

Criminal Liaison Unit Report 2022

Bureau of Consumer Protection

2018–2022



A Report to the Commission
January 2023



**FEDERAL TRADE
COMMISSION**

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The FTC Bureau of Consumer Protection’s Criminal Liaison Unit (“CLU”) has a long and accomplished record of ensuring criminal prosecution of consumer fraud cases. In recent years, however, CLU has made few public reports on its activities. The Commission recently announced a renewed emphasis on criminal prosecution and public reporting of its work in this area.¹ As part of the Commission’s increased focus in this area, this report describes the CLU program’s history, operations, and recent accomplishments.

CLU’s History

Throughout the 1990s, the FTC’s fraud program grew substantially, significantly increasing both the specific and general deterrence the agency achieved. However, the Commission’s success exposed a gap. Specifically, the remedies available to the FTC – monetary and injunctive relief – failed to fully deter some hardened fraudsters. To fill this gap, in 2002, the Commission established the CLU program to bring the “worst of the worst” offenders to the attention of criminal prosecutors.

Establishing the program, however, was the easy part of the journey. At the time, prosecutors had little interest in consumer protection cases, which they saw as paper-intensive, having little jury appeal, and unlikely to lead to significant sentences. Successive CLU Chiefs worked hard to establish relationships with prosecutors and teach them about the agency’s cases. Through this hard work and persistence, we found a small handful of prosecutors who were willing to take a risk on our cases. Many of these prosecutors were stationed in small, less well-known offices. For example, many of CLU’s early successes came from a single prosecutor in the Southern District of Illinois. These initial cases proved consumer protection prosecutions were not only viable but could yield substantial sentences.

As CLU grew, the program worked to address prosecutors’ concerns and help them prosecute cases. Toward this end, CLU Chiefs have strategically recommended cases most likely to be attractive to criminal authorities (*i.e.*, those with compelling evidence, jury appeal, and the potential for significant sentences). Using this strategy, CLU built strong relationships with prosecutors’ offices by presenting good cases and not wasting their valuable time. This hard-won reputation has served the program well, with several prominent offices now coming to us to seek cases. These relationships continue to yield benefits for the Commission and for consumers. CLU Chiefs will continue to engage regularly with prosecutors to ensure that our referral process is meeting their needs.

We then established the CLU and Shield Awards, which not only recognized our best partners for their invaluable work, but also created a cadre of CLU promoters to spread the word. To maximize this effect, the program regularly recommends new cases to our awardees and places their contact information, along with their accomplishments, on our non-public CLU page for prosecutors. Thus, these friendly prosecutors become a resource for other prosecutors and

¹ Commission Statement Regarding Criminal Referral and Partnership Process (“Statement”) (Nov. 18, 2021), available at https://www.ftc.gov/system/files/documents/public_statements/1598439/commission_statement_regarding_criminal_referrals_and_partnership_process_updated_p094207.pdf.

boosters for our cases. To further encourage new offices to take our cases, CLU built a non-public pleading library to help facilitate prosecutors' journey into consumer protection.

Early CLU Cases

In the mid-2000s, AUSA Bruce Reppert and his colleagues in the Southern District of Illinois obtained convictions or guilty pleas, and significant sentences, in a series of FTC-related matters, raising the agency's profile among prosecutors. Some of these early successes included:

- *U.S. v. Kimoto*: Kyle Kimoto ran an international telemarketing scam that duped consumers into paying advance fees for "credit cards" they never delivered. The FTC sued Kimoto and his associates in 2003. Bruce Reppert and his colleagues indicted Kimoto in 2008; Kimoto was found guilty at trial and sentenced to 29 years in prison later that year.*
*Kimoto's sentence was commuted at the end of the previous presidential administration after he served 12 of the 29 years.
- *U.S. v. Barrero*: Nelson Barrero convinced thousands of consumers to pay for work-at-home opportunities that never materialized. The FTC sued him in 2002; Bruce Reppert and his colleagues indicted Barrero in 2003 for the same conduct. Later that year, Barrero pled guilty and was sentenced to almost four years in prison.
- *U.S. v. Croteau*: The FTC sued directory-listing scammer Terrence Croteau in 2004 for scamming small businesses out of millions of dollars for purported business directory services they never ordered. Bruce Reppert and his colleagues successfully extradited Croteau, who pled guilty in 2006 and was sentenced to ten years in prison.

"Working with the FTC's CLU program helps our office identify and prosecute crimes affecting consumers' health, safety, economic security, and privacy. Using its unique investigative tools and expertise, the FTC is particularly able to develop strong evidence against those who cause consumers significant injury and loss. Collaborating with the FTC helps us to fulfill our mission, and we are fortunate to have the agency as a partner."

Gustav W. Eyler

Director, Consumer Protection Branch, U.S. Department of Justice

CLU Program Operations

The CLU program operates under the direction of a CLU Chief. The Chief position is a two-year appointment. Past CLU Chiefs have come from divisions and regions across the Bureau of Consumer Protection (“BCP”). Selecting a new CLU Chief every two years has allowed the CLU program to benefit from some of the most talented litigators from across the agency.

This regular infusion of new talent is the source of the program’s creativity and growth. For example, each CLU Chief conducts at least one project during his or her tenure to strengthen the program and increase its institutional knowledge. Past projects include: the building of a searchable library of charging documents for prosecutors; the creation of an indexed knowledge bank of research and model documents; the establishment of the CLU Awards; and other forward-looking projects that each successive CLU Chief builds upon.

Past CLU Chief Accomplishments

Past CLU Chiefs have been repeatedly recognized for their achievements on behalf of the FTC. Collectively, the agency has awarded the previous CLU Chiefs:

- Louis D. Brandeis Award for outstanding litigation achievements
- Paul Rand Dixon Award for outstanding legal work
- Stephen Nye Award for outstanding junior attorney
- Mentoring Award for excellence in mentorship
- Multiple Janet D. Steiger Awards for team accomplishments
- Multiple BCP Director’s Awards
- BCP Valued Mentor Award

In addition, CLU Chiefs have been selected for the Partnership for Public Service Excellence in Government Fellowship and the FTC’s leadership development programs.

The CLU Chief reports to the Director of the Enforcement Division. The Enforcement Division specializes in pursuing recidivist offenders, making it well suited to support CLU’s mission. The CLU Chief, however, actively pursues referrals from all divisions and regions, meeting regularly with Associate and Regional Directors, BCP front office staff, and BCP staff attorneys to identify cases for potential prosecution.

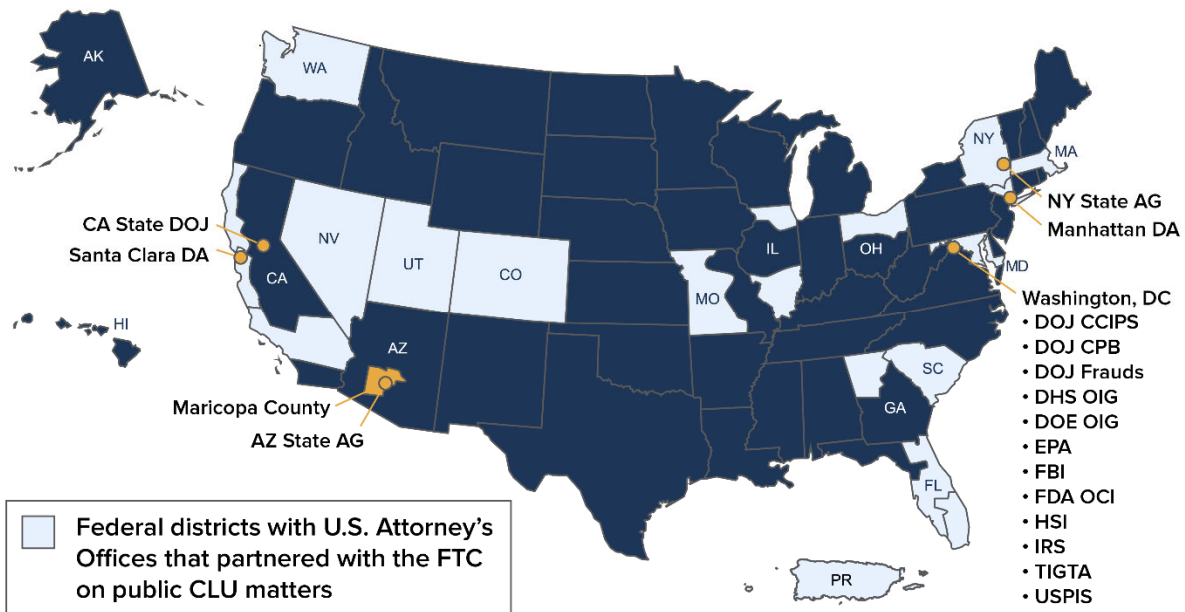
The CLU Chief also regularly conducts outreach to existing law enforcement partners and pursues new relationships. Establishing these relationships with many partners allows us to identify the offices most likely to welcome and successfully prosecute each case. CLU analyzes jurisdiction and venue, specializations, and prior experience with particular types of cases when looking for criminal law enforcement partners. CLU’s efforts to match cases with prosecutors builds trust between agencies and helps prosecutors and CLU to protect American consumers. Using these methods, CLU has built robust relationships with many US Attorney’s Offices, Divisions of the Justice Department, federal investigative agencies, and state and local authorities. Indeed, some such relationships are now so well established that CLU’s regular partners sometimes approach the FTC about possible prosecutions in cases the FTC has brought.

“The U.S. Postal Inspection Service’s long-term partnership with the Federal Trade Commission’s (FTC) Criminal Liaison Unit (CLU) has resulted in the protection of countless Americans from consumer harm. The success of this partnership highlights the value of civil and criminal enforcement agencies utilizing their unique, complementary authorities towards the same goal. It is also a testament to the professionals in the FTC’s CLU.”

Brendan Donahue

Assistant Inspector in Charge, Criminal Investigations Group, U.S. Postal Inspection Service

U.S. Attorneys’ Offices and Other Agencies Partnering on CLU Matters, 2015-2022



Fostering new relationships expands CLU’s reach and flexibility, but maintaining those relationships is the lifeblood of the program. The best way to build and maintain these relationships is to develop and litigate the fraud cases that lead to successful prosecutions and to communicate regularly with our criminal partners to understand their priorities. For example, in fiscal year 2022, CLU referred 15 matters for potential prosecution.

“We value our relationship with the FTC because some of our most high-impact consumer fraud cases originated there. We trust the FTC to bring important consumer matters to our attention and to share credible information and evidence that gives us a head start in building criminal cases.”

Sagar K. Ravi

Co-Chief, Complex Frauds & Cybercrime Unit, U.S. Attorney’s Office for the Southern District of New York

However, CLU also strengthens cooperation in other ways. For example, as noted above, the program regularly presents the CLU and Shield Awards. These awards recognize excellence in the prosecution and investigation, respectively, of consumer protection matters and deepen the FTC’s ties with the recipients and their agencies. Since the first presentation of the CLU Award in 2007, the program has recognized investigators and prosecutors in 13 different offices, including multiple U.S. Attorney’s Offices, field offices of the U.S. Postal Inspection Service, and the Justice Department. These awardees in turn become a valuable resource for other prosecutors who may want to bring a consumer fraud case but do not know how to begin.

Past CLU Award Recipients

- 2022 Katherine Kopita, Assistant United States Attorney, N.D.N.Y.
- 2019 Lisa D. Mayberry, U.S. Postal Inspection Service, C.D. Cal.
- 2018 Sean R. Delaney and Harry M. Gruber, Assistant United States Attorneys, D. Md.
- 2017 Clayton E. Gerber, U.S. Postal Inspection Service, DOJ Fraud Team
- 2016 Complex Frauds & Cybercrime Unit, United States Attorney’s Office, S.D.N.Y.
- 2015 Cesar Cerecedo, U.S. Postal Inspection Service, S.D. Fla.
- 2014 Hallie Mitchell Hoffman and Kyle F. Waldinger, Assistant United States Attorneys, N.D. Cal.
- 2013 Nicholas Alicea and Michael Hartman, U.S. Postal Inspection Service, M.D. Pa.
- 2012 Jeffery W. Davis and Jamila M. Hall, Assistant United States Attorneys, N.D. Ga.
- 2011 Jennifer Arbittier Williams, Assistant United States Attorneys, E.D. Pa.
- 2010 Ellyn Lindsay, Assistant United States Attorney, C.D. Cal.
- 2009 Patrick M. Donley and Peter B. Loewenberg, U.S. Department of Justice, Criminal Division, Fraud Section
- 2008 Bruce E. Reppert, Assistant United States Attorney, S.D. Ill.
- 2007 Richard Goldberg, U.S. Department of Justice, Consumer Protection Branch

CLU's 2022 Prosecutor's Award

The 2022 CLU Award recipient demonstrates the many advantages of the CLU program's relationship-building efforts. This year's honoree was Assistant U.S. Attorney Katherine Kopita of the Northern District of New York. Ms. Kopita successfully prosecuted the mastermind of a business directory listing scam that preyed on small businesses and charitable organizations in *U.S. v. Chernev*.



From left, current CLU Chief Sarah Waldrop, 2022 Prosecutor's Award Recipient Katherine Kopita, and Associate Director of the Enforcement Division James Kohm at the 2022 CLU Award ceremony

The FTC brought its case against Ivan Chernev and his associates in 2015. Chernev's operation contacted small businesses and nonprofits, including medical providers, schools, and churches, falsely claiming they owed money for business directory listings. If they did not pay, Chernev and his associates doubled down, sending harassing collections notices purporting to be from third-party debt collectors. Chernev's scheme took more than \$1.2 million from more than 1,300 victims.

However, Chernev and his associates are all foreign nationals, who operated the scam from Canada. They displayed a standard tactic for non-domestic defendants who target American consumers: simply ignore the FTC's suit as well as the default monetary judgment and injunctive relief the FTC obtains. Chernev's disregard for the civil law enforcement tools made him the poster child for prosecution by criminal law enforcement, which could employ the extradition powers a civil agency lacks. Nonetheless, extradition is a challenging and time-consuming process. Thus, not every prosecutor is willing to take on the work.

Fortunately, Ms. Kopita, and the Northern District of New York, were undeterred. She worked with not only the FTC, but also several of the agency's longstanding investigative partners, including the U.S. Postal Inspection Service, Homeland Security Investigations, the Royal Canadian Mounted Police, and the DOJ's Office of International Affairs. With these partners, and more than a little tenacity, she successfully extradited Ivan Chernev from Italy in 2019, and his brother Stefan Chernev in 2022. Following Ivan Chernev's extradition, Ms. Kopita obtained a guilty plea and a sentence of 5 years and 8 months, along with a \$1.25 million restitution order. The Northern District of New York's case against Stefan Chernev is ongoing.

Ms. Kopita's persistence and cross-border collaboration are more important than ever in an increasingly global era of consumer fraud. Moreover, the expertise she built in prosecuting cross-border consumer fraud is now an asset not just to her district, but also—through the CLU Program—to prosecutors around the country who seek to protect American consumers from threats both inside and outside the United States.

CLU rounds out its support for law enforcement partners with training programs, information-sharing, and other resources. One of these essential resources is the Consumer Sentinel Network, an FTC-maintained central database of consumer complaints and fraud reports. Consumer Sentinel receives complaints directly from consumers and via agencies around the country. It then makes them searchable and reviewable by member law enforcement agencies. Consumer Sentinel also houses the library of charging documents from past consumer-fraud criminal cases.

Consumer Sentinel

- Complaints database receives data contributions from FTC and 45 additional contributing members (including state attorneys general, law enforcement agencies, and Better Business Bureaus)
- Total complaints reported in 2021: 5.7 million total, including 2.8 million fraud reports
- Nearly 3,000 federal, state, local, and international law enforcement users have access to the complaints database
- Criminal Liaison Unit Library contains more than 200 charging documents

This invaluable resource not only provides the backbone for many of the FTC’s consumer protection efforts, but also is an amazingly effective criminal enforcement tool, which the CLU Program helps promote and develop.

“The Fraud Section values its relationship with the FTC. Prosecuting egregious cases of consumer fraud remains a core part of the Fraud Section’s mission. The FTC’s high-quality referrals help the Fraud Section continue to accomplish its mission in this area.”

Glenn Leon
Chief, Fraud Section, Criminal Division, U.S. Department of Justice

CLU Accomplishments, 2018-2022

Hard work, and sound strategy, have paid dividends. We now have CLU partners around the country who regularly look to the FTC for cases. In just the past five years, prosecutors have charged 107 defendants and obtained sentences totaling 746 years through their work with the CLU program. Indeed, since its inception, CLU has contributed to the successful prosecution of more than 1,000 defendants.

Last year, because of the importance of this work as well as CLU's success to date, the Commission issued a Statement Regarding Criminal Referral and Partnership Process, where the agency recommitted itself to a robust program of criminal referrals across both its competition and consumer protection missions.² This Statement makes clear that the Commission will not hesitate to make criminal referrals, regardless of the size of the firm, the prominence of the executive, or whether the alleged violations sound in antitrust or consumer protection.

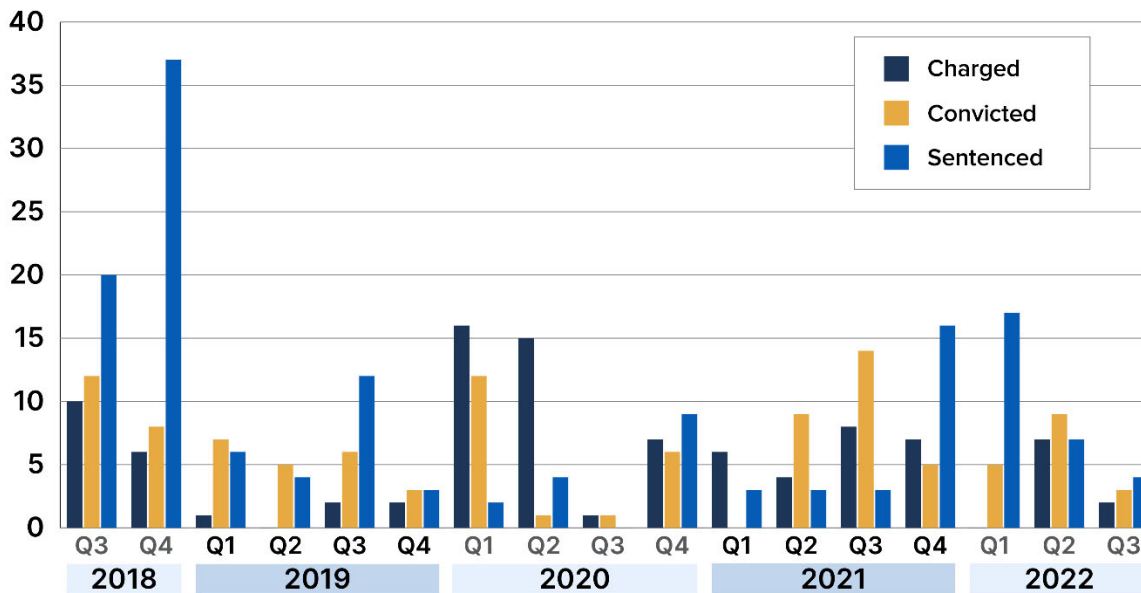
CLU tracks and regularly reports its results to the BCP Director and as part of the agency's reports to the Office of Management and Budget; the data and narratives on these pages illustrate the program's accomplishments over the past five years. Our work, however, is far from complete. We continue to establish new connections and are working hard to maintain existing relationships and support the prosecution of fraudsters.

5-Year CLU Statistics

- 107 new defendants charged, 145 convicted, 181 sentenced
- Total sentence time: 746 years
- Average sentence: 51 months (approximately 4.3 years)

² See Statement, available at https://www.ftc.gov/system/files/documents/public_statements/1598439/commission_statement_regarding_criminal_referrals_and_partnership_process_updated_p094207.pdf.

Defendants Charged, Convicted, and Sentenced by Quarter



Arizona v. Rodriguez, et al.

Beyond our federal partnerships, CLU’s partnerships with state and local prosecutors have recently paid dividends. In 2016, the FTC sued several individuals for a scheme targeting seniors and other consumers with fixed incomes through deceptive telemarketing. Ringleader Susan Rodriguez and her associates urged consumers to buy or invest in e-commerce websites, falsely promising lavish returns and assuring consumers their investment was “risk free” or came with a “100 percent money back guarantee.” The defendants then stalled for time with promises of substantial earnings—until the 90-day limit to dispute credit card charges passed. Thereafter, the defendants ceased all contact, and each victim lost amounts ranging from hundreds to more than \$20,000. The FTC worked with local prosecutors in Arizona who secured 19 indictments, including against ringleader Susan Rodriguez. They have since obtained guilty pleas from 13 of the defendants and sentences totaling more than 6 ½ years in state prison and 20 years of probation. The prosecutors’ case continues against the ringleader Rodriguez and her top lieutenants.

U.S. v. Pai

The CLU program supports prosecution of emerging frauds as well as age-old scams. In recent years, the FTC has litigated many cases addressing deceptive negative option marketing and “free trial” schemes that trap consumers into unwanted recurring charges. These matters are an FTC priority, as demonstrated by the Commission’s Enforcement Policy Statement Regarding Negative Option Marketing released in October 2021. To increase deterrence in this important area, the CLU program has successfully referred several of the FTC’s negative option cases for prosecution. One such case was the U.S. Attorney’s Office for the District of Puerto Rico’s recent action against Gopalkrishna Pai. The FTC sued Pai and his companies in 2019 for deceptive online “free-trial” offers that tricked consumers into joining expensive monthly billing plans. Specifically, Pai offered free trials of skin care products for a nominal shipping and handling charge, prominently touting a “Risk Free” bargain in advertisements. Pai then began charging consumers more than \$90 monthly for unwanted products. To make matters worse, consumers who tried to stop the recurring charges encountered a difficult and sometimes impossible cancellation process. Pai hid his involvement behind a network of more than 100 shell companies. The FTC, however, presented strong evidence of Pai’s scheme, and obtained a preliminary injunction. The U.S. Attorney’s Office in Puerto Rico took notice. Relying in part on evidence the FTC developed for its civil case, the U.S. Attorney’s Office indicted and reached a plea agreement with Pai in June 2022. Pai now awaits sentencing, and the FTC’s civil case (which was stayed following Pai’s indictment) will resume with the benefit of Pai’s factual admissions in his plea agreement. This case is CLU’s first working with US Attorney’s Office in Puerto Rico.

U.S. v. Tucker, et al.

The FTC sued a massive payday lending operation that charged struggling consumers interest rates as high as 1,000 percent for small loans and misrepresented the loan terms. Mastermind Scott Tucker and his co-defendants falsely claimed they were associated with Native American tribes to protect their illegal lending business from scrutiny. The scheme took more than \$1.27 billion from consumers. The FTC sued Tucker in 2012 and obtained summary judgment. The U.S. Attorney's Office for the Southern District of New York, a frequent CLU partner, then relied in part on the FTC's evidence to build a criminal case. Following a jury trial, the U.S. Attorney's Office secured convictions of Tucker and his associate Timothy Muir. Tucker was sentenced to more than 16 years in prison, and Muir was sentenced to 7 years in prison. Moreover, the U.S. Attorney's Office obtained forfeiture orders and collected hundreds of millions of the proceeds from Tucker's scheme to redress consumers. The FTC and the DOJ worked together to return more than \$535 million to Tucker's victims. *U.S. v. Tucker* thus underscores the importance of parallel criminal matters in deterring fraud and, under some circumstances, in returning money to harmed consumers.

Looking to the Future

The CLU program continues to build on its record of success and improve cooperation with our criminal law enforcement partners. As outlined in the Commission's November 2021 Criminal Referral and Partnership Process policy statement, CLU's current priorities include:

- Continuing to build relationships both within the FTC and with other agencies, and refining internal practices to ensure identification and referral of criminal law violations. This includes ongoing coordination between the CLU programs in the Bureau of Consumer Protection and the Bureau of Competition, ensuring agency-wide adoption of best practices for parallel civil and criminal investigations.
- Conducting and participating in meetings with federal, state, and local criminal authorities to improve communication at all levels. For example, BCP's CLU recently established contact with the National Cryptocurrency Enforcement Team, a new multi-agency task force, to help improve the FTC's effectiveness in handling scams involving cryptocurrency.
- Continuing to offer training for law enforcement partners on the Consumer Sentinel database system. For instance, CLU and the FTC's Consumer Sentinel manager recently gave presentations at a training program for new U.S. Postal Inspectors, and we continue to educate law enforcement contacts about Sentinel and provide database training on an ad hoc basis.
- Prioritizing public reporting on CLU's efforts and outcomes. This report presents recent CLU metrics and achievements, in addition to CLU's regular quarterly statistics reporting.

We are confident that CLU's future will be as successful as its first two decades. CLU will continue to pursue the agency's mission to protect consumers by ensuring that the perpetrators of criminal fraud face justice.