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[Tobacco Litigation Site](#)

[Commonwealth vs. Lambert](#)

[News Resources](#)

[Years In Review](#)

## **AG Fisher files lawsuit and separate contempt of court charges against Berks County businessman/president of 'Gas Up USA'**

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HARRISBURG - Attorney General Mike Fisher today announced the filing of two separate legal actions in Commonwealth Court against Eric J. Dalius of 51 Bushkill Court, Reading, who is accused of violating a prior court agreement with Fisher's Office and operating a deceptive multi-level marketing scheme that generated 377 complaints from consumers nationwide.

In one legal action, Fisher said, his Bureau of Consumer Protection filed contempt of court charges against United States Marketing Enterprises Inc., and Eric J. Dalius, individually, and as the company's chief executive officer, president and owner. The contempt petition accuses Dalius of violating a 2000 court settlement that permanently barred him from violating Pennsylvania's Consumer Protection Law.

Fisher said his office also filed a lawsuit naming Dalius and his business, Gas Up USA Inc., 51 Bushkill Court, Reading, as defendants. The suit alleges new violations of Pennsylvania's Consumer Protection Law.

According to the lawsuit, Gas Up USA advertises and sells memberships that offer consumers a number of benefits, including a pre-paid gasoline debit card to purchase gasoline at a discounted price.

According to investigators, members are entitled to obtain \$25 worth of gas at a price of \$19.75, as many as eight times per month. Each time the card is used, the amount spent is automatically deducted. Consumers are instructed to add money to the account to keep the card active throughout the membership period.

In 2002, the annual membership fee was \$149.99. Currently, consumers interested in becoming members are asked to pay an annual fee of \$324.87 or \$24.99 per month, plus a \$24.99 initiation fee. The company promotes the card with claims that Gas Up USA members can save as much as \$42 per month or \$504 per year.

"This offer was extremely enticing to consumers who were told they could save a lot of money on gas at a time when gas prices were rising," Fisher said. "However, this promise was not fulfilled for hundreds of consumers who said they paid for memberships but never received the discount cards, had difficulty adding money to the cards or tried to use the cards but they failed to work. Others who signed up as distributors for the company said the defendant has failed to pay, in some cases, thousands of dollars that they are owed in sales commissions."

The lawsuit also claims that some consumers were double-billed for membership fees or failed to receive the promised advertising materials. Consumers said despite their repeated requests for delivery of the discount cards or their money back, the defendants failed to produce the cards and refused to issue refunds.

The lawsuit asks the court to order the defendants to:

- Pay \$130,000 in restitution to 315 consumers, plus pay restitution to other consumers who come forward with documentation that they were harmed by the defendants.
- Pay civil penalties of \$1,000 per violation or \$3,000 per violation if the victim is age 60 or older.
- Permanently forfeit their right to conduct business as a multi-level marketer in Pennsylvania.
- Cease multi-level marketing and the sale of distributorships to independent representatives.

- Pay the Commonwealth's investigation costs.

The lawsuit also requests that the court freeze the defendants' assets and appoint a receiver to collect the assets to fulfill the court's order. In a separate legal action, contempt of court charges were filed against Dalius and United States Marketing Enterprises Inc. for failing to comply with the terms of a February 2000 "Assurance of Voluntary Compliance" agreement with Fisher's Bureau of Consumer Protection.

According to the settlement, Dalius allegedly accepted consumers' money to purchase sales contact lists but failed to deliver the lists. Dalius and his business United States Marketing Enterprises, advertised, promoted and sold the lists to consumers who were sales distributors for various companies. Consumers complained to Fisher's Office that they paid Dalius between \$134 and \$402 for the contact lists, which they never received.

As a result of the investigation, Dalius entered into the agreement and was required to pay full restitution to affected consumers. Dalius was also required to: Pay more than \$1,500 in civil penalties and investigation costs; Comply with all terms of his contracts, warranties and guarantees, and fully comply with Pennsylvania's Consumer Protection Law in the future. The contempt petition accuses Dalius of violating the Consumer Protection Law by engaging in deceptive business practices as operator of Gas Up USA.

"We contend that Mr. Dalius again defrauded consumers, which is a direct violation of our prior settlement," Fisher said. "My office will show that the defendant's alleged failure to comply with the law, has created an even larger group of victims who have documented significant losses. In our view, these new allegations are a blatant disregard of the law and warrant a permanent ban on doing business in Pennsylvania." The contempt petition asks the court to:

- Require the defendant to pay restitution to all eligible consumers.
- Impose enhanced civil penalties of \$5,000 per violation.
- Require the defendant to immediately cease any and all multi-level marketing activities.
- Order Eric J. Dalius to forfeit his right to conduct multi-level marketing in Pennsylvania.
- Freeze any assets received by Gas Up USA or Eric J. Dalius.
- Appoint a receiver to collect the assets of Eric J. Dalius and his other corporations.

The lawsuit and contempt of court charges were filed in Commonwealth Court. The case is being handled by Deputy Attorney General Michael F. Butler of Fisher's Bureau of Consumer Protection Office in Allentown.

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