

1998

ANNUAL REPORT



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

*Annual
Report
of the*

**Federal
Trade
Commission**

For Fiscal Year Ended
September 30, 1998



For sale by the Superintendent of Documents, U.S. Government Printing Office,

Prepared by

Bureau of Competition
Neil Averitt

Bureau of Consumer Protection
Darlene Cossette, Ruth Sacks

Bureau of Economics
Mae Schwarz

Office of the Executive Director
Marie Barrett, Keith Golden

Office of Policy Planning
Michael Wroblewski

Office of the Secretary
Richard Donohue

FEDERAL TRADE COMMISSION – 1998

ROBERT PITOFSKY, *Chairman*

SHEILA F. ANTHONY, *Commissioner*

MOZELLE W. THOMPSON, *Commissioner*

ORSON SWINDLE, *Commissioner*

DONALD S. CLARK, *Secretary*

EXECUTIVE OFFICES OF THE FEDERAL TRADE COMMISSION

**600 Pennsylvania Avenue, N.W.
601 Pennsylvania Avenue, N.W.
Washington, D.C. 20580**

Phone: (202) 326-2222
Toll-free phone: 1-877-FTC-HELP

Internet address: www.ftc.gov

REGIONAL OFFICES

Northeast

Suite 318
One Bowling Green
New York, New York 10004
Phone: (212) 607-2829

Southeast

Suite 5M35, Midrise Building
60 Forsyth Street, S.W.
Atlanta, Georgia 30303
Phone: (404) 656-1390

East Central

Suite 200, Eaton Center
1111 Superior Avenue
Cleveland, Ohio 44114
Phone: (216) 263-3455

Midwest

Suite 1860
55 East Monroe Street
Chicago, Illinois 60603-5701
Phone: (312) 960-5634

Northwest

Suite 2896
915 Second Avenue
Seattle, Washington 98174
Phone: (206) 220-6350

Southwest

Suite 2150
1999 Bryan Street
Dallas, Texas 75201
Phone: (214) 979-9350

West - San Francisco

Suite 570
901 Market Street
San Francisco, California 94103
Phone: (415) 356-5270

West - Los Angeles

Suite 700
10877 Wilshire Boulevard
Los Angeles, California 90024
Phone: (310) 824-4343

Contents

	Page
COMMISSIONERS	1
Robert Pitofsky	1
Sheila F. Anthony	1
Mozelle W. Thompson	2
Orson Swindle	2
OVERVIEW	3
Competition Mission	3
Consumer Protection Mission	12
Economic Analysis and Legal Support	22
Consumer and Competition Advocacy	24
Management and Administration	25
APPENDIX	30
Competition Mission	32
Part 2 Consent Orders and Consent Decrees Issued	33
Part 3 Administrative Complaints	45
Part 3 Consent Order Issued	47
Preliminary Injunctions	48
Civil Penalty Actions	50
Order Modifications	52
Court Decision	55

	Page
Consumer Protection Mission	57
Part 2 Consent Orders Issued	57
Part 3 Administrative Complaint	68
Part 3 Consent Orders Issued	69
Initial Decisions	71
Final Orders	73
Permanent Injunctions	75
Civil Penalty Actions	91
Consumer Redress Actions	94
Civil Contempt Actions	117
Criminal Contempt Action	120
Consumer and Business Education	121
Rulemaking Activities	124
Economic Analysis	125
Advocacy Filings	126
INDEX OF CASES LISTED IN THE APPENDIX	130

COMMISSIONERS

ROBERT PITOFSKY

Robert Pitofsky was sworn in as 54th Chairman of the Federal Trade Commission on April 12, 1995. At the time he was nominated by President Clinton to chair the Commission, Chairman Pitofsky was a Professor of Law at the Georgetown University Law Center and Of Counsel to the Washington, D.C. law firm of Arnold & Porter. He also has held positions at the Federal Trade Commission as a Commissioner (1978-1981) and as Director of the Bureau of Consumer Protection (1970-1973).

Chairman Pitofsky chaired the Defense Science Board Task Force on Antitrust Aspects of Defense Industry Downsizing in 1994. He has been a member of the Council of the Administrative Conference, the Board of Governors of the D.C. Bar Association, and the Council of the Antitrust Section of the American Bar Association. In addition, he has been Dean of the Georgetown University Law Center, a professor at New York University School of Law, and Visiting Professor of Law at Harvard Law School.

Chairman Pitofsky’s publications include legal casebooks on both trade regulation and antitrust law. He received a B.A. degree from New York University and an L.L.B. from the Columbia School of Law.

SHEILA F. ANTHONY

Sheila F. Anthony was sworn in as a member of the Federal Trade Commission on CommA (30) FTD 0 1, 1 12D6 (Tt j 276) 0Tj 2288 TT (66 ANTHONY)

M

OVERVIEW

The Federal Trade Commission enforces a variety of federal antitrust and consumer protection laws. The Commission seeks to ensure that the nation's markets function competitively and are vigorous, efficient, and free of undue restrictions, and it works to enhance the smooth operation of the marketplace by eliminating acts or practices that are unfair or dece

Federal Trade Commission

- Protected the purchasers of prescription pharmaceuticals from the risk of increases in distribution costs. In its *Drug Wholesalers* case, the Commission secured a preliminary injunction in federal district court, preventing the proposed mergers of the nation's four largest pharmaceutical wholesalers into two companies. This case was particularly important because the drug wholesaling market affects virtually every consumer in the country.
- Ensured that grocery shoppers in parts of the Mountain States continue to have access to a range of supermarkets at competitive prices, by permitting the merger of Albertson's and Buttre Food and Drug Stores only on condition that eleven supermarkets be sold to an independent buyer. These divestitures preserved competition in several markets in Montana and Wyoming.
- Preserved competition in the market for household cleaners by permitting S.C. Johnson to acquire DowBrands only on condition that it divest the "Spray 'n Wash," "Spray 'n Starch," and "Glass Plus" businesses to Reckitt & Colman.
- Protected taxpayer interests in efficient and cost-effective defense procurement – by preserving competition in the defense industry – through the review and modification of TRW's \$942 million acquisition of BDM International. This transaction was permitted only on condition that the firms divest a portion of their previously competing units having the capability to engage in systems engineering and technical assistance (SETA) work on missile defenses.
- Ensured the continuation of effective competition in the production and sale of drugs used for the early treatment of heart attack victims – in order to ensure that heart patients continue to have access to competitive prices for these drugs – by permitting the merger of Roche Holding and Corange only upon divestiture of Corange's cardiac thrombolytic agents to a Commission-approved buyer.
- Protected producers and consumers of natural gas by ensuring that competing pipeline facilities remain available. A consent order with The Williams Companies and MAPCO provided that, as a condition of their merger, they divest some pipeline capacity to an unrelated operator of propane terminals, and allow any new competing pipeline to connect with their system in Wyoming.

Commission actions in nonmerger cases likewise addressed anti-competitive conduct that threatened consumer welfare. The Commission's actions:

- Prevented associations of health care providers from collectively increasing prices to consumers and third-party payers. In *M.D.*

competitive market. The HSR Act requires entities that meet certain size requirements and that plan significant acquisitions to file notice in advance with the Commission and the Antitrust Division of the Department of Justice. Consummation of the merger must be delayed for statutorily prescribed periods of time. The HSR Act thus allows the antitrust agencies to identify and to stop anticompetitive mergers before they actually take place

Federal Trade Commission

appropriate when parties fail to do so. For instance, during fiscal year 1998, Loewen Group and Loewen Group International, firms that own and operate funeral homes and cemeteries, agreed to pay a penalty of \$500,000 to settle allegations that they failed to notify the antitrust agencies before acquiring stock in a competitor, Prime Succession.

Mergers and Joint Ventures Program and Enforcement Activities

The Mergers and Joint Ventures Program seeks to prevent mergers and acquisitions that are likely to harm competition and consumers, primarily through the review and analysis of filings received under the Premerger Notification Program. The Mergers and Joint Ventures Program also investigates joint ventures and interlocking directorates among competing firms that may have anticompetitive effects similar to those of mergers. The program has three essential components:

- Detecting potentially harmful mergers before they occur by monitoring merger activity and screening all significant mergers identified through the Premerger Notification Program;
- Investigating those mergers that the screening process has targeted for further inquiry; and
- Taking appropriate action to prevent (or undo) those mergers or portions of mergers that, after investigation and analysis, appear likely to substantially lessen competition.

With respect to some mergers, the Commission can effectively prevent harm to consumers and competition only by preventing the merger entirely or, where the merger has already been consummated, by undoing it. In most cases, however, competition can be preserved by more narrowly tailored relief that still allows the overall merger or transaction to proceed. Determining the kind of relief necessary entails investigations

that are designed to answer fundamental questions about the merger, fundamental questions

Section 13(b) of the Federal Trade Commission Act to seek a preliminary injunction in federal district court to stop such a merger. More often, however, the Commission resolves the competitive problem through consent agreements with the merging parties. Where anticompetitive mergers have been consummated, the Commission may rely on administrative remedial powers to restore the lost competition. In either case, the

Federal Trade Commission

ensure that the remedies focus as narrowly as possible on those anticompetitive effects, and made significant gains in achieving divestitures more quickly. During fiscal year 1998, the Commission continued its efforts, begun in previous years, to shorten the time to effect divestitures ordered to remedy anticompetitive mergers. The Commission has done so by insisting that consent orders include various provisions that advance that goal. Examples include shorter divestiture periods, broader asset packages, and signed purchase agreements for divestitures before the orders at issue become final. In addition, the Commission has used so-called “crown jewel” provisions, which provide for the divestiture of an alternative, generally more marketable package of assets by a trustee if the respondent fails to divest the basic package of assets by a specific date.

Finally, the Commission has moved to ensure the integrity of agreements to divest by seeking civil penalties against firms that fail to comply with their divestiture obligations. During fiscal year 1998, the agency obtained \$4 million in penalties from three companies:

- Columbia/HCA agreed to pay a penalty of \$2.5 million to settle allegations that it violated a 1995 Commission order to divest hospitals in Utah and Florida in a timely manner.
- CVS agreed to pay a penalty of \$600,000 to settle allegations that it violated a 1997 consent order and asset maintenance agreement growing out of its acquisition of Revco. The Commission alleged in its complaint that CVS had not maintained the competitiveness of the computer systems in those stores that it was required to divest.
- Rite Aid Corporation agreed to pay a penalty of \$900,000 to settle charges that it failed to divest three drug stores in Maine and New Hampshire, as required by a 1994 consent order with the Commission.

Nonmerger Program and Enforcement Activities

Through its Nonmerger Program, the Commission addresses three main areas of potential anticompetitive conduct: horizontal restraints, distributional arrangements, and single firm violations. The Horizontal Restraints Program is directed at investigating collusive or other collaborative activities involving direct competitors that may harm consumers, such as price fixing. Such activities can harm consumers by raising prices and reducing the quantity and quality of available goods and services. Although some types of agreements among competitors – such as those that produce standard setting or the promulgation of legitimate ethical codes – can be procompetitive and even essential, these types of agreements also can be abused in ways that harm consumers.

preventing these practices through law enforcement actions, and on preventing consumer injury through education.

Consumer and Business Education

Consumer and business education is the first line of defense against fraud and deception. The program plans, develops, and implements mission-related campaigns targeted to both broad and segmented consumer and industry audiences. This effort encourages informed consumer choice and competitive business practices in the marketplace, and is viewed as a cost-effective way to help minimize consumer injury and obtain compliance with the law. With each major enforcement initiative, the Commission launches an education campaign using both traditional and new media to reach as many consumers as possible. Highlights from fiscal year 1998 include:

- *Publications.*—The Commission issued 78 publications – 40 new and 38 revised, 65 for consumers and 13 for businesses. The public was sent approximately 4.6 million copies of publications and accessed an additional 1.1 million through *ConsumerLine* and *BusinessLine* on the Commission's Web site, www.ftc.gov.
- *www.consumer.gov.*—The first Internet site to offer one-stop access to federal consumer information was an initiative of the Commission launched in December 1997. The site, which allows consumers to locate and link to appropriate and late-breaking information, now includes more than 60 participating federal agencies.
- *Privacy.*—At the request of the Vice President, the Commission developed *About Privacy*, a comprehensive resource of information on consumer privacy, on the Commission's Web site. *About Privacy* explains how to protect personal information both online and offline and helps consumers voice their privacy preferences. It also gives consumers the information they need to contact credit bureaus, state motor vehicle offices, and marketing organizations via the Internet, telephone, or mail.
- *Year 2000 (Y2K) Problem.*—The Commission was designated the lead agency for the Consumer Affairs Sector of the President's Council for the Y2K Conversion. The Commission was charged with administering the federal government's Y2K consumer information hotline (1-888-USA-4-42K), publishing consumer education materials, and developing a consumer-oriented Y2K Web site as part of www.consumer.gov d w i t h Y 2 K s l

providers, computer manufacturers and retailers, associations, and the media. In cooperation with state Attorneys General, the Commission issued *Site-Seeing on the Internet: A Consumer's Guide to Travel in Cyberspace*. This handbook highlights the kinds of information and the services available in cyberspace and offers tips to protect personal information. *Advertising and Marketing on the Internet: Rules of the Road* was issued as a guide to businesses, and a 60-second public service announcement was distributed to radio stations nationwide.

Federal-State Coordination

The Commission works closely with other federal agencies, states, and local authorities in a variety of coordinated law enforcement efforts and task forces, including individual cases involving fraud and deceptive advertising, efforts to boost industry compliance with rules and regulations, and consumer and law enforcement training programs. By sharing information and resources, these joint efforts are able to more effectively target issues that have a direct impact on consumers. One of the most effective tools in the battle against fraud has been the law enforcement "sweep." In fiscal year 1998 alone, the Commission led 151 sweeps; they involved 249 actions, 61 of which were brought by the Commission. Recent initiatives include:

- *Project Risky Business*.—The

Federal Trade Commission

office, Los Angeles District Attorney's office, and others. The results to date: 15 telemarketers indicted and over \$100,000 paid in fines.

International Enforcement Cooperation

International efforts focus on consumer protection in the global electronic marketplace. The present challenge is to encourage the development of a global marketplace that offers safety, transparency, and legal certainty. The Commission continues to combat cross-border fraud, through litigation, education, and international cooperation, and to investigate foreign scam artists harming U.S. citizens and the laundering of ill-gotten gains to off-shore accounts.

- *International Monitoring.*—As the marketplace becomes more

global, law enforcement must coordinate globally. The Commission has established a Global Enforcement Network (GEN) to coordinate with international law enforcement agencies. GEN is a multi-agency effort to combat cross-border fraud and other consumer protection issues. GEN is a multi-agency effort to combat cross-border fraud and other consumer protection issues. GEN is a multi-agency effort to combat cross-border fraud and other consumer protection issues.

Federal Trade Commission

infomercials, in home shopping, or in other new forms of commerce.

Enforcement Program

The Enforcement Program protects consumers from deception and fraud in three ways. First, the program protects consumers by stopping deceptive marketing practices that cause economic losses. Second, the program ensures that companies ordered to stop deceptive practices comply with those orders. Third, the program ensures that consumers receive important information required by various laws and rules to help them make accurate comparisons and informed decisions. The program also regularly reviews these rules to keep them current.

- *Marketing Practices Causing Economic Injury.*—The Enforcement Program prosecutes firms that hurt consumers financially through ads that are false or misleading. It investigates and issues reports on diverse issues relevant to consumers on a daily basis, such as whether scanner prices in retail stores match the advertised prices, and whether milk and dairy packages contain the amount of product stated on the label.
- *Compliance with Commission Orders.*—Violations of the FTC Act may result in an administrative rs ~~accountancy~~ amount

and the Environmental Marketing Guides tell marketers how to advertise the environmental benefits of their products without misleading consumers. The program aims at helping consumers and businesses to understand their rights the

- *Internet Fraud.*—Fraud on the Internet threatens consumer confidence in the online marketplace. The Marketing Practices Program is a national leader in the law enforcement effort to study online trends and use innovative approaches to deter fraud and deception on the Internet. Information captured in the Commission’s consumer fraud database is used to identify problem areas and to monitor online solicitations, Web sites, user groups, and other commercial practices to detect possible deception and fraud. Internet surf days are used to deter merchants from making deceptive claims by identifying Web sites that make claims likely to be false or misleading, and sending e-mails to the operators of those sites. The e-mails tell site operators what is legally required of them if they sell on the Internet.
- *Telemarketing and Direct Mail Fraud.*—Telemarketing and direct mail fraud are longstanding priorities. The Marketing Practices Program enforces the Telemarketing Sales Rule, and since adoption of the Rule in late 1995, telemarketing fraud has fallen from number 1 to number 10 in the National Attorneys General report on consumer problems. The program continues to organize law enforcement sweeps with federal and state law enforcement partners to keep telemarketing crooks on the run and get restitution for victims. A similar approach to direct mail fraud is showing similar effects.
- *Telecommunications.*—With the deregulation of the telephone industry, the telephone billing and collection system became available to a variety of vendors. While these developments benefitted consumers, they also opened the door to greater opportunities for scams. Fraudulent operators, taking advantage of this new billing system, have found numerous ways to “cram” unauthorized charges on consumers’ telephone bills. In fiscal year 1998, the Commission received over 12,000 consumer complaints about cramming. The Commission has responded aggressively to the problem. Since April 1998, the Commission has brought four cases to stop telephone billing fraud and to obtain redress for consumers. To address cramming more broadly, the Commission proposed to revise its 900-Number Rule to require that there must be express authorization by consumers for “telephone-billed purchases,” and to provide for dispute resolution protections for such purchases.

Federal Trade Commission

Service Industry Practices Program

The American economy has long led the world in consumer services.

Federal Trade Commission

The Planning and Information Program develops, analyzes, and supplies information to target law enforcement and educational efforts, measure the impact of Mission activities, and allocate resources.

- *Consumer Sentinel.*—Consumer Sentinel is a binational, multi-state consumer fraud database that uses the Internet to provide secure access to over 158,000 consumer complaints submitted to over 150 law enforcement organizations across the United States and Canada. The site provides law enforcement access to telemarketing, direct mail, and Internet complaints from the Commission’s Consumer Information System database and from various law enforcement partners. The site also provides other information useful for investigations and prosecutions.
- *Consumer Response Center.*—As part of the Commission’s effort to build a comprehensive nationwide consumer fraud database, the Consumer Response Center responds to and collects information on consumer complaints and inquiries received by telephone, mail, and e-mail. In fiscal year 1998, its first full fiscal year of operation, the Center answered approximately 116,500 consumer complaints and inquiries and added them to the Consumer Information System database. Overall, the database has grown to over 314,000 entries.
- *International Coordination.*—The Planning and Information

The primary mission of

Planning is the central source of planning, coordination, review, and information for the staff's work in this area.

During fiscal year 1998, 26 comments were filed. These comments included several comments to the Federal Energy Regulatory Commission and to state public utility commissions encouraging competition in the electricity industry, at both wholesale and retail levels. Comments also covered other areas such as regulations governing pesticide-treated articles, direct broadcast satellite services, the ability of telephone companies to offer advanced telecommunications, food-labeling requirements, medical product promotion, sentencing guidelines for telemarketing fraud, electronic fund transfers of federal payments, real estate broker and salesperson licensing, and precious metals marketing requirements. In addition to comments to the Federal Energy Regulatory Commission, comments were addressed to other federal agencies, state agencies and legislatures, and a national association of public officials.

**MANAGEMENT AND
ADMINISTRATION**

Administrative Services

The Administrative Services Office provides day-to-day administrative support to the Commission in a number of areas, including building security, building facilities, property management, mail management, and printing and reproduction. These efforts are largely directed toward improving workplace conditions. In fiscal year 1998, Administrative Services renovated and refurbished dozens of offices and moved staff, furniture, and equipment to accommodate the new organizational groupings resulting from the restructuring of the Office of the Executive Director

Federal Trade Commission

and to take full advantage of available technologies; issuing accurate and timely financial reports to program offices, the Department of the Treasury, Congress, and the Office of Management and Budget; preparation, justification, and execution of the Commission's annual budgets; effective allocation and monitoring of the Commission's fiscal resources; management of Commission-wide contracting and acquisition processes and systems; and oversight of financial services received by the Commission from the Department of the Interior's Administrative Service Center. The FMO also carries out Commission-wide management programs for audit follow-up and reviews and reports to the President and Congress on internal controls.

Significant FMO accomplishments included the consolidation of acquisition, finance, and budget responsibilities into a single financial management organization, revision of the Commission's budget submissions to provide a more unified agency-wide presentation, consolidation of the travel credit card and small purchase credit card programs under one contractor, completion of the Commission's first set of Audited Financial Statements, receipt for the Financial Statements of an unqualified audit opinion – the highest possible rating, initial development of a comprehensive five-year financial management plan, and continued timely and accurate delivery of Commission-wide financial services.

Human Resources Management

The Human Resources Management Office (HRMO) engages in recruitment, position classification, benefits, performance management, employee and labor relations, and training. The HRMO was reviewed by the Office of Personnel Management (OPM) during fiscal year 1998, to determine the agency's adherence to civil service laws and regulations in general hiring, training, records maintenance, expert and consultant hiring, and overall customer satisfaction. OPM's conclusions were positive. HRMO also completed implementation of the Federal Payroll Personnel System (FPPS), thereby facilitating the processing of electronic human resources data.

Information and Technology Management

The mission of the Information and Technology Management Office (ITM) is to provide information technology services to the Commission, its staff, and the public. As a result of a reorganization of functions, ITM focused its attention this

infrastructure and the of

Federal Trade Commission

Textile Registration Number application was made available to the public and Commission staff over the Internet.

Providing Responsive Customer Support

The ITM systems and services that fall into this category include those provided through the Help Desk, including installation and repair of PCs and other office equipment, telephone menu “trees” used throughout the Commission, and others.

Specifically in fiscal year 1998, ITM purchased and installed over 350 new Pentium class personal computers on desktops throughout the agency. ITM staff also implemented a complex telephone system in the Bureau of Consumer Protection’s Consumer Response Center and installed a new telephone and voicemail system in the Midwest Regional Office. ITM provided more audio and video teleconferencing services as the agency increased its number of routine broadcasts of Commission meetings, Commission events, public hearings, and oral arguments to regional offices and other off-site locations.

Continuing the Development of Products and Services Begun in Previous Years

In fiscal year 1998, ITM continued ongoing work on several important initiatives designed to provide new or better systems and services:

Premerger System.— ITM developed and implemented a new and more efficient system in fiscal year 1998 to replace the Premerger Notification System, which was originally implemented in fiscal year 1984, as a result of the Hart-Scott-Rodino (HSR) Antitrust Improvements Act.

Year 2000 (Y2K) Issues.—Because of design considerations, many computers, computer systems, and, indeed, electronic devices that contain a computer chip may malfunction beginning in the year 2000. ITM has been working on this problem for several years, and by the end of fiscal year 1998, ITM completed the work on all but one central application considered to be critical to agency operation. The last critical application is scheduled to be completed in fiscal year 1999. ITM also prepared to support the Bureau of Consumer Protection’s efforts, in conjunction with those of other federal agencies, to educate consumers about the risks that may exist in products with embedded computer chips.

Internet.—In fiscal year 1998, ITM added to the Commission’s own successful Internet and Intranet a multi-agency site, called *consumer.gov*, that provides the public with useful consumer information from many federal agencies. Commission staff from both ITM and the Bureau of Consumer Protection were recognized in this effort by Vice President Gore’s National Performance Review and awarded a “Hammer” award, given to individuals or agencies who help create a government that “works better and costs less.”

Beginning New Initiatives

ITM began a major upgrade of the e-mail system used throughout the agency and began development of a project to convert the desktop operating system from Windows for Workgroups to WindowsNT. Both of those projects will be completed in fiscal year 1999 and will provide more reliable operation to all Commission staff.

APPENDIX

This appendix includes summaries of the Commission's law enforcement, rulemaking, education, and advocacy activities for fiscal year 1998.

LAW ENFORCEMENT Commission law enforcement actions may be triggered

In addition, when a company or individual violates a Commission rule, a statute enforced by the Commission, or a prior Commission order, a complaint may be filed in federal district court seeking *civil penalties* and an injunction against future violations.

RULEMAKING

The Commission also issues Trade Regulation Rules, other types of rules, and industry guides. The Commission may begin a rulemaking proceeding if it finds evidence of unfair or deceptive practices in an industry or pursuant to particular statutory authorization or directive. Throughout each such proceeding, the public has opportunities to participate in a number of ways, such as through the filing of written comments, which the Commission considers along with the entire rule-making record before making a decision on the proposed rule. A Commission rule may be challenged in any of the U.S. Courts of Appeals. When issued, the rules have the force of law. The Commission continually reviews its rules and guides, and amends or repeals them as needed.

EDUCATION

The Commission is committed to educating consumers and businesses about their rights and responsibilities under the statutes and regulations it enforces and to encourage informed consumer choice and competitive business practices in the marketplace. For example, for each major consumer protection law enforcement

nee-13.44

Tc

Encou72

in95.52

h imiz 0.036 T inju0 Tc 9ou72

business and of 8 00 T2

--	--

have increased concentration in an already highly concentrated industry, making coordinated activity among producers more likely. The complaint relied upon projections in company documents of higher hydrogen peroxide prices if the originally proposed acquisition was consummated. Under the terms of the consent order, instead of acquiring all of DuPont's hydrogen peroxide assets, Degussa would acquire one plant and obtain Commission prior approval if it attempted to acquire either of the two plants that DuPont retained. In addition, the settlement required Degussa to provide the Commission with prior notification before acquiring any other hydrogen peroxide facilities in North America.

Digital Equipment Corporation

Digital settled allegations that the sale of its microprocessor assets to Intel Corporation threatened competition by placing production of Digital's Alpha chip solely in the hands of Digital's principal competitor, Intel. The Alpha chip was regarded by many as the fastest microprocessor in the world at that time, and its combination with Intel would possibly endanger the continuing and future development

of the Alpha t80 TD 0 Tc () Tj 3.96 0 TD 0.01048 Tc (time) Tj 24.36 0 Tj d(an

unilateral price increase for this product. Chelants are used in cleaners, pulp and paper, water treatment, photography, agriculture, food, and pharmaceuticals to neutralize and inactivate metal ions. As a condition to completing the proposed \$500 million tender offer for Sentrachem, the consent order required Dow to divest Hampshire's chelant business to Akzo Nobel N.V., a Dutch chemical company that is a leading European producer of chelants. The settlement was designed to maintain competition in the U.S. market for chelants.

*Ethyl Corporation; The Associated Octel Company Limited;
Great Lakes Chemical Corporation*

Octel and Ethyl, the world's two largest manufacturers of lead antiknock gasoline additives, settled allegations that they violated the antitrust laws by arranging to close an Ethyl plant and have Ethyl obtain all of its future supply from Octel under an anticompetitive supply agreement. According to the complaint, Octel and Ethyl entered into an agreement between October 1993 and March 1994 whereby Ethyl agreed to stop manufacturing lead antiknock compounds and, in return, Octel agreed to supply Ethyl with a limited volume of these compounds. This agreement, combined with particular portions of the resulting supply agreement, served to diminish competition between Ethyl and Octel. The consent order required that Octel and its parent corporation, Great Lakes Chemical, modify price and volume provisions of its contract with Ethyl; barred (the T.D. (0 T.D. 30,640 at T.D. 0,610 36 0

the advertising of prices for farm equipment, and Fastline was prohibited from restricting the advertising of prices for farm equipment.

Global Industrial Technologies, Inc.

Global settled allegations that its proposed acquisition of AP Green Industries would violate federal antitrust laws by combining the two largest domestic producers of glass-furnace silica refractories. According to the complaint, the merger of the two companies would likely lessen competition by eliminating rivalry between Global and AP Green and, as a result, would lead to higher prices and less product innovation. The complaint also alleged that entry by new competitors into the production of glass-furnace silica refractories is unlikely because of extensive product testing requirements and large sunk capital investment. In addition, vents and g requ212

Insilco settled allegations that its acquisition of Helima-Helvetion's aluminum tube manufacturing facilities created a virtual

Jitney-Jungle settled allegations that its \$228 million acquisition of outstanding Delchamps shares would violate antitrust laws by substantially reducing competition among these supermarket operators in the highly concentrated Gulfport-Biloxi, Hattiesburg, and Vicksburg areas of Mississippi, and in the Pensacola area of Florida. To restore T Tc (ac

Roche Holdings Ltd.

Roche settled allegations that its proposed \$11 billion acquisition of Corange Limited would eliminate competition in the U.S. markets between the two leading suppliers of drugs for cardiac thrombolytic agents, which are drugs used to treat heart attack victims, and for chemicals – known as drugs of abuse testing (DAT) reagents – used to test urine samples for the presence of illegal substances. The consent order, while permitting the acquisition, required Roche, among other things, to divest Corange’s U.S. and Canadian cardiac thrombolytic agent businesses and Corange’s worldwide DAT reagent business to Commission-approved buyers. The order also provided for the appointment of interim trustees to

advertising regarding harm their products may cause to consumers and to merchandise and were barred from entering any agreements that prohibit or restrict truthful, non-deceptive advertising in the future.

Shell Oil Company; Texaco, Inc.

Shell Oil and Texaco settled allegations that their proposed joint venture could raise gasoline prices by tens of millions of dollars and would violate federal antitrust laws. According to the complaint, the proposed joint venture would have resulted in lessening competition in the market for gasoline and jet fuel in the Western and North-western United States; gasoline and diesel fuel on the island of Oahu, Hawaii; refined light petroleum products in the Southern United States; and the market for asphalt in the northern portion of the state of California. The consent order required Shell Oil and Texaco to divest a package of assets, including a refinery, a terminal, and retail gasoline stations to Commission-approved buyers.

Sky Chefs, Inc.; Onex Corporation; SC International Services, Inc.; Gerald W. Schwartz

Sky Chefs, one of the largest providers of in-flight food services to the airline industry, settled allegations that its acquisition of Ogden Corporation's in-flight catering operations would eliminate competition at the McCarran International Airport in Las Vegas, Nevada. According to the Commission's complaint, the consolidation of services at McCarran International Airport would likely lead to increased prices for the airlines operating there because they cannot readily or economically find an alternative caterer. In addition, the agency's complaint alleged that a new caterer is unlikely to enter the market because of substantial sunk costs and the need to capture a large market share to become profitable. The consent order required the companies to restructure their proposed transaction to exclude Ogden's operation in Las Vegas from the assets Sky Chefs will acquire. Ogden subsequently sold its Las Vegas operation to a third in-flight caterer, Dobbs International Services.

antitrust laws. The Commission alleged that, following a failed attempt to increase the price it charged for linerboard in 1993, Stone Container temporarily shut down production at its own mills and

costs of transportation for producers of natural gas liquids in Wyoming by \$8 million or more per year. The consent order required Williams to provide Midwest pipeline capacity to Kinder Morgan Energy Partners, an operator of propane terminals, and to allow any new competing pipeline to connect to its Wyoming gas processing plants.

P

producing the tile compared to the low potential sales revenues, entry into the CRT market by a new competitor was not likely to deter or counteract the likely anticompetitive effects of the joint venture.

Summit Technology, Inc.; VISX, Inc.

The Commission issued an administrative complaint alleging that Summit and VISX, two firms that compete in the market for equipment and technology employed in procedures for correcting a form of eye surgery that uses lasers to correct vision, violated anti-trust laws by creating a patent pool that raised prices and eliminated competition. According to the complaint, Summit and VISX are the only two firms with low

Title	Number	Action Date	Type of Matter	Product/Service
Automatic Data Processing, Inc.	D9282	10/97	Merger	Automobile salvage yard information systems network

**PART 3 CONSENT
ORDER ISSUED**

Automatic Data Processing, Inc.

Automatic Data Processing (ADP) settled charges that its acquisition of the assets of AutoInfo resulted in a monopoly and substantially reduced competition in five markets in the information network industry for salvage yard parts trading. The consent order would reestablish a competitor to ADP by requiring that ADP divest the former AutoInfo assets as an ongoing business, grant the acquirer a paid-up, perpetual, non-exclusive license to the “Hollander Interchange” (the cross-indexed numbering system of interchangeable auto parts), and provide updates to the Hollander Interchange until the acquirer can create its own updates. The order also required ADP, for one year after divestiture, to allow the acquirer to draw on ADP’s technical assistance, and to allow certain contractual customers to switch to the acquirer’s product without penalty.

PRELIMINARY INJUNCTIONS

Title	Number	Action Date	Type of Matter	Product/Service
Cardinal Health Inc.	971 0120	3/98	Merger	Prescription drug wholesaling
McKesson Corporation	981 0025	3/98	Merger	Prescription drug wholesaling
Tenet Healthcare Corporation	971 0090	4/98	Merger	Acute-care inpatient hospital services

PRELIMINARY INJUNCTIONS

Cardinal Health Inc.; Bergen Brunswig Corporation

The proposed merger of two of the nation’s largest drug wholesalers into one company was enjoined by the federal court after the Commission filed a complaint and motion for a preliminary injunction in the Federal District Court for the District of Columbia. The Commission had authorized its staff to seek a federal court order to prevent Cardinal Health’s acquisition of Bergen Brunswig. The Commission argued in court for a preliminary injunction to halt the merger on grounds that it would violate federal antitrust laws by substantially reducing competition in the provision of drug wholesaling services. Following the court’s granting of the Commission’s motion for a preliminary injunction pending administrative trial, the companies decided to abandon the proposed merger plans.

McKesson Corporation; AmeriSource Health Corporation

The proposed merger of two of the nation’s largest drug wholesalers into one company was enjoined by the federal court after the Commission filed a complaint and motion for a preliminary injunction in the Federal District Court for the District of Columbia. The Commission had authorized its staff to seek a federal court order to prevent McKesson’s acquisition of AmeriSource Health. The Commission argued in court for a preliminary injunction to halt the merger on grounds that it would violate federal antitrust laws by substantially reducing competition in the provision of drug wholesaling services. Following the court’s granting of the Commission’s motion for a preliminary injunction pending administrative trial, the companies decided to abandon the proposed merger plans.

*Tenet Healthcare Corporation; Doctors Regional Medical Center;
Poplar Bluff Physicians Group, Inc.*

The federal court enjoined the proposed \$40 million merger of Lucy Lee Hospital, owned by Tenet Healthcare, and Doctors Regional Medical Center, after

CIVIL PENALTY ACTIONS

Title	Number	Action Date	Type of Matter	Product/Service
Columbia/HCA Healthcare Corporation	961 0013	8/98	Order violation	Inpatient hospital services
CVS Corporation	C3762	3/98	Order violation	Drug stores
Loewen Group, Inc.	971 0012	4/98	Premerger notification	Funeral homes and cemeteries
Rite Aid Corporation	C3546	2/98	Order violation	Drug stores

CIVIL PENALTY ACTIONS

Columbia/HCA Healthcare Corporation

Columbia/HCA agreed to pay a \$2.5 million civil penalty to settle allegations that it violated a 1995 Commission order to divest hospitals in Utah and Florida in a timely manner. The complaint also alleged that Columbia/HCA failed to honor a hold-separate agreement relating to the Utah hospitals, and violated an earlier Commission order by failing to satisfy the conditions on which the Commission had approved its acquisition of a competing hospital chain.

CVS Corporation

CVS agreed to pay a \$600,000 civil penalty to settle allegations that the company violated a 1997 consent order and asset maintenance agreement it signed with the Commission to settle charges stemming from CVS’s 1997 acquisition of Revco D.S., Inc. Under the terms of the 1997 agreement, the companies agreed to preserve the continued viability, marketability, and competitiveness of the Revco drug stores to be divested, including “all pharmacy files, documents, instructions, papers, books, computer files and records and all other records in any media relating to the Retail Drug Store Business.” In its complaint, the Commission alleged that consumers were denied the full benefits of competition, including automated access to complete, up-to-date, accurate prescription dispensing records, because CVS records (were)

Loewen Group, Inc.; Loewen Group International, Inc.

Loewen Group and Loewen Group International agreed to pay a \$500,000 civil penalty to settle allegations that Loewen failed to notify the Commission and the Department of Justice before it acquired stock in a competitor, Prime Succession. The government alleged that the prior notification was required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, which is designed to give the government an opportunity to review certain acquisitions and mergers before consummation to determine whether they would violate federal anti-trust laws. The Loewen Group, headquartered in Burnaby, British Columbia, Canada, owns and

to, 34.5 (c), Loewen Tj / P 44 Canada, is o, 3 Impres Group, () Ti 3 4 16 TD anti imp 0 4 Ty 3 Te (c) Ti 24 10 6 TD 7209 Tc pson c
, Group, Consult (the Dur 4 imp 2 (4 w) Tj 2 9 8 2 TD Rd Om p 2 12 7 (c) p 3 24 c

ORDER MODIFICATIONS

Title	Number	Action Date	Type of Matter	Product/Service
Columbia/HCA Corporation and: ¹ Galen Health Care, Inc. HCA-Hospital Corporation of America Healthtrust Inc. Medical Care America, Inc. Medical Center Hospital	C3472 C3505 C3538 C3544 D9256	8/98 8/98 8/98 8/98 8/98	Merger	Inpatient hospital services
Cooper Industries, Inc.	C3469	12/97	Merger	Industrial fuses
Honickman, Harold A.	D9233	3/98	Merger	Soft drink bottling
Montedison S.p.A.	C3580	1/98	Joint venture	Polypropylene
Reckitt & Colman plc	C3306 C3571	3/98 3/98	Merger	Rug cleaning and deodorizing products
Rite Aid Corporation	C3546	5/98	Merger	Drug stores
Schnuck Markets	C3585	6/98	Merger	Supermarkets

¹Entities listed are those acquired by Columbia/HCA.

ORDER MODIFICATIONS *Columbia/HCA Corporation*

The Commission granted the petition of Columbia/HCA to modify several consent orders that settled antitrust concerns stemming from the acquisition of hospitals in various areas of the United States. The consent orders were modified to replace the requirement that Columbia obtain the Commission’s approval before acquiring hospitals in certain local areas of the United States or allowing its hospitals in those areas to be acquired with the requirement that the company provide advance written notice 30 days before such sales or acquisitions.

Cooper Industries, Inc.

The Commission granted the petition of Cooper Industries to set aside a portion of a 1993 consent order and amended other parts of the consent order. The Commission set aside provisions of the order which required Cooper to license and divest low-voltage industrial fuse technology that it gained in its acquisition of Brush Fuses. Neither Cooper

nor a Commission-appointed trustee was able to find a buyer interested in acquiring the assets. The Commission modified another provision of the order requiring prior Commission approval of certain acquisitions and substituted a provision requiring prior notification.

Harold A. Honickman

The Commission granted the petition of Harold A. Honickman to reopen and modify a July 1991 consent order (also modified in July 1992 and March 1993) to end his obligation to obtain prior approval before acquiring the assets of or the rights related to any bottling operation in the New York metropolitan area. Prior approval was required under the 1991 consent order settling charges that Honickman's 1987 acquisition of Seven-Up Brooklyn substantially reduced competition in the production, distribution and sale of carbonated soft drink brands in the New York metropolitan area.

Montedison S.p.A.

The Commission granted the petition of Montedison to modify an order. The Commission's action eliminated the prior approval provision in the order and substituted a limited prior notice provision for certain acquisitions. The 1995 order with the company required Montedison and the Royal

retail pharmacy in Bucksport, Maine, that the company acquired when it bought the LaVerdiere Enterprises chain of drug stores. In February 1998, Rite Aid agreed to pay a \$900,000 civil penalty for failing to comply with the terms of the 1994 consent order, which required the company to divest the Bucksport assets and two other pharmacies. A trustee appointed by the Commission was able to divest two properties in January 1997, but as the company's petition explained, neither the company nor the trustee has been able to divest the Bucksport store.

Schnuck Markets

The Commission granted the petition of Schnuck Markets to reopen and modify a 1995 consent order to permit Schnuck's to donate to St. Louis Community College used equipment from its store in Granite City, Illinois, for use in the school's Culinary Studies program.

COURT DECISION

Title	Number	Action Date	Type of Matter	Product/Service
California Dental Association	D9259	10/97	Horizontal restraints	Dental services

COURT DECISION *California Dental Association*

The U.S. Court of Appeals (Ninth Circuit) affirmed the Commission's March 26, 1996, opinion and enforced an order that prohibited the California Dental Association (CDA) from imposing a host of restrictions on the advertising and solicitation practices of its members. The order was the result of the Commission's determination that CDA illegally restrained the advertising of the price, quality, and availability of dental services.

STAFF ADVISORY OPINIONS

To	Date	Subject/Issue
Alliance of Independent Medical Services, LLC	12/97	Network of ambulance and ambulance services providers formed to contract for transportation services with third-party payers
Associates in Neurology	8/98	Independent provider association of neurologists in Los Angeles area
Community Hospital, Inc.	12/97	Corporate restructuring of nonprofit hospital corporation
North Mississippi Health Services	1/98	Sales of pharmaceuticals

76 0 8m 0 ar 8m

squarely within the bounds of current judicial standards, and it does not appear that the corporate restructuring would create entities that would be deemed capable of engaging in concerted action with one another, within the terms of Section 1 of the Sherman Act.

North Mississippi Health Services

Commission staff advised North Mississippi Health Services (NMHS) that it would be permissible under the Nonprofit Institutions Act for NMHS to provide cancer drugs at cost, plus handling expenses, through its Cancer Patient Fund to cancer patients who have been screened and certified as indigent by the Cancer Center, an off-site division of NMHS, even though these patients are not patients of NMHS's hospital.

Phoenix Medical Network, Inc.

Commission staff advised the Phoenix Medical Network that they had no present intention to recommend a challenge to its proposal to establish and operate a physician network in the Erie, Pennsylvania, area.

**CONSUMER PROTECTION MISSION
PART 2 CONSENT ORDERS ISSUED**

Title	Number	Action Date	Type of Matter	Product/Service
Altmeyer Home Stores, Inc.	C3816	6/98	Fair Credit Reporting Act	Employment applications
America Online, Inc. CompuServe, Inc. Prodigy Services Corp.	C3787 C3789 C3788	3/98 3/98 3/98	Inadequate disclosure of charges	Internet service provider
Ashland, Inc.	C3775	1/98	False and unsubstantiated claims	Motor vehicle engine treatment
Beuckman Ford, Inc. Frank Bommarito Oldsmobile, Inc. Lou Fusz Automotive Network, Inc. Suntrup Buick-Pontiac-GMC Truck, Inc.; Suntrup Ford, Inc. Toyota Motor Sales, U.S.A., Inc. Volkswagen of America, Inc.	C3777 C3774 C3780 C3779 C3776 C3778	1/98 1/98 1/98 1/98 1/98 1/98	Consumer Leasing Act	Automobile lease advertising
Beylen Telecom, Ltd.	C3782	1/98	International telephone connection fraud	Internet site
Bogdana Corporation	C3820	8/98	Unsubstantiated health benefit claims	Dietary supplements
Civic Development Group, Inc.	C3810	6/98	Fundraising fraud	Professional fund-raising
Eye Research Associates, Inc., d/b/a Eye Care Associates	C3807	5/98	Unsubstantiated performance claims	Eye care treatment
Foote, Cone & Belding Advertising, Inc. Rubin Postaer & Associates, Inc.	C3792 C3794	4/98 4/98	Consumer Leasing Act	Automobile lease advertising
Grey Advertising, Inc.	C3793	4/98	Consumer Leasing Act, Truth-in-Lending Act	
Global World Media Act	C3794	4/98	Consumer Leasing Act, Truth-in-Lending Act	Automobile lease advertising
d/b/a 2	C3794	4/98	Consumer Leasing Act, Truth-in-Lending Act	Automobile lease advertising

Title	Number	Action Date	Type of Matter	Product/Service
London International Group, Inc.	C3800	4/98	Unsubstantiated comparative or quantifiable claims	Condoms
Mega Systems International, Inc.; Jeffrey Salberg Tru-Vantage International LLC Howard S. Berg Roger J. Callahan Jeanie Eller	C3811 C3798 C3812 C3797 C3799	6/98 4/98 6/98 4/98 4/98	Infomercials	Self-help and health-related products
Mid-South PCM Group, PC	C3773	11/97	Unsubstantiated performance claims	Eye care treatment
Nutrivida, Inc.	C3826	9/98	Unsubstantiated advertisinghealth-	

essential triggered terms of the deal. The Consumer Leasing Act (CLA) and its implementing Regulation M govern lease transactions. The complaints against the four St. Louis dealerships also alleged violations of the Truth in Lending Act (TILA) and its implementing Regulation Z in connection with advertisements for financed purchase plans. The orders prohibited future violations of the CLA by the six companies and, in addition, future violations of the TILA by the four

that contributions they were

capitalized cost of the vehicle (or that no such amount is required). Any advertisement that highlights an amount “down” or mentions certain other amounts due at lease inception (or states that there is no such charge) would have to give an equally prominent statement of the total amount due at lease inception. The order with Grey also contained provisions that prohibit the company, in any closed-end credit advertisement involving motor vehicles, from misrepresenting the existence and amount of any balloon payment or the annual percentage rate.

Global World Media Corporation; Sean Shayanexistence0 TTj 34.951651w0exist

and fat absorption effects discussed in the advertisement, and/or the results of the research could not be applied to the population as a whole because of methodological weaknesses. The order prohibits the respondents from representing that Fattaché or any dietary supplement, food, or drug can cause or contribute to achieving or maintaining weight loss without dieting, or that such a product prevents the absorption of ingested fat, helps eliminate ingested fat, or has any beneficial effect, unless the claims are supported by competent and reliable scientific substantiation. The order also prohibited the respondents from representing any product endorsement or testimonial unless they have evidence to support that the experience is, in fact, typical or similar.

Honeywell, Inc.

Honeywell agreed to settle allegations that the company made unsubstantiated efficiency and allergy relief claims for its

have pe TDh0003576116

*Mega Systems International, Inc.; Tru-Vantage International, LLC;
Howard S. Berg; Roger J. Callahan; Jeanie Eller; Jeffrey Salberg*

The Commission approved five consent orders in connection with Commission allegations that advertising claims made in radio and television infomercials produced by Mega Memory Systems, Inc., were false and unsubstantiated. The order with Tru-Vantage International prohibited the company from making claims that Howard Berg's Mega Reading is successful in teaching individuals to increase their reading speed above 800 words per minute while substantially comprehending and retaining the material. The order with Jeannie Eller prohibited claims about the extent to which individuals who use Jeannie Eller Action Reading will learn to read. The order with Roger J. Callahan prohibited claims about Dr. Callahan's Addiction Breaking System and its ability to reduce an individual's compulsive desire to eat, smoke, and use alcohol or heroin. The order also required Callahan to pay \$50,000 in consumer redress. The orders with Mega Systems International, Jeffrey Salberg, and Howard Berg required them to disclose a consumer warning regarding their products in television advertisements that are at least 15 minutes long and to disclose the same audio message in radio advertisements that are at least 5 minutes long. In addition, Mega Systems, Salberg, and Berg were barred from making deceptive claims about their products in the future. Mega Systems and Salberg also will pay \$500,000 in consumer redress.

*Mid-South PCM Group, PC; Eye and Vision Clinic, PC;
International Computerized Orthokeratology Society, Inc.;*
J. Mason Hurt, O.D.

The Commission approved a consent order with Mid-South PCM Group, Eye and Vision Clinic, International Computerized Orthokeratology Society, and J. Mason Hurt, O.D., settling allegations that claims that an eye care treatment called Precise Corneal Molding orthokeratology (PCM ortho-k) can permanently cure vision deficiencies are false and unsubstantiated. PCM ortho-k is an eye care service that purports to reduce or eliminate dependence on eyeglasses and contact lenses. It is marketed as a non-surgical alternative to surgical eye procedures such as laser PRK (photorefractive keratectomy) and RK (radial keratotomy). The order prohibited Hurt from making any false claims and required reliable scientific evidence for any future success or efficacy claims.

Nutrivida, Inc.; Frank Huerta

Nutrivida and its principal, Frank Huerta, agreed to settle allegations that they made unsubstantiated claims in infomercials for Cartilet, a dietary supplement composed of shark cartilage. The respondents claimed that Cartilet capsules are effective in the symptomatic relief, treatment, or cure of cancer, and effective in the symptomatic relief or treatment of rheumatism, arthritis, diabetes, fibroids, bursitis, circulatory problems, and cysts. In addition, the complaint alleged as unsubstantiated the claim that the testimonial from the consumer who appears in the advertisement for Cartilet shark cartilage capsules reflects the typical or ordinary experience of consumers who used the product. The order prohibited the respondents from making specific claims for Cartilet – or for any other product – unless the respondents possess and rely upon competent and reliable scientific evidence to substantiate the representations. In addition, the order prohibited the use of testimonials unless they reflect the typical or ordinary experiences that could be expected from use of the product, or a disclosure is made indicating that the experience is not typical, and required the respondents to disclose that any radio or video advertisement 15 minutes in length or longer is a paid advertisement.

Sears, Roebuck & Co.

Sears agreed to settle allegations that it induced consumers who filed for bankruptcy protection to agree to reaffirm their Sears credit account debts, in order to keep their Sears credit card or merchandise. The Commission alleged that Sears falsely represented that its “reaffirmation agreements” would be filed with the Commission.

ment required Sears to completely redress debtors, with interest, for

pressure, or cause weight loss or other health benefits. The order prohibited Western Direct from making the challenged representations or any other representations for food or dietary supplements or drugs unless they possess competent and reliable scientific evidence that substantiates such representations.

PART 3 ADMINISTRATIVE COMPLAINT

Title	Number	Action Date	Type of Matter	Product/Service
Continental Gown Cleaning Service, Inc.	D9287	5/98	Care Labeling Rule	Wedding gown cleaning

**PART 3 ADMINISTRATIVE
COMPLAINT**

Continental Gown Cleaning Service, Inc.

In an administrative complaint, the Commission alleged that Continental Gown, a

PART 3 CONSENT ORDERS ISSUED

Title¹	Number	Action Date	Type of Matter	Product/Service
Jenny Craig, Inc.	D9260	2/98	Unsubstantiated advertising claims	Weight-loss programs
Metagenics, Inc.	D9267	10/97	Unsubstantiated performance claims	Calcium supplement
(Quaker State Corp.) Blue Coral, Inc.	D9280	12/97	Unsubstantiated performance and efficacy claims	Motor vehicle engine lubricant
Weight Watchers International, Inc.	D9261	12/97	Unsubstantiated advertising claims	Weight-loss programs

¹A company name shown in parentheses is for identification of the case only.

PART 3 CONSENT ORDERS ISSUED

Jenny Craig, Inc.; Jenny Craig International, Inc.

The Commission approved a consent order with Jenny Craig to resolve deceptive advertising allegations in connection with the diet program’s claims about weight loss, weight loss maintenance, price, and safety, as well as its use of consumer testimonials and endorsements. Among other things, the settlement set the level of substantiation Jenny Craig and its subsidiary, Jenny Craig International, Inc., must have before making any claims about the success of customers in achieving or maintaining weight loss, and required that consumer experience testimonials either reflect the general results of Jenny Craig customers or be qualified by disclosures that reveal the generally expected results or make clear that the results portrayed are not typical.

Metagenics, Inc. (d/b/a Ethical Nutrients); Jeffrey Katke

Metagenics and corporate officer Jeffrey Katke settled allegations that they made unsubstantiated claims about the effectiveness of Bone Builder, their over-the-counter calcium supplement, in preventing bone loss in post-menopausal women who already have experienced bone thinning, in reducing bone pain, and in preventing osteoporosis. The order also settled allegations that the respondents made unsubstantiated claims that their product was more effective than other calcium supplements. The order required the respondents to have scientific substantiation for any claim that Bone Builder or any food, drug, or food or dietary supplement containing calcium will treat or prevent any disease, disorder, or condition, including those relating to bone

ailments or osteoporosis, or that any food, drug, or food or dietary supplement is more effective than any other product in treating or preventing any disease, disorder, or condition.

(Quaker State Corp.)

Blue Coral, Inc.; Blue Coral-Slick 50, Inc.; Blue Coral-Slick 50, Ltd.

The Commission approved a cons.12ovord25Tj 44.52 0 TD 0 Tc () Tj 2.16

Consumer Protection Mission**Initial Decisions**

Title	Number	Action Date	Type of Matter	Product/Service
Novartis Corporation	D9279	3/98	Unsubstantiated performance claims	OTC pain reliever
Trans Union Corporation	D9255	7/98	Fair Credit Reporting Act	Target marketing

INITIAL DECISIONS *Novartis Corporation; Novartis Consumer Health, Inc.*

In an initial decision, an Administrative Law Judge found that Novartis, a subsidiary of Novartis AG, a Swiss pharmaceutical company, disseminated false and unsubstantiated advertisements claiming that

Commission in 1994. In 1996, the Judge's finding that there was no real dispute as to the facts of the case was rejected by the U.S. Court of Appeals,

FINAL ORDERS

Title	Number	Action Date	Type of Matter	Product/Service
Automotive Breakthrough Sciences, Inc.	D9275	9/98	Unsubstantiated performance claims	Automotive braking system
Brake Guard Products, Inc.	D9277	1/98	Unsubstantiated performance claims	Automotive braking system

FINAL ORDERS *Automotive Breakthrough Sciences, Inc. TD -rs85j 11.eakthreakthr*

i

significant proportion of cases. Brake Guard sold the systems to dealers who charged consumers between \$283 and \$349, and it sold between 400,000 and 500,000 of the systems between 1990 and 1994, earning revenue in excess of \$10 million during that time, according to the Commission opinion. The final order barred the company and Ed F. Jones from using the term “ABS” in marketing their braking devices, from misrepresenting the performance characteristics of the braking devices, and from misrepresenting the availability of insurance discounts resulting from installation of the brakes and their compliance with certain government standards.

Consumer Protection Mission

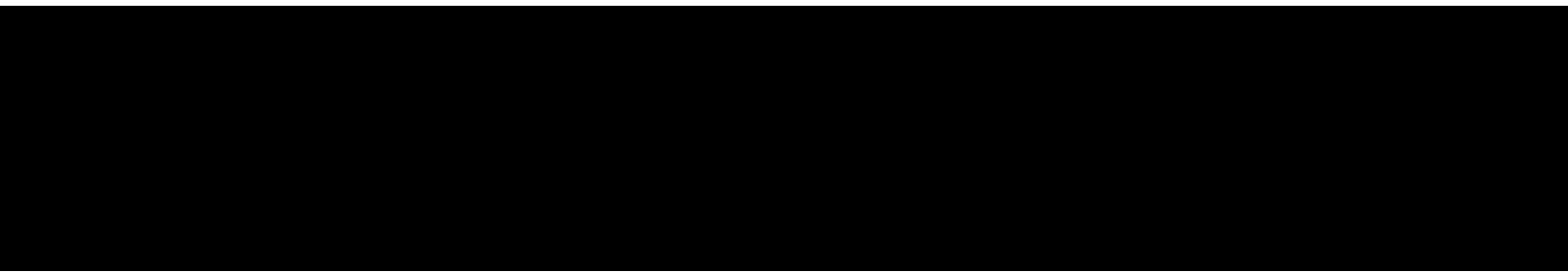
Permanent Injunctions

PERMANENT INJUNCTIONS

Title ¹	Number	Action Date	Type of Matter	Product/Service
(Advantage Marketing Company) Ed Boehlke	X970010	6/98	Franchise Rule	Work-at-home job programs
(ATMS, Woofter In... Konrad K Tc (oofter) 30 0 TD 0 Tc 0.03 Tw () w (Tc (TMS,) Tj 23.16 0 TD 0 Th08 -4.2 offer)41ck.4() T6l214.92 0.96 31.44 r1	30 0 TD 0 Tco7.36 0 ke			

Federal Trade Commission

--	--	--



Consumer Protection Mission

Permanent Injunctions

Title ¹	Number	Action Date	Type of Matter	Product/Service
The Tracker Corporation of America	X970072	7/98	Telemarketing Sales Rule, Truth-in-Lending Act	Credit card protection
Travel Bahamas Tours, Inc.	X970029	6/98	Telemarketing Sales Rule, Truth-in-Lending Act	Travel packages
(World Class Network, Inc.) World Class Travel, LLC; Jerome L. Goldberg	X970031	11/97	Multi-level marketing fraud	Travel agent credential mill

¹A company name shown in parentheses is for identification of the case only.

**PERMANENT
INJUNCTIONS**

Advantage Marketing Company; Ed Boehlke

The Commission reached a settlement with Advantage Marketing and its president, Ed Boehlke, in connection with a get-rich-quick, work-at-home scheme. The Commission, as part of “Operation Missed Fortune,” a federal-state crackdown on get-rich-quick, self-employment schemes, alleged that Boehlke falsely advertised in free, weekly newspapers that consumers could earn between \$200 and \$1,000 weekly assembling products at home. Consumers who responded to the advertisements were told that C:\p\l\5\92\flur\0350\10\08\11\1156\01

Federal Trade Commission

illegally sold

lets enjoy widespread distribution in the businesses' local communities, and that advertising proceeds would support a local, civic purpose. The order prohibited all of the defendants

Federal Trade Commission

misrepresentations in connection with any telemarketing effort and from violating any provision of the Telemarketing Sales Rule in the future.

(G.M. & Assocs.)

Marc Hart

Marc Hart, an independent telemarketer for SureCheK Systems, a business that claimed it could obtain unsecured credit cards – even for consumers with past credit problems – for up-front

that he misrepresented the likelihood of obtaining scholarships and grants through the use of his service. The order permanently banned Consalvo, vice president of National Grant Foundation, from selling college scholarship services in any manner and from telemarketing or assisting others in telemarketing in the future. He was also required to pay \$585,000 in consumer redress. Defendants Kaye, Jansen, and Clough agreed to an order that banned them from selling scholarship search services in the future.

National Scholastic Society, Inc.;
University Society Publishers Periodicals; David C. Beasley, Jr.

National Scholastic Society and David C. Beasley, Jr., agreed to post a \$250,000 performance bond before engaging in any telemarketing activities in the future, resolving allegations against them by the Commission and the State of New Jersey. The Commission and the New Jersey Attorney General filed a complaint in federal district court against the company and its owner, as part of a nationwide crackdown on fraudulent magazine marketers. The complaint alleged that the defendants, in response to a toll-free call, misrepresented (1) the reasons why they needed consumers' credit card information and (2) that they would not bill charges to consumers' credit card accounts without the consumers' written authorization. In addition, the Commission and the State of New Jersey alleged that the defendants violated the Telemarketing Sales Rule by failing to disclose the odds of winning a prize, the conditions associated with the defendants' coupon offer, and that the defendants did not allow cancellation. The order permanently prohibited defendants from making the misrepresentations alleged in the complaint and prohibited them from violating the Rule. In addition to the \$250,000 bond, the order required the defendants, if they tape record any portion of a sales call with consumers, to include in the tape recording all material elements of the sale.

Parade of Toys; Wonderful World of Toys;
Robert E. Bouckhout; Dennis W. Vaughn; Megan N. Wall

Parade

Federal Trade Commission

phony references

Consumer Protection Mission

Federal Trade Commission

TouchNet, Inc.; TouchTone Telecommunications & Advertising, Inc.; Eric Carino; Malissa Carino

The Commission reached a settlement with operators of a company that promoted Internet business opportunities to consumers. The Commission alleged that defendants falsely represented that for a one-time fee of \$3,195, investors could earn \$15,000 a month by becoming “Internet Consultants” as a result of defendants’ training workshop. The order banned the defendants from operating or promoting any business opportunity, franchise, or business venture in the future; prohibited them from making false or misleading claims about the income, profits, or sales a purchaser could realize; and required that they rescind contracts with the consumers who invested in their “business opportunity.”

*(Toys Unlimited International, Inc.)
Robert G. Garrow*

Robert G. Garrow settled allegations that he violated the Franchise Rule. This case was brought under “Operation Trade Name Games,” a project that targeted scam artists who used the allure of selling trademarked products of well-known manufacturers – such as The Walt Disney Company or Warner Bros. – to hook would-be entrepreneurs. The Toys Unlimited defendants operated a display rack business opportunity that featured merchandise of the Disney Company. The settlement with Garrow prohibited him from violating or assisting others to violate the Franchise Rule, and from misrepresenting, or assisting others to misrepresent, material facts in connection with telemarketing or the sale of business ventures or franchises.

The Tracker Corporation of America; I. Bruce Lewis

Tracker and its president, Bruce Lewis, agreed to be permanently barred from engaging in the credit card protection and credit card registration business as part of a resolution of the allegations against them. Tracker sold a credit card protection program to consumers for a fee of \$189, representing that consumers would receive protection of up to \$10,000 for any losses resulting from the unauthorized use of their credit cards. The Commission alleged that Tracker’s telemarketers, during their sales pitch, violated the FTC Act and the Telemarketing Sales Rule by making false or misleading statements to induce consumers to purchase Tracker’s services. The settlement also

prohibited the defendants from making any misrepresentations of fact material to a consumer's purchasing decision.

Travel Bahamas Tours, Inc.; Richard A. Raskin

Travel Bahamas Tours and company president Richard A. Raskin settled allegations that they misrepresented that the travel packages they were selling were sponsored by certain hotels and that they offered a 30-day unconditional refund. According to the Commission, the travel promotion was not sponsored or endorsed by any hotels, and until the Commission brought allegations against the defendants as part of a travel scam project, "Operation Trip-Up," the defendants routinely failed to honor consumers' requests for refunds. The order prohibited Raskin and his company from violating the Telemarketing Sales Rule or the Truth in Lending Act and prohibited any misrepresentations in connection with the sale of any travel-related products or services. Raskin will be required to obtain a performance bond in the amount of \$250,000 before resuming any telemarketing activities relating to the sale of travel or of magazines – a business in which Raskin was previously engaged.

(World Class Network, Inc.)

World Class Travel, LLC; Jerome L. Goldberg

Jerome L. Goldberg settled Commission allegations stemming from his involvement with World Class Network, a multi-level marketer of travel agent credentials and a work-at-home travel agency business opportunity, which was charged by the Commission as part of "Operation Trip-Up," a March 1997 crackdown on travel-related fraud. The Commission alleged that the defendants falsely represented that their travel tutorial kit would allow purchasers to receive the professional courtesy discounts and upgrades traditionally available to travel agents on their own travel accommodations, and to operate and achieve specified earnings in an at-home travel business. Goldberg is the former owner of World Class Travel, which purportedly provided support and ticketing for World Class Network's distributor/travel agents. The order prohibited the defendants from participating in any pyramid marketing program and from misrepresenting potential earnings, benefits, or other material facts in connection with the sale of a travel agent business opportunity.

--	--	--	--	--

Dell Computer Corporation

Dell Computer settled Commission allegations that it violated the Mail Order Rule when it advertised and sold a Dell Dimension computer system bundled with a package of third-party software (Dell Software Suite) that was not ready to be shipped. The Commission's complaint alleged that Dell violated the Rule by soliciting orders for the software, either by mail or phone, when it had no reasonable basis to expect to be able to ship some or all of the software within the time stated in the solicitation, or if no time was stated, within 30 days of receiving a properly completed order; failing to offer the buyer the option of either to consent to a delay in shipping or to cancel the order and receive a prompt refund; and failing to offer the buyer a prepaid means to exercise those options. The order, filed by the Department of Justice on behalf of the Commission, prohibited Dell from violating the Rule and required the payment of an \$800,000 civil penalty.

Designer Checks, Inc.

Designer Checks agreed to settle allegations that the company violated the Mail or Telephone Order Merchandise Rule, which requires certain disclosures to consumers about

that may be used on the gowns and failed to explain how the normal drycleaning process must be modified for these delicate garments.

Mori Lee, Inc.; Morvin Leibowitz; Arthur Udell; Mitchell Udell

Mori Lee and its officer, Arthur Udell, and individual defendants, Morvin Leibowitz and Mitchell Udell, will pay civil penalties of \$40,000 for using care labels provided by a drycleaner, Continental Gown Cleaning Service, Inc., that falsely stated that Continental was the only drycleaner able to clean the gowns manufactured by Mori Lee. According to the Commission, Continental's labels and the use of these labels violated the Care Labeling Rule because they failed to provide adequate instructions for drycleaning these garments. The labels failed to state at least one type of solvent that may be used on the gowns and failed to explain how the normal drycleaning process must be modified for these delicate garments.

Toys Unlimited International, Inc.; Andrew B. Moss

Toys Unlimited International and its principal settled Commission allegations that they violated the Franchise Rule. The defendants operated a display ra
Unlimited
Unlimited

CONSUMER REDRESS ACTIONS

Title ^{1,2}	Number	Action Date	Type of Matter	Product/Service
AmeraPress, Inc.	X980020	4/98	Business opportunity fraud	Business venture - sale of printed items
Andy Watson (G. Andrew Watson); Midwest Management Associates, Inc.	X980035	9/98	Credit Repair Organizations Act	Credit repair
Audiotex Connection, Inc.	X970021	11/97	International telephone connection fraud	Internet service provider
(Business Opportunity Center, Inc.) Market Systems, Ltd. Richard A. Herbert, M.D. Tami Brennan McClure	X950048 X950048 X950048	1/98 1/98 1/98	Franchise Rule	Herbal "alcohol neutralizer"
The Century Corporation	X970044	4/98	Billing fraud	Advertisements in charitable publications
(Coastal Gaming, Inc.) Peter Aro Jason McDuffie	X970079 X970079	7/98 7/98	Telemarketing Sales Rule	Casino gambling ship investments
Compass Northeast Credit Service (Nathaniel Harrell, d/b/a)	X980032	6/98	Credit Repair Organizations Act	Credit repair
The Concept Network (National Idea Network, Inc., d/b/a)	X970064	11/97	Investment fraud	Invention promotion services
CRA Champion Credit, Inc.; Avshalom Hazon	X980066	5/98	Credit Repair Organizations Act	Credit repair
Credit Repair Network Allied Credit Services; Phillips Hall, Inc. New England Financial Second Federal Credit, Inc.	X980040 X980042 X980054 X980041	7/98 7/98 7/98 7/98	Credit Repair Organizations Act	Credit repair
Credit Services (John Mancini, d/b/a) Quaite & Associates (Donald Quaite, d/b/a)	X980034 X980033	8/98 8/98	Credit Repair Organizations Act	Credit repair
(Dayton Family Productions, Inc.) Fred Davidson; Richard S. Hart John Rubbico	X970058 X970058	7/98	E/98	

Federal Trade Commission

Appendix

Title^{1,2}	Number	Action Date	Type of Matter	Product/Service
Direct American Marketers, Inc.	X980023	10/97	Direct mail fraud	Prize promotion
DWC (Dixie W. Cooley, d/b/a)	X980053	8/98	Credit Repair Organizations Act	Credit repair
Dynasty International, Inc. Orion & Associates, Inc.	X980027 X980028	3/98 1/98	Telemarketing Sales Rule	Advance-fee credit cards
(Equifin International, Inc.) F. Jerald Hildreth	X970062	12/97	Telemarketing fraud	Stamps, philatelic investments
Eureka Solutions International, Inc.	X970087	4/98	Investment fraud	Invention promotion services
(Falcon Crest Communications, Inc.) Nicholas DeRico	X960016	10/97	Investment fraud	Mobile radio and paging licensing services
FutureNet, Inc.	X980022	4/98	Investment pyramid scheme	Internet service business opportunity
(Global E) Interstate, Inc.	X960075	12/97	Telemarketing Sales Rule	Advance-fee loan
GreenHorse Communications, Inc.	X980058	4/98	Franchise Rule	Internet business opportunity
Inetintl.Com, Inc. (Inet International) Erik R. Arnesen Craig A. Lawson	X980055 X980055 X980055	9/98 8/98 9/98	Franchise Rule	Internet service business opportunity
International Direct, Inc.	X970040	8/98	Mail or Telephone Order Merchandise Rule	Flier inserts for mail order shopping
JewelWay International, Inc.	X970054	12/97	Pyramid scheme	Multi-level marketing
Licensed Products, U.S.A., Inc.	X970069	1/98	Franchise Rule	Carousel display rack business ventures
Mag-Topia, Inc. Robert Florida	X970057 X970057	12/97 10/97	Telemarketing Sales Rule	Magazine sales and prize promotions
(Mega Systems International, Inc.) Kevin Trudeau Kenneth Wright	X980014 X980013	1/98 1/98	False and unsubstantiated advertising	Self-help and health-related products
Metro Data, Inc. Dennis R. Bell Marilyn N. Koblasz	X960112 X960112 X960112	12/97 12/97 12/97	Job placement fraud	Employment services

Title ^{1,2}	Number	Action Date	Type of Matter	Product/Service
Trans-Asian Communications, Inc.	X970076	3/98	Prepaid phone card fraud	Prepaid telephone cards

¹A company name shown in parentheses is for identification of the case only.

²Redress or disgorgement funds were also obtained from the following:

- Beylen Telecom, Inc. (see page 60)
- Roger Callahan, M.D. (see page 64)
- Anthony Consalvo (National Grant Foundation) (see page 85)
- Jeffrey Salberg (see page 64)

³Disgorgement.

practice0 T (02)tr010(Fu)(00)N1014-0-JD-2007-0-Tw-01ationseeConsalvo
www.ftc.gov (3/17) 2007-03-17 09:53:33 AM EDT

CONSUMER REDRESS CAESSf

to notify those customers that their contracts are rescinded and that no further payments are due. The defendants also were prohibited from violating any provisions of the CROA in the future. Watson also was required to pay \$25,000 in consumer redress.

*Audiotex Connection, Inc.; Internet Girls, Inc.; PromoLine, Inc.;
David Zeng*

Audiotex Connection, affiliated companies Promo Line and Internet Girls, and founder David Zeng agreed to pay long-distance telephone companies over \$2.74 million to be used for telephone bill credits for 38,000 consumers to settle allegations that they were running a high-tech Internet scam. The Commission alleged that the defendants used a purported “viewer” software program to disconnect consumers from their local Internet service providers and reconnect them to costly international numbers assigned to the country of Moldova. Once consumers downloaded and activated this software, it automatically disconnected their modems from their local Internet service providers, turned off the speakers on the modems, and silently dialed international telephone numbers to reconnect consumers to the Internet through an expensive long-distance telephone call. The order prohibited the practices alleged in the complaint, and required the defendants to redress consumer victims by paying funds to AT&T and MCI, which will issue credits to their customers who were billed for the calls, and to the Commission, which will issue refunds to customers of other long-distance carriers who were billed for the calls.

*(Business Opportunity Center, Inc.)
Market Systems, Ltd.; Natural Health Systems, Inc.;
Richard A. Herbert, M.D.; Tami Brennan McClure*

Operators of a bogus business opportunity scheme that marketed franchises to sell herbal capsules they claimed could neutralize or detoxify the effects of alcohol settled Commission allegations that their claims were deceptive and misleading and their business practices violated the Franchise Rule. The defendants will pay approximately \$64,000 to settle the Commission allegations. In addition, the order barred the defendants permanently from selling any alcohol reducing agent, misrepresenting any product or service, offering or selling any business venture, selling their customer lists, and violating the Rule.

they have signed. National Idea Network executive Robert J. Zarko also

*Credit Services (John Mancini, d/b/a);
Quaite & Associates/The Credit Solver (Donald Quaite, d/b/a)*

Two credit repair companies and their principals settled Commission allegations that they violated the FTC Act and the Credit Repair Organizations Act by making deceptive claims about their ability to improve consumers' credit records by removing negative information from consumers' credit reports even when the information was accurate and not obsolete, and by charging advance fees for these services. In addition to prohibiting future misrepresentations with regard to credit repair services, the orders with defendants required them to cease collection from consumers on all credit repair contracts with outstanding balances and to notify those customers that their contracts are rescinded and that no further payments were due. Also, Donald Quaite agreed to pay \$10,000, and John Mancini agreed to pay \$18,000 in consumer redress. In addition, Mancini agreed to return approximately \$36,000 in uncashed, postdated checks to consumers.

film 7008 Tc (mission's) Tj 46.08.0 j 2 Tj 2 f6.0u4R.0iC
*Dayton Family Productions, Inc., an
Fred Davidson, Richard S. Hart, John Rubbico*

The Court entered a default judgment against John Rubbico as a result of a Commission complaint charging Rubbico and other defendants with making numerous misrepresentations when soliciting consumers to invest in films produced by filmmaker Lyman Dayton. (Lyman Dayton was not named as a defendant in the Commission's complaint.) The defendants allegedly claimed that Mr. Dayton's prior films had generated 5-to-1 returns for investors, and that Mr. Dayton and his films had won certain awards, including a Cannes Film Festival award. The Commission also alleged that the defendants sold substantially more units in their film investment partnerships than they claimed they would sell. Rubbico failed to file an answer to the Commission's complaint. The order permanently banned Rubbico from engaging e n g

*Deco Consulting Services, Inc.; Unimark Industries, Inc.;
Dania Denis; Jesse Nieves*

Deco Consulting Services, Unimark Industries, Dania Denis, and Jesse Nieves settled allegations that, from 1990 until October 1996, they conducted a fraudulent program to telemarket college scholarship services to high school and college students and their parents throughout the United States. According to the Commission, in addition to misrepresenting that students would receive a specified amount in scholarships or grants, Denis and Nieves falsely represented that they would refund the service fee to those who did not obtain scholarships or grants by using their services. In addition to permanently barring Nieves from engaging in any telemarketing, the order permanently barred Nieves and Denis from the promotion, advertising, marketing, sale, or offering for sale of scholarship search services. The order also included a \$100,000 judgment against the defendants that would be used to pay court-approved fees and any possible consumer redress.

Design Travel (Roger S. Dolgin , d/b/a); Design Travel of Santa Rosa

Roger S. Dolgin, a telemarketer who promised “resort accommodations” and “luxury cruises,” but delivered third-rate hotels and ferry boat rides, settled Commission allegations that he deceptively marketed travel services in violation of federal law. The order barred Dolgin, doing business as Design Travel, from any telemarketing in the future. In addition, it barred him from marketing any travel packages or services; banned any processing of credit card charges, debit card charges, or checks that have not been signed personally by the owner; and prohibited misrepresentations of material fact in connection with the sale of any products or services. Dolgin also will pay \$125,000 in consumer redress.

Direct American Marketers, Inc.; Anthony C. Brown

Direct American Marketers (DAMI) settled allegations that it falsely represented that it was a sweepstakes judging or payout operation. DAMI sent mail to consumers using more than 200 different company names, such as “Awards Claim Center,” “Consumer Cash Claims,” and “Prize Transfer Sweepstakes,” and directed consumers to call a 900 number to redeem their prize or cash award. The Commission alleged that what consumers got for making the call was a

winning the grand prize were about 1 in 5 million. The order barred DAMI and its president, Anthony C. Brown, from engaging in any prize promotions that involve pay-per-call services in the future. In addition, they will pay \$500,000 for consumer redress.

DWC (Dixie W. Cooley, d/b/a)

Dixie W. Cooley, individually and doing business as DWC, was charged with using unsolicited e-mail (commonly known as “spamming”) to operate a credit repair scam. According to the complaint, Cooley’s “spam” solicitations promoted a file segregation scheme that claimed that consumers who responded to her e-mail and purchased her “product” (at a cost of \$19.95 to \$79.00) would learn how to create a new credit identity by obtaining a new social security number. The order entered by the court against Dixie W. Cooley prohibited her from misrepresenting that file segregation is legal and any other fact material to a consumer’s decision to purchase any goods or services, and required her to pay \$15,451.75 for consumer redress.

*Dynasty International, Inc.; Orion & Associates, Inc.;
Christopher W. Anderson; Paul J. Melech, Jr.*

Defendants Dynasty, its principal Christopher Anderson, Orion, and Paul J. Melech, Jr., each working as a third-party telemarketer for SureCheK Systems, Inc. (doing business as Consumer Credit Corp. (CCC)), a company that the Commission brought an action against in July 1997, settled Commission allegations that they falsely represented that consumers would receive a credit card in exchange for a payment of a fee. CCC used various telemarketers, including Dynasty and Orion, to solicit business under CCC’s name and offered consumers a major unsecured credit card in return for an advance one-time processing fee ranging from \$79.95 to \$130.00. The defendants targeted consumers with credit problems, and told them that they were being offered or preapproved for a Visa or MasterCard, with absolutely no security deposit, and regardless of their past credit history. The fees were withdrawn from consumers’ bank accounts and deposited into CCC’s account, sometimes without the consumers’ authorization. After paying the fee, the majority of the consumers never received the credit cards. The orders prohibited the defendants from misrepresenting that they will provide consumers with credit

hsas.in.c02.84 -3-14.16Tj 2

regardless of their creditworthiness. In addition, the order with the defendants in the Orion case required them to pay \$9,000 in consumer

*(Falcon Crest Communications, Inc.)
Nicholas DeRico*

Nicholas DeRico, a sales representative of Falcon Crest Communications, settled allegations that he sold bogus brokerage services to consumers who owned federal telecommunications licenses. The defendants touted themselves as experienced license brokers with an excellent track record of selling or leasing FCC licenses. The defendants delivered few if any offers to buy or lease the licenses, according to the Commission complaint. The Commission alleged that their scheme was deceptive and violated federal law. The order required DeRico to pay \$441,781.95 in monetary redress and required him to obtain a bond of \$450,000 before engaging in telemarketing activities.

FutureNet, Inc.; FutureNet Online; Chris Lobato; Alan J. Setlin

Chris Lobato and Alan J. Setlin, two former officers of FutureNet, an alleged pyramid scheme, settled Commission allegations that their scheme violated federal law. The Commission alleged that FutureNet claimed that its recruits could earn substantial income for the rest of their lives by joining a multi-level marketing program selling Internet access devices. The Commission alleged that the bulk of the income from the FutureNet marketing plan did not depend on sales of the Internet devices they were purportedly selling, but rather almost entirely on the recruitment of new distributors – the typical profile of an illegal pyramid. Since 90 percent of investors in any pyramid program actually lose money, the defendants' earnings claims were false and violated federal law. The order barred the defendants from engaging in pyramids in the future, barred them from doing business with the other principals involved in FutureNet, and required that they post a \$1 million bond before engaging in any multi-level marketing plans in the future. Based on financial disclosures filed by the defendants, no consumer redress was ordered. However, should those financial disclosure statements be found to be false, the defendants would be liable for \$21 million in consumer redress.

*(Global E)
Interstate, Inc.; Adelino Calvo, Jr.; Alice R. Silvers;
Robert R. Silvers; Tod A. Silvers*

Tod Silvers, owner of Interstate Inc., Alice Silvers, and Robert Silvers agreed to pay \$374,000 in settlement of charges that they ran a

deceptive advance-fee loan scheme business. The defendants allegedly promised consumers that for about \$19 in processing fees, they could provide them with unsecured credit cards regardless of their creditworthiness. In fact, the Commission alleged, the defendants only delivered a list of banks that issue credit cards and general credit information. The order prohibited all defendants from making false representations regarding such services in the future; barred them from violating the Telemarketing Sales Rule, which among other provisions makes it illegal for any telemarketer who guarantees consumers a loan or other credit to ask for money in advance; and prohibited them from using or providing others with any financial, credit-related, or personal information about consumers that they obtained.

GreenHorse Communications, Inc.; Lynn Haberstroh

GreenHorse Communications and its president, Lynn Haberstroh, settled allegations that they violated the Franchise Rule by promising fabulous earnings for investors in an Internet Web site development business. GreenHorse ran advertisements claiming that by working only part-time, investors in the Internet Web site development business could expect to earn as much as \$134,992 within their first year in business. The company sold franchises for \$14,000 to \$15,000. The order barred future violations of the Franchise Rule and required the defendants to offer refunds and contract cancellation to any investor in the business opportunity. Finally, the order barred them from selling, renting, or transferring their customer lists or information about their customers.

*Inetintl.Com, Inc. (Inet International);
Erik R. Arnesen; Craig A. Lawson*

A federal district judge issued a preliminary injunction, appointed a permanent receiver and froze the assets of a company and three individuals that lured investors into paying as much as \$10,000 to buy a business franchise that promised a fabulous return on their investment, but delivered little or nothing. The Commission's complaint alleged that Inet International, its principal, and managers claimed investors could earn \$100,000 in their first year marketing Internet

Licensed Products, U.S.A., Inc.;
Equipment Wholesalers of America, Inc.;
American Marketing Systems, Inc.; Sports Centers of America, Inc.

The defendants in the Licensed Products case were charged with violating the Commission's Franchise Rule. This case was brought as one of the 18 enforcement actions initiated under "Operation Trade Name Games," a cooperative law enforcement effort between the Commission and several state Attorneys General. Operation Trade Name Games targeted scan.E2at(was) Tj 18.6 0 TD 0 rc a,

advertisement claims for their products were false or unsubstantiated. Kevin Trudeau developed and hosted radio and TV infomercials for a range of products in conjunction with two infomercial production companies, Mega Systems and Tru-Vantage. The Commission alleged that many of the claims made for the products sold through these infomercials were false or unsubstantiated. The defendants will pay a total of \$1.1 million to settle the allegations, and one defendant, Kevin Trudeau, will be required to establish a \$500,000 escrow account, which will be used to repay consumers should he commit similar law violations in the future.

Metro Data,

by any U.S. Government agency or any investment which involves such licenses, prohibited misrepresentations about FCC licenses and investments generally, and required a bond for any future telemarketing. Orth will be permanently barred from telemarketing investments, prohibited from misrepresenting FCC licenses and other investments generally, and required to pay \$20,000 for consumer redress.

(Multinet Marketing, LLC)

American Family Sweepstakes, LLC; World Class Vacations, Inc.; Clarence J. Servaes; Jack M. Servaes

Multinet Marketing, its related companies, and their principals, Clarence Servaes and Jack Servaes, settled allegations that they fraudulently offered purportedly valuable prizes to consumers to induce the purchase of products such as a vacation or a diamond and sapphire bracelet, charging the consumers' credit cards for \$300 to \$600. In fact, defendants misrepresented the value of the prizes or failed to disclose additional costs and conditions attached to the prizes. The order required Clarence and Jack Servaes to pay more than \$50,000 in consumer redress and post a performance bond in the amount of \$500,000 before engaging in any telemarketing activities in the future. In addition, the defendants were prohibited from violating the Telemarketing Sales Rule and from misrepresenting the value of any prize offered in a promotion; the need for consumers to purchase goods or services to participate in a prize promotion; and the nature, quality, or value of any goods or services offered in connection with a prize promotion.

National Consulting Group, Inc.; Brian G. Fisher

National Consulting Group (NCG) and its principal, Brian Fischer, settled Commission allegations that its earnings claims for its \$7,995 home-based medical "billing center" business opportunity were false, and that it failed to give investors disclosure documents required by federal law. The order required NCG and Brian Fischer to pay approximately \$100,000 in consumer redress and barred them from misrepresenting income, profits, or sales of any franchise or business venture, from violating the Franchise Rule, and from aiding anyone else in violating that Rule.

*National Grant Foundation, Inc.; Grant Research & Publishing, Inc.;
Dennis J. Colonna; Wallace Millman*

National Grant Foundation, Grant Research & Publishing, and two individual defendants settled allegations that they misrepresented the likelihood of obtaining scholarships and grants through the use of his service. The order permanently banned the defendants from selling college scholarship services in any manner and from telemarketing or assisting others in telemarketing in the future. In addition, the defendants were prohibited from withdrawing money from a consumer's bank account or billing vice (withdrawing) Tj 601073 72.2 0 TD 080gTc () 6w

contracts whe

Raymond Urso; Bridgeport & Associates, Inc.; Maria K. Associates, Inc.; Prestige Advertising, Inc.; Scott Gunn; Bernard Koenig; Marcia Koenig; Susan Perkins; Jeffrey Shoobs

Defendants in a display-rack business opportunity for greeting cards and perfumes agreed to settle Commission allegations that they misrepresented the earnings potential and availability of profitable locations for their

*Southwest Publishing (Leon Saja, d/b/a);
Stealth Publications, Inc.; Donald L. Ritta*

Leon Saja, an Arizona fundraiser, d/b/a Southwest Publishing, settled Commission charges that , fraudulently solicited donations on behalf of various nonprofit law enforcement, firefighting and veterans’ organizations. The Commission charges against Saja, were filed as part of “Operation False Alarm,” a joint federal/state sweep targeting badge-related fundraising fraud. The order prohibited the practices detailed in the complaint and also included a \$500,000 judgment. In addition to the \$500,000 judgment, Saja must post a \$100,000 bond if he continues in the charitable fundraising business. The settlement also includes Stealth Publications, a subcontractor retained by Saja to solicit contributions. The Commission also reached a separate settlement that with Stealth’s former president, Donald L. Ritta that did not include a monetary judgment or bond.

*(SureCheK Systems, Inc.)
Douglas S. Derickson*

Defendant SureCheK, a business that claimed it could obtain unsecured credit cards – even for consumers with past credit problems – for up-front “processing fees” of up to \$129, and one of its principals, Douglas S. Derickson, settled Commission allegations that in almost all cases they failed to provide the cards and, in others, they failed to disclose additional processing and annual fees, in violation of federal law. The order with SureCheK barred false and misleading statements about securing credit cards, required disclosure of material facts relating to the cost or conditions for receiving extensions of credit, barred the defendants from selling their victims list, and required Derickson to pay \$11,000 in consumer redress.

*Tippecanoe Mining, Inc., d/b/a Global Mining Consulting
and Hope Mining, Inc.; Mark Ford; Stephen P. Noell*

Tippecanoe Mining, a telemarketing company doing business as Global Mining and Hope Mining, and its principals, Stephen P. Noell and Mark Ford, agreed to pay monetary judgments totaling \$2,409,759 to settle Commission allegations over their allegedly deceptive scheme to sell interests in a gold and a silver mine located in Colorado. The defendants allegedly told consumers that they projected as much as a 10-to-1 return on investments in the unregistered common stock of a

company raising \$1.98 million to reopen a gold mine in LaPlata County, Colorado. In addition, to bolster consumers' confidence, they falsely represented that the U.S. Government had verified the presence of valuable mineral deposits in the mines. Investment units sold for \$15,000 each. In addition to requiring the monetary judgments, the order prohibited the defendants from, among other things, misrepresenting the risk and profitability of mining investments.

Trans-Asian Communications, Inc.; Raj Telekom, Inc.;
Trans American Systems, Inc.; Rajesh Kalra

Trans-Asian Communications, a seller of prepaid phone cards, and its owner settled Commission allegations of deception in the advertising and sale of the phone cards. According to the Commission, Rajesh Kalra, through his corporations, Trans-Asian Communications, Raj Telekom, and TransAmerican Systems, attracted consumers with false promises of prepaid phone cards at extremely low rates. The order prohibited the defendants from making any misrepresentations concerning prepaid phone cards, required a \$1,000,000 performance bond before Kalra can market the cards again, required a \$40,000 redress payment, and imposed a \$1 million judgment if he is found to have misrepresented any material financial information provided as a basis for the settlement.

CIVIL CONTEMPT ACTIONS

Title ¹	Number	Action Date	Type of Matter	Product/Service
American Business Supplies, Inc. Michael Chierico	X960074 X960074	6/98 8/98	Telemarketing order provisions - failed to pay redress	Office supplies
Fortuna Alliance, LLC	X960059	6/98	Failed to pay redress	Internet investment pyramid scheme
Southwest Publishing (Leon Saja, d/b/a)	X970042	12/97	Failed to cease deceptive fundraising claims	Charitable badge-related fundraising
(The Sterling Group, LLC) Michael Anderson, Denyse Anderson	X980056	6/98	Failed to repatriate frozen assets	Direct media advertising

¹A company name shown in parentheses is for identification of the case only.

**CIVIL CONTEMPT
ACTIONS**

American Business Supplies, Inc.; Michael Chierico; Teri Chierico; Interstate Office Supplies, Inc.; Nationwide Office Products, Inc.

In June 1998, a U.S. District Judge found a Florida telemarketing operation and its owners, Michael Chierico and Teri Chierico, in civil contempt for violation of a 1996 Federal Trade Commission consent judgment. In its ruling, the court found that the couple's violation of the judgment caused at least \$7.2 million in consumer injury. Under the terms of the order, the Chiericos will forfeit a \$200,000 performance bond and nearly \$1 million in additional cash. The Chiericos also are ordered to pay an additional \$2 million for consumer

Chiericos

*Fortuna Alliance, LLC;
Augustine Delgado; Donald R. Grant; Libby Gustine Welch*

The court granted the Commission's motion for civil contempt against two defendants in an Internet pyramid scheme case. The court issued a contempt order citing Fortuna and its principal,

that the defendants, including the Andersons, promised prospective investors at least a 25-percent profit, as well as the return of their principal, within

CRIMINAL CONTEMPT ACTION

Title	Number	Action Date	Type of Matter	Product/Service
Ronald Dante	X900025	11/97	Misrepresentations	"Permanent makeup" workshops

**CRIMINAL CONTEMPT
ACTION***Ronald Dante*

A jury in Los Angeles, California, convicted Ronald Dante of 10 of the 11 counts of criminal contempt filed against him. Dante, who failed to appear on the last day of his trial, was considered a fugitive and was being sought under a bench warrant. The original complaint against him, filed in 1990, alleged that Dante, doing business as the Perma-Derm Academy and the American Dermatology Association, misrepresented both the training he provided at his "permanent makeup" workshops and the certification he awarded to attendees. The Commission alleged that Dante violated the resulting 1991 court order by failing to make the required disclosures in connection with permanent makeup classes offered by the Permanetics Institute, a company he primarily owned and operated under an assumed name. Dante further violated the order by making misrepresentations regarding potential

able in cyberspace, and of

scholarship scam messages. Additionally, existing partners continued to distribute consumer education messages on telemarketing fraud.

Public-Private Coalitions

The Commission continued participating in several public-private coalitions, including the Leasing Education Te

RULEMAKING ACTIVITIES

C

**ECONOMIC ANALYSIS
ECONOMIC REPORTS AND WORKING PAPERS**

ECONOMIC REPORTS Economic Reports are major, published reports, usually containing original research and entailing a substantial commitment of resources, concerning an issue of current policy interest or of long-term impact on Federal Trade Commission antitrust or consumer protection missions.

ECONOMIC WORKING PAPERS Economic Working Papers are preliminary, unpublished work products of the Commission, resulting from original research by Bureau of Economics staff, either in connection with ongoing agency activities or as independent analyses.

Are Retailing Mergers Anticompetitive? An Event Study Analysis. (WP #216), John David Simpson and Daniel Hosken, January 1998.

Identifying the Firm-Specific Cost Pass-Through Rate. (WP #217), Orley Ashenfelter, David Ashmore, Jonathan B. Baker, and Signe-Mary McKernan, January 1998.

Physician Networks, Integration and Efficiency. (WP #218), Seth Sacher and Louis Silvia, April 1998.

Price Movements over the Business Cycle in U.S. Manufacturing Industries. (WP #219), Bart J. Wilson, FTC, and Stanley S. Reynolds, Univ. Of Arizona, June 1998.

The Competitive Effects of Mergers between Asymmetric Firms. (WP #220), Charles J. Thomas, August 1998.

Advocacy Filings

Agency	Date		
--------	------	--	--

Agency	Date	Subject/Issue	Commission Staff Comments...
Nevada Public Utility Commission	9/98	Affiliate transactions in electric or natural gas service	Gave qualified support to a set of rules designed to strike a balance between preventing discriminatory conduct by utilities and their affiliates and preserving possible economies of vertical integration.
Texas Public Utility Commission	6/98	Relationships between regulated electric utilities and affiliated entities	Responded to an invitation to submit comments to the Public Utilities Commission of Texas concerning relationships between regulated electric utilities and their affiliated entities operating in unregulated markets.
Utah Public Service Commission	7/98	Electrical deregulation and customer choice	Recommended that the Utah Public Service Commission consider including discussion of the following consumer protection issues in its report: consumer information disclosures; billing, credit, and collection practices; customer privacy concerns; utility affiliate rules; licensing; and consumer education.
Virginia Commonwealth Joint Subcommittee	7/98	Electric industry regulatory reform	Commented on Virginia electric industry regulatory reform, including the benefits of competition (lower prices, improved service, and innovation) to both Virginia's citizens and businesses.
Virginia Real Estate Board	9/98	Real estate broker and salesperson licensing requirements	Commented on the proposed changes to the Virginia real estate broker and salesperson Tj 2.76 0

TD -0.0117 T

Advocacy Filings

--	--	--	--

Index of Cases Listed in the Appendix

<i>Respondent/Defendant</i>	<i>Page</i>	<i>Respondent/Defendant</i>	<i>Page</i>
Cooper Industries, Inc.	51		
Corren Enterprises, Inc.	79		
Coutinho, Daniel L.	114		
CRA Champion Credit, Inc.	79, 101		
CRA Financial Services, Inc.	79, 101		
Credit Development International	80		
Credit Repair Network	101		
Credit Services	102		
Credit Solver	102		
CUC International, Inc.	34		
CVS Corporation	49		

Inc.

Federal Trade Commission

<i>Respondent/Defendant</i>	<i>Page</i>	<i>Respondent/Defendant</i>	<i>Page</i>
Hart, Richard S.	102	Lawson, Craig A.	108
Hazan, Avshalom	79, 101	Lawyers Title Corporation	39
Herbal Worldwide Holdings Corp.	62	Leaders Alliance, Inc.	80
Herbert, Richard A. , M.D.	98	Lee, John F.	112
HFS Incorporated	34	Leibowitz, Mord S.A. Group,	S.A.
Hildreth, F. Jerald	105		Leibowitz, TD -0.(iv)
Home Business Group, Inc.	97		
Honeywell, Inc.	63		
Honickman, Harold A.	52		
Hope Mining, Inc.	116		
Huerta, Frank	65		
Hurt, J. Mason, O.D.	64		
Ilissa Bridals, Ltd.	92		
Image Sales & Consultants, Inc.	82		
Independent Travel Agencies of America	83		
Inet International	108		
Inetintl.Com, Inc.	108		
Inmon, Stephen T.	114		
Insilco Corporation	38		
Institutional Pharmacy Network	38		
Intel Corporation	44		
International Computerized Orthokeratology Society, Inc.	64		
International Direct, Inc.	83, 108		
Internet Girls, Inc.	98		
Interstate Office Supplies, Inc.	117		
Interstate, Inc.	107		
Jansen, Beverly	85		
Jeff Russell & Associates	84		
Jenny Craig International, Inc.	69		
Jenny Craig, Inc.	69		
JewelWay International, Inc.	109		
Johnson, Charles	80		
Jones, Ed F.	73		
Kalra, Rajesh	116		
Katke, Jeffrey	69		
Kaye, Harriet	85		
Keezer, David	61		
King, Konrad	78		
Koblasz, Marilyn N.	110		
Koenig, Bernard	114		
Koenig, Marcia	114		
Konrad King, Inc.	78		
LaFarge S.A.	44		
LandAmerica Financial Group, Inc.	39		

Index of Cases Listed in the Appendix

<i>Respondent/Defendant</i>	<i>Page</i>	<i>Respondent/Defendant</i>	<i>Page</i>
Moss, Andrew B.	93		
Mueller, David Eugene	83		
Multinet Marketing, LLC	111		
Naranjo, Eduardo N.	62		
National Bureau of Better Business, Inc.	87		
National Business Reporting Bureau, Inc.	113		
National Consulting Group, Inc.	112		
National Grant Foundation, Inc.	85, 112		
National Idea Network, Inc.	100		
National Invention Services, Inc.	112		
National PC Systems, Inc.	113		
National Scholarship Foundation, Inc.	113		
National Scholastic Society, Inc.	85		
Nationwide Office Products, Inc.	117		
Natural Health Systems, Inc.	98		
NCS HealthCare of Oregon, Inc.	38		
NCS HealthCare of Washington, Inc.	38		
New England Financial	101		
Nieves,			

I . n i. I 28 Tw ()c13003 Tw () Tj r. 76 0 TD -0.0026 Tc 0 Twu9i6(Tw ()) .4

Federal Trade Commission

<i>Respondent/Defendant</i>	<i>Page</i>	<i>Respondent/Defendant</i>	<i>Page</i>
Southwest Publishing	87, 115, 118		
Sports Centers of America, Inc.	109		
Stealth Publications, Inc.	87, 115, 118		
Sterling Group, LLC	118		
Stewart, Beverly	109		
Stewart, Greg G.	109		
Stone Centers of America, L.L.C.	42		
Stone Container Corporation	42		
Strategies Telecom, Inc.	114		
Summit Technology, Inc.	45		
Suntrup Buick-Pontiac-GMC Truck, Inc.	59		
Suntrup Ford, Inc.	59		
SureCheK Systems, Inc.	88, 115		
Tan, Ron	60		
Tannen Advertising, Inc.	114		
Tenet Healthcare Corporation	45, 48		
Texaco, Inc.	41		
Thomas Publishing Company, Inc.	81		
Thomas, Dean R.	81		
Tippecanoe Mining, Inc.	116		
TouchNet, Inc.	88		
TouchTone Telecommunications & Advertising, Inc.	88		
Toyota Motor Sales, U.S.A., Inc.	59		
Toys Unlimited International, Inc.	89, 93		
Tracker Corporation of America	89		
Trans American Systems, Inc.	116		
Trans Union Corporation	71		
Trans-Asian Communications, Inc.	116		
Travel Bahamas Tours, Inc.	89		
Travel Industry Council, Inc.	83		
TrendMark, Inc.	66		
Tru-Vantage International, LLC	64		
Trudeau, Kevin	110		
TRW Inc.	42		
Udell, Arthur	93		
Udell, Mitchell	93		
Unimark Industries, Inc.	103		
United			