

**PREPARED STATEMENT
OF THE FEDERAL TRADE COMMISSION**

on

EXPLORING THE PERILS OF THE PRECIOUS METALS MARKET

Before the

SPECIAL COMMITTEE ON AGING

UNITED STATES SENATE

Washington, D.C.

April 30, 2014

II. Precious Metals

Precious metals are naturally-occurring metals that carry a high economic value, often due to scarcity or global demand. These metals, including gold, silver, platinum, and palladium, can be sold as physical assets, in the form of bars, bullion, or coins, or as futures contracts or other speculative investments. Although precious metals prices are volatile, they have increased markedly over the last decade.³ These gains occurred during a time of turbulence for more traditional investment products, including stocks, bonds, and real estate. Throughout this period, financial reports and media headlines frequently touted the significant gains in value that precious metals were experiencing contrasted against poor yields in other investments.

Fraudsters have used this backdrop to lure consumers into purchasing bogus precious metals investments. Beginning in 2010, the Commission observed an increase in investment-related frauds, including precious metals scams.⁴ This increase was similar to one the Commission observed in the 1980-90s, another time when American consumers lost confidence in traditional investments and turned to alternative investment products like precious metals.⁵

³ For example, between 2003 and 2012, gold trading prices increased from approximately \$340 per ounce to more than \$1,650 per ounce, peaking at around \$1,900 per ounce in September 2011. In 2013, gold prices declined sharply, closing the year around \$1,200 per ounce. See *Kitco Historical Charts – Gold 2000*, available at http://www.kitco.com/scripts/hist_charts/yearly_graphs.plx.

⁴ While precious metals frauds have never been one of the top complaints received by the Commission, we documented an increase in investment-related complaints and complaints involving precious metals between 2009 and 2012. See *2013 Consumer Sentinel Network Report*, available at <http://www.ftc.gov/enforcement/consumer-sentinel-network/reports>.

⁵ Following the 1970s recession, consumers were lured into alternative investments, including oil and gas leases, fine art, gemstones, and precious metals. The Commission responded with dozens of enforcement actions against companies offering bogus investments and returned tens of millions of dollars to injured consumers. See Prepared Statement of the Federal Trade

III. The Commission's Law Enforcement Actions

and explained that because the investment was backed by physical metal, the investment was safe and consumers would

Many consumers, who were never fully advised about the leveraging of their accounts, were unable to understand how their investments were lost.

B. The Commission's Enforcement Actions

The Commission's complaints against precious metals scams have alleged that the defendants violated the FTC Act and the Telemarketing Sales Rule⁹ by falsely promising high profits with no or minimal risk and by failing to disclose hefty costs and other terms, such as forced liquidation, which rendered the investments highly risky and largely unprofitable. In light of the ongoing, irreparable injury inflicted upon consumers, the Commission sought temporary restraining orders to immediately stop the law violations, to freeze the defendants' assets, and to appoint a receiver over the corporations.

In *American Precious Metals, LLC*, the FTC presented evidence that the defendants caused more than \$24 million in consumer injury.¹⁰ The court-appointed receiver in the case promptly closed existing investment accounts and oversaw the return of approximately \$1.8 million to 380 customers. After being confronted with the Commission's evidence, the company and its owners stipulated to entry of a permanent injunction with a \$24 million judgment, representing the full amount of consumer injury. The order requires the defendants to surrender all of their financial accounts, specific personal property, and investment properties to satisfy the judgment. The final order also permanently bans

similar misrepresentations about the profitability and risk of futures—from selling any investment opportunity.

In *Premier Precious Metals, Inc.*, the Commission obtained temporary relief to stop the harm, and the court-appointed receiver quickly closed existing investment accounts and returned \$286,990 to 44 customers. The defendants recently settled the case, agreeing to a permanent ban prohibiting them from selling investment opportunities in the future.¹¹ The final order also includes a monetary judgment of \$3.6 million, representing the full amount of injury sustained by the companies' 113 customers. As part of the judgment, these defendants surrendered an estimated \$3 million in assets.¹²

Likewise, in *Sterling Precious Metals, LLC*, the Commission obtained a stipulated permanent injunction with conduct prohibitions and monetary relief. The final order bans the defendants from selling precious metals, enjoins them from misrepresenting material facts about any product or service offered for sale, and requires them to record all of their telemarketing activities for seven years. The final order also includes a monetary judgment of more than \$4.7 million (partially-suspended due to inability to pay) requiring the defendants to surrender personal property, including a 2013 Bentley Continental and 2012 Land Rover.¹³

¹¹ The individual defendant and owner of the Premier Precious Metals companies had previously worked at American Precious Metals, LLC.

¹² Press releases and key pleadings concerning this action are available at <http://www.ftc.gov/enforcement/cases-proceedings/122-3009/premier-precious-metals-inc-et-al>.

¹³ The press releases and key pleadings concerning this action are available at <http://www.ftc.gov/enforcement/cases-proceedings/1223027/sterling-precious-metals-llc-et-al>.

V. Conclusion

Thank you for providing the Commission this opportunity to appear before the