

MLM Earnings - How Much?

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Probably the first question that is asked by an individual who is being recruited for a network marketing business opportunity is: How much can I make? The answer that you get will tell you a lot about the quality of the opportunity. For instance, if you are told you will make \$5,000 a week after your first month, your best advice is to run fast in the opposite direction. You are being hustled. However, if the discussion focuses on an initial goal of earning an extra \$300 or \$400 a month, then stick around.

First keep in mind that network marketing is only a second job for most people, so huge earnings for the average participant should not be expected. Only 10% of distributors are full time, and 90% are part time.

This is not to say that big potentials are not possible in this business. The stories of distributors earning \$20,000, \$30,000 and \$40,000 a month in network marketing are not uncommon, and they are true. There is no cap on possible income, because those incomes are the result of hard work, talent and good fortune. But they are not the www.mlmlegal.com everyday case. Network marketing is no different than other endeavors. After all, how many youngsters who roam the basketball courts of America end up in the starting lineup of an NBA team.

What should you be told about earnings possibilities? What can you legally be told? Where can you get useful information? Since network marketing companies are not required to file earnings information with any governmental agencies, and since most state and federal laws severely restrict earnings projections in company materials, your best source is one on one discussions with other distributors. Ask them how long they have been in the business, what they earn, and what they had to do to accomplish their earnings.

Don't be mad at companies if they say very little on earnings. They will be in trouble under a myriad of laws if they do. The rules are clearly more restrictive for what companies can and cannot say in this arena. For instance, many states have adopted MLM legislation to specifically prohibit companies from making any earnings projections based on hypotheticals of theoretical possibilities. Companies are also prohibited in such states from presenting past earnings of distributors. The presentation on how the compensation plan works, however, is perfectly acceptable everywhere. A frequent practice of allowing potential distributors to fill in the blanks as to their own projections does not appear to be as objectionable as well.

In some states, the company is held responsible for the earnings representations of its distributors. This issue becomes a control issue and states do expect companies to control the activity of their distributors, despite the fact that they are independent contractors. As a matter of

fact, often the same controls demanded of government agencies for consumer protection purposes are at complete odds with the demands of other governmental agencies to demonstrate independent contractor status versus employee status. The Postal Service for instance has developed a position which provides that the distributor who makes an earnings misrepresentation is responsible for that misrepresentation, and that it is not the company's responsibility when prosecuted for postal fraud.

Major MLM states have developed their own approaches on this subject. For instance, the State of California pursued Herbalife and recently a major NSA distributor with respect to earnings misrepresentations. The State of California particularly objects to any inflated earnings representations and finds that so-called "check waiving" deceptive and misleading. Representing to potential distributors that it will be easy to find other distributors for the MLM program is not approved. Of particular interest in states such as California are earnings testimonials of distributors which present the flagging of checks showing gross earnings, when in fact the net earnings of the distributor should reasonably take into account many other costs or costs of purchase of inventory, rebates or commissions paid by the distributor to others, etc. If the distributor's gross earnings check shows \$20,000, but the "real" net earnings is \$10,000, the state has a problem with the \$20,000 claim.

In other major MLM states, such as Texas, "pie in the sky" earnings claims have also been referred to by the attorney general's office as "airborne pastry." As with many states, you will find little guidance in the statute books. Understanding www.mlmlegal.com the lay of the land must come from experience. As with California and some other leading states, Texas prohibits earnings projections by companies, but allows more leeway when it comes to distributor testimonials. When giving an earnings testimonial in such states, a distributor should give relevant information that places his or her earnings testimonial in a proper perspective - for instance, the distributor should indicate how long he or she has been in the program, what specific geographic area they have had success in building their organization and earnings, and a "fair" representation of what their actual earnings history has been.

Perhaps the state which has been most active in this area is the state of Wisconsin, which actually took Amway to task on this particular point. It is the position of the Wisconsin Attorney General that the use of income representations, which do not accurately portray the income experience of persons who have participated in the given business opportunity program, or do not indicate the percentage of persons who actually achieve that level, are violations of Wisconsin's trade practices law. The Wisconsin Attorney General demands that income representations, which reflect the actual earnings of participants must also be accompanied by affirmative disclosures which place such representations in context. For instance, the Attorney General indicates there should be a disclosure of the time frame on which the representation is based and an indication of the percentage of persons who actually achieve that level of income. The Wisconsin Attorney General obtained a consent judgment against Amway Corporation requiring payment of a fine as well a permanent injunction which required the firm to disclose actual sales, income or profit experiences of active distributors in conjunction with use of hypothetical income examples. For example, where a hypothetical example used a potential of gross income, the judgment required Amway to disclose that only five out of every 1,000 distributors actually achieved the

performance illustrated. Amway was further required to disclose the percentage of its active distributors versus distributors which have become inactive.

Other states, including California, have enforced guidelines on earnings representations under deceptive trade practices statutes. FTC rules and state guidelines require that claims be limited to average earnings of distributors in specific geographic www.mlmlegal.com areas.

CONCLUSION

So, when the earnings claims come, what should you do? The best rule is to apply common sense. Talk to as many distributors as possible about their actual experience. And remember the old adage, If it sounds too good to be true, it probably is.

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On any given day you can catch Jeffrey Babener, editor of www.mlmlegal.com, lecturing on Network Marketing at the University of Texas or the University of Illinois, addressing thousands of distributors in Los Angeles, Bangkok, Tokyo and Russia, or writing a new book on Network Marketing, an article for Entrepreneur Magazine or a chapter for a University textbook. Over two decades he has served as marketing and legal advisor to some of the world's largest direct selling companies, the likes of Avon, Nikken, Shaklee, Tupperware, Prepaid Legal, Longaberger, Melaleuca, Discovery Toys, Usana, Amazon Herb, NuSkin, Cell Tech, Sunrider.... and he has provided counsel to the most successful telecom network marketing companies...Excel, ACN, World Connect, ITI, Acceris, AOL Select and Network 2000. An active spokesperson for the industry, he has assisted in new legislation and served on the Lawyer's Council, Government Relations Committee and Internet Task Force of the Direct Selling Association (DSA) as well as serving as General Counsel for the Multilevel Marketing International Association. He is an MLM attorney supplier member of the DSA and has served as legal counsel and MLM consultant on MLM law issues for many DSA companies. He is author of multiple books, including, Network Marketing: What You Should Know, Network Marketer's Guide To Success, Tax Guide for MLM/Direct Sellers, Starting and Running the Successful MLM Company, The MLM Corporate Handbook and Window of Opportunity. He is author of countless articles on network marketing, many of which can be found at www.mlmlegal.com where he is the editor. You will see his articles and interviews in such publications as Money, Atlantic Monthly, Success, Entrepreneur, Business Startups, Home Office Computing, Inc., Money Makers Monthly, etc. He has been chairman of numerous industry conference series, including, Starting and Running the

Successful MLM Company, The MLM Entrepreneur Series and The MLM Masters series. He has served as the close advisor to scores of MLM Companies and their distributors, comprising millions of distributors and billions of dollars in sales. Mr. Babener is a graduate of the University of Southern California Law School, where he served as editor of the USC Law Review. After an appointment to be an advisor law clerk to a U.S. Federal Judge, he went on to become a member of the California and Oregon State Bar, where he has also served as chairman of the Oregon State Bar Committee on Judicial Administration. He has exclusively practiced in the area of direct selling for over 20 years. A Regulatory Update for MLM, Direct Selling, Network Marketing, Direct Sales, Party Plan Independent Distributors and Companies.