

## **Schaffer v. Talerico**

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*Jeffrey A. Babener, principal attorney in the Portland, Oregon, law firm Babener & Associates, and editor of [www.mlmllegal.com](http://www.mlmllegal.com), represents many of the leading direct selling companies in the United States and abroad.*

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## **Schaffer v. Talerico**

**Case:** Schaffer v. Talerico (1983)

**Subject Category:** Pyramid

**Agency Involved:** Private Civil Suit

**Court:** City Court of Utica

New York

**Case Synopsis:** Talerico was recruited by Schaffer to join a group of Amway distributors who circulated products among members, charging successively higher amounts and earning bonus on the amount of merchandise sold. Schaffer sued to collect a balance due to him.

**Legal Issue:** Is a contract in furtherance of a pyramid scheme enforceable?

**Court Ruling:** The Utica City Court held that the sales program was a pyramid scheme and enforcing the contract would be a violation of state public policy. Schaffer managed a sales program between Amway distributors where they would circulate products among themselves for bonuses and recruitment fees. The products did not actually change hands; invoices were merely circulated representing their sale and shipment. The Court found that the plan was a pyramid scheme because no products were actually sold,

and the scheme depended on the recruitment of additional member to be viable. The court refused to honor the claim or counter-claims of the parties.

**Practical Importance to Business of MLM/Direct Sales/Direct Selling/Network Marketing/Party Plan/Multilevel Marketing:** Courts will not enforce contracts that violate public policy.

**Schaffer v. Talerico**, 118 Misc.2d 66 (1983) : The Utica City Court held that the sales program was a pyramid scheme and enforcing the contract would be a violation of state public policy. Schaffer managed a sales program between Amway distributors where they would circulate products among themselves for bonuses and recruitment fees. The products did not actually change hands; invoices were merely circulated representing their sale and shipment. The Court found that the plan was a pyramid scheme because no products were actually sold, and the scheme depended on the recruitment of additional member to be viable. The court refused to honor the claim or counter-claims of the parties.

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*118 Misc.2d 66 (1983)*

Robert Schaffer et al., Plaintiffs,

v.

Michael Talerico et al., Defendants.

City Court of Utica.

February 18, 1983

Robert Schaffer and another, plaintiffs pro se. Michael Talerico and another, defendants pro se.

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ANTHONY J. GARRAMONE, J.

The facts of the above case are as follows:

In July, 1981 the defendants were recruited by the plaintiffs to become distributors of Amway products. The plaintiffs had previously been recruited by persons known as C. & J. Christie; and together they would represent an organization representing the internal buying and selling of these products.

The entire program involved is much too detailed and involved, and need not be fully set forth herein. Briefly, it consists of persons recruiting each other in a scheme that involves supply from one group to

various subgroups of Amway products which builds into a pyramid whereby various bonuses and points are accumulated as the pyramid grows.

What actually occurs is that the persons within the pyramid become the actual sellers and consumers of the product. Therefore, it is unnecessary to sell to others when each of these groups and subgroups are buying and selling the product amongst themselves.

Weaved within this product buy and sell scheme are incentives such as bonuses, pins known as the "believers pin", the "silver inner circle pin", vacations and "a diamond ring", which became the subject of this particular action.

[ 118 Misc.2d 67 ]

In the case at bar, the court was presented with documents from the plaintiffs which attempted to prove to the court that after all the bonus adjustments, orders, and receipts from the defendants, less credits given to them, the defendants were indebted to the plaintiffs in the sum of \$731.

The defendants on the other hand attempted to show to the court that in fact they did not owe \$731 but were entitled to \$1,250 as a counterclaim. The defendants were woefully confused by the entire operation. They had no records, and for the most part relied upon the computer printouts of the plaintiffs, which would set forth products sold, credits received, bonuses, etc. The defendants had no records, but defendants did contend that they were being charged for items in these printouts that were never received by them. The defendants contended that they returned all items unused to the plaintiffs, including a diamond ring which they originally were told had a value of between \$1,200 to \$1,500 and for which they received a return credit of approximately \$125.

The conclusion of the court is that the plaintiffs' contract is unenforceable for the reason that transactions between plaintiffs and defendants amount to a pyramid scheme which the court will not enforce as being against the public policy of the State of New York.

The defendants cannot recover on their counterclaim for the same reason.

Action and counterclaim dismissed.

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