



Sellers Beware: Regulatory Action May Lead to Criminal Charges

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Having the Federal Trade Commission – or any other government agency – initiate an action against you or your company may seem like very bad news. But it can get much worse. Sometimes, what starts as a civil action by a government regulator can culminate in jail time. This is the hard lesson learned by Donald Barrett, founder and president of iTV Direct, an infomercial company.

Barrett and iTV Direct came under fire by both the Food and Drug Administration and the FTC in 2004 for marketing a purported health product, Supreme Greens. Barrett's company had marketed the product with some pretty bold claims, such as that the product could prevent major health problems including cancer, Parkinson's disease and heart disease. The FDA initially issued a warning letter to the company for marketing a non-licensed drug with false and misleading claims. The FDA letter was quickly followed by an FTC lawsuit for deceptive advertising, among other charges.

Not only were the assets of the defendants (Barrett, his company and additional related parties) frozen, but they were also ordered to pay a staggering \$48.2 million in consumer refunds. And that wasn't the end of it. As Barrett and other defendants lost a lengthy battle through the appeals process, the Department of Justice came in with criminal charges against Barrett for subscribing to a false tax return and misbranding. Barrett pled guilty earlier this month to those charges and is awaiting sentencing in July. He may face up to three years imprisonment.

Barrett's experience demonstrates a difficult reality for individuals and companies that have evoked the interest of a government agency: a government investigation into one matter may lead to more and increased government involvement. Once an agency starts looking into a subject's affairs, the proverbial can of worms is opened. There will almost invariably be some problems, some irregularities, identified. The investigated party may find themselves suddenly facing a panoply of issues across government agencies. With Barrett, what began as a matter with the FDA, then the FTC, opened him to issues with the IRS and the DOJ.

What is a company or individual to do in order to minimize exposure once a government agency initiates an action? Proceed with caution ...[and review the steps we suggest taking](#).

Crime in the Suites is authored by the [Ifrah Law Firm](#), a Washington DC-based law firm specializing in the defense of government investigations and litigation. Our client base spans many regulated industries, particularly e-business, e-commerce, government contracts, gaming and healthcare.

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