

FTC
1991
ANNUAL REPORT

U.S. FEDERAL TRADE COMMISSION
WASHINGTON, D.C.

MAINTAINING COMPETITION MISSION

The Maintaining Competition Mission is devoted to preventing unfair trade practices and promoting competition through enforcement of the Federal Trade Commission Act, Clayton Act, Robinson-Patman Act, and Hart-Scott-Rodino Antitrust Improvements Act of 1976. The Bureau of Competition is primarily responsible for the Maintaining Competition Mission with support from the Bureau of Economics, and the ten regional offices.

The activities of the mission are divided into five major program areas: Premerger Notification, Mergers and Joint Ventures, Horizontal Restraints, Distributional Arrangements, and Single Firm Violations (focusing primarily on monopolization, predation and practices that may facilitate collusion).

The Bureau of Competition is responsible for administering the Hart-Scott-Rodino Antitrust Improvements Act of 1976 and for taking steps to ensure compliance with the program's statutory premerger notification rules. The other four program areas review violations of the antitrust laws in industries in which the Commission has particular expertise including petroleum, chemicals, natural resources, food, transportation, and health. In addition, the Commission reviews suspected collusive behavior among licensed professionals, and provides antitrust policy analysis and studies to increase consumer awareness and to further the understanding of the role of antitrust in a competitive economy.

PREMERGER NOTIFICATION

The Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("HSR Act") requires Persons meeting certain size requirements who are planning significant acquisitions to file notification with the Commission, and to delay consummation for a prescribed period of time. The premerger notification program was enacted to provide the Commission and the Department of Justice with the opportunity to review proposed transactions and to take enforcement action, if appropriate, to prevent consummation⁴preventd.96 Ths 170 a TD 0 e0 0

transaction is reportable under the notification and waiting period requirements. The Guides were prepared by the Premerger Office staff and the Compliance Division of the Commission with assistance from the Antitrust Division of the Department of Justice.

A Memorandum of Agreement was entered in July 1991 between the Department of Justice and the Federal Trade Commission with respect to civil penalty actions under the premerger notification provisions of the HSR Act. Under the agreement, the Department will determine within 45 days whether or not it will take any action on a Commission request to initiate a civil penalty suit for-alleged violations of the HSR Act and may appoint Commission attorneys to prosecute such actions. The Attorney General retains full authority over any litigation, including any proposed settlement arrangements.

The Commission initiated four civil penalty actions for alleged violations of the notification and waiting period requirements under section 7A(g)(1) of the HSR Act during fiscal year 1991. Each complaint and accompanying consent settlement was filed in the U.S. District Court for the Distr

Inc.; University Health,

twenty percent of the stock of Libby-Owens-Ford Co. could reduce competition in the North American wired glass market. The proposed order, would prohibit the two firms from jointly manufacturing and distributing wired glass in North America.

The Commission's consent order in Harold A. Honickman/Brooklyn Beverage Acquisition Corp. settled a 1989 administrative complaint challenging the acquisition. The order requires both parties to obtain prior approval for ten years for certain soft drink mergers or acquisitions.

Three other consent agreements, placed on the public record for comment, were pending final action at the end of the fiscal year. The proposed order in PepsiCo, Inc. would require the divestiture of Twin Ports Seven-Up Bottling Company acquired by PepsiCo in 1986 from MEI Corporation; the proposed order in Service Corporation International/Sentinel Group, Inc. requires the divestiture of six specific funeral homes; and the proposed, order in Sentinel Group, Inc. requires the divestiture of funeral homes in Summerville, Waycross and Gainesville, Georgia.

Administrative Law Judges filed initial decisions dismissing two complaints. In Coca-Cola Company/Dr Pepper Co., although the judge held that the acquisition would violate the antitrust laws he ruled that it would not. 6/24/07

the Commission worked to eliminate unlawful horizontal restraints on trade. In addition, the Commission implements its program by preparing and issuing reports, submitting comments to federal, state and local government agencies, filing amicus curiae briefs in court actions, and issuing advisory opinions when appropriate.

This year, the Commission issued an administrative complaint and accepted two consent agreements with respect to an alleged boycott in Fort Lauderdale of the bo () TClevel

Commission may determine whether to continue the case on its own motion or to adopt the findings of the initial decision as its own.

Following last year's First Circuit Court of Appeals decision in *New England Motor Rate Bureau, Inc. v. FTC*, the Commission issued a final order against unlawful ratemaking activity in November 1990. The Commission later modified the order to allow the Rate Bureau to file collective rates for the transportation of commodities by motor common carriers in New Hampshire.

In a January decision, the Third Circuit Court of Appeals reversed and vacated the Commission's cease and desist order in *Ticor Title Insurance Co.* The Court held that the companies' agreement to collectively set rates for title search and examination services was protected by the "state action" doctrine. The Commission's petition for certiorari was pending at the end of the year.

The Commission's staff has also provided comments, advice and guidance to governmental bodies and private groups concerning the potential anticompetitive effects of their regulatory and other activities. These advocacy efforts have dealt with a variety of economic sectors, including the marketing and delivery of health care services, regulation of intrastate telecommunication services, gasoline pricing, ownership of radio and television stations, advertising and solicitation by lawyers, cable television regulation, automotive aftermarket crash parts, trucking regulation, taxicab regulation, and bank advertising of trust funds.

DISTRIBUTIONAL RESTRAINTS

During fiscal 1991, the Commission continued to investigate restrictions on the distribution of goods from manufacturers to consumers. Such practices can limit sources of supply or restrict channels of distribution in ~~ways~~ e g u l a t o r y a n

plaint accompanying the proposed order in Sandoz Pharmaceutical Corporation charged that the company engaged in an illegal tying arrangement by requiring purchasers of clozapine (marketed exclusively by Sandoz) to purchase patient monitoring services arranged by Sandoz through its Clozaril Patient Management System.

On remand from the United States Court of Appeals for the District of Columbia, the Commission reissued its 1986 order in Boise Cascade Corporation and concluded that competitive injury existed when dealers who received no wholesale discounts lost accounts because Boise offered better prices and services. A second appeal by Boise was dismissed after the Commission accepted a proposal to issue a modified final order prohibiting Boise from knowingly receiving wholesale discounts on office products that are resold by Boise to end-users.

SINGLE FIRM VIOLATIONS

The Commission opened eleven new investigations of potential single firm abuse of market power, an activity that injures consumers by reducing output and increasing prices above the competitive level. The program's objective is to prevent or remedy instances in which market power has been created or maintained through anticompetitive behavior through monopolization, or attempts to monopolize, tying arrangements, and non-price predation.

The Commission staff continues its efforts to engage in competition advocacy concerning the reduction of barriers to entry and the elimination of restraints on pro-competitive firm conduct, and to provide legal and economic policy analysis of issues related to single firm anticompetitive behavior.

COMPLIANCE

The Compliance Division supports the other programs in the Commission's efforts to assure compliance with Commission orders to cease and desist from certain conduct, orders for divestiture, and other forms of relief.

The Commission modified three of its orders. Union Carbide Corporation's 1977 consent order was modified to allow the company to enter into requirements contracts for longer than one year with several gas distribution companies. The Commission set aside a 1961 order in Firestone Tire & Rubber Company, that prohibited Shell Oil Company and Firestone from using certain types of marketing agreements to sell tires, batteries and other automotive accessories. The order in New England Motor Rate Bureau was modified to allow the Rate Bureau to file collective rates in New Hampshire.

CONSUMER PROTECTION MISSION

In fulfilling its Consumer Protection mission, the Commission strives to maintain conditions in the marketplace that allow consumers to make informed purchase choices. To this end, it works to: increase the usefulness of advertising by ensuring that advertising is truthful and not misleading; reduce instances of fraudulent or deceptive sales and marketing practices; and

prevent creditors from engaging in unlawful practices in granting credit, maintaining credit information, collecting debts, and operating credit systems. Under this mission the Commission also conducts activities designed to educate consumers and businesses about their rights and responsibilities under the laws and regulations it administers.

There are five substantive programs within the Consumer Protection Mission: Advertising Practices; Service Industry Practices; Marketing Practices; Credit Practices; and Enforcement. These are supported by the Economic and Consumer Policy Analysis program and a management program that includes the Office of Consumer and Business Education.

ADVERTISING PRACTICES

Under this program, the Commission works to ensure that advertising claims are not false or misleading so that consumers can make informed purchases on the basis of truthful information. In fiscal year 1991, the Commission took 4,490 on truthful advertising program, 4,490 TD 0 Tc () Tj 3.24 0 TD 0.01cc (p,c (works) Tj

Concern for the environment continues to result in advertisements using terms such as "biodegradable," "recyclable," and environmentally or ozone "friendly." In its first two cases involving environmental claims, the Commission obtained consent agreements prohibiting deceptive "ozone safety" claims.

In addition to asking companies to substantiate their environmental claims when appropriate on a case-by-case basis, the Commission also considered possible guidelines on this issue. The Commission held public hearings to consider whether it should issue national voluntary guidelines on environmental advertising, to protect business from conflicting state regulations while ensuring consumers receive truthful and accurate information upon which to base purchasing decisions. The Commission also sought written comment on issues relating to whether additional guidance to the public on environmental advertising and labeling is needed, what form such guidance should take, and what it should cover. A task force was formed with the Environmental Protection Agency and the United States Office of Consumer Affairs to address issues raised by environmental advertising claims.

SERVICE INDUSTRY PRACTICES

Activities in this program focus on misrepresentations in sales of investment goods and services such as precious metals, rare coins, art and mining projects. In addition to taking action against direct marketers, the Commission continued to investigate and litigate cases involving firms and individuals who enable fraudulent wha6() Tj 3.845 Tc (United) T7of

In the health fraud area, two permanent injunctions and \$148,750 in consumer redress was obtained in a case involving the instructor of a permanent makeup workshop charged with misrepresenting the training provided and certification awarded to attendees. A preliminary injunction was obtained in an ongoing case charging a chain of weight-loss clinics with misrepresenting that consumers could adjust their metabolism and lose up to one-and-a-half pounds a day on its diet program. Consent orders were obtained prohibiting three providers of infertility treatments from misrepresenting, or making unsubstantiated claims about, their success rates in achieving births or pregnancies. One order also prohibits the provider from misrepresenting the cost of any infertility treatment, the provider's qualifications to provide those treatments, and any therapeutic or beneficial effect of such treatment. A consumer education brochure was published warning consumers about the health risks and poor weight-loss maintenance results of diet programs. Fourteen investigations of physician-supervised, very-low-calorie diet programs and commercial diet clinics continued.

MARKETING PRACTICES

The fraudulent telemarketing of consumer goods and services is the primary focus of this program. Two important trade regulation rules, the Funeral Rule and the Franchise Rule, are also enforced under this program.

Commission actions in fiscal year 1991 challenged deceptive practices in marketing products and services such as water purifiers, vacation packages, "free" prizes or awards, invention promotion services, copier supplies and a variety of business opportunities. The Commission filed a complaint against the marketer of a purported AIDS cure, and charged a distributor-franchisor with making false claims regarding the accuracy of a breathalyzer device used in bars and night clubs. As in the investment fraud area, the Commission continued to investigate not only direct marketers, but also those who organize, supply and facilitate fraudulent schemes by providing them with essential services or assistance.

More than \$13 million in redress was ordered in nine deceptive sales cases, including a \$1 million settlement in the first 900 telephone number case brought by the Commission. In one case, a Louisiana operation charged with offering a fraudulent vending machine business opportunity was ordered to pay \$9.9 million in consumer redress. Two companies charged with misrepresenting invention promotion services agreed to pay a total of \$570,000 in redress. In another case, a seller of a pay per use fax machine business opportunity agreed to pay \$100,000 in redress to settle charges that it misrepresented the business opportunity to potential franchisees.

A federal court ordered a minimum of \$7.59 million be refunded to consumers by a maker of heat detectors. The redress order, which may result in as much as \$49.95 million in refunds, followed a Commission order ruling that the company

penalties was obtained. In the Care Labeling Rule area, the Commission filed its first formal action in federal district court.

In the Mail Order Rule area, three cases were resolved with injunctive relief and a total of \$200,000 in civil penalties. A major publisher resolved alleged violations of the Unordered Merchandise Statute with a consent providing injunctive relief and a \$175,000 civil penalty. Finally, a complaint was filed alleging that a hearing aid seller failed to inform consumers, often elderly citizens, about their three-day cancellation rights, as required by the Cooling-Off Rule.

CONSUMER EDUCATION

The Office of Consumer and Business Education produced thirty-nine new and revised consumer and business publications, some in Spanish. Many of the publications as well as other projects were done as joint efforts with the private and public sectors. More than three million copies of the FTC's consumer and business publications were distributed by the agency.

The Office worked with the National Association of Attorneys General to produce a public service video feature about credit repair scams, which was released via satellite to about 1,000 television stations. The Office also worked with the Alliance Against Fraud in Telemarketing to produce radio spots to caution consumers about infomercials, which were distributed to 500 select stations. Further, the Office worked with AAA and its 1,000 media offices to distribute a message to consumers, which cautioned them about octane overbuying. Joint projects also were done with the National Coalition for Consumer Education ("The Status of Consumer Education in 1991") and the National Consumer Education Center (NCEC) (DDT-00nFD)-078162 DD50.0754j

marketplace performed well were distinguished from situations where the market might be improved by Commission action. When enforcement actions were initiated, economists worked to integrate economic

a variety of regulations that raise antitrust or consumer protection issues. Staff comments, filed in response to invitations, include submissions to the Federal Communications Commission on the financial interest and syndication rules, the cellular mobile telephone marketing rules, and 900-number telephone regulations; to the Department of Agriculture on food labeling regulations; and to the Advisory Commission on ocean Shipping on the costs and benefits of ocean shipping conference. In addition, the Bureau released a study of the relative benefits to and from of the relative benefits to and from

management workload. CD-ROM technology was introduced in selected offices as pilots.

In "office support," the Automated Systems Division completed the installation of the first Regional Office Local area network in the Cleveland Regional Office. A major analysis was also completed of pc-based relational database systems, with a view toward selecting a standard database management tool for staff attorneys to use for investigations. The goal is to include an improved database product in the inventory of standard PC software that is supported by ASD

LIBRARY

The Library maintained the Commission's comprehensive research collection in legal, business, and economic subjects and provided research assistance to FTC staff and the public through a variety of information sources and systems. During 1991, the Library staff responded to approximately 12,000 reference questions, processed over 2,850 interlibrary loan requests, and circulated over 3000 items. The Library introduced CD-ROM technology and databases to the collection this year.

The Library's Information Center continued to train and assist FTC staff in the use of personal computers on related soft-ware, systems located on the agency's central computer, and in obtaining information from the agency's internal computer systems. During fiscal year 1991, Information Center increased its services by providing support in the use of selected audiovisual equipment.

The Information Center trained 1,091 employees in 86 classes on 33 different topics, ranging from computer security to Advance WordPerfect. The staff developed a Regional Office Training Catalog which offered courses available locally as well as on-site specialized training by headquarters staff. In addition to formal training and customer support, the Information Center published a number of instruction sheets on different software packages.

PROCUREMENT AND GENERAL SERVICES

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prepare for the conversion to a new accounting system as of October 1, 1991.

HUMAN RESOURCE MANAGEMENT

In fiscal year 1991, the Commission continued to build on its human resources staffing level. The agency conducted on campus interviews at 22 law schools and hired 29 law clerks and 10 summer legal interns. Also the agency hired two new economists under its newly acquired delegated examining authority. The Commission was also successful in converting its automated personnel information system thereby giving the agency integrated payroll-personnel capability.

REGIONAL OFFICES

The Commission's regional offices continued to play a key role in fulfilling the agency's two missions in fiscal 1991. In addition to engaging in the full range of enforcement and advocacy activities within their respective regions, the regional offices served a valuable "outreach" function by responding to consumer complaints and inquiries, and maintaining contacts with state and local enforcement officials, trade associations, and consumer groups. During fiscal 1991, the regional offices worked to expand their strong working relationships with state attorneys activities undertaken on a cooperative basis with the states.

any resale price and, in addition, must notify its officers and distributors that dealers are free to set their own prices for the products to be sold.

Madison County Veterinary Medical Association

(See page 30.)

Medical Staff of Broward General Medical Center

(See page 30.)

Medical Staff of Holy Cross Hospital

(See -- Medical Staff of Broward General Medical Center, page 30.)

Nintendo of America Inc.

Nintendo of America Inc. agreed to settle charges that it obtained agreements from certain of its dealers to sell its home video game hardware at specified price levels. According to the complaint, Nintendo's resale price maintenance activities increased consumer prices and restricted competition among retail dealers. The proposed order prohibits Nintendo from fixing or controlling the retail price of any Nintendo video product, coercing retailers into committing to sell products at pre-determined prices, reducing the supply of products or imposing different credit terms to dealers who sell Nintendo products at prices lower than those suggested by Nintendo or, for five years, terminating dealers for failure to sell at minimum suggested prices, Also, for a period of five years, Nintendo would be required to place a disclaimer on any material in which it suggests resale prices stating that the dealer is free to determine the prices at which it will sell the Nintendo products.

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Service Corporation International

The Commission accepted for public comment a proposed consent agreement that would permit Service Corporation International to acquire the Sentinel Group, Inc. According to the complaint accompanying the agreement, the acquisition would substantially reduce competition for funeral services in certain areas of Georgia and Tennessee and increase the possibility of collusion among the remaining establishments providing funeral services in the areas. Under terms of the proposed consent, SCI would be permitted to acquire Sentinel if it divests six specific funeral homes within twelve months: one each in Savannah, Georgia, LaFayette, Georgia, and Soddy Daisy, Tennessee; and three in Chattanooga, Tennessee. In addition, for a period of ten years, SCI must obtain prior Commission approval before acquiring any additional funeral homes in Savannah and LaFayette, Georgia, and in specific suburban areas of Chattanooga, Tennessee. In a related matter, a proposed consent agreement placed on the public record for comment requires Sentinel Group, Inc. to divest several funeral homes. Also during the year, SCI settled a civil penalty action alleging that its acquisition of stock in Centurion National Group, Inc. was in violation of the Hart-Scott-Rodino Act.

Southbank IPA, Inc.

The twenty-three obstetrician/gynecologist members of Southbank IPA, Inc. agreed not to conspire with others to fix the prices charged for physician services. According to the complaint accompanying the proposed consent order, Southbank, its parent company, Southbank Health Care Corporation, and the twenty-three physicians formed the Independent Practice Association in the Jacksonville, Florida area to contract directly with third-party payers, insurance companies, and employers providing self-insured health benefits to their employees. The complaint alleged that Southbank was a sham independent practice association and that the IPA and its members restrained competition among obstetricians and gynecologists in the Jacksonville area by boycotting third-party payers and attempting to increase the payments paid to the physicians. The proposed order would require the physicians to dissolve Southbank IPA and its parent, and prohibit the physicians from entering into any agreement with any competing physician to set the fees charged for professional services. This consent agreement is the first one in the IPA2oposed TorgreetD 0C9.92 y,rder2.96 ET ()306 ()11c () ()bivf BT 90 28gistp IP437sician

Excell Mortgage Corporation

Excell Mortgage was charged with providing consumers with allegedly inaccurate, incomplete and misleading information about annual percentage rates and the size of monthly payments for adjustable rate mortgages in violation of the Truth in Lending Act and Regulation Z. The company agreed to an order prohibiting future violations of the Truth in Lending Act and Regulation Z, and requiring it to pay consumer redress totalling approximately \$200,000.

Newtron Products Company, Inc.

Newtron Products and its principals were alleged to have deceptively advertised the performance capabilities of its Newtron Electrostatic Air Cleaner. The order prohibits the respondents from making unsubstantiated representations regarding the performance of any air cleaning product unless it possesses competent and reliable scientific evidence to substantiate those claims.

O'Neill, Inc.

O'Neill, a manufacturer of form-fitting garments, including wetsuits and bathing suits, allegedly failed to label the garments with the constituent fiber content, as required by the Textile Fiber Products Identification Act. The order prohibits future violations of the Act.

Pacific Rice Products, Inc.

Pacific Rice Products was charged with making allegedly unsubstantiated health claims in advertisements for its Vita-Fiber Rice Bran cereal. The company agreed to an order prohibiting it from misrepresenting the results of any test or study in connection with the sale or advertising of any food product, and requiring it to have competent and reliable scientific evidence for any health benefit claim for any food product the company advertises in the future.

Scali, McCabe, Sloves, Inc. & Volvo North America Corp.

Volvo North America and Scali, McCabe, Sloves, Inc., its New York advertising agency, were alleged to have falsely portrayed the comparative performance of Volvo automobiles in the "Bear Foot" ad campaign demonstrating a monster truck running over a row of cars, crushing all but a Volvo station wagon. The Commission alleged that, in fact, in the ads some of the structural supports in the Volvos used had been structurally reinforced, while in some of the competing cars the structural supports had been severed. Volvo and Scali, McCabe each agreed to orders that would prohibit such misrepresentations in the future, and require each to pay \$150,000 to the United States Treasury as disgorgement.

PART II (INVESTIGATIVE STAGE)
CONSENT ORDERS ISSUED

MAINTAINING COMPETITION MISSION

Allegheny Corporation

Allegheny Corporation agreed in a consent order to divest to a Commission approved acquirer within twelve months its interests in Westwood Equities Corporation, a company that provided real estate records serving eighteen counties in several states. The complaint issued with the consent order charged that the proposed acquisition of most of the title insurance-related assets of Westwood would lessen competition in the production and sale of title plant or back plant information in certain counties located in California, Illinois, Indiana, Tennessee and Washington. Title plants and back plants are records that detail the ownership and interests in real property. Title plant records are updated on a regular basis; back plant records are historical and are no longer updated. In addition to the divestitures, for a period of ten years Allegheny is prohibited from acquiring any interest in specified firms that provide title plant and back plant services to the counties named in the order without prior Commission approval.

American Stair-Glide Corporation

American Stair-Glide Corporation ("ASG") entered into a consent order to settle charges arising from its acquisition of the Cheney Company, Inc. The order requires ASG to grant a non-exclusive perpetual license to Cheney's technology and know-how in the production of curved stairway lifts, straight stairway lifts and vertical wheelchair lifts, and also a perpetual exclusive license to the Cheney name to a licensee pre-approved by the Commission. These lifts are used primarily by the elderly or disabled to move from one level to another in residential homes and commercial buildings. The complaint issued with the consent order alleged that the acquisition eliminated competition and established a dominant firm in the United States in the manufacture and sale of stairway and wheelchair lifts. The order also requires ASG to obtain prior Commission approval before acquiring any interest in a firm engaged in the production, distribution or sale of any curved stairway lifts, straight stairway lifts, or vertical wheelchair lifts in the United States for a period of ten years. The order further prohibits ASG from using the Cheney name in connection with any products sold in the United States. Finally, for a period of five years, ASG is prohibited from entering into any long term sales agreement or any exclusive agreements limiting a distributor's ability to sell the stairway lifts or wheelchair lifts of any other manufacturer.

Atlantic Richfield Company

Atlantic Richfield agreed to an order requiring it to divest certain assets to settle charges that its \$220 million acquisition of Union Carbide Corporation would substantially reduce potential competition in the manufacture of propylene oxide, the basic feedstock for urethane polyether polyol (UPP) and propylene glycol (PG) production. ARCO and Dow Chemical are the only domestic producers of propylene oxide; ARCO and Union Carbide are leading producers of UPP and PG.

Madison County Veterinary Medical Association

The Madison County Veterinary Medical Association and four individual veterinarians consented not to conspire with others to refuse to participate in any program that offers low cost veterinary services. The complaint accompanying the consent order alleged that the Medical Association and four Huntsville, Alabama veterinarians, Robert Neil Cole,

Roche Holding Ltd.

Roche Holding Ltd. entered into a consent order to settle charges with respect to Roche's proposed acquisition of Genentech Inc. The complaint accompanying the agreement charged that the acquisition would substantially reduce competition in three areas, the world market for vitamin C, the United States market for therapeutic drugs used in the treatment of human-growth hormone deficiency, and the United States market for the development of CD4-based therapeutics used in the treatment of AIDS/HIV infection. According to the complaint, Genentech, based in California, and Roche, headquartered in Switzerland, are both engaged in the research, development, and marketing of biotechnology therapeutic pharmaceuticals. Under terms of the consent order, Roche must divest its human-growth hormone releasing factor business and Genentech's GLC Vitamin C assets, within

Torrington Company, The

The Torrington Company and Universal Bearings Inc. agreed to settle charges resulting from Ingersoll-Rand Company's proposed acquisition of Universal. According to the complaint accompanying the consent order, Universal prematurely began consolidating its axle shaft business into Torrington, Ingersoll Rand's wholly-owned subsidiary, during the Hart-Scott-Rodino waiting period. Torrington is engaged in the production of anti-friction devices, including needle rollers, pins, and axle shafts. The complaint further alleged that during this same period of time, Universal allocated the business of its axle shaft customers to Torrington. Under terms of the order Torrington and Universal agreed not to consolidate the production, marketing or any other aspect of their respective businesses with an acquiring person prior to the consummation of any proposed acquisition. Earlier in the year, the Commission authorized its staff to seek a preliminary injunction to block Ingersoll-Rand's acquisition of Universal. The Commission believed that the acquisition would substantially reduce competition in the manufacture and sale of needle rollers, cylindrical steel parts used for anti-friction purposes in bearings for automobile transmissions, drive shafts,,and power steering units. The parties abandoned the transaction before the motion for a preliminary injunction could be filed in a federal district court.

CONSUMER PROTECTION MISSION

American Life Nutrition, Inc.

American Life Nutrition, a wholesale dealer of dietary food supplements, agreed to settle charges it made false and unsubstantiated therapeutic claims in its Chinese-language advertising for five of its products. The order prohibits the respondents from making false and unsubstantiated health efficacy claims for their dietary food supplement products in the future, and orders them to pay for corrective advertising that will also appear in Chinese-language newspapers.

Asics Tiger Corporation

Asics Tiger Corporation agreed to settle allegations that it claimed persons wearing its "gel" athletic shoes would suffer fewer impact-related injuries than wearers of other athletic shoes, without having competent and reliable evidence to support the claims. The consent agreement prohibits the company from making unsubstantiated performance claims about its athletic shoes in the future.

Audio Communications, Inc.

Audio Communications was alleged to have deceptively marketed "900" number information services to children. The company agreed to an order prohibiting it from misrepresenting the number of calls required to receive a free prize or premium or the ease with which a premium can be obtained. The order also requires Audio Communications to explain the material terms and conditions for obtaining a premium, and to prominently disclose the cost of the call and statements regarding the need to obtain a parent's permission to make the call. The company must also provide a reasonable means for the person responsible for paying for the call to avoid unauthorized calls by the child to

Electronic-Data Systems Corporation

Electronic Data Systems

Jerome Russell Cosmetics, U.S.A., Inc.

Jerome Russell and its owner, David J. Marcus, agreed to settle charges that they made false and unsubstantiated ozone safety claims in marketing cosmetics that contain a harmful ozone-depleting substance. The order prohibits respondents from representing that any product containing a Class I ozone-depleting substance will not damage the ozone layer, and from making unsubstantiated claims that a product containing an ozone-depleting substance has environmental benefits.

Lewis Galoob Toys, Inc.

Lewis Galoob Toys agreed to settle charges that it made allegedly false and misleading claims regarding the need for assembly of certain Lewis Galoob toys, the purchase and operation of the toys, and the number of items received when the toys are purchased. The order prohibits Galoob from making misrepresentations in the advertising, labeling, sale or distribution of toys.

Miles, Inc.

Miles was charged with making allegedly unsubstantiated advertising claims about the health benefits of its One-A-Day brand multiple vitamins. The company agreed not make such unsubstantiated claims in the future.

Money Money Money, Inc., & Hal Morris

Money Money Money, Inc. and Hal Morris were charged with making allegedly false claims in a 30-minute commercial advertising the availability of government grants. The infomercial, called "Money Money Money", is one of a series respondents produced. The respondents agreed not to air the infomercial again and agreed to pay \$175,000 for consumer redress.

Nationwide Acceptance Corp.

Nationwide Acceptance settled allegations that it violated the Fair Credit Reporting Act by failing to notify consumers who were denied credit that it considered information from credit bureaus or other third parties. The order requires Nationwide to provide such notices in the future, and to notify consumers to whom it denied credit and to whom it did not give proper notification.

NME Hospitals, Inc.

NME Hospitals, an infertility clinic, agreed to settle allegations that it misrepresented the success rate of its in vitro fertilization services. The company agreed not to make such representations in the future. The allegations

product or service and from misrepresenting that a paid advertisement is an independent program.

Strawbridge & Clothier, Inc.

Strawbridge & Clothier agreed to settle allegations that it failed to disclose whether the textile products in its mail order catalogs were made in the United States, imported or both, and failed to disclose proper generic names of fabrics. The company agreed to an order prohibiting future violations of the Textile Fiber Products Identification Act.

Taylor Woodcraft, Inc.

Taylor Woodcraft agreed to settle allegations that it deceptively represented that its household furniture was made of solid maple or oak, when a number of its pieces contained veneered surfaces. The order prohibits such misrepresentations in the future.

Teleline, Inc.

Teleline settled allegations that it deceptively marketed "900" number information services to children. The company agreed to an order prohibiting it from misrepresenting the number of calls required to receive a free prize or premium, the ease with which a premium can be obtained or the total cost for hearing one complete information service message. The order also requires Teleline to explain the material terms and conditions for obtaining a premium, and to prominently disclose the cost of the call and statements regarding the need to obtain a parent's permission to make the call. The company must also provide a reasonable means for the person responsible for paying for the call to avoid unauthorized calls by children, or offer a one-time credit or refund.

Towne, Silverstein, Rotter, Inc.

Towne, Silverstein, Rotter, an advertising agency, agreed to settle charges that it made allegedly false and misleading claims for certain Lewis Galoob toys regarding the need for assembly of the toys, the purchase and operation of the toys, and the number of items received when the toys are purchased. The order prohibits the ad agency from making misrepresentations in the advertising of Galoob toys in the future.

Twin Star Productions, Inc.

Twin Star Productions, Inc., a television production company, agreed to settle charges that it made allegedly false and misleading claims for certain Lewis Galoob toys regarding the need for assembly of the toys, the purchase and operation of the toys, and the number of items received when the toys are purchased. The order prohibits the ad agency from making misrepresentations in the advertising of Galoob toys in the future.

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commercial advertising. The order prohibits the respondents from making unsubstantiated efficacy claims for any product or service and misrepresenting that a paid advertisement is an independent program. The order also requires Twin Star and five of the six individuals to pay a total of \$1.5 million in consumer redress.

United States Sales Corporation

United States Sales Corporation was charged with allegedly failing to disclose the geographic origin of textile products advertised in its mail order catalogs, a violation of the Textile Fiber Products Identification Act. The order prohibits future violations of the Act.

Harbour Group Investments. L.P.

(See page 43.)

R.R. Donnelley & Sons Co.

The Commission charged that R.R. Donnelley & Sons Co.'s acquisition of Meredith/Burda Companies created a dominant firm in the production of high volume publication gravure printing used in magazines and catalogs. According to the complaint, the acquisition increased concentration and may have substantially lessened competition in the United States by increasing the c@blogs.com 6/11/06 11:06:20 CEST

induced children to call without providing a reasonable means for persons responsible for paying for the calls to exercise control over the transactions.

Viral Response Systems, Inc.

The Commission charged Viral Response Systems and its president with making allegedly unsubstantiated claims that the Viralizer System, a hand-held device that blows heated air and medicated spray into nasal passages, relieves cold symptoms and eliminates colds.

PART III (ADJUDICATIVE STAGE)
CONSENT AGREEMENTS ACCEPTED
AND PUBLISHED FOR PUBLIC COMMENT

MAINTAINING COMPETITION MISSION

Alan Kadish

(See page 42.)

Brooklyn Beverage Acquisition Corporation

(See -- Harold A. Honickman, page 44.)

Capital Area Pharmaceutical Society

(See -- Alan Kadish, page 42.)

Chain Pharmacy Association of New York State

(See -- Alan Kadish, page 42.)

Empire State Pharmaceutical Society, Inc.

(See -- Alan Kadish, page 42.)

Fay's Drug Company, Inc.

(See -- Alan Kadish, page 42.)

Harbour Group Investments L. P.

(See page 43.)

Harold Honickman

(See page 44.)

Hoechst Celanese Corporation

Hoechst Celanese Corporation agreed to a proposed consent order to settle charges stemming from Hoechst Aktiengesellschaft's acquisition of Celanese Corporation. The administrative complaint alleged that the acquisition would substantially lessen competition in the manufacture and sale of acetal in world markets, including the United States. Acetal, an engineering thermoplastic, is used as a replacement for metal in small mechanical parts such as the gears and rollers in automobiles, videotape recorders, and lawn sprinklers. The acquisition gave Hoechst AG, the parent of Hoechst Celanese, control of the Ticona Polymerwerke in Germany, an acetal joint venture established by Celanese and Hoechst AG. Although the proposed order would not require the three firms to divest any existing or acquired acetal assets or businesses, it would prohibit the firms from creating or enforcing any agreement that serves to prevent the Hoechst/Daicel Chemical Industries, Ltd. joint venture, Polyplastics Company, Ltd. of Japan, from competing against Hoechst and its subsidiaries in the manufacture and sale of acetal in the United States. Hoechst AG and its two United States subsidiaries, Hoechst Corporation and Hoechst Celanese Corporation, are also prohibited from entering into any agreements with any producer of acetal products to allocate or restrict competition in the market for a period of ten years. A separate consent order was entered in 1987 settling charges that the same acquisition could substantially lessen competition in the United States in the manufacture and sale of polyester staple and polyester filament.

James E. Krahulec

(See -- Alan Kadish, page 42.)

Kinney Drugs

(See -- Alan Kadish, page 42.)

Melville Corporation

(See -- Alan Kadish, page 42.)

Rite Aid Corporation

(See -- Alan Kadish, page 42.)

CONSUMER PROTECTION MISSION

Campbell Soup Company

Campbell Soup agreed to settle allegations that it made unsubstantiated claims that its soups contribute to a diet that reduces the risk of heart disease. The complaint also

alleged that Campbell's advertising linked the low-fat, low-cholesterol content of its soups with reduced risk of some forms of heart disease without disclosing that the soups are high in sodium, and that a diet high in sodium may increase the risk of heart disease. The company agreed to disclose the sodium content for any soup containing more than 500 milligrams of sodium per eight ounce serving in any advertisement that directly or by implication mentions heart disease in connection with the soup.

Wayne Phillips

Wayne Phillips agreed to settle allegations that he made false and misleading

individual intentions to enter into any existing or proposed participation agreement for a period of eight years. In addition, for a period of eight years, each respective party is prohibited from advising or communicating with any other pharmacist with respect to entering into a participation agreement involving the prescription reimbursement policies of third-party payers. In 1989 and 1990 the Commission entered consent orders with three other pharmacy chains and four other pharmaceutical societies to settle similar charges relating to the same prescription drug plan: Brooks Drug, Inc.; Carl's Drug Co. Inc.; Genovese Stores, Inc.; Long Island Pharmaceutical Society, Inc.; Pharmaceutical Society of Orange County, Inc.; Pharmaceutical Society of the State of New York; and Westchester County Pharmacy. During fiscal year 1991, an Administrative Law Judge ruled that Peterson Drug Company, headquartered in New York, participated in this same conspiracy to boycott the prescription drug program.

Brooklyn Beverage Acquisition Corporation

(See -- Harold A. Honickman, page 44.)

Capital Area Pharmaceutical Society

(See -- Alan Kadish, page 42.)

Chain Pharmacy Association of New York State

(See -- Alan Kadish, page 42.)

Empire State Pharmaceutical Society, Inc.

(See -- Alan Kadish, page 42.)

Fay's Drug Company, Inc.

(See -- Alan Kadish, page 42.)

Harbour Group Investment, L.P.

Meade Instruments, a subsidiary of Harbour Group Investments L.P., and Celestron International, a subsidiary of Diethelm Holding (U.S.A.) Ltd., entered consent orders to settle charges relating to their plans to create a joint venture. Meade and Celestron proposed to form a fifty-fifty joint venture, Celestron Meade International, that would manufacture and market mid-sized Schmidt-Cassegrain telescopes used in astronomical viewing. According to the administrative complaint, Meade and Celestron are two of the largest manufacturers of these telescopes in the United States and a combination of the two companies would have created a virtual monopoly for the telescopes. The consent orders require Harbour Group and Diethelm Holding to obtain prior Commission approval for ten years before acquiring any,

company that manufactures or sells mid-sized Schmidt-Cassegrain telescopes in the United States. The parties abandoned their planned combination and agreed to the consent order after the U.S. District Court for the District of Columbia granted the Commission's request for a preliminary injunction.

Harold Honickman

Mr. Harold A. Honickman and the Brooklyn Beverage Acquisition Corp. agreed to settle charges that the

its name to The Gut Buster Corporation, and two principals in the companies as defendants.

TK-7 Corporation

TK-7 Corporation and its principal, Moshe Tal, agreed to settle charges that they made false and unsubstantiated performance claims for a gasoline additive. The company manufactures and sells various fuel additives under the "TK-7" brand name. The order prohibits unsubstantiated claims regarding the efficacy of any fuel or engine additive in the future.

INITIAL DECISIONS

MAINTAINING COMPETITION MISSION

Coca-Cola Bottling Company of the Southwest

An Administrative Law Judge dismissed a complaint that challenged Coca-Cola Bottling Company of the Southwest's acquisition of certain San Antonio Dr Pepper Bottling Co. assets. The administrative complaint charged that the acquisition reduced competition in the production of national brand soft drinks and increased the likelihood of collusion in the San Antonio area. The complaint further alleged that the acquisition would weaken the Big Red Bottling Company, a company comprised of the Dr Pepper Bottling Co. assets not included in the purchase by Coca-Cola. The judge concluded that the relevant product market was broader than defined by the complaint and included national brands, private-label, and warehouse brands of soft drinks. Additionally, the judge defined the geographic market as one larger than the ten county area around San Antonio named in the complaint and found that competition in the market for soft drinks in that area was healthy. The relevant market is characterized by excess capacity, low prices, and low barriers to entry.

Coca-Cola Company, The

An Administrative Law Judge refused to issue an order in a 1986 complaint that challenged The Coca-Cola Company's proposed acquisition of Dr Pepper Co. The complaint alleged that the acquisition would reduce competition in the production, distribution, and sale of carbonated soft drinks and soft drink concentrates in the United States. Soon after the start of the administrative proceedings, the shareholders of DP Holdings Inc., the parent of Dr Pepper, terminated the purchase agreement with Coca-Cola. Dr Pepper was later sold to Hicks and Haas. After the transaction was abandoned, the Commission denied a motion to dismiss the complaint and returned the matter to the Administrative Law Judge to determine whether a violation had occurred and

whether a prior approval would be appropriate. The judge found that the acquisition would)save substantially lessened competition but he ruled that it would not be in the public interest to require Coca-Cola to obtain prior Commission approval before acquiring any other concentrate or bottling company.

College Football Association

An Administrative Law Judge dismissed a complaint challenging agreements negotiated by the College Football Association ("CFA") to televise certain college football games. The CFA is an association of more than 60 major college football playing institutions. The 1990 administrative complaint alleged that CFA, through agreement with and among its members, has entered into telecast rights agreements with telecasters that restrict competition in the marketing of college football telecasts. The complaint further alleged that CFA and Capital Cities/ABC, Inc. ("Capital Cities") unreasonably restrained competition by entering into agreements that give Capital Cities or entities it owns or controls (including the ABC Television Network and ESPN) exclusive telecast rights to certain college football games. The judge ruled that CFA is a nonprofit association that does not carry on business for its own profit or that of its members, within the meaning of Section 4 of the FTC Act and dismissed the complaint against CFA for lack of jurisdiction. The judge dismissed the complaint without prejudice to allow the Commission to determine whether to proceed against Capital Cities alone. The decision is on appeal to the Commission.

Peterson Drug Company of North Chili, New York, Inc.

An Administrative Law Judge ruled that Peterson Drug Company of North Chili, New York, Inc. participated in an illegal boycott of New York State's Employee Prescription Program in an attempt to increase that state's reimbursement rate. The decision upholds a 1989 administrative complaint that charged four other pharmacy chains, one individual, and one trade association with refusing to participate in New York State's proposed employees prescription plan designed to reduce 1 Tc () Tjag810stfD 0.0254

Westchester

Columbia in 1990, the Commission re-issued its order and concluded that competitive injury existed when other office products retailers who received no wholesale discounts lost accounts to Boise because of its better prices or

adequately supervised, and therefore in compliance with the antitrust laws, in the State of Massachusetts.

Union Carbide Corporation

The Commission modified a 1977 consent order with Union Carbide Corporation that prohibited Union

the Molecular Beam Epitaxy Equipment Division of INTEVAC, Inc. The Commission believed the proposed acquisition would substantially lessen competition in the manufacture and sale of molecular beam epitaxy systems, a process used to grow materials of artificially structured crystals for use in semiconductor and optoelectronic devices. The parties abandoned their acquisition plans before the Commission filed a motion in court requesting a preliminary injunction.

Oy Wartsila Ab

The Commission authorized its staff to seek a preliminary injunction to block Oy Wartsila Ab's proposed acquisition of Computerized-Security Systems, Inc. and Winfield Lock Inc. The Commission believed that the proposed acquisition would substantially reduce competition in the manufacture and sale of recordable hotel lock systems. Wartsila, through its wholly-owned subsidiary, Ving Card Systems Inc., and Computerized Security Systems are two of the world's leading suppliers of recordable hotel lock

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The Commission is seeking a permanent injunction and consumer redress.

Agusta Brooks & Saul Irving Brooks

American Credit Services, Inc.

American Credit Services and its president agreed to settle charges alleging that they misrepresented their ability to improve consumers, credit records or establish credit for them. The consent decree permanently enjoins the defendants from misrepresenting their ability to "repair" consumer credit reports, and requires payment of \$20,000 in disgorgement to the United States Treasury.

American Idea Management

The Commission obtained a consent judgment to settle allegations that American Idea Management, its two successor corporations, and three individuals misrepresented the nature, quality, and success rate of invention promotion services they have sold to investors. The consent judgment entered prohibits future misrepresentations and requires payment of \$285,000 for consumer redress.

Applied Telemedia Engineering and Management, Inc.

The Commission filed a complaint charging Applied Telemedia with misrepresenting that consumers who purchased its application filing services for the FCC's wireless cable television systems lottery were highly likely to win a valuable license enabling them to own and operate a wireless cable television station. The court issued a preliminary injunction and ordered a partial freeze of the defendants' assets.

California Pacific-Research, Inc.

and

The Commission obtained a judgment against California Pacific Research and its owner for falsely and deceptively claiming that their "New Researchable

David C. Ascher, Donald R. Cook, Evelyn Klingsberg,
Garry M. Schaeffer, Mark Zigner, Teresa L. Bowman,
Newport Gems d/b/a Capital Assets International,
Paul R. Sherman, Richard Harmon,
Rime, Inc. d/b/a First Capital Trading Company, &
United States Gemological Services, Inc.

The Commission obtained eight separate settlements in connection with its complaint against Newport Gems, d/b/a Capital Assets International, RIME, Inc. d/b/a First Capital Trading Company, United States Gemological Services, Inc., and eleven individuals. The Commission alleged that the defendants misrepresented the investment value of semi-precious gemstones they sold to consumers. The Commission also alleged that United States Gemological Services, Inc. ("USGSI", a Los Angeles-area gemstone appraisal firm, and its president, David C. Ascher, aided and abetted the scheme by misrepresenting appraisals of gemstones. The Commission further alleged that Evelyn Klingsberg, also known as Evelyn Wisotsky, assisted in misrepresenting the investment value, qualities, liquidity and appreciation of semi-precious gemstones.

- The consent order with Donald Cook, a telephone sales representative prohibits him from making misrepresentations in future telemarketing sales and requires him to pay \$185,000 for consumer redress.
- The consent order with Evelyn Klingsberg prohibits her from making misrepresentations in the sale of gemstones in the future, and requires her to pay \$200,000 for consumer redress.
- The consent order with Garry Schaeffer, a telephone sales representative prohibits him from making misrepresentations in future telemarketing sales and requires him to pay \$162,500 for consumer redress.
- The consent order with Mark Zigner, one of the owners and operators of Newport Gems and RIME, prohibits him from making misrepresentations in the sale of gemstones in the future and requires him to pay \$425,000 for consumer redress. Zigner also agreed to cooperate with the Commission in any subsequent trial.
- The consent order with Paul Sherman, RIM's sales manager, prohibits him from making misrepresentations in the sale of gemstones in the future and requires him to pay \$365,000 for consumer redress. Sherman also agreed to cooperate with the Commission in any subsequent trial.
- The consent order with Richard Harmon, one of the owners and operators of Newport Gems and RIME, prohibits him from making misrepresentations in the sale of gemstones in the future and requires him to pay \$425,000 for consumer redress. Harmon also agreed to cooperate with the Commission in any subsequent trial.
- The consent order with Teresa Bowman, a telephone sales representative, prohibits her from making misrepresentations in future telemarketing sales and requires her to pay \$80,000 for consumer redress.

- The consent order with USGSI and David Ascher prohibits future misrepresentations of the appraisal value of gemstones, and requires Ascher to pay \$65,000 for consumer redress.

David C. Burt

David Burt agreed to settle charges in connection with the Commission's complaint against Uni-Vest Financial Services, Inc. The complaint alleged that defendants misrepresented the risk of investing in precious metals and failed to execute clients, sell orders. The consent decree permanently enjoins Burt from making misrepresentations of the kind alleged in the complaint.

Donald R. Cook

(See -- David C. Ascher, page 54.)

Dupont Model Management, Inc.

The Commission filed a complaint charging that the defendants made allegedly false claims that Dupont Model Management is a modeling agency and can place consumers in jobs as professional models. The company allegedly operates under different names in at least eight cities. The court issued a temporary restraining order and froze the defendants, assets.

Earl Serap

Earl Serap pled guilty to two charges of criminal contempt for withdrawing \$1,200,000 in assets in violation of a court-ordered asset freeze. The charges arose out of the Commission's case against American National Cellular Corporation, which allegedly made false representations in the sale of filing services for the FCC's cellular lottery system. Serap agreed to plead guilty to two charges, and in return the Commission recommended a 20-month prison term for the first charge, 48 months to be suspended plus five years probation for the second, and dismissed a third charge of failing to return \$700,000.

Environmental Protection Systems, Inc. & Jesse Nieves

Jesse Nieves agreed to settle allegations that he made false claims in the marketing of water purifiers through his company, Environmental Protection Systems, Inc. The consent order prohibits him from making misrepresentations regarding any water purifier's ability to remove contaminants from tap water, or about any fact material to a consumer's decision to purchase any water purifier or other water treatment device, or any other product or service in the future. The order also requires him to pay \$10,000 for consumer redress.

Fax Corporation of America, Inc.

Seymour and Audrey Butan agreed to settle allegations that they falsely represented that they would refund thousands of dollars in fees and deposits to franchisees. The defendants were also charged with allegedly violating the Franchise Rule by failing to make any of the required disclosures to potential franchisees. The consent judgment permanently enjoins the Butans from violating the Franchise Rule in connection with the sale of public fax machine franchises, and from misrepresenting their refund policies. The order also requires them to pay \$100,000 for consumer redress.

Figgie International, Inc.

The Commission obtained a judgment against Figgie International for misrepresenting that its Vanguard heat detector could give enough advance warning to allow consumers to safely escape most residential fires, and that a combined system of heat detectors to heat

to a permanent injunction prohibiting further misrepresentations in connection with any telemarketing sales, and to pay \$12,200 to the United States Treasury.

J. Robert LeShufy

(See -- Collectors' Guild Ltd., Inc., page 53.)

Karin Lynn Norred & Pacific Medical Clinics Management, Inc.

Karin Norred, one of the defendants in the Commission's case against Pacific Medical Clinics Management, Inc., agreed to settle charges that she allegedly misled consumers by falsely advertising that, through the Clinics' "medically safe" program, consumers could adjust their metabolism and lose up to one and one-half pounds a day without dieting or exercise. The order prohibits Norred from misrepresenting the efficacy of any weight loss or health care program, and requires her to pay \$4,000 into a consumer redress fund.

Lawrence E. Jaspon

Max Munn

(See -- Collectors' Guild Ltd., Inc., page 53.)

Michael A. Kaplan

Michael Kaplan agreed to settle charges alleging he made false and misleading claims in selling distributorships for high-tech products, such as energy saving devices and home burglar alarms. A consent order prohibits Kaplan from making any false, misleading or deceptive claims about distributorships he offers for sale in the future.

Michael Jay & Company

The prohibitsprodu

National Impulse Marketing Corp.

Four individuals agreed to settle charges in connection with the Commission's case against National Impulse Marketing Corporation and eight individuals. The complaint alleged that the defendants made numerous misrepresentations in selling franchises for the exclusive right to market and service sundry product lines at retail business outlets.

NCS Credit Network, Inc.

The Commission filed a complaint alleging that the defendants misrepresented their credit repair services, claiming they could improve consumers' credit histories by removing adverse information from their credit reports, and could obtain major credit cards for consumers regardless of their credit histories.

Newport Gems d/b/a Capital Assets International

(See -- David C. Ascher, page 54.)

Oak Tree Numismatics, Inc.

The Commission obtained a settlement in its case against Oak Tree, three other firms, and three corporate officials. The Commission alleged they falsely represented that their coins were excellent, low-risk investments with low markups, while allegedly selling the coins for as much as seven to eight times their market value. The defendants agreed to a consent judgment which includes permanent injunctions against misrepresentations of the kind alleged in the complaint and requires payment of \$2,750,000 for consumer redress.

Pacific Medical Clinics Management, Inc.

(See -- Karin Lynn Norred, page 58.)

Patricia Bedell

(See -- Crofton M. Cooper, page 53.)

Patriot Alcohol Testers, Inc.

The Commission filed a complaint against two companies and an officer of both companies alleging that they misrepresented the accuracy of the results of the "Patriot 5000" breathalyzer device. The device is placed in bars and nightclubs for patrons to check their breath to determine whether their blood alcohol levels are low enough to permit them to drive. The complaint alleges that the breathalyzers give readings that can vary as much as 75 percent from the user's true blood alcohol level. The court ordered a

temporary restraining order, and the Commission is seeking a permanent injunction, consumer redress, and other relief.

Paul R. Sherman

(See -- David C. Ascher, page 54.)

Properties International, Inc.

The Commission obtained a judgment against the defendants in Properties international for conducting a telemarketing scheme to sell magazine advertising space to owners of undeveloped, unimproved recreational property by making false claims regarding the likelihood customers would sell their property and the price they were likely (li6 0 njcd56 0 TD 0.56 TD4 Tc (space) Tj 24.6 0 TD 0 Tc044 c 0 Twl0ce) Tj 24.

Ronald Dante

Ronald Dante, d/b/a Perma-Derm Academy and the "American Dermatology Association," agreed to settle allegations that he misrepresented the training he provides at his "permanent makeup" workshops, the certification he awards to attendees, and that the process is painless and reversible. The consent decree permanently enjoins Dante from making such misrepresentations and requires him to pay \$143,750 for consumer redress.

S&L Professional Credit Clinic, Inc.

The Commission filed a complaint alleging that S&L Professional Credit Clinic and its principals misrepresented their credit repair services and their money-back refund guarantee. The Commission is seeking a permanent injunction against such misrepresentations and refunds for consumers who purchased S&L's services.

Safety Plus, Inc.

The Commission filed a complaint alleging that Safety Plus and its principals made false representations in marketing employment opportunities with the company. The company distributes its products through a network of "manager trainees" it hires to conduct door-to-door solicitations. The complaint alleges that the defendants misrepresented the nature of the jobs and the method for obtaining and the expected level of their compensation system. The court granted a temporary restraining order and froze the defendants' assets.

Saul Irving Brooks

(See -- Agusta Brooks, page 51.)

Schoolhouse Coins, Inc.

(See -- Crofton M. Cooper, page 53.)

Solomon Trading Company, Inc.

The Commission charged Solomon Trading Company and six individuals with allegedly misrepresenting the value of art prints they telemarketed to consumers nationwide. The court granted a temporary restraining order and partial asset freeze. The Commission is seeking a permanent injunction and other relief.

Starlink, Inc.

The Commission has charged Starlink and one individual with allegedly failing to disclose to consumers that they would incur a \$10 charge on their phone bills by dialing a 1190011 number listed in Starlink's advertisements for employment opportunities. The court issued a temporary restraining order and froze the defendants' assets to preserve funds for consumer redress. This is the second case the Commission has brought involving the deceptive use of "900" numbers to promote job opportunities.

\$140,000 owed to the Commission, and to refund overpayments made by pre-decree customers in accordance with the terms of the settlement. The second contempt action alleged that the company violated the orders issued in the first contempt action. The Commission is seeking compliance with the earlier orders, as well as additional sanctions, including an order that Traditional cease attempts to collect payments from a specified group of customers.

TransWorld Courier Services, Inc.

The Commission obtained a consent order permanently enjoining the defendants from misrepresenting any goods or services they offer for sale in the future, and requiring them to disclose in advertising and promotional materials the cost of calling any "900" number they offer. The order also requires payment of \$1,000,000 for consumer redress, with any funds not used for redress to be deposited in the United States Treasury.

United States Gemological Services, Inc.

(See -- David C. Ascher, page 54.)

Uni-Vest Financial Services, Inc.

Uni-Vest Financial Services and its president, Charles Hoffecker, agreed to an order requiring payment of \$67,500 for consumer redress to settle allegations that the defendants misrepresented the risk of leveraged investing in precious metals and failed to execute clients' sell orders. In addition, Hoffecker is prohibited from making misrepresentations of the kind alleged in the complaint, permanently banned from telemarketing leveraged investments, banned for five years from telemarketing non-leveraged investments in precious metals, and banned from all forms of telemarketing for two years.

U.S. Consumer Promotions, Inc.

U.S. Consumer Promotions, two affiliated companies and three individuals agreed to settle charges that they allegedly made misrepresentations while telemarketing water purifiers to consumers. The consent order prohibits the defendants from engaging in any deceptive practices while selling water purifiers, or any other products or services, in the future.

U.S. Oil and Gas Corporation

The Commission obtained its largest telemarketing fraud settlement to date in its case against U.S. Oil and Gas. The Commission's complaint charged three companies and ten individuals with engaging in allegedly false and deceptive sales practices in connection with application filing services they provided for a federal lottery. The lottery

awarded leases for rights to oil and gas resources on parcels of federal land. At the Commission's request, a receiver was appointed to take control of the companies, and was Subsequently authorized to file civil suits, on behalf of separate classes of victims, against several companies and individuals who allegedly aided and abetted the oil and gas lease scam.

\$850,000 to settle charges that they violated premerger notification requirements when Equity acquired stock in Interco Inc. The complaint charged that the Rales brothers, Equity, and a newly-formed Rales affiliated limited partnership acquired more than \$15 million of Interco stock before filing the required notification and report form and observing the waiting period required by the Hart-Scott-Rodino Antitrust Improvements Act of 1976. The complaint further alleged that the partnership, City Capital Associates Limited Partnership, formed by the Rales brothers and two associates, used two corporations as forty-nine percent owners in an attempt to avoid the HSR premerger rules. The complaint was filed in the U.S. District Court for the District of Columbia at the Commission's request by the Department of Justice.

General Cinema Corporation

The Commission charged General Cinema Corporation with violating the Hart-Scott-Rodino Antitrust Improvements Act of 1976. According to the complaint filed in the U.S. District Court for the District of Columbia, General Cinema acquired more than \$15 million worth of stock in Cadbury Schweppes p.l.c. between September 1986 and February 1987 without filing notification with the Commission and the Department of Justice. The complaint asks the court to order General Cinema to pay the maximum civil penalty allowed by law. The Department of Justice authorized the Commission to file the complaint in the federal court.

Reliance Group Holdings Inc.

Reliance Group Holdings Inc. agreed to pay \$550,000 in civil penalties to settle charges that it violated the Hart-Scott-Rodino Antitrust Improvements Act of 1976. The complaint charged that Reliance acquired a reportable amount of stock in Spectra-Physics, Inc. before filing a formal notification with the Commission and the Department of Justice. Although, certain acquisitions under the HSR Act made solely for the purpose of investment are exempt from the reporting requirements, the complaint charged that this exemption did not apply to the Reliance/Spectra transaction. The Department of Justice, at the request of the Commission, filed the complaint and consent judgment in the United States District Court for the District of Columbia.

Service Corporation International

Service Corporation International agreed to pay \$500,000 in civil penalties to settle charges that it violated the premerger notification filing requirements under the Hart-Scott-Rodino Antitrust Improvements Act of 1976. The complaint charged that SCI acquired more than \$15 million of Centurion National Group, Inc.'s stock without notifying the Commission or the Department of Justice as required by the

warranty, and failing to include language incorporating the Buyers Guide into the final sales contract. The complaint also alleged that defendants violated the Warranty Disclosure Rule by failing

The Commission alleged that the defendants violated the Used Car Rule by failing to display the required Buyers Guide on used vehicles offered for sale, failing to disclose on posted Buyers Guides the name and address of the dealership and person to contact if a problem should arise and failing to include language incorporating the Buyers Guide into the final sales contract. The consent decree entered also prohibits future violations of the Rule.

End

should arise, and failing to include language incorporating the Buyers Guide into the final sales contract. The defendants agreed to an order prohibiting future violations and requiring payment of \$5,000 in civil penalties.

by failing to credit consumers' accounts for returned merchandise within seven days. The consent decree prohibits future violations and requires Damark and its two principals to pay \$150,000 in civil penalties.

David Miller Pontiac, Inc.

David Miller Pontiac agreed to settle allegations that it violated the Used Car Rule by failing to display the required Buyers Guide on used vehicles offered for sale, and failing to disclose on posted Buyers Guides the name and address of the dealership and person to contact if a problem should arise. The complaint also alleged that the defendants violated the Warranty Disclosure Rule by failing to disclose in a single written document the terms of the warranty and other required information. The defendants agreed to an order prohibiting future violations and requiring payment of \$20,000 in civil penalties.

Doro Lee, Inc. d/b/a Brown Hearing Aid Centers

The Commission filed a complaint alleging that Doro Lee d/b/a Brown Hearing Aid Centers, violated the Door-to-Door Sales Rule in connection with the sale of hearing aids. The Commission is seeking a permanent injunction against further violations and civil penalties.

Field Publications, L.P.

Field Publications, publisher of Weekly Reader Books and other book plans, agreed to settle charges alleging that it shipped merchandise without the consent and request of recipients, and tried to obtain payment for this merchandise in violation of the Unordered Merchandise Statute and the FTC Act. The consent decree prohibits such practices in the future and requires Field to pay \$175,000 in civil penalties.

G & H Used Cars, Inc.

The Commission obtained a judgment against G & H Used Cars for violating the Used Car Rule by failing to display the required Buyers Guide on the used vehicles it offered for sale. The order prohibits future violations of the Used Car Rule and requires G & H to pay \$10,000 in civil penalties.

George L. Eyler

George Eyler, ~~schiff~~ FD-00107 T Tc0 .04 0 2.28 0 a -0.0 Tc () Tj 1.68 0 TD -0.0054

\$25,000 for consumer redress to students whose payments were not properly refunded.

Independent Auto Brokers, Inc.

The Commission filed a complaint alleging that the defendants violated the Used Car Rule by failing to display the required Buyers Guide on used vehicles offered for sale. The Commission is seeking a permanent injunction against further violations and civil penalties.

JAK Auto Sales, Inc.

The Commission filed a complaint alleging that the defendants violated the Used Car Rule by failing to display the required Buyers Guide on used vehicles offered for sale. The Commission is seeking a permanent injunction and civil penalties.

JS&A Group, Inc.

JS&A Group agreed to settle allegations that it violated the Mail Order Rule by failing to ship BluBlocker sunglasses within the required time, and failing to properly notify consumers of the delays. The company agreed to an order requiring civil penalties of \$50,000 and prohibiting future violations of the Rule.

Kaufman and Broad Home Corporation

Kaufman and Broad Home Corp. agreed to settle charges alleging that it violated an earlier FTC order by failing to make warranty repairs in a timely manner. The consent decree prohibits future violations and requires payment of \$595,000 in civil penalties.

K-Mart Corporation

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Louis Lenoff

Bernard Lenoff and Stuart Lenoff, d/b/a Louis Lenoff, agreed to settle charges that they allegedly violated the Fur Products Labeling Act by selling artificially colored fur products labeled as "natural" fur. The defendants agreed not to violate the Act in the future and to pay \$35,000 in civil penalties.

M.A.S.H. Motors, Inc.

The Commission filed a complaint alleging that the defendants violated the Used Car Rule by failing to display the required Buyers Guide on used vehicles offered for sale. The Commission is seeking a permanent injunction against further violations and civil penalties.

Michael S. Johnson

The defendants in the Commission's case against Michael Johnson agreed to settle allegations that they violated the Used Car Rule by failing to display the required Buyers Guide on used vehicles offered for sale, failing to disclose on posted Buyers Guides the name and address of the to to bfa h e offered

into the final sales contract The defendants agreed to an order prohibiting future violations and requiring payment of \$7,500 in civil penalties.

National Automobile Sales of Florida, Inc.

National Automobile Sales of Florida agreed to settle allegations that it violated the Used Car Rule by failing to display the required Buyers Guide on used vehicles offered for sale, failing to disclose on posted Buyers Guides the name and address of the dealership and person to contact if a problem should arise, and failing to include language incorporating the Buyers Guide into the final sales contract. The defendants agreed to an order prohibiting future violations and requiring payment of \$5,000 in civil penalties.

Nino B. Michael

The defendants in the Commission's case against Nino B. Michael agreed to settle allegations that they violated the Used Car Rule by failing to display the required Buyers Guide on used vehicles offered for sale. The consent decree prohibits future violations and requires payment of \$25,000 in civil penalties.

Olympic Motors, Inc.

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Perkins Funeral Home, Inc.

Perkins Funeral Home and its president agreed to settle charges that they allegedly failed to provide customers with price lists for various funeral goods and services and itemized written statements of what funeral goods and services customers actually chose. The defendants agreed not to violate the Rule in the future and to pay \$10,000 in civil penalties.

Quality Motor Company

The Commission filed a complaint alleging that the defendants violated the Used Car Rule by failing to display the required Buyers Guide on used vehicles offered for sale and failing to disclose on Buyers Guides that were displayed the name and address of the dealership and person to contact if a problem should arise. The Commission is seeking a permanent injunction against further violations and civil penalties.

Ron Hagan Corporation, The

The Ron Hagan Corporation agreed to settle allegations that it violated the Used Car Rule by failing to display the required Buyers Guide on used vehicles offered for sale and failing to include language incorporating the Buyers Guide into the final sales contract. The defendant agreed to an order prohibiting future violations and requiring payment of \$20,000 in civil penalties.

Sansing Chevrolet, Inc.

Sansing Chevrolet agreed to settle allegations that it violated the Used Car Rule by failing to display the required Buyers Guide on used vehicles offered for sale. The defendant agreed to an order prohibiting future violations and requiring payment of \$42,500 in civil penalties.

Sentra Corporation

Sentra Corporation agreed to settle allegations that it failed to ship merchandise and failed to provide customer requested refunds within the time periods required by the Mail Order Rule. The Commission is seeking a permanent injunction against further violations and civil penalties.

Softwear Shoes, Inc., Stephen C. Rattner, & Walter Mendlovitz

Stephen Rattner and Walter Mendlovitz, former principals of Softwear Shoes, Inc., a defunct mail order company, agreed to settle allegations that they violated the Mail Order Rule and Wool Products Labeling and Textile Fiber Products Identification Acts. The Commission sought a permanent

injunction against further violations and civil penalties.

a problem should arise, and failing to include language incorporating the Buyers Guide in the final sales contract. The Commission is seeking a permanent injunction against further violations and civil penalties.

Tom's Motors, Inc.

The Commission filed a complaint alleging that the defendants violated the Used Car Rule by failing to display the required Buyers Guide on used vehicles offered for sale, failing to display a Spanish language version of the Buyers Guide when the sale was conducted in Spanish, and failing to include language incorporating the Buyers Guide in the final sales contract. The Commission is seeking a permanent injunction against further violations and civil penalties.

Track Auto Sales, Inc.

The defendants in the Commission's case against Track Auto Sales agreed to settle allegations that they violated the Used Car Rule by failing to display the required Buyers Guide on used vehicles offered for sale. The consent prohibits further violations of the Rule.

Truck Land, Inc.

Truck Land agreed to settle allegations that it violated the Used Car Rule by failing to display the required Buyers Guide on used vehicles offered for sale, failing to disclose on posted Buyers Guides the name and address of the dealership and person to contact if a problem should arise, failing to display a Spanish language version of the Buyers Guide when the sales were conducted in Spanish, and failing to indicate which of the specific systems were covered by the warranty. The complaint also alleged that defendants violated the Warranty Disclosure Rule by failing to disclose in a single written document the terms of the warranty and other required information. The defendants agreed to an order prohibiting future violations and requiring payment of \$12,500 in civil penalties.

Ultimate Motors, Inc.

The Commission filed a complaint alleging that the defendants violated the Used Car Rule by failing to
The

address of the dealership and person to contact if a problem should arise, failing to include language incorporating the Buyers Gui 0 TD 6 0 i

oil and refined petroleum products. Such tariffs would cost consumers between \$2 and \$5 per dollar of revenue raised. Excise taxes, on the other hand, would cost consumers \$1.05 to \$1.13 per dollar of revenue raised.

ECONOMIC ISSUES SERIES

Economic Issues Papers are literature reviews or policy analyses (rather than original empirical or theoretical work) in a subject area relevant to the Commission's mission.

Costs and Benefits of Occupational Regulation, Carolyn Cox and Susan Foster, October 1990. A review of the literature in the field focusing on empirical estimates of the costs of licensure regulations and alternatives to licensure.

WORKING PAPERS

Economic Working Papers are preliminary, unpublished work products of the Bureau of Economics, resulting from original research by Bureau staff, either in connection with ongoing agency activities or independent analyses, often requiring very minor allocations of staff time.

Exclusion, Collusion, and Confusion: The Limits of Raising Rivals' Cost, (WP#179), Malcolm Coate and Andrew N. Kleit, October 1990.

The Effect of Subsidized Imports on Domestic Imports: A Comparison of Market Structures, (WP#180), Morris E. Morkre, October 1990.

Estimating Producer Welfare When Input and Output Prices Change Simultaneously, (WP#181), Michael R. Metzger, November 1990.

Rent Increasing Costs: The Antitrust Implications from a Paradox in Value Theory, (WP#182), James A. Langenfeld and John R. Morris, November 1990.

Quality Choice, Trade Policy, and Firm Incentives, (WP#183), James D. Reitzes, January 1991.

Housing Demand and Property Tax Incidence in a Life-Cycle Framework, (WP#184), Seth B. Sacher, January 1991.

Do Employees Regard Wage Cuts and Layoffs as Opportunistic?, (WP#185), John David Simpson, January 1991.

Some Antitrust Concerns of Partial Equity Acquisitions, (WP#186), k. E. Rodriguez, March 1991.

Movements in the Earnings-Schooling Relationship, 1940-1988 (WP#187), Mary T. Coleman, March 1991.

Does North American Labor Demand Adjustment Differ from that in Britain?, (WP#188), Richard Fry, May 1991.

Merger and Regulatory Incentives, (WP#189), Mark D. Williams, May 1991.

Are Judges Smarter than Economists? Sunk Costs, The Threat of Entry and The Competitive Process, (WP#190), Andrew N. Kleit and Malcolm Coate, June 1991.

Bondholder Reaction to increases in Leverage, (WP#191), John Simpson, June 1991.

Antidumping Policy, (WP#192), James D. Reitzes, July 1991.

MISCELLANEOUS ECONOMIC POLICY PAPERS

Miscellaneous Economic Policy Papers result from basic rese PAPERS TD 0.0115 Tc A1c () Tj 2. TTc 0.0471 8.57

NATIONAL ORGANIZATIONS

American Bar Association: Attorney Provision of Non-Legal Services.

Staff sent a letter to the Ethics Counsel, American Bar Association concerning the competitive effects of proposed amendments to the ABA's Model Rules of Professional Conduct. The letter supported the Standing Committee on Ethics and Professional Responsibility Discussion Draft's approach, finding that law firm diversification has the potential to provide significant benefits to consumers. To counteract any problems, staff suggested adopting narrowly tailored changes to the ABA's Model Rules of Professional Conduct.

FEDERAL AGENCIES

Advisory Commission on Conferences in Ocean Shipping: Ocean Shipping Conferences

The Director of the Bureau of Economics testified before the Advisory Commission on Conferences in Ocean Shipping (ACCOS), finding the 1984 Shipping Act to contain some potentially anticompetitive features, and recommending eliminating tariff filing requirements and extending antitrust immunity only if the benefits exceed the costs. The staff asked the ACCOS to consider, in deciding whether the existing regulatory structure should be retained or modified, whether ocean shipping markets differ fundamentally from transportation markets where deregulation has brought tangible consumer benefits or other markets that operate effectively without antitrust immunity.

Department of Agriculture: Meat Labeling; Perishable Meat Product Labeling.

The FTC staff supported the USDA's proposal to adopt the same definitions as the FDA for standardized terms, such as "low fat" or "light", to prevent consumer confusion. FTC staff also supported the USDA's proposal to allow additional descriptors, such as "lean" or extra lean," on meat and poultry labels.

The FTC staff submitted comments to the USDA's Food Safety and Inspection Service (FSIS) about whether new regulations are needed for the labeling or packaging of certain perishable meat and poultry products. The FSIS proposal was in response to safety concerns that consumers may fail to treat products properly, such as by storing

suggested that the FSIS consider a ban on certain types of packaging only if it concluded that disclosures could not overcome any consumer confusion caused directly by the packaging materials used with the products.

Federal Communications Commission: Cable TV Rulemaking; Cellular Telephone Bundling; Digital Radio; Financial Interest and Syndication Rule 1; Financial Interest and Syndication Rules II; Radio Multiple Ownership; and 900 Number Rulemaking.

The FTC staff submitted comments in response to a FCC proposal to redefine ~~Wh~~ Telephone Syndication

concluded that a four-year phase-out of the rules barring networks from entering the rerun and syndication business would better serve consumers and competition than would a modification that gave the networks only limited access to this market.

The FTC staff submitted a comment in response to a FCC proposal to increase the number of radio and television stations or allow a single entity's ownership interests to cover a larger portion of the U.S. that one entity or person may own. The comment stated that by allowing stations to enjoy the efficiencies associated with joint ownership, stations that might otherwise cease operating might continue broadcasting. Thus, joint ownership could increase variety and competition.

The FTC staff endorsed the efforts of the FCC to foster informed consumer choices and provide appropriate consumer protection in the 900-number industry. The comment concluded that remedies used by the FCC in its proposed rulemaking, such as mandatory preambles, optional blocking, and identification of information providers, could give meaningful protection to consumers. The comment also noted that the FCC's rulemaking was consistent with continued enforcement activity by other regulatory agencies, such as the FTC.

Federal Reserve System: Check Transporting Services.

A staff comment was submitted in response to the Federal Reserve System's request for views on proposed changes to its check transportation pricing structure. The comment pointed out that the Federal Reserve's proposed pricing might adversely affect efficiency by causing private competitors to curtail their service or leave the market. FTC staff recommended that the Federal Reserve should determine actual costs of transporting bundled and pre-sorted checks from the bank where first received to the payor bank before replacing its per-check transport fee with a maximum charge, above which the price for transporting checks would not vary with volume.

STATES

Arkansas: Below-Cost Gas Pricing and Vertical Restraints.

Staff sent a letter to the Arkansas Senate General Assembly in response to their request for comments on the potential competitive effects of the proposed Petroleum Trade Practices Act. FTC staff concluded that enactment of the bill would insulate gasoline refiners and marketers from competition and may thereby cause gasoline prices in Arkansas to increase.

Florida: Regulatory Audit.

A staff comment submitted to the Florida office of the Auditor General advised that some Florida statutes, administered by the Board of Pilot Commissioners and the Board of Medicine, could have

New Mexico: Lawyer Advertising and Solicitation.

The staff comment in response to a notice by the New Mexico Supreme Court regarding proposed amendments to the New Mexico Code of Professional Conduct. The amendments would establish more restrictive standards in the areas of attorney advertising and client solicitation. FTC staff concluded that the amendments could restrict the flow of truthful and useful information to consumers and impede competition or increase costs to a greater extent than is necessary to achieve consumer benefits. Staff recommended that the Court consider modifying the rules to permit a wider range of truthful communications, and to narrow their prohibitions to target only those representations that pose a clear likelihood of consumer injury.

Virginia: Gas Divorcement Study Commission.

The Director for Litigation of the Bureau of Competition submitted a statement before a joint subcommittee of the Virginia Senate and House of Delegates. The statement argued against divorcement legislation, stating that there is no factual support for the legislation, but rather there are compelling reasons to believe that it would be harmful to competition and to Virginia consumers and visitors.

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