

**FEDERAL TRADE COMMISSION**  
**OFFICE OF INSPECTOR GENERAL**



**SEMIANNUAL REPORT TO CONGRESS**

**October 1, 2008 – March 31, 2009**

**Report No. 41**



Office of Inspector General

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
WASHINGTON, D.C. 20580**

April 30, 2009

The Honorable Jon Leibowitz  
Chairman  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580

Dear Chairman Leibowitz:

I am pleased to present the attached report that covers the Office of Inspector General's (OIG) activities for the first half of fiscal year 2009 and is submitted according to Section 5 of the Inspector General Act of 1978, as amended.

During the six-month reporting period ending March 31, 2009, the OIG issued an audit of the FTC's FY 2008 financial statements and performed an *External Peer Review* of the National Labor Relations Board.

The OIG processed 51 consumer inquiries and complaints/allegations of possible wrongdoing during the reporting period. We opened one new investigation of possible misconduct and closed four investigations during the current reporting period. We referred two of the closed investigations to agency management and one to another federal law enforcement agency with criminal jurisdiction. The final closed investigation resulted in no referral.

As in the past, management has been responsive in working with the OIG to implement all proposed recommendations. I appreciate management's support and I look forward to working with you in our ongoing efforts to promote economy and efficiency in agency programs.

Sincerely,

John M. Seeba  
Inspector General

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## INTRODUCTION

The Federal Trade Commission (FTC) seeks to ensure that the nation's markets are competitive, efficient and free from undue restrictions. The FTC also seeks to improve the operation of the marketplace by ending unfair and deceptive practices with emphasis on those practices that might unreasonably restrict or inhibit the free exercise of informed choice by consumers. The FTC relies on economic analysis to support its law enforcement efforts and to contribute to the economic policy deliberations of Congress, the Executive Branch and the public.

To aid the FTC in accomplishing its consumer protection and antitrust missions, the Office of Inspector General (OIG) has 5 staff members and a budget of \$1,065,700 for fiscal year 2009.

## AUDIT ACTIVITIES

During the six month reporting period ending March 31, 2009, the OIG issued an audit of FTC's FY 2008 financial statements. The OIG also performed an External Peer Review of the National Labor Relations Board Office of Inspector General.

### Completed Audit

The OIG completed the following during the first half of FY 2009:

#### AR 09-001- Audit of the Federal Trade Commission's Financial Statements for the Fiscal Year Ending September 30, 2008

Federal law requires that the FTC obtain an annual independent audit of its financial statements, which the OIG oversees. We contracted with the independent public accounting firm of Dembo, Jones, Healy, Pennington & Marshall, P.C. (DJHPM) under a multiyear contract for which the OIG serves as the Contracting Officer's Technical Representative (COTR). The oversight ensured that the audit complied with generally accepted government auditing standards.

The audit was performed in accordance with U.S. generally accepted government auditing standards and OMB audit guidance. For the twelfth consecutive year the FTC received an unqualified opinion, the highest opinion given by independent auditors. As a result of the audit of FTC's financial statements for the years ended September 30, 2008 and 2007, DJHPM found:

- the financial statements were fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles,
- no material weaknesses in internal control over financial reporting (including safeguarding of assets) and compliance with laws and regulations,
- no reportable noncompliance with laws and regulations tested.

The complete audit report is located on page 90 of FTC's FY 2008 Performance and Accountability Report and can be found on the FTC's website at <http://www.ftc.gov/opp/gpra/2008parreport.pdf>

### **Audits Planned or In-Progress**

The OIG plans the following activities during the second half of FY 2009:

#### AR 09-001- Audit of the FTC's Financial Statements for Fiscal Year 2009

This audit is required annually under the Accountability of Tax Dollars Act of 2002. The purpose of the audit is to express an opinion on the financial statements of the Federal Trade Commission for the fiscal year ending September 30, 2009. The audit will also test the internal controls associated with the FTC's financial system and assess compliance with selected laws and regulations. The audited financial statements are required to be included in the financial section of the agency's Performance and Accountability Report to be issued on or before November 15, 2009.

The size and tight deadlines needed for this audit require that the OIG hire an independent public accountant to perform this work. The OIG will act as the Contracting Officer's Technical Representative (COTR) and provide oversight on the contract.

#### Annual FISMA Review for Fiscal Year 2009

The Federal Information Security Management Act of 2002 (FISMA) requires an annual review of federal agency information security programs and practices to determine their effectiveness. The review includes evaluating the adequacy of the FTC's computer security program and practices for its major systems. This year, the review will again focus on the FTC's *Plan of Action and Milestones* to determine the extent to which the agency has implemented previously agreed upon OIG and other internally identified recommendations. This will enable the OIG to provide feedback to management on the results of its efforts to address program weaknesses.

The complexity of this audit requires us to hire an independent consultant to perform this work. The OIG will act as the COTR and perform oversight during the execution of this contract.

The OIG has initiated work on the following audits:

#### FTC Travel Program

The objective of this audit will be to determine compliance with applicable travel regulations. We will determine if internal controls are in place and operating to deter fraud, waste and abuse. We will also review the FTC travel card program, the electronic FedTraveler system, and other systems related to the FTC travel system.

#### COTR Oversight of Sole Source Contracts

The audit objective is to determine whether Contracting Officer's Technical Representatives are monitoring contractor activities to ensure that they deliver the goods or services listed in the contract in a timely manner; meet or exceed contract requirements; and control overall contract costs. The audit started in February 2009 and will review contracts issued in fiscal years 2007, 2008 and 2009. We expect to complete this review by the end of September 2009.

#### **Inspection Planned**

Based on an investigation closed during this period, the OIG intends to conduct an inspection of the current policies and procedures over physical security of information systems equipment.

#### **Other Potential Reviews**

During the year we will also conduct research on the following to determine any areas for audit:

- Review of the fee collection process for HSR and DNC fees
- Inventory controls over accountable property

#### **Other Office Activities**

#### External Peer Review of the National Labor Relations Board Office of Inspector General

In accordance with auditing standards, external peer reviews are conducted within the OIG community to evaluate the audit organization's system of internal quality control and to ensure that it complies with generally accepted government auditing standards. The purpose of the peer review is to determine whether the audit organization has a quality control system in place to provide reasonable assurance that it is following all applicable auditing standards. During this reporting period, the OIG conducted an external peer review of the National Labor Relations Board Inspector General Audit Organization (NLRB OIG) for the year ended September 30, 2008. We conducted our

review in accordance with the guidelines established by the Council of the Inspectors General on Integrity and Efficiency and rendered an unqualified opinion on the NLRB OIG's audit quality control system in effect for the year ended September 30, 2008. The results of our peer review can be found on the NLRB OIG website at <http://www.nlr.gov/nlr/about/ig/reports/PeerReviews/>

## **INVESTIGATIVE ACTIVITIES**

The Inspector General is authorized by the IG Act to receive and investigate allegations of employee misconduct as well as fraud, waste and abuse occurring within FTC programs and operations. Matters of possible wrongdoing are referred to the OIG in the form of allegations or complaints from a variety of sources, including FTC employees, other government agencies and the general public. Reported incidents of possible fraud, waste and abuse can give rise to administrative, civil or criminal investigations.

### **Investigative Summary**

During this reporting period, the OIG received 51 consumer and other inquiries and reports of possible wrongdoing. Of the 51 complaints 33 involved issues that fall under the jurisdiction of FTC program components (identity theft, credit repair, etc.). These matters were referred to the appropriate FTC component for disposition. Of the remaining complaints, the OIG opened one new investigation and 8 complaints were closed with no further OIG action. Five of the remaining complaints involved a preliminary OIG inquiry that consumed considerable OIG resources but did not result in a full phase OIG investigation. Two complaints to the OIG were referred to another federal or state agency with appropriate jurisdiction. The remaining two complaints were ongoing at the close of this reporting period.

Following is a summary of the OIG's investigative activities for the six-month period ending March 31, 2009:

<b>Cases pending as of 9/30/08</b>	<b>5</b>
<b>PLUS: New Cases</b>	<b>1</b>
<b>LESS: Cases Closed</b>	<b>(3)</b>
<b>Cases Pending as of 3/31/09</b>	<b>3</b>

### **Investigations Closed**

During this reporting period, the OIG closed three investigations. The first investigation involved missing FTC servers that contained numerous hard drives. The hard drives contained personally identifiable information (PII) in addition to other non-public and sensitive information. Based on our investigation, the OIG concluded that the servers had been taken off site and destroyed. The OIG informed agency management of

the results of the investigation. The OIG intends to conduct further activity in the area of physical security of PII, sensitive health information and other non-public and sensitive information handled by the agency.

The second closed investigation, opened during a prior reporting period, involved an alleged physical assault of a contractor employee by a member of FTC staff. Although the FTC employee denied the allegation that she kicked the contractor employee, our investigation revealed that there was at least one eyewitness to the alleged physical assault. The OIG completed its investigation and referred the matter to agency management for appropriate action.

The third closed investigation, also opened during a prior reporting period, involved fraudulent consumer redress checks, purportedly issued by the FTC. The agency's Bureau of Consumer Protection, which oversees the administration of refunds to consumers who were victims of deceptive acts or practices or unfair methods of competition notified the OIG that several counterfeit consumer redress checks were in circulation. There had been several attempts to negotiate the counterfeit checks against the FTC's consumer redress bank accounts. The OIG's investigation was unsuccessful in locating the individuals and corporations named on the counterfeit FTC checks. Some of the checks were issued to legitimate consumer redress recipients in Nigeria, however, most of the checks made available to the OIG were issued to individuals with no connection to any FTC enforcement action in which consumer redress had been ordered. Evidence indicated that the counterfeit checks were created based on data contained on the legitimate redress checks issued to legitimate redress recipients in Nigeria. Because the United States Postal Inspection Service had ongoing related investigations, the OIG referred the matter to that organization for inclusion in its ongoing fraud investigation.

### **Investigative Concern**

For more than a year, the OIG has received numerous consumer complaints related to lottery and sweepstakes scams where names of Federal agencies and agency staff are being used to add an air of legitimacy, and coerce consumer participation. The OIG continues to work within FTC and with outside law enforcement agencies in addressing these scams. In addition, the OIG has posted a scam alert on the OIG website at <http://www.ftc.gov/oig/>.

### **Matters Referred for Prosecution**

During this reporting period the OIG did not refer any new matters to the Department of Justice (DOJ) for consideration of potential criminal action.

A matter referred to DOJ during the previous reporting period remains pending at DOJ (Office of Public Integrity), with no final action to date.



## **OTHER ACTIVITIES**

### **Liaison with Other Agencies**

During this reporting period, our investigative staff continues to assist the Legal Services Corporation (LSC) OIG in the prosecution of a matter with the Assistant United States Attorney in the Western District of Texas. Our staff member investigated the matter as an employee of LSC OIG prior to joining the FTC OIG.

In conducting criminal investigations during the past several years, the OIG has sought assistance from, and worked jointly with other law enforcement agencies, including other OIGs, the Federal Bureau of Investigation, the U.S. Postal Inspection Service, the U.S. Secret Service, the U.S. Marshals Service, the Internal Revenue Service, U.S. Capitol Police, Federal Protective Service as well as state agencies and local police departments.

### **New Office Initiatives**

During this reporting period, the OIG completed implementation of AutoAudit software. AutoAudit automates key aspects of the audit process including risk assessment, scheduling, workpapers and reporting. The OIG will use AutoAudit to increase the efficiency and productivity of the audit process.

The OIG also implemented IDEA® Data Analysis Software. IDEA is a tool designed to quickly import, join, analyze, sample, and extract data from almost any source, including reports printed to a file. IDEA can access and analyze large volumes of data quickly, permitting greater efficiency and effectiveness in the audit process.

### **Assistance to Management**

The OIG assisted the Deputy Director of Administrative Services by working with the General Services Administration to obtain a rent refund of \$315,000 that had been outstanding since late 2007.

### **Activities within the Inspector General Community**

The FTC IG is an active participant of the Council of the Inspectors General on Integrity and Efficiency (CIGIE), a council of Inspectors General that promotes collaboration on integrity, economy, and efficiency issues that transcend individual agencies. The IG is a member of the Audit Committee of the CIGIE.

The FTC Inspector General is also the chair of the audit committee overseeing the audit of the Department of Defense Inspector General's financial statements. In this capacity, the IG along with 2 other senior government officials provide oversight on the

DOD IG's financial statement audit and advise the DoD Inspector General on any financial issues or concerns.

The OIG Audit Manager participates regularly in the monthly meeting of the Financial Statement Audit Network, and was part of the working group that revised the CIGIE Audit Committee Guide for External Peer Reviews.

Our IG Counsel participates regularly in the monthly meeting of the Council of Counsel to the Inspectors General (CCIG), as well as contributes to the legal discourse within that Council on matters that are germane to the entire IG community. Currently, the Counsel is participating in a CCIG Working Group that is formulating a standard Memorandum of Understanding for the provision of shared legal counsel services. The MOU will be used by Inspectors General who have no independent counsel and who must utilize the legal services of another counsel who reports directly to an IG. This collaborative work is intended to streamline the process for obtaining shared legal counsel services in order that smaller OIGs may comply with new requirements enacted by the Inspector General Reform Act of 2008.

The Inspector General and Chief Investigator and Counsel briefed staff members of the House Committee on Energy and Commerce during this reporting period. The briefing focused on issues relating to the effectiveness of the FTC and OIG.

## **MANAGEMENT CHALLENGES**

The Reports Consolidation Act of 2000 requires inspectors general to identify the top management challenges facing their agencies. At the close of FY 2008, FTC OIG had identified 4 areas that posed significant challenges to agency management, based on work conducted by the OIG as well as information obtained during informal discussions with senior leaders within the Commission. The OIG prioritized the issues based on risk to the Commission: protection of data (both personally identifiable information and Commission sensitive data), information technology security, human capital issues and case management.

## **Significant Management Decisions**

Section 5(a)(12) of the Inspector General Act requires that if the IG disagrees with any significant management decision, such disagreement must be reported in the semiannual report. Further, Section 5(a)(11) of the Act requires that any decision by management to change its response to a significant resolved audit finding must also be disclosed in the semiannual report. For this reporting period there were no significant final management decisions made with which the OIG disagreed, and management did not revise any earlier decisions on OIG audit recommendations.

## **Access to Information**

The IG is to be provided with ready access to all agency records, information, or assistance when conducting an investigation or audit. Section 6(b)(2) of the IG Act requires the IG to report to the agency head, without delay, if the IG believes that access to required information, records or assistance has been unreasonably refused, or otherwise has not been provided. A summary of each report submitted to the agency head in compliance with Section 6(b)(2) must be provided in the semiannual report in accordance with Section 5(a)(5) of the Act. During this reporting period, the OIG did not encounter any problems in obtaining assistance or access to agency records. Consequently, no report was issued by the IG to the agency head in accordance with Section 6(b)(2) of the IG Act.

## **Audit Resolution**

As of the end of this reporting period, all OIG audit recommendations for reports issued in prior periods have been resolved. That is, management and the OIG have reached agreement on what actions need to be taken.

## **Review of Legislation**

Section 4(a)(2) of the IG Act authorizes the IG to review and comment on proposed legislation or regulations relating to the agency or, upon request, affecting the operations of the OIG. During this reporting period, the OIG reviewed no legislation.

## **Contacting the Office of Inspector General**

Employees and the public are encouraged to contact the OIG regarding any incidents of possible fraud, waste, or abuse occurring within FTC programs and operations. The OIG telephone number is (202) 326-2800. A confidential or anonymous message can be left 24 hours a day. Complaints or allegations of fraud, waste or abuse can also be emailed directly to [OIG@ftc.gov](mailto:OIG@ftc.gov). OIG mail should be addressed to:

Federal Trade Commission  
Office of Inspector General  
Room NJ-1110  
600 Pennsylvania Avenue, NW  
Washington, D.C. 20580

OIG reports can be accessed via the internet at: [www.ftc.gov/oig](http://www.ftc.gov/oig). A visitor to the OIG home page can download recent (1996-2007) OIG semiannual reports to Congress, the FY 1998 - 2007 financial statement audits, and other program and performance audits issued beginning in FY 1999. A list of audit reports issued prior to FY 1999 can also be ordered via an e-mail link to the OIG. In addition to this information resource about the OIG, visitors are also provided a link to other federal organizations and Office of Inspectors General.

**TABLE I: SUMMARY OF INSPECTOR GENERAL REPORTING REQUIREMENTS**

<b>IG ACT Reference</b>	<b>Reporting Requirement</b>	<b>Page(s)</b>
Section 4(a)(2)	Review of legislation and regulations	8
Section 5(a)(1)	Significant problems, abuses and deficiencies	n/a
Section 5(a)(2)	Recommendations with respect to significant problems, abuses and deficiencies	n/a
Section 5(a)(3)	Prior significant recommendations on which corrective actions have not been made	n/a
Section 5(a)(4)	Matters referred to prosecutive authorities	5
Section 5(a)(5)	Summary of instances where information was refused	8
Section 5(a)(6)	List of audit reports by subject matter, showing dollar value of questioned costs and funds put to better use	11-12
Section 5(a)(7)	Summary of each particularly significant report	1-2
Section 5(a)(8)	Statistical tables showing number of reports and dollar value of questioned costs	11
Section 5(a)(9)	Statistical tables showing number of reports and dollar value of recommendations that funds be put to better use	12
Section 5(a)(10)	Summary of each audit issued before this reporting period for which no management decision was made by the end of the reporting period	n/a
Section 5(a)(11)	Significant revised management decisions	8
Section 5(a)(12)	Significant management decisions with which the inspector general disagrees	8

**TABLE II: INSPECTOR GENERAL ISSUED REPORTS WITH QUESTIONED COSTS**

	Number	Dollar Value	
		Questioned Costs	Unsupported Costs
A. For which no management decision has been made by the commencement of the reporting period	0	0	(0)
B. Which were issued during the reporting period	0	0	(0)
<b>Subtotals (A + B)</b>	<b>0</b>	<b>0</b>	<b>(0)</b>
C. For which a management decision was made during the reporting period	0	0	(0)
<b>(i) dollar value of disallowed costs</b>	<b>0</b>	<b>0</b>	<b>(0)</b>
<b>(ii) dollar value of cost not disallowed</b>	<b>0</b>	<b>0</b>	<b>(0)</b>
D. For which no management decision was made by the end of the reporting period	0	0	(0)
Reports for which no management decision was made within six months of issuance	0	0	(0)

**TABLE III: INSPECTOR GENERAL ISSUED REPORTS WITH  
RECOMMENDATIONS THAT FUNDS BE PUT TO BETTER USE**

<b>Value</b>	<b>Number</b>	<b>Dollar</b>
A. For which no management decision has been made by the commencement of the reporting period	0	0
B. Which were issued during this reporting period	0	0
C. For which a management decision was made during the reporting period	0	0
<b>(i) dollar value of recommendations that were agreed to by management</b>	<b>0</b>	<b>0</b>
- based on proposed management action	0	0
- based on proposed legislative action	0	0
<b>(ii) dollar value of recommendations that were not agreed to by management</b>	<b>0</b>	<b>0</b>
D. For which no management decision has been made by the end of the reporting period	0	0
Reports for which no management decision was made within six months of issuance	0	0