value or 40 percent of the
1278 customers?

1279 Mr. {Carter.} No. What I am saying is that our
1280 transactions, when you look at our number of repeat
1281 transactions in our customers, 40 percent of our current
1282 customers represent reorder sales. So not only have they

1283 bought the first time as an initial sale but they actually
1284 reorder with the company. So it is very important for us to
1285 ensure that they are happy, that they understand their
1286 product, because they will buy multiple times over multiple
1287 years.

1288 Mr. {Rush.} My time is about up, but I have one final
1289 question. Do any of Goldline's sales staff hold or have they
1290 ever held, to your knowledge, a license to offer investment
1291 advice?

1292 Mr. {Carter.} Congressman, our sales staff are not
1293 investment advisors. They may or may not have licenses in
1294 the past. We are not aware of that. It is not a requirement
1295 for the role that they play. They are not providing
1296 financial advice. And in our disclosures, we encourage the
1297 customer to seek out their financial advisor to get that
1298 information.

1299 Mr. {Rush.} My time is concluded. The Chair recognizes
1300 now Mr. Whitfield for 5 minutes.

1301 Mr. {Whitfield.} Thank you.

1302 Ms. Greisman, how many consumer complaints were filed
1303 with the FTC against Goldline last year?

1304 Ms. {Greisman.} I don't have the precise number. It is
1305 not a large number, and as the chairman indicated, in total
1306 since 2005 the FTC has received roughly 850 complaints

1307 regarding precious metals and gold coins.

1308 Mr. {Whitfield.} And do you know out of that how many
1309 relate to Goldline?

1310 Ms. {Greisman.} I don't know the precise number.

1311 Mr. {Whitfield.} How many complaints were filed with
1312 the FTC totally last year?

1313 Ms. {Greisman.} As indicated in the testimony, the
1314 short answer is well over a million, I think 1.3 million.
1315 The percentage of complaints in this precise area is less
1316 than 1 percent of the total number of complaints received.

1317 Mr. {Whitfield.} Okay. Now, with the authority that
1318 the FTC has today under the telemarketing sales rule or some
1319 other rule, have you all issued any judgment against Goldline
1320 or any enforcement mechanism or any other action against
1321 them?

1322 Ms. {Greisman.} Congressman, I am not at liberty to
1323 disclose whether or not the FTC is or is not investigating
1324 any particular company.

1325 Mr. {Whitfield.} Well, I am not asking if you are
1326 investigating. I am asking have you rendered any decision
1327 against them or made any enforcement action against them?

1328 Ms. {Greisman.} The agency has not taken any action
1329 against Goldline.

1330 Mr. {Whitfield.} Thank you. Thank you.

1331 Mr. Bell, can you tell us how many complaints the
1332 Consumers Union has received concerning Goldline as a
1333 company?

1334 Mr. {Bell.} We are not a complaint handling
1335 organization so our organization has not specifically
1336 received any to my knowledge. We do have a customer
1337 relations staff but I don't believe that we have gotten any
1338 across the transom. But we are aware that there are
1339 enforcement actions that have been brought by the district
1340 attorney in Santa Monica against Goldline and another
1341 company, Superior Gold Group, and so for us, I think we are
1342 more broadly concerned about what is happening across the
1343 entire marketplace, and for us, the 850 complaints received
1344 by the FTC about a number of companies is a relevant number.

1345 Mr. {Whitfield.} How does the volume of complaints for
1346 this industry compare to that of, let us say, the diamond
1347 industry, fine arts or antiques industries?

1348 Mr. {Bell.} You know, I couldn't give you that
1349 information. I haven't researched the other industries. I
1350 would just say based on my experience of working in consumer
1351 advocacy for 20 years, I see a number of danger signals here
1352 just in the nature of the complaints that are being filed
1353 with authorities in part because they echo concerns we have
1354 seen with many other types of sales practices over the

1355 telephone where unsophisticated customers enter into
1356 transactions that they are later disappointed in, and in this
1357 case they could be losing thousands or tens of thousands of
1358 dollars.

1359 Mr. {Whitfield.} Dr. Beales, you state that the
1360 advertisements and disclosures that Goldline makes that you
1361 have reviewed all appear to provide the consumer with the
1362 requisite information they need to comply with the law. Is
1363 there anything you would have them change or additional
1364 disclosures that you think they should make?

1365 Mr. {Beales.} I think the disclosures in their
1366 advertising do a good job. What I think does an even better
1367 job is the Coin Facts pamphlet that, as I said in my
1368 statement, is I think one of the clearest pieces of
1369 disclosure about the risks associated with investments that I
1370 have seen.

1371 Mr. {Whitfield.} Mr. Carter, in my opening statement I
1372 referred to a number of newspaper articles that indicate that
1373 some people think this hearing is being held because you
1374 advertise with conservative TV personalities, radio
1375 personalities like Glenn Beck and others, Huckabee, Fred
1376 Thompson and others. Do you advertise with all sorts of
1377 networks or do you just focus in on these conservative talk
1378 show hosts?

1379 Mr. {Carter.} Well, Congressman, we advertise on a
1380 broad range of networks. At the present time we advertise on
1381 14 different TV networks including CNN, CNBC, History
1382 International. One of our largest channels for leads is the
1383 Internet. We also advertise on radio. So we are a broad-
1384 based marketer and we have broad-based advertising.

1385 Mr. {Whitfield.} Someone earlier today referred to
1386 three of your current employees that had been either
1387 convicted or had been involved in some sort of fraudulent
1388 activity. What were they talking about?

1389 Mr. {Carter.} We were made aware of that earlier this
1390 week by the press. These individuals, what I would say is
1391 that Goldline conducts background checks in accordance with
1392 California's hiring practices law. These employees are in
1393 good standing at the company. The event that was referred to
1394 is over a decade old, was prior to Goldline, but as of right
1395 now these employees are in good standing and they comply with
1396 our compliance policies and they went through our background
1397 check at point of hire.

1398 Mr. {Whitfield.} And other question. Ms. Greisman, has
1399 the FTC taken any formal position on this particular
1400 legislation?

1401 Ms. {Greisman.} Yes, sir. The Commission's testimony
1402 supports the legislation.

1403 Mr. {Whitfield.} So you have endorsed the legislation
1404 except for the reasonable resale issue and the exemption
1405 issue, those two?

1406 Ms. {Greisman.} That is correct.

1407 Mr. {Whitfield.} Thank you, Mr. Chairman.

1408 Mr. {Rush.} The Chair now recognizes the gentleman from
1409 New York, Mr. Weiner, for 5 minutes.

1410 Mr. {Weiner.} Thank you, Mr. Chairman.

1411 Mr. Carter, welcome. Do you recognize this document,
1412 executive order of the President, all persons required to
1413 deliver on or before May 1, 1933, all gold coin, gold bullion
1414 and gold certificates? Do you recognize this?

1415 Mr. {Carter.} Yes.

1416 Mr. {Weiner.} Is this included in your packet of
1417 information that you send to your customers?

1418 Mr. {Carter.} Yes, it is.

1419 Mr. {Weiner.} Can you tell us why?

1420 Mr. {Carter.} Because customers when determining what
1421 products they want to buy consider many features and
1422 benefits, and one of those features and benefits that they
1423 consider is the prospect of confiscation, and this was an
1424 order, as we all know, that was completed in 1933, and in the
1425 marketplace today, these are uncertain economic times. The
1426 prospect of discussions in the marketplace of the gold

1427 standard are--

1428 Mr. {Weiner.} If I can interrupt, so there is a fear
1429 that this may happen again?

1430 Mr. {Carter.} There is one component that in uncertain
1431 economic times--

1432 Mr. {Weiner.} There is a fear that this might get--you
1433 might have this type of thing happen again?

1434 Mr. {Carter.} Yes.

1435 Mr. {Weiner.} Now, can I ask you, do you include
1436 anywhere in the material that this was overturned the
1437 following year?

1438 Mr. {Carter.} Congressman, I don't know.

1439 Mr. {Weiner.} The answer is, you don't. Do you include
1440 anywhere in the material that the reason that that seizure
1441 took place had to do with the fact that then our currency was
1442 backed by dollars and it was an effort to stabilize our
1443 currency?

1444 Mr. {Carter.} Yes, I understand that.

1445 Mr. {Weiner.} No, no, I'm saying do you let your--you
1446 have already said that you agree that this is because some of
1447 your customers have a fear and that you reflect that fear in
1448 this document but in a way that I think you will agree is
1449 incomplete because it doesn't say it was repealed, it doesn't
1450 put it in any kind of context. But let me ask you this. You

1451 then use this document in the pitching that your staff makes
1452 and you freely stipulate in your documents here that your
1453 sales people get a higher commission rate for selling
1454 numismatic coins than they do for bullion. Is that right?
1455 You freely say that in this document. Do you somehow make
1456 this argument because you believe in your heart--and I know
1457 that you are the host of a show called ``The American
1458 Advisor''--do you believe there is any chance today that gold
1459 bullion would be seized by the government? Do you think it
1460 is a reasonable fear?

1461 Mr. {Carter.} Yes, I do, Congressman.

1462 Mr. {Weiner.} Okay. Do you believe then, why would it
1463 not be a reasonable fear that they seize coins?

1464 Mr. {Carter.} Well, the executive order as it was--

1465 Mr. {Weiner.} So this is 1934. I am talking about
1466 2010.

1467 Mr. {Carter.} In 2010, Congressman, our commission
1468 salespeople and our training is that if the executive order
1469 were reenacted as it was in 1933, that coins with collector
1470 value were excluded from confiscation because their value--

1471 Mr. {Weiner.} I understand. Just to summarize, Mr.
1472 Carter, you take something that was in 1933 that was repealed
1473 in 1934 and then you extrapolate what would happen, fear, the
1474 fear that it could happen in 2010. You use language in your

1475 testimony and in Coin Facts, language like duration of
1476 investment, that you should diversify your portfolio. You
1477 took explanations about the collector value of coins. You
1478 even say and I think in your testimony recommend--I know you
1479 said it publicly--recommend that people hold on to their
1480 things for 5 to 10 years. It sounds an awful lot like you
1481 are giving financial advice. Do you believe that you are?

1482 Mr. {Carter.} No, we don't. In fact, we instruct the
1483 clients that we are not financial advisors, that we point
1484 them to our disclosures and ask them to seek out financial
1485 advice.

1486 Mr. {Weiner.} But Mr. Carter, when you say you
1487 recommend that someone holds on to an investment for a
1488 certain duration time, how is that not investment advice?

1489 Mr. {Carter.} It is disclosure advice, Congressman. It
1490 is to say that you should be prudent in the decisions you are
1491 making, that this should be a diversification strategy, that
1492 if you are buying a physical asset, something that you are
1493 buying today, and if your plan is to sell it tomorrow--

1494 Mr. {Weiner.} I understand, but Dr. Beales--

1495 Mr. {Carter.} But my point, Congressman, the reason why
1496 when you buy a physical asset, whether you are buying a piece
1497 of property or anything, there are expenses and fees.

1498 Mr. {Weiner.} I understand, but Mr. Carter, let me

1499 interrupt because I have a limited amount of time. But Mr.
1500 Beales asked a question. He is a former consultant to your
1501 company, isn't he?

1502 Mr. {Carter.} Yes.

1503 Mr. {Weiner.} Mr. Beales asked the question, why is it
1504 different than any other commodity. You shop around for the
1505 best picture. You shop around for the best piece of
1506 furniture. The marketplace will decide. Here is the
1507 difference. Those things are not sold to people as
1508 investments. As in the language that you used the other day
1509 on Fox Business News, you referred to the government debt,
1510 the large deficits, inflation, the fear of confiscation. You
1511 referred to this again. It's is quite a different thing than
1512 purchasing a television or piece of furniture. These are the
1513 investments of middle-class Americans like that witness that
1514 you saw sitting in that very same seat. That is why you have
1515 additional protections for these type of people. These are
1516 people that when you say in fleeting reference that you have
1517 a float, a spread of 35 percent, that means that a citizen
1518 would have to make a 54 percent markup in order to get back
1519 to zero.

1520 And let me give you an example from today. Anyone in
1521 this room, anyone watching at home can look this up. This
1522 isn't me. It is not Mr. Carter saying it. One of Goldline's

1523 popular products is the one-quarter ounce proof American
1524 eagle. They sell it today for \$685, Mr. Chairman. You can
1525 get it from the Mint for \$403, available to the public with a
1526 bulk discount of more than 100 coins. Another competitor,
1527 Apmex, sells it for \$425. You can get it on eBay today for
1528 \$445 because it is true, Mr. Carter, that there is not a lot
1529 of scarcity to a lot of these products. So this is a 38
1530 percent spread, a 61 percent markup over your competitor,
1531 which means the moment that the gold arrives, someone has to
1532 make up 35 percent of the market.

1533 Let me explain what that means to Mr. Scalise. That
1534 would mean that gold would have to go from \$1,293 today to
1535 \$2,081 for that person to break even. When you are selling
1536 something as an investment, as a hedge against inflation, as
1537 a way to protect yourself from the future, what you are doing
1538 is like you did to that gentleman who came right before you.
1539 You are buying them into the whole the minute they walk home.
1540 It simply is inexcusable. That is why Mr. Beales is
1541 incorrect to say that, oh, this is like any other consumer
1542 product. No, for middle-class Americans, those struggling to
1543 make it who call up that number, who order these products, it
1544 is their savings, and as you know, you didn't limit it to a
1545 small percentage of that previous witness's savings; it was
1546 almost his entire savings. And that is why this legislation

1547 is needed.

1548 Thank you, Mr. Chairman. I ask for a second round if
1549 one is available.

1550 Mr. {Rush.} The Chair recognizes Mr. Scalise for 5
1551 minutes.

1552 Mr. {Scalise.} Thank you, Mr. Chairman.

1553 Ms. Greisman, you had testified earlier that the
1554 definition in the legislation before us of reasonable resale
1555 value could mislead consumers. Can you be more specific on
1556 that?

1557 Ms. {Greisman.} Yes, of course. Our concern is that it
1558 might encourage unscrupulous marketers to collude and set
1559 prices, but we would be more than happy to work with staff
1560 and we have had discussions to find a different way to state
1561 the same goal.

1562 Mr. {Scalise.} Thank you. So the bill as it is
1563 currently written could actually lead to collusion, which
1564 would actually be very detrimental to consumers as opposed to
1565 what we have now.

1566 Mr. Carter, how many competitors do you have in the
1567 marketplace? What is a rough estimate of people that sell
1568 gold?

1569 Mr. {Carter.} It is estimated that there are 5,000
1570 competitors in our marketplace.

1571 Mr. {Scalise.} Five thousand competitors? Okay.
1572 Obviously if you had the ability to have collusion by having
1573 language like in the bill presented before us, according to
1574 the FTC, then that number may shrink dramatically and
1575 consumers would be much more limited and possibly would be
1576 exposed to really bad deals.

1577 Let us equate, when we talk about savings and
1578 investments, let us say someone is buying stocks. They are
1579 not buying gold but they are purchasing a stock. Clearly you
1580 are going to have some people who are going to buy a stock
1581 and it is going to do well. You are going to have some
1582 people who buy a stock and it is going to lose money, and
1583 maybe if they hold it a little bit longer then it would gain
1584 money. How many of your customers make money? How many lose
1585 money? I guess according to people we have been listening
1586 to, everybody loses money, but if you can kind of expand on
1587 that?

1588 Mr. {Carter.} It is important that the whole period is
1589 maintained by a client. That is why we disclose it. I will
1590 give an example, Congressman. Our most popular coin, the
1591 Swiss 20 franc, which has our highest threat, if you bought
1592 that product from us 5 years ago, you would have so far
1593 achieved a 90 percent return. If you bought that product
1594 from us 10 years ago, you have achieved a 240 percent return,

1595 both of those numbers after our fees. So that has been a
1596 very positive return on that product as compared over the
1597 last decade with any stocks. The S&P is down. The Dow is
1598 down. We all know what has happened with real estate. And
1599 yet our product and our customers have seen a reasonable,
1600 some would say a very attractive return.

1601 Mr. {Scalise.} So what you are saying is, your most
1602 popular product that you sell has actually experienced a
1603 large rate of return including if you back out the fees and
1604 the spread?

1605 Mr. {Carter.} That is correct.

1606 Mr. {Scalise.} Let me ask Dr. Beales, you know, when we
1607 really talk about what the focus of this hearing is and, you
1608 know, again, I have expressed what I think about that, but
1609 when you talk about the Moody's warning, and Moody's is a
1610 very respected rating agency, this isn't somebody on talk
1611 radio or a TV show. Moody's is a very respected rating
1612 agency. They have warned that the United States' triple A
1613 bond rating under the current spending of this Congress is in
1614 jeopardy. Are you familiar with that? Are you familiar with
1615 what Moody's has warned about the actual credit worthiness of
1616 the United States of America?

1617 Mr. {Beales.} Not in any detail, no. I am sort of
1618 generally aware that it is there but I am not familiar with

1619 its details.

1620 Mr. {Scalise.} There are a lot of very respected
1621 agencies that have written about what that threat is, and
1622 that threat is not, it is surely not anything that any gold
1623 company has laid out there. It is not from somebody on a
1624 television show running around trying to scare people. It is
1625 from a rating agency which I haven't heard anybody discredit
1626 who actually analyzes the borrowing and spending practices of
1627 the United States of America, and the fact that you have got
1628 Moody's out there warning of a possible downgrade in the
1629 United States' debt rating, that is serious business, and it
1630 is real. It is not somebody running around talking about the
1631 sky falling. It is a rating agency saying if this country
1632 doesn't stop borrowing money we don't have and if we don't
1633 stop spending money at the rapid pace that this Congress has
1634 been spending that we are going to be in real trouble. Our
1635 children and our grandchildren are in jeopardy of losing the
1636 opportunities that we have all enjoyed.

1637 Our country has had a history of passing on a better
1638 opportunity to the next generation than the one before it.
1639 That has been the history of our country going back to George
1640 Washington, and that is in jeopardy right now, not because
1641 you are selling gold, because the people running this
1642 Congress are spending too much money. They are spending

1643 money we don't have. They are taking over car companies and
1644 banks and they are taking over health care. And in the
1645 meantime, the public out there is getting scared to death
1646 about all of this because they are saying where this is going
1647 to end, so they are going out and they are doing things like
1648 they are buying gold. You are not driving up the price of
1649 gold. It is going up on its own because people are concerned
1650 about the value of the dollar not based on a talk show host
1651 but based on real agencies like Moody's. Other countries are
1652 telling the United States of America to stop borrowing and
1653 spending money at this rapid pace because there are dire
1654 consequences to it.

1655 So I would hope that rather than Congress sitting up and
1656 beating up on people that are selling gold, they should
1657 actually go and look at why people are buying gold and why
1658 the United States' debt rating is in jeopardy according to
1659 Moody's. We have got to control the spending. We have to
1660 actually stop borrowing money from countries like China and
1661 other places and create some jobs in this country, and if we
1662 do that, that will solve these problems. But right now
1663 instead of focusing on those problems, Congress is beating up
1664 on the people selling gold. Clearly, they are not listening.

1665 I yield back.

1666 Mr. {Rush.} The Chair recognizes the gentleman from

1667 Maryland, Mr. Sarbanes, for 5 minutes.

1668 Mr. {Sarbanes.} Thank you, Mr. Chairman.

1669 Mr. Carter, I had a question about the spread
1670 disclosure. So in the Coin Facts, I guess you describe this
1671 spread issue and talk about like it can be as high as 30 to
1672 35 percent, right?

1673 Mr. {Carter.} Yes.

1674 Mr. {Sarbanes.} If in a particular case a salesperson
1675 knows that it could be more than that, does the salesperson
1676 have any responsibility to make that clear to the potential
1677 purchaser or do they just leave the customer thinking that--
1678 and most customers are going to assume that that is sort of
1679 the top, the ceiling. Do they lead them to believe that that
1680 is what the spread might be, assuming even--well, actually
1681 let me back up.

1682 Does the salesperson affirmatively bring the spread
1683 issue to the attention of the customer beyond handing them
1684 this disclosure form? Is that part of the training or
1685 compliance or other directives that the salespeople operate
1686 under?

1687 Mr. {Carter.} There are multiple points in time when
1688 the disclosures of spread are covered, Congressman, and a
1689 point I want to make is that our maximum spread, the
1690 difference between our ask price and our bid price, is 35

1691 percent. There is no higher spread. That is variable. So
1692 point one is that the customer in our sales process has to
1693 contact us and their first request to us is information that
1694 covers the Coin Facts that is mailed to them. That is the
1695 first point, easy font, easy to understand with an example of
1696 what the spread means. The second point, if the customer
1697 choose to purchase a product, our account agreement, which we
1698 have examples of these if anybody would like a copy of it,
1699 this account agreement covers the risk disclosures again.
1700 The customer has to sign this verifying that they understand
1701 have read the disclosures including what we were just
1702 discussing before any sale is final.

1703 And the last point I will make, Congressman, is that we
1704 provide a 7-day full refund, no questions asked, buyer's
1705 remorse, talk to your spouse. We will give you 100 percent
1706 of your money back if you change your mind. We feel like we
1707 have the best processes for disclosures and sales process in
1708 the industry to make sure our customers are informed.

1709 Mr. {Sarbanes.} Let me go back to my first question
1710 then. It sounds as though it is not necessarily the case
1711 that the salesperson affirmatively describes to the customer
1712 what the spread is. They give them the materials and you
1713 have got a spread of 30 to 35 percent in there, which you
1714 claim is the most it can be, and then there are opportunities

1715 for them to sign saying they have read something, but in the
1716 sales pitch, in the discussion, the oral discussion that has
1717 had with the customer, it is not necessarily the case that
1718 they are made aware of the spread issue from what I am
1719 understanding.

1720 The second question I had is, if the spread is going to
1721 be--well, whatever the spread is going to be in a particular
1722 case, is that information provided to the customer? I guess
1723 following on the first point, the answer to that must be no.
1724 So 30 to 35 percent is sort of the range that they can get
1725 off the paper but they are not going to know specifically
1726 what the spread is going to be in their particular case,
1727 right?

1728 Mr. {Carter.} No, sir. We cover in the sales process
1729 in the time of the sale the spread between the commission
1730 salesperson and the customer, and in addition there is a
1731 sales confirmation process that is separate from the sales
1732 process where we have a client service representative that
1733 covers the products that have been purchased, the total
1734 amount that you are paying, the fees associated with it to
1735 confirm that--

1736 Mr. {Sarbanes.} So if there was a hard sell going on by
1737 one of your salespeople where that information wasn't being
1738 provided, that would be noncompliant with the policies that

1739 you claim you have in place, it sounds like.

1740 Mr. {Carter.} Congressman, there are multiple places
1741 where we disclose the spread, as I said. It is not only the
1742 initial information that is mailed out to the customer where
1743 they take a period of 7 to 10 days to read, there is also a
1744 confirmation of that at the sales process.

1745 Mr. {Sarbanes.} All right. I have run out of time. So
1746 real quick let me just ask you this. You say 35 percent is
1747 the highest spread. We have information that it is higher,
1748 but just based on the first witness, who I think if I recall,
1749 the investment was \$143,000. At the sale point, which was 6
1750 months later, at a point when it didn't appear that the value
1751 of gold had changed much at all, at the sale point he got
1752 \$80,000 back. The implication of that was that you had a
1753 loss of value. Now, you would attribute that to the
1754 numismatic markup in the spread but that is--I mean, I did
1755 the math and that is 43 percent right there. So just in that
1756 particular case, it doesn't appear that the claim that the
1757 spread is limited to 30 to 35 percent applied and that
1758 suggests there may be other situations that are similar to
1759 that.

1760 Mr. {Carter.} If I could respond, Congressman, Dr.
1761 Bazan's testimony, the spread was 35 percent on the products
1762 that he purchased, the difference between our ask and our bid

1763 price. As it has been pointed out before, that is a markup
1764 of 54 percent. So we buy the product back. What was not
1765 provided in the testimony is that when we bought the proof
1766 American gold coins back from Dr. Bazan, we paid a price of
1767 over \$2,080 an ounce. So when gold was trading at \$1,110,
1768 Dr. Bazan received from Goldline double what the melt value
1769 of the coin was. And the reason why that is, is because
1770 these are coins that have a scarcity and a demand and a
1771 collector value. So it is not in this case the melt value of
1772 the coin that drives the price, it is the market price. We
1773 paid twice the melt value to Dr. Bazan when he liquidated.
1774 So the difference between what he originally paid in his ask
1775 and the bid price is really our spread, and he held it much
1776 shorter despite our disclosures, he held it for a much
1777 shorter period of time and was not able to overcome that
1778 spread to earn a profit like other customers have held our
1779 other products and actually earned a profit. We don't like
1780 to see any client disappointed, certainly not Dr. Bazan
1781 either, but he went directly against the disclosures. By the
1782 way, the disclosures--

1783 Mr. {Sarbanes.} Oh, I understand he sold it faster than
1784 you recommend. I understand that point. But I am just
1785 talking about the markup appears, if that's equivalent to the
1786 spread, appears to be beyond what you indicated is the

1787 ceiling on that. I have run out of time. Thank you.

1788 Mr. {Rush.} The Chair recognizes the gentleman from
1789 Nebraska, Mr. Terry, for 5 minutes.

1790 Mr. {Terry.} Thank you, Mr. Chairman.

1791 I am just trying to get my mind around the issue here,
1792 if the FTC is here, there is inherently an accusation, and
1793 Mr. Weiner has been very clear with his accusation of fraud
1794 and deceptive practices and deceptive advertising. So I kind
1795 of want to get into that aspect of whether there is a real
1796 basis for this. And so typically if you are providing
1797 accurate, truthful information to the consumer, you don't
1798 have fraud. It is when you are providing, as Mr. Weiner has
1799 said, lies, fear and lies is what he says. If you are going
1800 to use that as the basis for turning someone in or designing
1801 legislation, you should probably add in the DCCC and some of
1802 their advertising. But we won't go there today.

1803 But I want to ask, this seems to be--I have got the
1804 book, account and storage agreement. So Mr. Carter, is this
1805 what you provide your customers like the doctor-- what was
1806 his name--Bazan, Dr. Bazan? Is this what he received? Let
1807 me take a step back. You don't do outbound to him. You
1808 didn't call him and try to sell him or pitch to buy gold? He
1809 contacted you or a consumer contacts you?

1810 Mr. {Carter.} Correct.

1811 Mr. {Terry.} And then you send them the information,
1812 correct?

1813 Mr. {Carter.} Yes.

1814 Mr. {Terry.} What information do you send them?

1815 Mr. {Carter.} We send them an investor investment kit.

1816 Dr. Bazan contacted us via the Internet first. You are
1817 absolutely correct. We do not make outbound calls so he
1818 actually was searching for a product and originally contacted
1819 us by one of our Internet advertisements. The time between
1820 he initially contacted us and actually made a purchase was 60
1821 days. In that period of time, he was mailed the disclosure--

1822 Mr. {Terry.} Again, I'm going to interrupt you because
1823 I just have a little bit of time. What did he receive then
1824 after he called and requested the information, or
1825 generically, what does every consumer receive?

1826 Mr. {Carter.} Every consumer receives the Coin Facts
1827 risk disclosures, which is a complete coverage of our
1828 pricing, diversification, risk factors. This is for him to
1829 be prepared and to seek and understand what he is
1830 considering. He receives the account and storage agreement
1831 that he can read at his leisure and must be signed before a
1832 sale is final if he chooses to purchase.

1833 Mr. {Terry.} Well, and I have just seen these documents
1834 today but when we heard testimony earlier regarding the

1835 spread, I was handed this, and within about 3 minutes found
1836 the information on page 11 and it seems to be fairly clearly,
1837 unlike some of the bills we write here, clearly set forth and
1838 pretty easy to figure out that if you are going to sell it
1839 back, you are going to take a 35 percent loss on selling it
1840 back, or however you want to phrase it. Do you agree that
1841 that is clear?

1842 Mr. {Carter.} Yes, I do. I think it is very clear in
1843 two forms, easily understandable with examples.

1844 Mr. {Terry.} And in that regard, with the bill that Mr.
1845 Weiner has proposed and the disclosure requirements, with
1846 what you provide the consumers today, do you feel that your
1847 disclosures are below what he is asking for, exceed or would
1848 already meet the requirements that were proposed in his hill?

1849 Mr. {Carter.} As it is presently written, I believe the
1850 disclosures that we require exceed what the Congressman is
1851 proposing. He is proposing different disclosures, but what
1852 we provide to the client, prospective client from a
1853 disclosure standpoint, is much more comprehensive than what
1854 the bill states, with the exception of the resale value that
1855 as I said in my testimony will be very difficult to determine
1856 with a competitor base of 5,000.

1857 Mr. {Terry.} I am out of time. Thank you.

1858 Mr. {Rush.} We will conduct a second round of

1859 questioning for 2 minutes, and we will allow each member an
1860 additional 2 minutes to question the witnesses, and the Chair
1861 recognizes himself for 2 minutes.

1862 Mr. Carter, you were present during Dr. Bazan's
1863 testimony. Is that correct?

1864 Mr. {Carter.} Yes.

1865 Mr. {Rush.} And he presently sits right behind you now.
1866 So are you suggesting to him that he did something wrong in
1867 his transaction with Goldline?

1868 Mr. {Carter.} Mr. Chairman, I am suggesting that having
1869 known the disclosures that we gave him and him acknowledging
1870 them through his signoff, that if he were to need this money
1871 very quickly as he did, he decided that he wanted to,
1872 according to our account notes, invest in a different stock,
1873 which is 100 percent his choice, but having regarded the
1874 disclosures of hold period and diversification put him in a
1875 position where because it was such a short period of time
1876 that he would not recover the fees associated with the
1877 original purchase, and so in that regard, and when he called
1878 for liquidation, the person he spoke to informed him of that,
1879 that this is well short of our 3- to 5-year disclosure period
1880 and advised him of that but yet in his quote he had a hot
1881 stock he wanted to pursue. Perfectly fine. We all
1882 understand that. But it is directly and contrary to what we

1883 encouraged him to read and disclose and do, and as a result--

1884 Mr. {Rush.} Dr. Bazan seems to be a man of some
1885 wherewithal. I mean, he seems to be a man of sound mind and
1886 a competent individual. Are you telling me that a member of
1887 your organization advised him that if he divested of his
1888 purchase that he would lose approximately \$60,000 at that
1889 moment and then in spite of that he went on and divested of
1890 his purchase?

1891 Mr. {Carter.} We didn't advise him. What we said is
1892 that this is in contrast to a 3- to 5-year hold period before
1893 he liquidated to make sure that that was a decision--

1894 Mr. {Rush.} And that he would stand to lose \$60,000 if
1895 he did not accept your scenario, and you won't call it advice
1896 but--

1897 Mr. {Carter.} Yes, Mr. Chairman, the liquidation
1898 process would tell him the amount of money that he was going
1899 to receive. That is why they call the amount of money he
1900 would receive if he were to liquidate.

1901 Mr. {Rush.} So are you suggesting now, are you telling
1902 the subcommittee that Dr. Bazan is totally at fault in this
1903 situation? He is totally at fault for losing \$60,000 of his
1904 own money?

1905 Mr. {Carter.} I am saying yes, I am saying Dr. Bazan
1906 did not adhere to the compliance and the disclosure

1907 requirements that we provide.

1908 Mr. {Rush.} The Chair recognizes the ranking member,
1909 Mr. Whitfield, for 2 minutes.

1910 Mr. {Whitfield.} Well, thank you again, and once again
1911 I want to thank all the witnesses for being here and the
1912 members for joining us as we explore this issue. Rather than
1913 a question, I guess I will kind of summarize this in my mind,
1914 but the FTC as far we know never initiated any enforcement
1915 action against Goldline or tried to institute any fine or
1916 civil penalty against Goldline. I know Mr. Weiner talked
1917 about you were giving financial advice, and maybe it could be
1918 interpreted that way but when you do read the account and
1919 storage agreement, paragraph 7 says that client understands
1920 that Goldline believes coins and bullion are appropriate for
1921 5 to 20 percent of a portfolio although certain individuals
1922 or organizations might recommend a different percentage.
1923 Client will independently determine what percentage is
1924 appropriate for him or her based upon their individual
1925 circumstances.

1926 Now, I would agree that buying gold is not like buying a
1927 television or buying any normal consumer product but I would
1928 say that gold is similar in some ways because they are trying
1929 to determine value of land, futures, diamonds, silver, fine
1930 art, rubies, emeralds, all of those things, and it would seem

1931 to me that if this is a major problem, that maybe this
1932 legislation should include other things, not just gold, but I
1933 look forward to working with the chairman and Mr. Weiner, who
1934 introduced the legislation, and others. I know that the FTC
1935 has already said that they do have problems with the
1936 legislation because of the definition of reasonable resale
1937 value as well as some exemption issues, but I don't think you
1938 can--you have been in business 50 years? Goldline has been
1939 in business 50 years? Is that correct, Mr. Carter?

1940 Mr. {Carter.} Yes, we have.

1941 Mr. {Whitfield.} So this is a company that has been in
1942 business for 50 years and 40 percent of its business is
1943 repeat customers, so I cannot imagine that this is
1944 widespread, but I may be wrong, but thank you all for your
1945 testimony and I look forward to working with you.

1946 Mr. {Rush.} The Chair recognizes Mr. Weiner for 2
1947 minutes.

1948 Mr. {Weiner.} Thank you very much, Mr. Chairman.

1949 Mr. Bazan, the previous witness, he didn't lose all that
1950 money because of what he did; he lost all that money because
1951 you overcharged him. You took \$140,000 investment and gave
1952 him \$85,000 when he tried to turn it back to you. That is
1953 it. That is what happened. If he would have bought \$140,000
1954 and someone else gave him \$120,000 back, they got a better

1955 deal there, didn't they? Of course. That is what happened
1956 here. The idea, he didn't follow our prescription to wait 5
1957 to 10 years, well, I ask you, Mr. Chairman, what if the
1958 market went down in that time? Does that then go to 15, then
1959 20? The whole point is what Mr. Scalise inadvertently said.
1960 He said the same thing happens in the stock market. You buy
1961 stock, it goes up, it goes down. Yes, we protect people and
1962 make sure there is transparency. We make sure that everyone
1963 understands what they are buying. One person buys a stock,
1964 another person buys the stock. It is the same thing. You
1965 charge for a product much, much more for someone else. You
1966 brag about how much the return was, and by the way, you are
1967 very good at this. You brag about how much the return was if
1968 you bought the Swiss franc. You didn't point out that that
1969 200 percent increase corresponds to a 319 percent increase in
1970 that same period of time in the gold market. It is a bad
1971 investment.

1972 It is not whether or not you think gold goes up and
1973 down, Mr. Scalise, and it will. But I tell you one thing for
1974 sure: if you are holding a lot of Swiss francs when the
1975 market collapses, good luck going and buying a load of bread
1976 with that. Good luck. Maybe your neighborhood store will
1977 take your Swiss franc. The only value it has at that point
1978 is whether or not you can sell it for more dollars than you

1979 bought it. That is the only measure. That is it. That is
1980 an investment. I know you are an investment advisor. You
1981 might want to write this down. This isn't well, it is my
1982 booklet that if you hold it 5 to 10 years maybe it will get
1983 better. No, 5 to 10 years in an up market, right? If it
1984 goes down it is going to take more than that, won't it, Mr.
1985 Carter? If gold goes down, it takes more than that, won't
1986 it?

1987 Mr. {Carter.} Certainly, like any--

1988 Mr. {Weiner.} Of course, of course. So it could be 50.
1989 Then are you going to have a witness who comes here who lost
1990 his life savings, some middle-class guy, oh, it is his fault
1991 because he didn't wait 30 years. This is not whether or not
1992 consumers are idiots, it is whether or not they are being
1993 lied to and exploited by your company, and I would say this,
1994 and I would say this, Mr. Chairman, and I appreciate Mr.
1995 Whitfield's offer, is that there is some responsibility that
1996 we have not to exploit people in this moment of fear by
1997 making it worse. There is some responsibility. There is
1998 some responsibility to be honest with them. When you are
1999 dealing with their life savings, 50 years and complaints and
2000 non-disclosure agreements you make people sign, the
2001 fundamental question is this, is should you be doing this,
2002 should you be exploiting people this way, should you be

2003 taking advantage of the fear and anxiety that they have?
2004 Should you be implying to people that a confiscation order is
2005 in place that hasn't been in place since my father was born?
2006 That is just wrong. And what we should try to do, Mr.
2007 Chairman, is we should endeavor to give people the tools to
2008 do it. And I say to my good friend, yes, it is in here, we
2009 are going to rip you off. That doesn't make it right. It
2010 doesn't make it right when we know by comparing--you can go
2011 to my website and look at the comparison.

2012 There are places that aren't doing it or aren't doing it
2013 as much, and this is in the seam, I would say by way of
2014 conclusion, Mr. Whitfield, because this I think is where we
2015 can try to find some common ground. This isn't a seam. It
2016 is kind of an investment but it is kind of a commodity. I
2017 think we do need to structure things a little bit
2018 differently. To a lot of people, to the witness, to a lot of
2019 Americans that buy your product, it is being treated as an
2020 investment. You go on the business stations to talk about
2021 it. You use words like divestment strategy. It is treating
2022 it like an investment. You don't hedge inflation by buying a
2023 TV. And for that reason, I say we need to find this way.
2024 And one thing is clear. If you look at the district attorney
2025 of Santa Monica, the FTC, the attorney general of Missouri,
2026 the Better Business Bureau, we need to get this under

2027 control, and I appreciate you shedding some light on and to
2028 all members of the panel and to you, Mr. Chairman.

2029 Mr. {Rush.} Mr. Terry is recognized for 2 minutes.

2030 Mr. {Terry.} Unanimous consent for 4 minutes to have
2031 the same amount of time as Mr. Weiner.

2032 Mr. {Rush.} Mr. Terry is recognized for 2 minutes and
2033 whatever amount of time he wants, he can have it.

2034 Mr. {Terry.} I would agree with Mr. Weiner in part and
2035 disagree. One is, it is not a good investment. It is not
2036 something I would do. As a matter of fact, when I was in
2037 college, a friend of mine thought that gold would be a great
2038 investment. We went to a shop. They wanted 20 percent on
2039 top of the sale. I said I am not going to do that. I made
2040 up my own mind. But to call what is in here a lie is wrong.
2041 I mean, it is clearly set forth in here. So the issue is in
2042 the interpretation of the consumer they get to decide whether
2043 that is a good investment or not.

2044 So I would ask the gentlelady from the FTC, have you had
2045 a finding on the advertising from this company that they have
2046 lied to consumers? Because you get to decide that, because
2047 that would be right under your jurisdiction. Have you found
2048 that?

2049 Ms. {Greisman.} Congressman, as I mentioned earlier,
2050 there is no FTC action against Goldline.

2051 Mr. {Terry.} All right. So is there any actions
2052 pending about whether or not they have lied?

2053 Ms. {Greisman.} I cannot indicate whether or not the
2054 company may or may not be under investigation.

2055 Mr. {Terry.} I am switching gears on you here a little
2056 bit, but how many complaints have there been against all of
2057 the, was it 500, I am sorry, Mr. Carter, 500 or 5,000?

2058 Mr. {Carter.} Five thousand.

2059 Mr. {Terry.} Five thousand companies selling gold.

2060 Ms. {Greisman.} Over the past 5 years, the FTC has
2061 received roughly 850 complaints involving coins and precious
2062 metal investments. It is a small number but again that is
2063 not dispositive as to whether or not there may be--

2064 Mr. {Terry.} True. I would agree with that statement.
2065 How many against Goldline?

2066 Ms. {Greisman.} I don't recall the specific number,
2067 sir.

2068 Mr. {Terry.} Do you know how many against ITM? Have
2069 you heard of them?

2070 Ms. {Greisman.} I do not know the answer.

2071 Mr. {Terry.} Okay. So all of the complaints totality
2072 is what again?

2073 Ms. {Greisman.} Over the past 5 years, roughly 850.

2074 Mr. {Terry.} And out of the 850, have there been any

2075 actions against those companies for fraudulent advertising?

2076 Ms. {Greisman.} I can't answer that question because I
2077 don't--I can't answer it directly. I can say as I said
2078 earlier the FTC has not sued any company recently involving
2079 misrepresentations in connection with precious metals or
2080 coins.

2081 Mr. {Terry.} Okay. So the issue here before this
2082 committee is whether it is a good investment or not, and I am
2083 not sure that is wise for this committee to make that
2084 decision, but I do think it is the obligation of the business
2085 to fully disclose all of the costs in here in that
2086 transaction as well as if you are going to buy it back from
2087 the consumer, and frankly, I think that information is laid
2088 out in pretty plain language.

2089 So at that point in time I will yield back.

2090 Mr. {Rush.} The Chair now recognizes the gentleman from
2091 Maryland, Mr. Sarbanes, for 2 minutes.

2092 Mr. {Sarbanes.} Mr. Carter, you said that you feel that
2093 the disclosure that you all provide to the customers is
2094 pretty good disclosure, correct, in your view?

2095 Mr. {Carter.} Yes.

2096 Mr. {Sarbanes.} And in fact, I think you said to
2097 Congressman Weiner or somebody that the disclosure you have
2098 even goes beyond some of the requirements that are laid out

2099 in the legislation as you read it. Is that correct?

2100 Mr. {Carter.} We disclose more than is specifically
2101 identified in the legislation although the legislation does
2102 identify things that we currently don't disclose that we
2103 would challenge and have issue with.

2104 Mr. {Sarbanes.} Is your disclosure better or worse in
2105 your judgment than most of the other companies that are in
2106 the industry in which you operate?

2107 Mr. {Carter.} Well, as I said, there are 5,000. We
2108 believe that we have best practices in the industry and full
2109 disclosure with our eye on the prospective client. I haven't
2110 done exhaustive research on what our competitors are
2111 disclosing. I want to make sure that our disclosures are
2112 fair and that the prospective client is making--

2113 Mr. {Sarbanes.} You don't have any sense of whether you
2114 think you are sort of at the top of the class when it comes
2115 to the disclosure you do, or middle?

2116 Mr. {Carter.} Yes, I do, Congressman. I believe we are
2117 at the top of the class.

2118 Mr. {Sarbanes.} And I presume that you strive for
2119 disclosure because you feel like that is a good thing for
2120 your customer?

2121 Mr. {Carter.} Absolutely, yes.

2122 Mr. {Sarbanes.} So one would hope that you would feel

2123 the same way about the customers of these other companies
2124 that operate these offerings, right?

2125 Mr. {Carter.} Absolutely, Congressman, and what I said
2126 in my testimony is that we are for disclosure. That is not
2127 our issue with this bill. The issue with this bill is the
2128 definitions of what is excluded and the type of disclosure
2129 about resale value in aggregating 5,000 competitors is just
2130 not workable for any competitors including ourselves. So we
2131 absolutely support disclosure. It is just this current
2132 legislation, the type of disclosure that it is requesting is
2133 not capable and would ultimately harm the customer because of
2134 the information that is provided.

2135 Mr. {Sarbanes.} Well, I get the feeling that you are
2136 generally supportive of Congressman Weiner is trying to do,
2137 and I expect there is going to be some further development on
2138 this legislation. He has put the pieces together that I
2139 think make a lot of sense, and you certainly are someone who
2140 promotes good, strong disclosure, which is what is at the
2141 heart of this bill, so I am sure he looks forward to having
2142 your support going forward, and I yield back.

2143 Mr. {Rush.} The Chair will declare to the subcommittee
2144 members and to the witnesses that the record for this hearing
2145 will remain open for 14 days so that any member of the
2146 committee might want to ask questions of the witnesses in

2147 writing and the witnesses will be asked to respond as quickly
2148 as possible promptly to the questions in writing from members
2149 of the committee. The record will remain open for an
2150 additional 14 days.

2151 With that said, the committee now stands adjourned. I
2152 want to again thank the witnesses for your investment of your
2153 time in this particular matter. Thank you, and may you
2154 return home with Godspeed. Thank you so much. The committee
2155 stands adjourned.

2156 [Whereupon, at 5:12 p.m., the Subcommittee was
2157 adjourned.]