**The Evidence was insufficient to Prove a Pyramid Scheme**

There was not sufficient evidence to prove that i2G was a pyramid scheme. The Government refers  to the Koskot standard which must prove that  **program rewards “are unrelated to sale of products to ultimate user.”**  I2G “program rewards” were unquestionably tied to product use as they were programmed into the plan.  Government witnesses Reynold, Keep, and Anzalone and Government exhibits **(**101B, 101a, 158,103,104,145, 101C) proved a direct tie between customer transactions and “distributor rewards” or commission payments. Commissions received through “customer play” were affirmed by  Anzalone, Logan, and Dugger. (doc 505 #$222, #4551-54, Doc 487 #3857,59, 70, Doc 690 #9466-71, 87, 99, 9500, 9502, Doc 701 #10920, 24, )  There can be no logical conclusion that i2G products were unrelated to commissions.

(Doc 701 10920,24, Doc 690 9466-71,

 Q. And can you make -- can you make money doing fantasy

Sports?  A. You can and I did. (doc 690 9467 9487, 9499, 9500 9502)

Q. And was there -- were there ways through the pay plan or

through the system for you to earn income by the people

participating in the Fantasy Sports programs?

A. Yes. We earned business volume on our own personal play as

well as downline and customers.  (doc 701-10924)

 Keep affirmed that 2300 Casino chip transactions (101C)  accumulated bv totaling 1.2 million dollars which were payable through I2G commissions.  (101B, Exh145, Exh 101C, doc 487 #3870, #3859)   Fantasy Sports transactions totaled 360k in retail sales with 90k bv in 6 months. (101B) Ibo and non-ibo customer transactions which paid commissions were the stated plan for long-term sustainability (503B)  I2G could not be a pyramid scheme.

Q: When people bought chips when chips were purchased, did  people earn BV?A:

They Did (doc 487 3857)

Q. Now, down here at the bottom, it has the totals. So what was the total BV earned

from the chip purchases?  A. $315,594.32.  Q. If we look at that number and we use

the ratio weve been talking about, how many total dollars would have been spent on

the chips?  A. $1,262,377.20 [sic]. Okay. So a little over a million was spent in

chips, according to that data? A: Yes, According to the data. (#487 #3870)

There was ample evidence, including testimony, exhibits, and video proof, that i2G had six valuable product lines being used and sold, namely the I2G Casino, i2G Touch, Songstagram, Fantasy Sports, Sports Betting, Social Casino, and Travel. (Doc 505 #4583, 85, 87, 90-92, 4600, 4685-94, 4698, 99, 4700, 01) The purpose of the plan was the “usage” of these products. Anzalone, Logan, and Dugger confirmed the commissions they received from Fantasy Sports and Social Casino, as well as the usage of the Travel engine, and expressed their enthusiasm for these products.  (Doc 701 #10920,24, Doc 690 9466-71,87, 99, 9500, 02) For instance, Anzalone spent over 100 hours on the G1E Touch, enjoyed playing Fantasy Sports, and used Songstagram and the Travel engine. (505 4585, 87,90,91 4600,4701)Anzalone also participated in the training offered for the I2G Touch, Songstagram, Fantasy Sports, and Travel by his wife Susan and Hosseinipour.(exh Maike 205 Doc 505 4583-91,4600)

A. We liked the Fantasy Football the most. So we were selling

Fantasy Football and the casino games were there too as well,

but we -- and I liked the Touch, to be quite honest with you.

The new Touch was -- I was -- I had hundreds of friends.  Doc 505 4585

A. “We liked the Fantasy Football the most. So we were selling Fantasy Football and the casino games were there too as well, but we -- and I liked the Touch, to be quite honest with you” . Doc 505 4585)  The new Touch was -- I was -- I had hundreds of friends.

During the trial, it was revealed that even government witnesses were using i2G products and referring customers to the i2G casino. For instance, Moyer downloaded the Touch and kept it on his computer (Doc 515 #5010). Similarly, Bennett admitted sending friends to the casino and trying it out in Mexico (Doc 512 #4985). Vougeot used Touch and Sonstagram, while Logue purchased to gain access to all of the platforms (Doc 669 #6888, #6901, #6956).

   Sophisticated investors who saw the great value and uniqueness of the I2G Touch (R.689, #9265-72 (*Id.* at #9209-10.) I2G Touch and Songstagram product developer Reeves described one investor, Khan, who backed the product with ten million dollars (Doc 684 #8818, 19), and celebrities such as Chris Brown, Snoop Dog, and others also supported the product (Doc 684 #8819,20, 74, 75). Despite false claims that the i2G Touch had no value, Reeves, the product developer, fully supported the value and usability of his products and took pride in his work (Doc 684 #8831, 36, 47, 67).

.testified that the product was cutting edge and way ahead of its time compared to the competition.

Reynold provided conclusive proof that i2G was not a pyramid scheme through the I2G SIP Plan) (103, 104) or initial implementation document.  Tracking casino transactions through a direct api feed to pay commissions was “the whole point of it.  Distributors could “activate”, “rank advance” and qualify based solely on customer usage or product sales.

Reynolds also programmed strictly “retail” casino customers. Non-i2g members could place bets at the casino, and generate bv, payable as commissions through the i2G pay plan.  (doc 487 #4049) Similarly,  non-i2g free fantasy sports customers could also generate bv to pay commission in the same manner. There is no question that product sales were directly related to rewards.

    The sole evidence that i2g was a pyramid scheme was the unreliable opinions of Keep whose "analysis" used false statistical data two years outside of the timeline of the indictment intermingled with an unrelated Asian company, XTG1. Anzalone made some statements that supported a "recruitment" focus, but he offered much more testimony validating the i2g focus on products. (Doc 505 #4583, 85, 87, 90-92, 4600, 4685-94, 4698, 99, 4700, 01)

     The court opinion from Judge Barbara G. Lynn on September 28th, 2023, is noteworthy for Hosseinipour's case. The judge dismissed the FTC's pyramid scheme allegations against Neora. The opinion supports the argument that the prosecution and expert witness made errors in their statements about pyramid schemes. The Neora Court dismissed FTC expert Bosley's same arguments as Keep as "rigid theoretical opinions" with "no basis in reality," which also applies to I2G.

     In evaluating Neora, the Court applied Koskot under the FTC Act 5(a), which concerns "unfair or deceptive act or practice in or affecting commerce." However, the Court accepted long-held FTC guidance concepts of "internal consumption" and the fine line between legitimate MLMs and pyramid schemes. id at 639 (quoting United States v Gold Unlimited Inc, 177 F. 3d 472, 475 (6th Cir 1999))). Unfortunately, Hosseinipour was denied these clarifying instructions.

There is no criminal description or statute that applies to pyramid schemes.  The intent of Congress for “civil regulation” can be viewed through its failed Anti-Pyramid Acts of 2017 and 2018 which were intended as an amendment to the FTC Act 5(a) Both bills provided language to define “pyramid scheme” which accepted “internal consumption” and “product usage.”

104  to "prohibit pyramid promotion schemes and ensure that compensation is based on sales to individuals who use or consume the products or services sold, rather than recruitment of participants into a plan of operation, and for other purposes".  The 2018 Senate Bill (105) described “ to prohibit pyramid promotional schemesto ensure that compensation is not based upon recruitment of participants into a plan or operation but instead based primarily on sales to individuals who use, resell, or consume the products or services sold, protect participants, prohibit inventory loading, and for other purposes.  Both bills recognized “internal consumption” and product usage as legitimate.

     FTC guidance in 2004 and 2018 guidance recognizes  “internal consumption” stating “[p]roduct that is purchased and consumed by participants to satisfy their own genuine product demand—as distinct from all product purchased by participants that is not resold—is not in itself indicative of a problematic MLM compensation structure,”

     The Amicus brief submitted by the DSA highlights that compensating a direct seller for their "personal use" is a legal practice that has been affirmed by the FTC for decades.

The prosecution and Keep provided legally invalid instructions that stated that  "retail sales to the public" were necessary for legality. These misstatements of law, along with the court's denial of the clarifying instruction that "internal consumption" could also be considered, substantially narrowed the set of facts the jury could consider. The opinions presented in closing regarding what defines a pyramid scheme lacked legal basis and must be viewed as an "abuse of discretion."

The government is claiming that i2G's binary compensation plan is based on recruitment because two distributors are required to unlock BV.  However, this is factually incorrect. Reynolds clarified that the requirement was for "customer sales" and that "rank advancement" could be achieved entirely through customer sales without recruiting. A distributor could advance with two "customers" at the base rank who generate BV from casino customer chip purchases, fantasy sports play or social token play. Additionally, recruitment tied to product purchase is an accepted and legal MLM practice, and it certainly does not prove that the plan represents a pyramid scheme or is focused on recruiting.

The government has compared the i2G plan to the BurnLounge case, but there is a significant difference between the two. Unlike the i2G plan, the BurnLounge plan did not have a "customer play" built into its compensation plan. The Ninth Circuit did, however, affirm “internal consumption”  when they plainly endorsed the principle that “the participants were the ‘ultimate users’ of the merchandise and that this internal sale alone does not make BurnLounge a pyramid scheme.” 753 F.3d at 887.  Compared to Burnlounge, where the examination of rewards tied to bonus structure is confusing, rewards tied to the bonus structure with I2G are clear because they are programmed into the plan.

In the recent FTC vs Neora case, the Court found that Fast Start, Matching bonuses, and leadership bonuses were not exclusively tied to recruiting including “internal consumption” and therefore, related to product sales.  The Government’s proof proved i2G product sales and user casino chip transactions  were directly tied to the commission payments.” Outside retail sales are directly tied to commission payments through the non-member “Casino Customer” position described by their witness Reynold.  The Government’s sole proof that i2g was a pyramid scheme were the opinions of Keep.  The Neora Court disregarded the same “rigid theoretical opinions” of their own  FTC expert Furthermore, Keep and Anzalone detailed the casino customer transactions directly tied to the i2g commission payments.  rewards tied to the sale of the I2G Touch product to individuals who were not also recruited into the plan, or that members made independent retail sales of I2G products. R.486:#3808- 3809

Individuals become salespeople for many reasons, but one common reason is the desire to purchase and use the company’s products at wholesale or discount prices. See DSA, 2019 National Salesforce Survey.8 44.6 million Americans are preferred customers and discount buyers of direct 8 Available at https://www.dsa.org/docs/default-source/research/dsa2019successisdifferentfactsheet.pdf?sfvrsn=e261c0a5\_2%27http://%27 Case 3:20-cv-01979-M Document 260 Filed 09/16/22 Page 9 of 12 PageID 13276 10 selling companies. See DSA 2022 Growth & Outlook Survey.9 It is not unusual and would be expected that if you are selling a product or service that you are a user and even purchaser of that product or service. Indeed, this is true for small businesses who occupy brick and mortar retail spaces as well, such as service providers, restaurants, salons, florists, and any number of local businesses. It would not make good business sense to purchase products or services from a competitor when you also sell the same product or service at your own business. This concept is true from a customer’s perspective as well. When consumers are considering whether to purchase a new product or service, they are far more likely to make a purchase if the seller uses the product or service themselves. NERA Economic Consulting, An Economic Analysis of the Criteria Used to Distinguish Legitimate Direct Sellers from Pyramid Schemes, October 2015.10 The legal support for the business practice that product purchases by business participants is legitimate has been affirmed for decades by the Federal Trade Commission and Courts.

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106 The Congressional Research Service summarized as “This bill amends the Federal Trade Commission Act to make it unlawful for any person to establish, operate, or promote a pyramid promotional scheme. **"Pyramid promotional scheme" means any plan or operation in which individuals pay consideration for the right to receive compensation that is based upon recruiting other individuals into the plan or operation rather than primarily related to the sale of products or services to ultimate users. 104**

https://www.congress.gov/bill/115th-congress/house-bill/3409/text 105 https://www.congress.gov/bill/115th-congress/house-bill/3409 106

The Court then reviewed Neora under the 2nd prong of Koskot.

  **In January 2018,** the FTC released a staff business guidance document, **“Business Guidance Concerning Multi-Level Marketing.”** **Ex. 115 (“2018 FTC Guidance”).** Although not legally binding, the guidance purported to “assist multi-level marketers” in applying core consumer protection principles to their businesses. Id. at 1. In the guidance, the FTC noted that Case 3:20-cv-01979-M Document 347 Filed 09/28/23 Page 28 of 56 PageID 21353 29 **“[p]roduct that is purchased and consumed by participants to satisfy their own genuine product demand—as distinct from all product purchased by participants that is not resold—is not in itself indicative of a problematic MLM compensation structure,”** and instead the analysis “involves a comprehensive analysis of a variety of factors.” Id. at 2. In doing so, the FTC affirmed its prior 2004 Advisory Opinion, noting that “when evaluating the issue of participants’ **internal consumption,** the FTC staff is likely to consider, among other factors, both (i) whether features of the MLM’s compensation structure incentivize or encourage participants to purchase product for reasons other than satisfying genuine demand; and (ii) information bearing on whether purchases were in fact made to satisfy personal demand to consume the product.” Id. at 2–3.

https://www.congress.gov/bill/115th-congress/senate-bill/3/text Case: 1:19-cv-07189 Document #: 1 Filed: 11/01/19 Page 50 of 60 PageID #:1 51 4848-5392-3755.1

The Neora Court also used the 2nd prong of Koskot and rejected identical arguments made against Neora claiming they had a 96% loss rate,  a 90% focus on recruiting, and same-named “fast start” and “matching bonuses”  which were “recruitment based”  The FTC expert Bosley admitted there is no standard Over Focused on Recruitment”  test”.

There was insufficient evidence to prove that I2G is a pyramid scheme. The government points to the Koskot standard, which defines a pyramid scheme as having rewards unrelated to the sale of the product to ultimate users.  I2G rewards were fundamentally tied sales of products to ultimate users. Reynold presented overwhelmingly proof of direct ties between product transactions and commission payments programmed into the system. (exh 103 104 Doc 497 #4021-4032, 4048, 49  Doc 498 #4063)

From Anti-saturation

 Reynold provided lengthy testimony on the I2G  implementation plan (exh Sip 103 104, Doc 497 #4021-4032). with programming that tracked product and casino transactions (101C) via casino Api feed (498 #4063), assigned business volume, and paid out as commissions per the  i2G pay plan. (doc 497 4021-4024 #497 4063)  as “the whole point” (doc 497 #4048) Member and non-member “casino customers” transactions generated bv.  (#497 4049)  “Customer sales or transactions allowed one to “activate” and advance in the plan (doc 4974020, 4021 4023) with no need of recruiting.  (doc 497 4028,4029) There is no question the rewards were related to product sales.

government an “illegal pyramid scheme” is any plan, program, device, scheme, or other process characterized by the payment by participants of money to the company in return for which they receive the right to sell a product and the right to receive in return for recruiting other participants into the program rewards which are **unrelated to the sale of the product to ultimate users.** This instruction was requested and denied by the Court and therefore, the jury could judge “pyramid scheme” by the proper legal standard.  The Court further abused its discretion in denying any and all clarifying instructions that “a fine line separates legitimate MLM from illegal pyramid schemes and that internal consumption was an acceptable measure of product sales in legitimate MLM companies.  For reasons described in Anti-saturation arguments and by the significant proof of the government’s evidence, the i2g products were fundamentally tied or “related” to the sale of products to the ultimate users.  As the government witness, Reynolds thoroughly described in the SIP plan and affirmed by Government witness Keep and Anzalone product sales, including casino and fantasy sports transactions, were directly tied to i2G commission payments.  I2G was not a pyramid scheme.

Hosseinipour’s counsel demonstrated incompetence by explaining to the Court that all mlm’s are pyramid schemes and that legal pyramid schemes need to be distinguished from illegal pyramid schemes.  Manning’s understanding that all mlms are pyramid schemes and the jury already knew was not unlike the Court’s similar perception  that all mlm’s as “schemes.”  Concerns over the disdain for mlm and evolving FTC standards were expressed  by the  DSA Direct Seller’s Association president Mariana in his summary memos in 2019 expressed similar concern over FTC evolving standard  and the common public misunderstanding and disdain surrounding even legitimate mlm operations.

Finally, during the trial, Hosseinipour's lawyer explained that all MLMs are pyramid schemes and that legal pyramid schemes must be distinguished from illegal ones. While this proves his ineffectiveness, similar misperceptions about MLM were expressed by the Court who viewed MLM companies as “get rich quick schemes”.   Mariana, the president of the Direct Selling Association (DSA), expressed similar concerns regarding the the general misunderstanding and disdain toward even legitimate MLM operations

  The Court similarly echoed this same common misunderstanding of all mlms being “schemes” (cite)

In his 2019 memo he states “  69 June 14, 2019, DSA President Joseph Mariano’s June 14, 2019 summary memo of the DSA’s June 11, 2019 meeting with FTC Chair Simon and his staff. President Mariano noted that: “I also expressed the concerns that we have heard from the direct selling community regarding the Commission’s enforcement posture and views of the industry including the speculated misgivings about the business model such as personal use and multi-level compensation.” See also https://www.law360.com/articles/1161129/a-potential-new-fight-over-ftc-s-13-b-authority Similarly, on October 8, 2019 DSA President Joseph Mariano repeated these thoughts: “Nonetheless, we are still concerned, and many people in this room are concerned, there is a basic misunderstanding about direct selling and how it works. Perhaps even worse, there is potential hostility and skepticism regarding direct selling notwithstanding your words, that as a result in an impressive posture toward even legitimate direct selling companies, specifically during various closed-door meetings, it has been reported that members of the FTC staff and others at every level in the organization have openly expressed disdain and hostility for direct selling, particularly multilevel compensation … and this skepticism has resulted in something of a confirmation bias with regard to certain facts and aspects of how direct selling companies, many legitimate direct selling companies were, including common practices such as recruitment of new sales people, compensation as based upon … requirements … actual sales … and even the use of product by sales people, so-called personal use … it has also been expressed that we, there’s a concern that the FTC has perhaps an unexpressed agenda of defense in direct selling businesses through a series of actions like last week … and that their goal actually is … to eliminate multilevel marketing, multilevel compensation…”