

Ken Neevel, Director of Development  
Reformed Church in America  
4500 60th St SE  
Grand Rapids, MI 49512

July 13, 2013

Dear Mr. Neevel,

As a member of the RCP (Reformed Church in Plano), I have a serious concern regarding the DeVos Foundation that is contributing money to start new RCA/CRC churches, and the eventual goal to recombine the denominations. While I am in favor of investigating recombining the denominations, the DeVos Foundation and associated family should not, in my opinion, be involved in the above activities in any manner, financial or otherwise, for the reasons described below.

After speaking with my pastor, the Reverend Mike Hardeman for about 2 hours recently, he suggested I communicate with you directly regarding this concern (see emails, Attachment 1). Mike indicated that for many years he has considered Amway as “sketchy,” and the information in this communication is intended to validate his thoughts and color in the “sketch” fully with factual details. As a result of our meeting, he now has more knowledge about the “sketchiness” of Amway than most people who have been, are, or will be involved with the company. You will be in a similar position of knowledge and understanding after reviewing the below and attached material. As Attachment 1 shows, Mike encouraged me to be kind as I can about this situation. While I will endeavor to follow that advice, one must recognize the reality of violating the admonitions of the Bible and RCA Belhar Confession Doctrinal Standard, let alone the laws of our country, is not a positive and uplifting topic. As you know, the Bible continually admonishes everyone to have honest personal and business dealings, and Jesus sometimes displayed what our politically correct society now refers to as “negativity,” such as turning over the tables in the temple or openly referring to the Jewish religious leaders of his day as a “brood of vipers.”

The Belhar Confession (BC) directly addresses how the Church should respond to a problem such as this. In my opinion this concern would be just as valid even if the BC did not exist. However, the BC does exist, and I have attached a highlighted copy of the BC (Attachment 2), with variously related portions in yellow, and the most directly related portion highlighted in red. The BC is the most recent and, as far as I am aware, the only one of the four RCA Doctrinal Standards that calls the Church to action to the applicable situations. I am aware the RCA cannot, and in fact should not, institutionally address every condition that exists to which the BC could be applied, as there would be no time, energy, or resources left for other issues, such as The Great Commission. Therefore, the BC described issues that apply directly to the RCA should receive priority.

An overview of the problem is also attached (Attachment 3), and this exact information has recently been forwarded to all 50 state Attorneys General and U.S. Territory offices,

as well as the FTC (Federal Trade Commission), FBI (Federal Bureau of Investigations), and I have started communicating and meeting with Texas state and federal legislative representatives, in order to obtain more support, priority, and focus from the above state and federal agencies. I will also be contacting companies associated with Amway, as well as various media outlets, in order to increase the visibility of this issue. To be clear, not only does Amway instruct the upper level IBOs (Independent Business Owners, formerly called "Distributors," and are not employees, but have an independent contractor relationship to Amway) to lie by omission that most of their profit comes from the "tools" (which consist of various meeting tickets, books, CDs/DVDs and other media, voice mail, web site access, etc.), which results in 99+% of the people in their groups to operate at a net loss, Amway also profits in 2 ways:

1. Because the IBOs at the top of the organizations are making 2 to 9+ TIMES more from the tools they sell than from Amway (and NOT informing the people in their groups of this fact), they are not interested in "rocking the boat" and applying pressure against high Amway product prices and low bonus payout, both of which maximize Amway's profit and minimize gross profit for the 99+% of IBOs who do not profit from the tools, and
2. If Amway decided to end the current unethical, immoral, and illegal arrangement unilaterally, these same IBOs would leave to join another MLM that allows this unethical, immoral, and illegal behavior, and Amway's volume would drop significantly, as most of the groups would either follow their leaders to the other MLM or quit. If Amway survived this shock, they would be forced to lower product prices and raise bonus payouts.

Mike also indicated interest in a related CRC periodical I mentioned during our meeting; this information is attached as well (Attachment 4). After blaming Canada, internal bad advice (which curiously included the CFO, outside accountant, and broker/agent resigning over the tax fraud scandal before Canada initiated legal proceedings), Amway plead guilty to felony tax fraud and paid fines 10s of millions of dollars in both criminal and civil lawsuits. In exchange, charges were dropped against the 2 Amway owners (and 2 other high level executives, both of whom took "early retirement" shortly after Amway paid the criminal fine). Amway co-founder Rich DeVos was also fired as the RNC (Republican National Committee) Financial Chairman during this time period. While the Canadian tax fraud is an issue in the past and technically unrelated to the current problem, it is instructive for 2 reasons:

1. It shows a pattern of immoral, unethical, and illegal behavior that is also present with the current issue, and
2. It views this behavior through a church-centered prism.

From an RCA point of view, I believe the CRC and/or the DeVos Foundation should be contacted with the above and attached concerns, in order to make an informed decision whether to continue to accept funds from the person behind the Foundation, and the

source of the money the Foundation contributes. I am available to assist in any manner the RCA deems appropriate, including ensuring any response is HOT (Honest, Open, and Transparent), attributes that should be considered mandatory in determining the acceptability of the response. I believe it is appropriate for pressure from the RCA to be applied, in concert with the above listed government authorities and private entities, to stop the Amway practices described in Attachment 3, and addressed in far more detail on my blog, <http://stoptheamwaytoolscam.wordpress.com>.

My wife [REDACTED] and I are two of literally millions of people who have lost an estimated high 10s to low 100s of billions of dollars over a 40+ year timeframe. We personally lost more than most, less than some; well over \$100,000 and more importantly, over 12 years of our lives chasing the illusion of a legitimate business at the cost of personal, professional, and other relationships. I look forward to hearing from you to further discuss this issue in more detail. Thanks for your time and consideration.

Sincerely,

Scott E. Johnson  
[REDACTED]  
[REDACTED]

Email: [stoptheamwaytoolscam@yahoo.com](mailto:stoptheamwaytoolscam@yahoo.com)

Additional Information: <http://www.stoptheamwaytoolscam.wordpress.com>  
[REDACTED]

Electronic Copy: Mike Hardeman

## Attachment 1

**From:** Tex <texansay@yahoo.com>  
**To:** Mike Hardeman <Mike@reformedchurchplano.org>  
**Sent:** Monday, April 22, 2013 12:13 PM  
**Subject:** Re: RCA Director of Development

Thanks, Mike. I'll be as kind as possible, consistent with the facts.

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**From:** Mike Hardeman <Mike@reformedchurchplano.org>  
**To:** "Scott Johnson (texansay@yahoo.com)" <texansay@yahoo.com>  
**Sent:** Monday, April 22, 2013 11:27 AM  
**Subject:** RCA Director of Development

Hi Scott—

The person who serves the Reformed Church in America is Ken Neevel. I would strongly encourage you to write a hard copy letter to him and send it to:

Ken Neevel, Director of Development  
Reformed Church in America  
4500 60th St SE  
Grand Rapids, MI 49512

I would specifically reference the joint church-planting effort using resources from the De Vos family.

Finally, I know there is great passion for you with this issue. I understand that. But I think it's important to be objective as possible—not only with the facts—but also with the tone of the letter. I wouldn't want the RCA Development Staff to dismiss this because you are "some crazy." You're not...you deserve to be taken seriously. I would be sure that the tone of the letter is one of kindness—not only for the RCA, but even for the De Vos family. I know that may be difficult, but I think it's essential for gaining a "hearing" from those who will receive it.

Thanks, Scott!

Grace and Peace in Christ,  
Mike

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## Attachment 2

# Confession of Belhar

## September 1986

**1. We believe** in the triune God, Father, Son and Holy Spirit, who gathers, protects and cares for the church through Word and Spirit. This, God has done since the beginning of the world and will do to the end.

**2. We believe** in one holy, universal Christian church, the communion of saints called from the entire human family.

### We believe

- that Christ's work of reconciliation is made manifest in the church as the community of believers who have been reconciled with God and with one another (Eph. 2:11-22);
- that unity is, therefore, both a gift and an obligation for the church of Jesus Christ; that through the working of God's Spirit it is a binding force, yet simultaneously a reality which must be earnestly pursued and sought: one which the people of God must continually be built up to attain (Eph. 4:1-16);
- that this unity must become visible so that the world may believe that separation, enmity and hatred between people and groups is sin which Christ has already conquered, and accordingly that anything which threatens this unity may have no place in the church and must be resisted (John 17:20-23);
- that this unity of the people of God must be manifested and be active in a variety of ways: in that we love one another; that we experience, practice and pursue community with one another; that we are obligated to give ourselves willingly and joyfully to be of benefit and blessing to one another; that we share one faith, have one calling, are of one soul and one mind; have one God and Father, are filled with one Spirit, are baptized with one baptism, eat of one bread and drink of one cup, confess one name, are obedient to one Lord, work for one cause, and share one hope; together come to know the height and the breadth and the depth of the love of Christ; together are built up to the stature of Christ, to the new humanity; together know and bear one another's burdens, thereby fulfilling the law of Christ that we need one another and upbuild one another, admonishing and comforting one another; that we suffer with one another for the sake of righteousness; pray together; together serve God in this world; and together fight against all which may threaten or hinder this unity (Phil. 2:1-5; 1 Cor. 12:4-31; John 13:1-17; 1 Cor. 1:10-13; Eph. 4:1-6; Eph. 3:14-20; 1 Cor. 10:16-17; 1 Cor. 11:17-34; Gal. 6:2; 2 Cor. 1:3-4);
- that this unity can be established only in freedom and not under constraint; that the variety of spiritual gifts, opportunities, backgrounds, convictions, as well as the various languages and cultures, are by virtue of the reconciliation in Christ, opportunities for mutual service and enrichment within the one visible people of God (Rom. 12:3-8; 1 Cor. 12:1-11; Eph. 4:7-13; Gal. 3:27-28; James 2:1-13);
- that true faith in Jesus Christ is the only condition for membership of this church.

### Therefore, we reject any doctrine

- which absolutizes either natural diversity or the sinful separation of people in such a way that this absolutization hinders or breaks the visible and active unity of the church, or even leads to the establishment of a separate church formation;

- which professes that this spiritual unity is truly being maintained in the bond of peace while believers of the same confession are in effect alienated from one another for the sake of diversity and in despair of reconciliation;
- which denies that a refusal earnestly to pursue this visible unity as a priceless gift is sin;
- which explicitly or implicitly maintains that descent or any other human or social factor should be a consideration in determining membership of the church.

### 3. We believe

- that God has entrusted the church with the message of reconciliation in and through Jesus Christ, that the church is called to be the salt of the earth and the light of the world, that the church is called blessed because it is a peacemaker, that the church is witness both by word and by deed to the new heaven and the new earth in which righteousness dwells (2 Cor. 5:17-21; Matt. 5:13-16; Matt. 5:9; 2 Peter 3:13; Rev. 21-22).
- that God's lifegiving Word and Spirit has conquered the powers of sin and death, and therefore also of irreconciliation and hatred, bitterness and enmity, that God's lifegiving Word and Spirit will enable the church to live in a new obedience which can open new possibilities of life for society and the world (Eph. 4:17-6:23, Rom. 6; Col. 1:9-14; Col. 2:13-19; Col. 3:1-4:6);
- that the credibility of this message is seriously affected and its beneficial work obstructed when it is proclaimed in a land which professes to be Christian, but in which the enforced separation of people on a racial basis promotes and perpetuates alienation, hatred and enmity;
- that any teaching which attempts to legitimate such forced separation by appeal to the gospel, and is not prepared to venture on the road of obedience and reconciliation, but rather, out of prejudice, fear, selfishness and unbelief, denies in advance the reconciling power of the gospel, must be considered ideology and false doctrine.

### Therefore, we reject any doctrine

- which, in such a situation, sanctions in the name of the gospel or of the will of God the forced separation of people on the grounds of race and color and thereby in advance obstructs and weakens the ministry and experience of reconciliation in Christ.

### 4. We believe

- that God has revealed himself as the one who wishes to bring about justice and true peace among people;
- that God, in a world full of injustice and enmity, is in a special way the God of the destitute, the poor and the wronged;
- that God calls the church to follow him in this, for God brings justice to the oppressed and gives bread to the hungry;
- that God frees the prisoner and restores sight to the blind;
- that God supports the downtrodden, protects the stranger, helps orphans and widows and blocks the path of the ungodly;
- that for God pure and undefiled religion is to visit the orphans and the widows in their suffering;
- that God wishes to teach the church to do what is good and to seek the right (Deut. 32:4; Luke 2:14; John 14:27; Eph. 2:14; Isa. 1:16-17; James 1:27; James 5:1-6; Luke 1:46-55; Luke 6:20-26; Luke 7:22; Luke 16:19-31; Ps. 146; Luke 4:16-19; Rom. 6:13-18; Amos 5);
- that the church must therefore stand by people in any form of suffering and need, which implies, among other things, that the church must witness against and strive against any form of injustice, so that justice may roll down like waters, and righteousness like an ever-flowing stream;

- that the church as the possession of God must stand where the Lord stands, namely against injustice and with the wronged; that in following Christ the church must witness against all the powerful and privileged who selfishly seek their own interests and thus control and harm others.

**Therefore, we reject any ideology**

- which would legitimate forms of injustice and any doctrine which is unwilling to resist such an ideology in the name of the gospel.

**5. We believe** that, in obedience to Jesus Christ, its only head, the church is called to confess and to do all these things, even though the authorities and human laws might forbid them and punishment and suffering be the consequence (Eph. 4:15-16; Acts 5:29-33; 1 Peter 2:18-25; 1 Peter 3:15-18).

Jesus is Lord.

To the one and only God, Father, Son and Holy Spirit, be the honor and the glory for ever and ever.

## Attachment 3

### The Amway Tool Scam

To whom it may concern,

This information is being sent to the Attorneys General in all 50 states and U.S. territories. Hopefully, all or some of the states/territories can band together as was recently done between the states of Illinois, Kentucky, and North Carolina, along with the FTC, to shut down another scam, FHTM (Fortune High Tech Marketing: <http://www.ftc.gov/opa/2013/01/fhtm.shtm>)

The Amway Tool Scam (ATS) refers to the hidden business behind the Amway business. When a prospect is shown the Amway business, they are NOT shown the much more lucrative ATS business. The ATS consists of various meetings, CDs, books, web site access, voice mail, etc., commonly referred to as "tools," or more formally as BSM (Business Support Materials) sold by the upline IBOs (Independent Business Owners, e.g., distributors) to the downline within the Amway MLM, at huge profit margins. Only the top 1-2% of the upper level Amway IBOs make a profit from the ATS. The Amway business puts money in the IBOs' pockets; the ATS extracts this money, and more. For the past 4 decades, literally millions of IBOs have been ripped off for 10s to 100s of billions of dollars. Well over 99% of IBOs are known to operate at a net loss, thanks to the ATS and other practices which dramatically increase overhead costs. The upper level IBOs make 2 to 9+ TIMES more from the ATS than from Amway.

Amway's cofounder Rich DeVos spoke out against the ATS in 1983, but little has been done in the U.S. about this issue. In 2002, Amway instructed the upper level IBOs that only a maximum of 2% of high level IBOs should make ATS profit, and the remaining 98% IBOs should not even be aware there is an opportunity to make money from the ATS, which is clearly a RICO fraud. The UK government ruled in 2008 that zero profit is to be made from the tools, and India's Amway rules since 2005 have price limits on the tools that make tools a small fraction of the U.S. prices, virtually eliminating tool profit. No similar action has been taken in the U.S.

The benefit for Amway with this arrangement is Amway can keep their product prices inflated and bonus payout low, both of which increase their profit. The upline IBOs don't want to "rock the boat" over these issues, as they are cleaning up via the ATS. This results in a win-win-lose scenario, with Amway winning by maximizing their profit, the top 1-2% of IBOs winning by double dipping Amway and ATS profits, and the 99+% losing money to both the Amway higher prices/lower bonus and high tool costs. The high Amway product prices results in little to no sales to non-IBOs; required by Amway rules but in North America is much less than 3.4% of the total volume, according to a 2006 3<sup>rd</sup> party confidential study disclosed through one of many lawsuits Amway has earned.

Amway relies on written policies that the tools are optional, the upline must support IBOs whether or not they buy the tools, and a generic statement that some IBOs make money from the tools. However, the same rules require any information shown to prospects to be approved by Amway, and any conflict with Amway or an ATS owner be taken to Amway's arbitration process, which has been called "unconscionable" and "illusory" by at least 7 U.S. judges across the country. In practice the tools are promoted VERY strongly, with the upline making statements such as, "The tools are optional, but so is success," which means an IBO will not succeed without the tools. It is my personal experience the upline ignores IBOs who don't buy the tools. Most new IBOs don't have the knowledge, ability, or time to develop their own tools, nor do they have the ability to decipher the complex Amway rules, so they naturally use the upline ATS system.

Numerous lawsuits among the high level IBOs have occurred over the years, mostly related to one individual or group stopping tool payments to other high level IBOs. This results in these groups experiencing rapid upheaval and destruction. The recent Pokorny class action lawsuit, one of very few that represented the "other 99%," ended with a whimper, with no changes to the ATS, despite repeated requests to the court to take action against the ATS.

I was an IBO from January 1993 until I was terminated in September 2009, and have studied the ATS since early 2005. I KNOW what I am talking about. I do not exaggerate or make things up. I deal only in facts. The facts are I lost well over \$100,000 and more importantly, a dozen years of my life chasing an illusion which not only clearly violates FTC Section 5 rules that prohibit unfair and deceptive business practices, but are obviously RICO fraudulent activity as well.

Details of much of the above, and much more, can be found at [stoptheamwaytoolscam.wordpress.com](http://stoptheamwaytoolscam.wordpress.com). For more information, contact me at [stoptheamwaytoolscam@yahoo.com](mailto:stoptheamwaytoolscam@yahoo.com), or call me at [REDACTED]. Regards, Scott Johnson



# Amway and Canada—

## the judge's report

Gaylen J. Byker

Delegates to the 1984 Synod of the Christian Reformed Church discussed at some length the conduct of the owners, executives, and employees of the Amway Corporation in connection with the criminal charges brought against them in Canada in 1983. The discussion began when a church member alleged that given Amway's conviction for criminal conduct, the continued acceptance of donations from the Amway Corporation by the CRC would damage the church's reputation in some Canadian communities. Although the appeal that the denomination refuse further Amway donations was not approved, the debate that was launched is reported to have been "long and acrimonious." The Synod later expressed official regret that negative public statements regarding specific persons had been made in open session.

Whether the conduct of Amway personnel was a proper subject for floor debate at Synod is certainly questionable. Still the controversial and much publicized conduct of two prominent members of the denomination invites serious examination, in the course of which propaganda must be distinguished from the facts. There is indeed a fundamental tension between the view of the Canadian court in Toronto and the publicity subsequently released by the company.

On November 10, 1983, before Chief Justice Evans of the Supreme Court of Ontario, the Amway Corporation and Amway of Canada Ltd. pleaded guilty to charges of criminal fraud and paid a C\$25,000,000 fine, the largest fine ever imposed in Canada. The crime was tax evasion. The Canadian court upheld the government's claim that by means of fake and fictitious invoices and price lists and the creation of a dummy

corporation, the Amway companies had defrauded Canada out of amounts in excess of C\$28,000,000.

On the same day in the United States, Amway's owners Jay Van Andel and Richard DeVos (1) ran advertisements in *The Wall Street Journal*, *The Washington Post*, *The Detroit News*, and *The Grand Rapids Press* and (2) sent a letter to their distributors and employees signed by Vice President and General Counsel Otto Stolz. The ads and the letter attempted to explain the company's conduct with these words: "Unfortunately, in this highly complex area of customs regulations in a foreign country, a combination of misunderstandings and poor advice resulted in decisions which caused the corporation these difficulties." The ads asserted that the charges against the persons of Van Andel, DeVos, and two others had been dismissed because they were willing to pay a high price "so the rest of us can go forward unburdened." The ads asked the distributors and employees of Amway to express appreciation to Van Andel and DeVos for the great sacrifice they made in order to end the Amway ordeal in the Canadian courts.

Where—between what is charged in the legal verdict and the message of the Amway ads and letter—is the truth?

In accepting the pleas of guilty of the two Amway corporations, Chief Justice Evans delivered the following oral summary of the evidence and the "Reasons for Judgment." The transcript of the Chief Justice's statement is reproduced here in full so that the evidence can be compared with the company's public statements on the matter. It should be emphasized that the views expressed are those not of the prosecution but of the judge charged to make a fair assessment of all the evidence presented by the prosecution and defense alike.

*Gaylen J. Byker is an attorney living in Beirut, Lebanon.*

**HIS LORDSHIP:** In the light of the plea and the evidence, convictions will be registered against each of the corporate defendants.

Amway Corporation is an American Corporation that was incorporated in 1949, and Amway of Canada, Ltd., was incorporated in 1962 under the laws of Canada and became an Ontario corporation in 1978.

During the material times covered by the indictment, Jay VanAndel was the Chairman of the Board and Director of both corporations and Richard Marvin DeVos was the Presi-

dent and also a Director. They were either directly or indirectly [what] one might call joint owners of the two corporations, and they were certainly the directing mind and policy-makers and exercised control over these companies.

The indictment charges the two corporations that between February 5th, 1965, and January 31st, 1980, they did in the Province of Ontario—several places in the Province of Ontario—and elsewhere in Canada unlawfully, by deceit, falsehood or other fraudulent means, defraud Her Majesty the Queen in right of Canada and the Government of Canada of



an undetermined amount of property, money or valuable securities of a value in excess of twenty-eight million dollars (\$28,000,000 00) in connection with amounts payable to Her Majesty the Queen in right of Canada with respect to goods purchased by the said Amway of Canada, Ltd., from the said Amway Corporation and imported into Canada which deceit, falsehood or other fraudulent means included the making of false oral and written representations, including the submission of false or fictitious invoices and price lists, to the Department of National Revenue and thereby benefitting a substantial amount by avoiding the tax and sales tax and customs duty in excess of \$28,000,000 00

The method of determining the tax is really dependent upon the integrity and the honesty of the importer, and he is required to report, on customs documents, in the form prescribed by the Ministry, fair market value in the country of origin—in this case, in the country of the United States—the value for duty and tax, and the classification of the duty payable

The assessment of duty is essentially a self-assessing system, in that the importer of the goods has a duty to declare accurately and report a fair market value of the goods being imported, and to report them in the appropriate tariff classification and pay the appropriate amount governed by that classification. Occasionally the matter is reappraised by the Department, and it is because of the high volume of goods coming into Canada daily that the Department, out of necessity, must rely upon the truthfulness and the accuracy of the declarations and the certificates made as to the fair market value of the goods being imported

Several rulings were made, and it is clear that Amway did not like the rulings. They proceeded to institute a policy which was designed to defeat the Customs Act. In so doing, they developed sophisticated schemes by creating fictitious invoices and by attempting to show that they sold goods in the United States at the declared value of goods which were entered in Canada, and this, of course, was quite incorrect. The policy was adopted to create these fictitious invoices, evidencing sale by the American company to several American-based warehouses. The distributors would pick up the goods at the warehouse and make a cheque payable to them and this would be deposited in a special account, which was really under the control of Amway and no sale was ever intended between Amway Corporation and the several warehouses—they really performed a storage and handling facility.

Amway was so secure in this belief that this policy was effective (and they had every reason to believe it was effective), that they applied for, at least on two occasions and probably more, and requested and obtained refunds from the Federal Government.

The business unquestionably, as far as Canada was concerned, increased substantially from 1965, and the graph included in the statement indicates that from 1974 the increase in sales was very substantial and that the fraud perpetrated was equally substantial.

They had several discussions with the officers at the Department and it is plain that the defendants came away with the idea that the government appreciated this rather unique marketing system which had been introduced by Amway,

and Mr. Discher, who was an officer of the company, arrived at a conclusion, quite incorrectly as it turned out, that the Customs Department was sympathetic to the problem created by this unique marketing system and felt that the government and its department would be prepared to accommodate them through this rather unusual situation.

It was reported of course to the responsible officers, and in their Exhibit No. 2, their final statement, while they admit full responsibility for any acts done by the officers or agents of the corporation, they still feel that they were—that Mr. Discher misunderstood the situation and that he reported to them and they followed out his misunderstanding. They also claim that their legal adviser failed to properly protect them by giving them the correct advice. As against that you have two men who are very sophisticated and very successful businessmen and it is highly unlikely that they would be susceptible to believing that what they were doing and the steps they took to camouflage their activities would meet with the approval of the Customs Department.

A cross-checking scheme was introduced whereby invoices and cheques would be crossed to evidence some arm's length transactions, in order to establish this fair market value upon which the duty would be based. This, however, was not proceeded with very successfully for any period of time. It was not a successful manoeuvre.

The Amway Corporation, after having obtained the 1965 rulings with which they were not in accord, proceeded with the institution of a corporate policy which clearly had, as its objective, the concealment from the Department and concealment from others, including their broker, of Amway Corporation's true domestic marketing practices. They consistently and persistently over a period of years submitted files of these fictitious invoices and dummy price lists to their brokers, who relied upon them to assess an appropriate duty.

Border Brokers, who did act for them from 1965 until early 1978, believed the representations made by Amway Corporation. When the representative from the Canadian Customs Department went to the head office, he received a runaround when he attempted to get information with respect to invoices. Clearly, he was becoming rather concerned and rather suspicious of the actions of the company who failed to reply to his several requests within the time which he felt was proper. Subsequently, in the latter part of 1970, Amway was attempting to find other means of justifying the so-called transfer price of the goods being imported into Canada by Amway of Canada, Ltd., and they decided upon the creation of a company to carry on business in Hawaii. This scheme was such that Amway would sell to the Hawaii corporation at the same prices as it would sell to the Canadian company and the purpose of this plan was to generate some business dealings and the documentation, such as invoices and price lists, which would be capable of creating the impression of an arm's length transaction. The evidence of sales between Amway and the Hawaii corporation would then be submitted to the Canadian Department of Customs, as evidence that Amway Corporation had a level of trade in its American market equivalent to that obtaining between Amway Corporation in the United States and the Canadian company and thereby permit Amway of Canada to import



goods into Canada at values for duty equivalent to the price at which Amway Corporation sold this product to the Hawaiian company. These, of course, were all fictitious set-ups designed solely for the purpose of misleading the Canadian Customs Department.

I think one of the most important parts of this whole operation is the fact that Amway, when it was told by its auditor and by its brokers that they should make full disclosure of their schemes to the Canadian Government, that they refused to do so and they continued to operate in the manner in which they had done for some time, apparently seeking to justify it on the basis that this was an unusual operation and therefore they set their own fair market values.

When they refused to take the advice of their auditors, Arthur Andersen & Co., the auditors resigned. Border Brokers then reported to the Customs Department (as they are required by law to do) that these schemes were in violation of the Customs Act and then this investigation began.

As the Crown Counsel has said, obviously the work done by the R.C.M.P. [the Royal Canadian Mounted Police] in the determination of this matter was of a very high order.

The indictment refers to a period from February 1965 to January 31st, 1980, but the evidence supplied by the Crown is really for a period from April 1st, 1974 to January 28th, 1980, and the explanation is that Canada Customs invoices for the period prior to April 1st, 1974, in accordance with the policy of the Government, have been destroyed.

One would be rather naive, however, to think they were not operating in an illegal manner at least for some period of time prior to 1974, when the documentation of their frauds became available. However, it is equally true that the sales in the early part of the period covered by the indictment were considerably less than they were in the latter part, but in any event, in that six-year period, there was established a loss to the Government of Canada of \$28,708,440.16. This, of course, is a substantial fraud.

Counsel have made what is in fact a joint submission as to the amount of the fine which should be imposed. Mr. Lindsay is suggesting a fine in the range of twenty to thirty million dollars, divided on the basis of 80/20, which works out to \$20,000,000.00 and \$5,000,000.00 for their respective companies, the American and the Canadian companies.

I am satisfied to accept these recommendations as I believe that they represent fines in an amount which will meet the proper sentencing principles applicable in this particular case, and that is basically deterrence; deterrence to the accused and to others who might be tempted to embark on similarly unlawful enterprises.

There is no question that this is a substantial fine and it should be. The fine, as stated in the *McNamara* case, by the Court of Appeal, in situations of this kind, should be substantial and exemplary.

I believe the sentences do take into account the conclusive evidence of a fraud involving many millions of dollars and extending over many years. The proper sentencing principles have been correctly stated by the Crown, in my view, and the one that outweighs all others is that of general deterrence, specific deterrence and public condemnation being of secondary importance. The public must be made aware and must

know that the courts will deal severely with frauds of this magnitude, and one would expect that the business community would soon be aware of the penalty imposed in this particular case and that such information would be more than a mild deterrent to others who might be contemplating such illegal activities.

The financial benefits which accrue to the two companies are relevant factors in determining the amounts of penalty to be imposed, and I suppose there is no evidence or very little evidence in front of me of the ability of Amway to introduce their goods or import their goods into Canada at a very favourable price, but it must have been detrimental to others who might be engaged in a business of a similar nature.

One can hardly say that these are good corporate citizens. The two men involved (Mr. Humphrey [counsel for the defense] has given, as I would expect, his usual very excellent presentation in mitigation) are men who are very responsible citizens in the United States. Well they weren't very responsible corporate directors in Canada. The pleas of guilty on behalf of the defendants have undoubtedly saved the state the cost of a lengthy trial. However, this is a sort of a death-bed confession of guilt. It comes of the—as we are getting close to trial, after many months of preparation and much expense on behalf of the Crown; and of course there is another side to the coin: the pleas have enabled the accused to avoid the heavy costs to which they would have been exposed had this matter continued to trial.

I have some difficulty in accepting that these sophisticated frauds are the responsibility of Mr. Discher or the lawyer who was advising them. The directing mind of these two corporations involved many others in their web of deception: the shell companies, the dummy invoices, the false price lists and the fraudulent oral and written representations and the cross-checking operations, were all part of a *modus operandi* by which the scheme functioned and could only have led to the corruption of employees who were necessarily implicated in furthering the operation of these frauds.

This of course was not a small-type operation or an isolated occurrence, but a premeditated and deliberate course of conduct and action undertaken at least in the early stages, with professional advice, and with the knowledge that it would provide enormous profits and business advantages over a long period of years, and I suppose, when you gamble, and all the stakes are high, if you win, you win big and if you lose, you lose big. This certainly was an operation that, because of its extent and lengthy period of operation, in my view, amply justifies the fines which are imposed. As the fraud was set up and improved upon, the risk of detection was minimal, and without the assistance of the customs broker, Border Brokers Limited, I would imagine that a prosecution was rather remote.

The fine will be, Amway Corporation \$20,000,000.00: Amway of Canada Ltd. \$5,000,000.00, payable forthwith.

MR. HUMPHREY: Thank you, my lord, I am in a position to pay that today.

MR. LINDSAY [the prosecuting attorney]: Thank you, my lord, for your indulgence.

HIS LORDSHIP: I would like to thank counsel for their co-operation and the expedition with which this matter has been dealt with.



**T**he Amway ads and the letter to their distributors and employees constituted an official response to the company's conviction. The purpose of this response was, in its own words, to present "The Amway Story Behind the Canadian Headlines." The company's response contained, among others, the following statements:

*"Dismissal of Canada's charges against Four Executives marks New Era."*

*"All charges against four Amway executives have been withdrawn as part of the settlement of charges filed a year ago by Canadian authorities."*

*"Amway's co-founders relied consistently upon the advice of various responsible corporate officers and legal counselors that the agreement existed and that the company was acting in full compliance with the law."*

*"When questions about Canadian customs procedures arose, Amway's co-founders acted responsibly. My own experience [Otto Stolz's] in many different corporate settings convinces me that Rich and Jay responded in a highly ethical manner consistent with sound business judgment and practice."*

*"They chose to make a tremendous personal and financial sacrifice in order to end the ordeal and eliminate this impediment to the future growth and potential of the business. . . . They chose to make this sacrifice by settling now and thus preserving the Amway business opportunity for millions of individuals."*

The judge reached his findings of fact and opinion after a long series of criminal investigations which had culminated in criminal indictments against four Amway executives and the two Amway corporations. At one point in the proceedings, when the individual defendants did not respond to the court's order that they appear at hearings in the case, the Canadian government took steps toward their extradition. Eventually, the individual defendants were permitted to negotiate a "plea bargain" to this effect: the court agreed to dismiss the criminal indictments against them on the condition that the corporations they control plead guilty to criminal fraud charges and pay the largest fine ever imposed in Canada. (It should be noted that a corporation is an artificial entity that cannot engage in criminal activity, though it can be held liable for the criminal conduct of its officers and employees.) The verdict of guilty and the payment of the fine do not, however, end Amway's legal battles with the Canadian government. A civil case, in which the Canadian government seeks C\$148,000,000 in customs duties, taxes, and penalties, continues. In other words, the C\$25,000,000 fine was not the result of a settlement of a tax dispute; it

was not the payment of the customs duties and taxes that the company had failed to pay. Rather, it was a punishment for criminal fraud.

The judge explicitly rejected the claim that the non-payment of duties and taxes was due to misunderstandings and bad advice. The act was perpetrated, he said, as part of a policy designed to defeat the customs laws. This policy entailed elaborate techniques of camouflage that were in his judgment clearly designed to conceal and mislead. In the judge's terms, the submission of hundreds of false invoices and dummy price lists, along with the establishment of a dummy corporation, were steps in a "sophisticated fraud." The judge based the conviction on "the premeditated and deliberate course of conduct" that was further evidenced by the Amway executives' refusal to take the advice of their own auditors and customs brokers who had urged them to make a full disclosure of their "schemes" to the Canadian government. When Amway's executives rejected their advice, the auditors resigned, choosing to give up their undoubtedly lucrative Amway account rather than to participate further in the deception they had discovered.

As for the practice of "transfer price" manipulation mentioned in the opinion: this practice is one of the most pervasive areas of complaint by governments, in both developed and developing countries, against multinational corporations. Such manipulations are frequently used to reduce taxes and customs duties, as well as to circumvent currency exchange controls and other regulations. Within this country, several states have imposed a "unitary tax" on corporations, a tax whose principal aim is to prevent tax avoidance and evasion through transfer price manipulations. The techniques used in transfer price manipulations (which are often questionable and not infrequently illegal) are a preferred way for businesses to disguise internal transactions; and ways of devising these techniques are even discussed in some U.S. business school courses. Of those who practice free enterprise, many have always disliked various forms of government control. Few entrepreneurs view taxation itself, however, as justifying violation of the law.

Fraud and other forms of illegal business conduct short-circuit the marketplace, and thus corrode the free-enterprise system itself, in which Amway vigorously believes. Fraudulent practices tend to divert business from the most efficient producers to those who are corrupt, thus undermining public confidence in the integrity of the marketplace. Such practices also put pressure on honest firms to compromise their standards in an effort to stay in business along with their less scrupulous competitors.

The Reformed tradition has long sustained a strong respect for law and belief in the obligation to obey the law in almost all situations. Is it possible, however, that



we react differently to sophisticated "white-collar" or "business" crime than we do to the acts of rapists, bank robbers, burglars, vandals, or shoplifters? Such a double standard is not justified, and it is high time that we examine our attitudes toward some of the things that "everyone does" in our affluent communities.

Near the end of the letter to Amway distributors and employees there appears the following paragraph:

With settlement achieved despite its enormous personal cost, Jay and Rich are committed to putting the issue

behind us all. But they insist everyone in the organization learn from the important lessons this experience offers. The civil case concerning the amount of customs duties and taxes which may be owed to Revenue Canada will continue.

Anyone who evaluates the Amway ads and letter in the context of the court's summary and assessment of the evidence is bound to be puzzled about what, in the minds of the individual Amway executives, those lessons may be. ■

## Cutting Aid to the Poor— what are the costs?

David L. Medema

In Traverse City, Michigan, the Social Security Administration Office boards up its windows for fear of violence by recipients of Social Security Disability and Supplemental Security Income (SSI) whose benefits have been terminated. In Lansing, after one such distraught SSI recipient torched himself in front of the Social Security Office after losing his benefits, employees began receiving training to handle other attempted or threatened suicides. Reports periodically appear of State Department of Social Services line workers assaulting their supervisors after being informed of greater workloads, staff reductions, and cuts in pay. Some might argue that these are rare, isolated effects of budget cuts on recipients and the human service delivery system. Perhaps. Nonetheless, these incidents must be seen as signs of severe stress, harmful deterioration, and a breakdown of service delivery. The Reagan administration has formulated its own answers to these questions. Throughout the 1980 campaign, Reagan promised to curtail federal spending on human service programs, eliminate help for the "undeserving," target services to those most in need, eliminate waste, and in so doing spur recipients who can work to find work.

Have Mr. Reagan's assumptions and policies to reduce the role of the federal government in caring for the needy begun to lead to the ends he seeks? Are the poor, disabled, and vulnerable now being cared for more effectively by state and local governments and private agencies? Have all beneficiaries of human service spending—rich and middle class as well as poor,

providers of services as well as recipients—borne the burden of the cuts equally? It is questions such as these that make human services spending a major issue in 1984. The quality and essence of life for more than 22 million poor and disabled Americans are greatly affected by Reagan's past policies and by those he will pursue if reelected.

**I**n order to make an assessment, we must examine how cuts have affected the delivery system, how policies have been changed, and who has benefited and who has been hurt by the cuts. One of the most common charges leveled against government-run social programs is that they are overstaffed. The Reagan administration's block grant allocation process makes this assumption in its consolidation of budgets and money. Federal funding for social programs has dropped 25 percent from 1983 to 1984. Because of these cuts many programs have had to cut staff. The result has been a disruption in service delivery far beyond what many people anticipated. Civil service systems, which classify employees based on seniority and positions in the bureaucracy, have acted to save jobs for those with more seniority or in higher levels of administration and have offered less protection to those who have less seniority or are in direct service positions. When specific job functions were cut, the staff in those positions could "bump" into positions held by staff with less seniority or a lower job classification, whether or not the person doing the bumping was qualified to perform satisfactorily in the new position. The employee who was bumped would do the same, creating a ripple effect involving many other employees. In many bureaucracies, the results of bumping include the following:

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