**MLM Chronology – by Douglas M. Brooks**

November 9, 1959 Amway was founded by Jay Van Andel and Richard DeVos

1964 Holiday Magic founded by William Penn Patrick.

1967

Koscot Interplanetary founded by Glenn W. Turner, a former Holiday Magic distributor.

1974 Holiday Magic ceases operations after investigations by the FTC,

 SEC and Sweden.

November 18, 1975 FTC v. Koscot

FTC issues its final order in In re Koscot Interplanetary, 86 F.T.C. 1106 (1975). The Koscot decision is the leading precedent on what constitutes an unlawful pyramid scheme.

May 8, 1979 FTC v. Amway

The FTC issues its final order in its case against Amway, In re Amway Corporation, Inc., 93 F.T.C. 617 (1979). Amway was found liable for price-fixing and making deceptive earnings claims but was cleared of the charge that it was a pyramid scheme. Amway’s primary defense to the pyramid scheme charge was its implementation of three rules that were supposed to ensure that its products were actually retailed to customers by its distributors. These rules, the 70% rule, the 10 customer rule and the buyback rule, were adopted by most MLM firms thereafter, and for many years were considered a sort of “safe harbor”, protecting MLM firms from allegations that they were pyramid schemes. The 1979 Amway decision led to a virtual explosion in the number of MLM firms in the U.S. and facilitated MLM’s expansion worldwide.

February, 1980 Herbalife founded by Mark Hughes.

May 3, 1980

Ronald Reagan, then a Presidential candidate, speaks at the annual Amway convention.

November 4, 1980

Ronald Reagan is elected President of the United States. There will be no significant MLM enforcement actions during his two terms.

1984

Nu Skin founded by Blake Roney, Steve Lund and Sandie Tillottson.

March 4, 1996 Webster v. Omnitrition

The U.S. Court of Appeals for the Ninth Circuit issues its decision in Webster v. Omnitrition, 79 F.3d 776 (1996). The Ninth Circuit adopted the FTC’s “Koscot test” for determining whether an MLM was an inherently fraudulent pyramid scheme for purposes of the federal securities laws and the federal RICO (Racketeer Influenced and Corrupt Organizations) law. The Court also ruled that an MLM which adopts the Amway rules must prove that the rules and both enforced and effective in ensuring retail sales by its distributors. Finally, and of great practical significance for the MLM industry, the Court ruled that a distributor’s purchase of products for his or her own use cannot be used to satisfy the “70% rule.”

January 14, 2004

The FTC issues a Staff Advisory letter to the Direct Selling Association, signed by James A. Kohm, in response to an inquiry by the DSA prompted in large part by the MLM industry’s concerns over the Omnitrition ruling. The Kohm letter appeared to discount the significance of “internal consumption” (i.e., personal purchases by MLM distributors) in determining whether an MLM was a pyramid scheme. The MLM industry seized on this ambiguity and argued that a distributor’s personal purchases could satisfy the 70% rule.

December 19, 2012 Herbalife becomes subject of hedge fund “war”

William Ackman, chief of the hedge fund Pershing Square Capital Management, gives a detailed, three-hour presentation concerning Herbalife, a publicly traded MLM. Ackman revealed that Pershing Square had sold short approximately one billion dollars worth of Herbalife stock (a short sale is essentially a bet that the price of a stock will decrease), and argued that Herbalife was a pyramid scheme that would be shut down by the FTC. This presentation was followed by a legendary battle of the hedge funds, after Carl Icahn announced a huge investment in Herbalife. Ackman and Pershing Square eventually lost this battle, losing hundreds of millions of dollars, when the FTC failed to shut down the company, even though it found that most of Ackman’s factual allegations were correct.

July 15, 2016 FTC v. Herbalife

The FTC announced that it had reached a settlement with Herbalife. The settlement required Herbalife to restructure its operations, imposed rigorous retail sale requirements on Herbalife, and required Herbalife to pay $200 million in restitution to its distributors. Significantly, the Herbalife settlement made clear that adopting the “Amway rules” could no longer be considered a safe harbor by MLM firms.

November 8, 2016

Donald J. Trump is elected President of the United States. Prior to his election Trump had served as a spokesperson for ACN, Inc., an MLM based in North Caroline. Trump also licensed his name for use by another MLM company, known as the Trump Network.