

FEDERAL TRADE COMMISSION - 1994

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FEDERAL TRADE COMMISSION
1994 ANNUAL REPORT

Contents

	Page
COMMISSIONERS	1
JANET D. STEIGER	1
MARY L. AZCUENAGA	1
DEBORAH K. OWEN	2
ROSCOE B. STAREK, III	3
DENNIS A. YAO	3
OVERVIEW	5
COMPETITION MISSION	5
CONSUMER PROTECTION MISSION	16
ECONOMIC ANALYSIS	25
MANAGEMENT AND ADMINISTRATION ACTIVITIES	27
APPENDIX	32
PART II CONSENTS PUBLISHED FOR COMMENT	32
COMPETITION MISSION (SUMMARY)	32
COMPETITION MISSION (DETAIL)	33
CONSUMER PROTECTION MISSION (SUMMARY)	39
CONSUMER PROTECTION MISSION (DETAIL)	40
PART II CONSENT ORDERS ISSUED	43
COMPETITION MISSION (SUMMARY)	43
COMPETITION MISSION (DETAIL)	44
CONSUMER PROTECTION MISSION (SUMMARY)	53
CONSUMER PROTECTION MISSION (DETAIL)	56
PRELIMINARY/PERMANENT INJUNCTIONS	67
COMPETITION MISSION (SUMMARY)	67
COMPETITION MISSION (DETAIL)	67
CONSUMER PROTECTION MISSION (SUMMARY)	69
CONSUMER PROTECTION MISSION (DETAIL)	0
CIVIL PENALTY ACTIONS	87
COMPETITION MISSION (SUMMARY)	87
COMPETITION MISSION (DETAIL)	87
CONSUMER PROTECTION MISSION (SUMMARY)	89
CONSUMER PROTECTION MISSION (DETAIL)	90
CONSUMER REDRESS ACTIONS	98
CONSUMER PROTECTION MISSION (SUMMARY)	98
CONSUMER PROTECTION MISSION (DETAIL)	101

PART III ADMINISTRATIVE COMPLAINTS	111
COMPETITION MISSION (SUMMARY)	111
COMPETITION MISSION (DETAIL)	111
CONSUMER PROTECTION MISSION (SUMMARY)	113
CONSUMER PROTECTION MISSION (DETAIL)	113
PART III CONSENTS PUBLISHED FOR COMMENT	116
CONSUMER PROTECTION MISSION (SUMMARY)	116
CONSUMER PROTECTION MISSION (DETAIL)	116
PART III CONSENT ORDERS ISSUED	117
COMPETITION MISSION (SUMMARY)	117
COMPETITION MISSION (DETAIL)	117
CONSUMER PROTECTION MISSION (SUMMARY)	120
CONSUMER PROTECTION MISSION (DETAIL)	121
INITIAL DECISIONS	123
COMPETITION MISSION (SUMMARY)	123
COMPETITION MISSION (DETAIL)	123
FINAL ORDERS	124
COMPETITION MISSION (SUMMARY)	124
COMPETITION MISSION (DETAIL)	124
FINAL ADJUDICATIVE ORDERS	127
CONSUMER PROTECTION MISSION (SUMMARY)	127
CONSUMER PROTECTION MISSION (DETAIL)	127
RULEMAKING ACTIVITIES	129
CONSUMER PROTECTION MISSION	129
ORDER MODIFICATIONS	132
COMPETITION MISSION (SUMMARY)	132
COMPETITION MISSION (DETAIL)	132
CONSUMER PROTECTION MISSION (SUMMARY)	135
CONSUMER PROTECTION MISSION (DETAIL)	135
CONSUMER AND BUSINESS EDUCATION EFFORTS	136
CONSUMER PROTECTION MISSION	136
APPELLATE COURT REVIEW OF COMMISSION ACTIONS	137
COMPETITION MISSION (SUMMARY)	137
COMPETITION MISSION (DETAIL)	139
ECONOMIC REPORTS AND WORKING PAPERS	141
ECONOMIC REPORTS	141
ECONOMIC WORKING PAPERS	141
ADVOCACY FILINGS (SUMMARY)	143
ADVOCACY FILINGS (DETAIL)	144
NATIONAL ORGANIZATIONS	144
FEDERAL AGENCIES	144
STATES	147
INDEX OF CASES LISTED IN THE APPENDIX	150

COMMISSIONERS

JANET D. STEIGER
(8/89 -)

Janet D. Steiger has been Chairman of the Federal Trade Commission since August 11, 1989, having been nominated by President Bush.

Chairman Steiger had been Chairman of the Postal Rate Commission, by appointment of President Reagan, from March 1982 to August 1989; she also chaired the Congressionally-mandated three-year Commission to Assess Veterans' Education Policy (1987-89), which reported to the 100th Congress. A Republican, she was nominated by President Carter, and confirmed by the Senate, as a Postal Rate Commissioner in 1980. In 1985, the Federally Employed Women of Washington awarded her the Outstanding Woman in Government Award for 1984.

A member of Phi Beta Kappa, Chairman Steiger received her B.A. from Lawrence University in 1961 and did postgraduate study at the University of Reading in England and at the University of Wisconsin-Madison. She was a Fulbright Scholar, a Woodrow Wilson Scholar, and a member of the Lawrence Board of Trustees (1986-89). Lawrence awarded her an honorary doctor of laws degree in 1992.

Before government service, Chairman Steiger was cofounder of the WorkPlace, Inc., a Washington office-and-research facility. Born in Oshkosh, Wisconsin, Chairman Steiger is the widow of Congressman William A. Steiger and the mother of their son, Bill.

MARY L. AZCUENAGA
(11/84 -)

Mary L. Azcuenaga was sworn in as a member of the Federal Trade Commission on November 27, 1984. She was appointed by President Reagan to a term expiring September 26, 1991, and was reappointed by President Bush for a second seven-year term.

Before her appointment, Commissioner Azcuenaga spent more than 11 years on the legal staff of the Commission, during which she held several positions and gained experience in every aspect of the Commission's work. She has a varied litigation background, including both federal court and administrative litigation. She has substantial expertise in the field of antitrust, including extensive experience in merger litigation. In addition, she has a background in the field of consumer protection and administrative law and has participated in administration and management of the Commission and several of its offices.

Immediately before assuming her present position, Commissioner Azcuenaga served as Assistant General Counsel for Legal Counsel of the Federal Trade Commission. Earlier, she also served as Assistant to the General Counsel, Assistant Director of the San Francisco Regional Office, Assistant to the Executive Director and as a

Federal Trade Commission

litigation attorney in the Office of the General Counsel. In 1982, she received the Federal Trade Commission Chairman's Award, the highest recognition accorded a Commission employee.

Commissioner Azcuenaga is a graduate of Stanford University and the University of Chicago School of Law. She is a member of the Administrative Conference of the United States and a member of the Board of Trustees of the Food and Drug Law Institute. She is a member of the Board of Directors of the Girl Scout Council of the Nation's Capital and a member of the Board of Trustees of St. John's Community Services.

Commissioner Azcuenaga is a member of the bars of the District of Columbia and the State of California. She lives in Washington, D.C.

DEBORAH K. OWEN (10/89 - 8/94)

Deborah K. Owen was sworn in as a Commissioner of the Federal Trade Commission on October 25, 1989. The oath of office was administered by Senator Strom Thurmond.

From 1980 to 1982, Commissioner Owen served as Associate Counsel to thirteen Republican members of the House Judiciary Committee, specializing in criminal law matters, intelligence issues, and Department of Justice oversight. From 1983 to 1985, she was General Counsel to the Senate Judiciary Committee and its Chairman, Senator Strom Thurmond. In that position, she was responsible for all Committee legislation, including criminal law, antitrust, patent, copyright and trademark matters, immigration, administrative law, and Department of Justice budget and oversight. From 1985 to 1986, Commissioner Owen served as Associate Counsel to the President of the United States. In that capacity, she was responsible for reviewing federal judicial nominations, legislation, executive orders, Presidential speeches, and political matters.

Prior to joining the Commission, Commissioner Owen was Managing Partner of the Washington, D.C., office of the McNair Law Firm, P.A. and was a member of the Board of Governors of the Firm, which has its main office in Columbia, South Carolina. The practice consisted primarily of antitrust and legislative representation.

Commissioner Owen received her Juris Doctor degree from the Harvard Law School in 1977 and was a Marshall Scholar in political philosophy at the University of Edinburgh (Scotland), from 1972 to 1974. In 1972, she received a Bachelor of Arts in government and speech from the University of Maryland, graduating first in her class.

Commissioners

Prior to her government service, Commissioner Owen practiced with the Baltimore, Maryland law firm of Piper & Marbury, concentrating on pension matters and general business law.

ROSCOE B. STAREK, III
(11/90 -)

Roscoe B. Starek, III was sworn in as a member of the Federal Trade Commission on November 19, 1990. Prior to that time, Commissioner Starek held a number of positions in both the Legislative and Executive branches of the Federal Government. From January, 1989, until he was sworn in by President Bush, Commissioner Starek was Deputy Assistant to the President and Deputy Director of Presidential Personnel at the White House. Immediately prior to joining the White House staff, Commissioner Starek worked on the Bush transition team as Deputy Director of Presidential Personnel. He served for seven years in several positions at the Department of State, most recently as Deputy Assistant Secretary for Policy and Counterterrorism.

From 1972 to 1982, Commissioner Starek worked on Capitol Hill and on the Ford White House staff. From 1976 to 1982, he worked for three Committees of the U.S. House of Representatives as Chief Minority Counsel to the House Select Committee on Narcotics Abuse and Control, Associate Counsel to the House Judiciary Committee, and a Counsel to the Minority of the House Select Committee on Intelligence. In 1975, Commissioner Starek was appointed to the White House staff as Assistant General Counsel to the Presidential Clemency Board. In 1974, Commissioner Starek was chosen by the Minority Members of the House Judiciary Committee to be a counsel to the Impeachment Inquiry. During 1972 and 1973, he served on the staff of U.S. Senator Charles Percy of Illinois, first as a legislative assistant and thereafter as a Professional Staff Member to the Permanent Subcommittee on Investigations of the Senate Government Operations Committee.

Commissioner Starek graduated with an A.B. in political science from Syracuse University. He received a Juris Doctor degree from the Washington College of Law at American University. He is admitted to the bar in Illinois and in the District of Columbia. Commissioner Starek is married to the former Mildred Jeannette Harllee. They have one daughter and reside in Alexandria, Virginia.

DENNIS A. YAO
(7/91 - 8/94)

Dennis A. Yao was sworn in as a member of the Federal Trade Commission in July 1991. Commission Chairman Janet D. Steiger administered the oath of office.

Federal Trade Commission

Beginning in 1983, Commissioner Yao was a lecturer and later an associate professor of public policy and management at the Wharton School of the University of Pennsylvania. At Wharton, he developed and taught a course about strategies relevant to oligopolistic competition called “Competitive Strategy and Industrial Structure.” He also taught courses on business-government relations which covered the political process, regulation, trade policy, and antitrust and consumer protection issues.

Commissioner Yao earned an engineering degree at Princeton University and an MBA at the University of California at Berkeley. He received a Ph.D. in Economics and Policy from the Stanford University Graduate School of Business.

Prior to earning his Ph.D., Commissioner Yao was a product planner for the Ford Motor Company, where he obtained experience in business planning and marketing strategies.

OVERVIEW

The Federal Trade Commission enforces a variety of federal antitrust and consumer protection laws. By eliminating acts or practices that are unfair or deceptive, it seeks to ensure that the nation's markets function competitively and are vigorous, efficient, and free of undue restrictions. The Commission's efforts are generally directed toward stopping actions that restrict competition or threaten consumers' ability to exercise informed choice. Finally, it undertakes economic analysis to support its law enforcement efforts and to contribute to the policy deliberations of various federal, state, and local government bodies.

In addition to its statutory enforcement activities, the Commission supports Congressional mandates through cost-effective nonenforcement activities, such as consumer education. This report itemizes the Commission's accomplishments in fiscal year 1994.

COMPETITION MISSION

The Competition Mission aims to preserve an open and competitive marketplace, so that consumers can realize such benefits as competitive prices, lower costs, the fruits of innovation, and a selection of goods and services that meet their needs. In the longer term, the Competition Mission also helps the U.S. economy remain healthy and innovative so that it can continue to meet consumer needs in a dynamic, and often global, competitive environment.

The work of the Competition Mission is carried out primarily through enforcement of the antitrust laws. The Commission's antitrust enforcement actions result in major savings for American consumers and taxpayers. The Commission also engages in several related activities that enhance the business community's understanding of the antitrust laws and improve its efforts to comply. Fundamentally, antitrust operates in a nonregulatory manner. It does not prescribe how businesses shall operate. Instead, it only imposes certain requirements that competitors not engage in practices that are likely to lessen competition and harm consumers. The Commission's principal remedy for an antitrust violation is an order requiring the company or person to discontinue the challenged anticompetitive act or practice.

Federal Trade Commission

Challenges for the Competition Mission

Dynamic changes in the U.S. economy have increased the need for constant vigilance to ensure that the marketplace remains competitive. These changes include a significant increase in mergers and acquisitions that result in higher market concentration; new forms of business affiliations, particularly in health care and related fields, that may restrict competition; and marketplace pressures that sometimes lead adversaries to collaborate or restrict entry rather than compete. At the same time, factors such as the fast paced nature of technological change and the international nature of competition, require ongoing review of enforcement policy to ensure that the Competition Mission continues to achieve net benefits for the American consumer.

Mission Priorities

The priorities of the Competition Mission are determined in light of two overarching goals: the achievement of maximum benefit for American consumers and, to the extent possible, the minimization of enforcement burdens on businesses. Mission resources are channeled to the challenging of transactions and practices that are most likely to result in significant consumer injury and to Mission activities that are likely to address competitive concerns most efficiently and effectively. To that end, the Competition Mission focuses on:

- initiating enforcement actions against anticompetitive mergers and acquisitions;
- initiating enforcement actions against unfair methods of competition that present a risk of significant economic harm to consumers;
- undertaking cooperative enforcement activities with state governments and other federal agencies and undertaking competition advocacy to discourage legislative enactments that may harm consumers by restricting competition and consumer choice;
- providing guidance to the business community through enforcement guidelines or statements of enforcement policy, advisory opinions, and other communications;
- monitoring compliance with Commission orders and modifying or enforcing orders, where appropriate; and

- taking steps to ensure that enforcement policy and practices are cost-effective and do not impose unnecessary burdens on the public or the business community.

Overview of Activities

Enforcement initiatives comprised the bulk of mission activities. The Commission maintained a highly visible enforcement presence by bringing significant cases, including both traditional antitrust enforcement actions of regional or national significance and cases of first impression. In particular, the Commission pursued mergers and acquisitions that may have substantially lessened competition or tended to create a monopoly across the spectrum of American industry. The Commission also pursued unfair methods of competition that presented a risk of significant economic harm to consumers. The major part of this work is directed to horizontal collusion (efforts by two or more competitors to conspire to restrain trade). The Commission also challenged efforts by a single entity to attempt to, or actually, monopolize a particular market and challenged vertical agreements between suppliers and resellers of goods that threatened to raise prices or decrease quality and output.

The Commission also engaged in cooperative enforcement efforts with state governments and with the Department of Justice and other federal agencies. This collaboration enabled all agencies involved to put their comparative advantages to best use, resulting in more effective and efficient enforcement. The Commission thus leveraged its resources and expertise to achieve greater benefits for consumers. To this end, the Commission continually sought to further strengthen the already strong working relationships it had developed in recent years with state governments. In addition, the Commission sought to cooperate in antitrust enforcement efforts with other countries and to provide advice and counsel, upon request, to countries in the process of implementing or revising competition policies.

Another important part of the Commission's enforcement efforts was providing guidance to the business community to facilitate compliance with antitrust laws. This guidance resulted in more effective and efficient enforcement by minimizing the need for resource-intensive investigation and litigation after a competitive problem arose. In addition, it reduced antitrust uncertainty for the business community and assisted in more efficient business planning. In fiscal year 1994, the Commission, together with the Antitrust

Federal Trade Commission

Division of the Department of Justice, issued updated and expanded statements of enforcement policy in the health care industry. These statements provided substantial guidance by outlining areas where the Commission and the Antitrust Division were unlikely to take enforcement action, as well as areas that could raise antitrust concerns. Commission staff also provided guidance in the form of staff advisory opinions, which analyzed proposed conduct on a case-by-case basis.

Finally, the Commission continuously monitored compliance with its orders, modified or enforced orders where appropriate, and took steps to ensure that enforcement policy and practices were as cost-effective as possible and did not impose unnecessary burdens on the public or the business community. On July 22, 1994, the Commission announced new policies for sunseting the cease-and-desist provisions of orders in competition cases. The central provisions in all new competition orders will presumptively expire automatically in 20 years, and other order provisions will presumptively expire automatically in no more than 10 years. In most cases, these order provisions will have served their remedial purposes within the prescribed periods.

These and other activities of the Competition Mission are divided into five major program areas administered by the Bureau of Competition: Mergers and Joint Ventures, Premerger Notification, Horizontal Restraints, Distributional Restraints, and Single Firm Violations. These programs are supported by the Commission's 10 regional offices and the Bureau of Economics, which also administers the Antitrust Policy Analysis Program for conducting studies and research about the workings of the economy.

Mergers and Joint Ventures Program

The Mergers and Joint Ventures Program seeks to protect American consumers from the adverse consequences of anticompetitive mergers, acquisitions, and joint ventures (collectively referred to as mergers). Although mergers frequently benefit consumers by allowing firms to increase efficiency, lower costs, and improve product offerings, some mergers may have the opposite effect. If the merger substantially reduces or eliminates competition in a market, consumers may pay higher prices, the quality and selection of product offerings may be lessened, and firms may lose the incentive to continually improve their products and develop more

efficient ways of conducting business. Consequently, the Mergers and Joint Ventures Program seeks to identify and block those mergers that are likely to harm consumers by giving firms a dominant position in the market, by significantly increasing the likelihood of collusion, or by raising barriers to entry or expansion by other firms. Such mergers may violate Section 7 of the Clayton Act and Section 5 of the FTC Act.

Consistent with the importance of mergers as a prominent and dynamic aspect of United States economic activity, the Mergers and Joint Ventures Program is the largest of the Commission's five antitrust enforcement programs.

Enforcement Policies and Strategies

The Mergers and Joint Ventures Program, working in conjunction with the Premerger Notification Program, has the underlying goal of stopping potentially anticompetitive mergers before they occur. The Commission has adopted this preemptive enforcement strategy, because it is more effective and cost-efficient than detecting and challenging anticompetitive problems after a merger has been consummated.

In implementing this strategy, the Mergers and Joint Ventures Program has two principal objectives. First, the Program seeks to minimize any interference with nonproblematic transactions by quickly reviewing and clearing those transactions that do not pose competitive problems. The vast majority of transactions are quickly cleared in this manner. Second, the Program seeks to conduct an expeditious but comprehensive analysis of transactions that may threaten competition and harm consumers and takes enforcement action where appropriate.

The Program is assisted in this process by the premerger notification and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (HSR Act), which applies to the vast majority of mergers reviewed by the Commission. Proposed mergers that are subject to the HSR Act must be reported to the Commission and to the Department of Justice, along with certain other information, and must undergo a short waiting period while a preliminary review is conducted. Mergers that do not raise competitive concerns are usually cleared within the initial waiting period established by the HSR Act.

Federal Trade Commission

For the relatively few transactions that raise competitive concerns, the Commission conducts further investigation. Such investigations generally include the issuance of requests for additional information to the merging parties, as authorized by the HSR Act. If the Commission has reason to believe that a merger may substantially lessen competition, the Commission seeks to protect consumers by stopping the merger before it takes place. To do so, it generally seeks injunctive relief under Section 13(b) of the Federal Trade Commission Act. In many cases, instead of litigating such a lawsuit, the merging parties agree to a consent order that provides for divestiture or other relief with respect to the anticompetitive parts of the transaction, and the remainder of the transaction is allowed to proceed. For mergers that have already been consummated or where injunctive relief is not appropriate or available, the Commission seeks to obtain relief through its administrative proceedings. Consent orders are often used in this situation, as well.

Statistical Overview

In terms of the sheer number of transactions reviewed for possible consumer injury, the importance of the Mergers and Joint Ventures Program has increased substantially in recent years. In fiscal year 1994, 2,305 transactions, covering almost every industry of the American economy, were reported under the HSR Act. This figure represents a 45% increase over fiscal year 1992 and is the largest number since 1989, the peak year of the 1980's. During fiscal year 1994, 55 merger investigations were opened, and 46 requests for additional information or documentary materials were issued under the HSR Act.

Twenty of those investigations resulted in enforcement actions to protect consumer interests in markets such as hospitals, pharmaceuticals and pharmaceutical distribution, computer software, cable television, satellites and other defense-related products, and a variety of food and other consumer goods.

Significantly, the Commission's enforcement actions were carried out in a manner that did not prevent the completion of procompetitive aspects of mergers or consolidations. In almost every case brought by the Commission, the merger was ultimately consummated with a narrow divestiture or other remedy that carefully focused on the competitive problem raised by the merger and no more.

Premerger Notification Program

Critical Role in Merger Enforcement

The Premerger Notification Program works in conjunction with the Mergers and Joint Ventures Program to review proposed acquisitions and mergers so that potential anticompetitive acquisitions can be challenged before they are consummated. The HSR Act requires entities, who meet certain size requirements and are planning significant acquisitions, to file notification with the Commission and the Antitrust Division of the Department of Justice and to delay consummation for a prescribed period of time. The Commission and the Department of Justice administer the HSR Act and take steps to ensure compliance with the requirements of the Act and its implementing rules.

The Premerger Notification Program gives the Commission a highly effective means of identifying and reviewing potentially anticompetitive mergers and acquisitions. Indeed, the vast majority of the Commission's merger enforcement actions are initiated through this process.

Violators Pay for Not Complying With HSR Reporting Requirements

Because of the importance of HSR filings to effective merger enforcement, apparent violations of the filing requirements are treated seriously. When it appears that the reporting requirements have been violated, the Commission's Compliance Division conducts an investigation and recommends an enforcement action for civil penalties or other relief, when appropriate.

Services of the Premerger Notification Office

Another important function of the Premerger Notification Program is the preparation of analytical summaries of each proposed transaction. These summaries, prepared by the Premerger Notification Office, are used by both the Bureau of Competition and the Antitrust Division of the Department of Justice. They include recommendations for further action, such as monitoring the activities of the parties and investigating proposed mergers for possible anticompetitive implications. They also provide the basis for granting

Federal Trade Commission

a filing entity's request for early termination of the waiting period when no legitimate antitrust issue can be found. As a result of these recommendations, the Bureau granted 1,492 requests for early termination in fiscal year 1994.

The Premerger Notification Office is also responsible for developing ways to reduce the burden and cost to the public of filing the Notification and Report Form. In fiscal year 1994, the Premerger Notification Office issued another guide designed to aid the public in the submission of documents and materials usually requested when the Commission issues a request for additional information. *Guide V, A Model Request for Additional Information and Documentary Materials*, is the third of five guides that the Commission plans to publish regarding filing requirements and reporting procedures under the HSR Act. Staff also invited the public to comment on the notice of proposed rulemaking concerning changes to the Premerger Notification and Report Form. If adopted, these rules would eliminate the submission of information that is not essential to the antitrust review of a reportable transaction.

The Commission's Premerger Notification staff provided informal advice, opinions and general information regarding the application and interpretation of the HSR Act and the Premerger Rules, formal interpretations, the *Premerger Notification Source Book*, and the three Premerger Introductory Guides in approximately 14,000 instances. The Commission also worked with the Antitrust Division of the Department of Justice to ensure that the Premerger Notification Program was applied consistently and uniformly by the two agencies.

Finally, the Premerger Notification Office is responsible for collecting a filing fee from each acquiring entity required to report a transaction on the Notification and Report Form in compliance with the HSR Act. The waiting period required under the HSR Act does not begin until payment of the filing fee. Legislation, signed into law in August 1994, set the filing fee at \$45,000. During fiscal year 1994, the Commission collected \$58.2 million in filing fees. This amount is divided equally between the Commission and the Antitrust Division of the Department of Justice to help to support their antitrust missions.

Horizontal Restraints Program

The Horizontal Restraints Program is directed toward investigations of collusive or other collaborative activities involving direct competitors that may harm consumers by increasing prices, restricting output, reducing the quality of products, reducing consumer choice, or foreclosing new competition. The Program accounted for the second largest portion of the Commission's Competition Missions resources, consistent with the belief that horizontal restraints generally are the most likely to cause competitive and consumer injury. Horizontal restraints are challenged under Section 5 of the FTC Act, which prohibits unfair methods of competition that substantially lessen competition.

Horizontal restraints can appear in many different forms. Some, such as price fixing, output restriction, and market division agreements among horizontal competitors, have long been recognized as having a pernicious effect on competition and as lacking any redeeming virtues. Such restraints have long been considered *per se* illegal. Other horizontal restraints may or may not be anticompetitive, depending upon the circumstances. Some restraints may have possible procompetitive justifications that outweigh the harmful effects. Such non-*per se* restraints are often complex and difficult to analyze but are well suited for the Commission's jurisdiction under Section 5 of the FTC Act and its special expertise in analyzing complex business arrangements.

During fiscal year 1994, the Commission opened 56 investigations of alleged horizontal agreements, covering all aspects of the American industrial landscape: health care, food, electrical equipment, home furnishings, real estate, pulp and paper mills, and toys and games.

Protecting Consumers

Among the highest priorities for the Commission's Horizontal Restraints Program was the investigation and prosecution of restraints affecting health care. The Commission challenged not only direct price fixing agreements, but also horizontal agreements among competitors designed to limit competition and frustrate cost containment efforts. The Horizontal Restraints Program also focused on agreements affecting the quality of products and the amount of product information available to consumers.

Federal Trade Commission

The Commission devoted more attention to the identification and prosecution of horizontal restraints in non-health care related service industries. This increasing concern has followed a general rise in the proportion of the nation's industries devoted to services rather than products.

The Commission paid close attention to newly deregulated industries. In many of these industries, governmental authorities are permitting and encouraging competition, but firms enter into horizontal agreements to restrict competition because they are reluctant to leave the shelter of a noncompetitive environment.

The Commission also examined firms claiming to be exempt from federal antitrust laws because the agreement was sanctioned and supervised by a state.

Helping Businesses Understand the Antitrust Laws

In another aspect of its Horizontal Restraints Program, the Commission sought to further its law enforcement mission by issuing guidelines that will help deter and prevent law violations, as well as enable businesses to plan their operations with greater certainty in their antitrust standing. In fiscal year 1994, the Commission and the Antitrust Division of the Department of Justice jointly issued revised and expanded *Statements of Enforcement Policy and Analytical Principles Relating to Health Care and Antitrust*. The Commission and the Department of Justice responded to comments and questions received after the issuance of the first health care enforcement policy statements in 1993 by updating and expanding the enforcement policy statements to offer guidance in additional areas.

As part of the policy statements, the Commission promised to expedite its issuance of advisory opinions to health care businesses who seek to determine whether the Commission believes that specific proposed conduct raises antitrust concerns. In 1994, Commission staff responded to eight inquiries into whether specific health care arrangements might violate the antitrust laws.

Distributional Restraints Program

The Distributional Restraints Program seeks to protect consumers from anticompetitive consequences that may arise from certain kinds of vertical agreements among firms in the chain of distribution of goods and services, from producers to distributors and retailers to

consumers. Agreements on resale prices between firms in a vertical relationship can have immediate effects on prices to consumers and are considered *per se* illegal. Other, nonprice vertical agreements are evaluated under a rule of reason and may or may not be illegal. The Commission investigates distributional restraints carefully to avoid challenging vertical agreements that may benefit consumers.

During fiscal year 1994, the Distributional Restraints Program focused on investigations involving allegedly unlawful distributional practices in such industries as ophthalmic goods, pharmaceuticals, motor vehicle parts and accessories, records and prerecorded tape stores, athletic shoes, casual wear, machinery, and electronics.

Single Firm Violations Program

The Single Firm Violations Program seeks to protect consumers against certain kinds of conduct by single firms with market power. When a firm engages in conduct that is intended to monopolize a market or to leverage market power in one market to gain market power in another market, it can reduce output and increase prices above the competitive level, thereby injuring consumers and misallocating society's resources. When a market is sheltered by barriers to new entry, the harm to competition can persist for long periods of time.

The Single Firm Violations Program focused on cases of monopolization, tying, and nonprice predation involving alleged monopolization activities in such industries as gas transmission; surgical, medical, and dental appliances and supplies; pharmaceutical preparations; hospitals; physician joint ventures; and plastics and electrical products.

Compliance

The Compliance Division performed several functions in support of all of the programs in the Competition Mission. The Compliance Division handled enforcement actions for alleged violations of the HSR Act and the Premerger Rules. In addition, the Compliance Division supported other programs in the Competition Mission by assisting in the drafting of Commission competition orders, ensuring compliance with those orders, reviewing applications for divestiture approval in merger cases, and enforcing orders where violations occurred. The Compliance Division also evaluated and

Federal Trade Commission

recommended action on petitions to modify Commission orders and participated in reviews of Commission policies regarding competition orders.

New Policy Regarding Commission Orders

In July 1994, the Commission announced a major change in the duration of Commission orders in antitrust cases. The Commission issued a policy statement announcing that, in the future, the cease-and-desist provisions of Commission orders in competition cases would presumptively expire automatically after 20 years. Previously, such order provisions generally did not have an expiration date. *Fencing-in* provisions (broader prophylactic remedial provisions of Commission orders prohibiting conduct not affirmatively illegal) will normally expire automatically in 10 years. This action was taken to reduce the burden on respondents by removing order provisions when they likely will have outlived their need and their benefit to the public.

Other Compliance Actions

Companies that are subject to divestiture requirements in merger cases are required to obtain the Commission's approval before making any divestitures under the order. Such approval is required in order to ensure that the divestiture meets the remedial purpose of the order, to preserve or restore a competitive market structure. In fiscal year 1994, the Commission reviewed and approved divestiture applications in six cases.

CONSUMER PROTECTION MISSION

The Consumer Protection Mission aims to protect consumers against unfair, deceptive, or fraudulent practices. The work of the Consumer Protection Mission is carried out primarily through enforcement of Section 5 of the Federal Trade Commission Act and other consumer protection laws enacted by Congress, as well as trade regulation rules issued by the Commission. The Commission's actions include individual company and industry-wide investigations, administrative and federal court litigation, rulemaking proceedings, and consumer and business education. In addition, the Mission contributes to the Commission's ongoing efforts to inform Congress and other government entities of the impact that proposed actions could have on consumers.

Challenges for the Consumer Protection Mission

The goal of the Consumer Protection Mission is to maintain a well-functioning marketplace that allows consumers to make informed purchase choices; however, the marketplace itself has become increasingly complex, and consequently, the Mission has developed new, creative strategies to ensure the free flow of information to consumers.

Consumers in the 1990's are confronted with evolving technologies that are radically changing the way they learn about, buy, and pay for goods and services. Television and print advertising, once the standard media for reaching consumers, have been supplemented with an array of new technologies. Advertising on the information superhighway, pay-per-call telephone services, and infomercials are just some of the new methods sellers are using to reach consumers. In addition to these technological changes, consumers have become more sophisticated. Not too long ago, the primary issues of interest to the buying public were price and quality. Today's consumers are increasingly concerned with the health implications of the food they buy, with the environmental implications of packaging and other product attributes, with the loss of personal privacy, and with the astounding growth in telemarketing and other types of consumer fraud.

Mission Priorities

The priorities of the Consumer Protection Mission mirror the issues of greatest concern to consumers. Resources are targeted to areas causing the most significant consumer injury. Consequently, advertising, fraud, and issues relating to new technologies are top priorities. Within these broad areas, the Mission focuses on:

- health claims in food advertising;
- environmental advertising and labeling;
- health care fraud;
- telemarketing, business opportunity, franchise, and investment fraud;
- mortgage lending and discrimination;

Federal Trade Commission

- enforcement of Commission orders; and
- enforcement of credit statutes and a wide variety of trade regulation rules.

Overview of Activities

The primary law enforcement strategy of the Mission is an aggressive case-by-case approach. The Commission has emphasized federal district court litigation under section 13(b) of the FTC Act, particularly in cases involving consumer fraud. District court litigation allows the Commission to obtain immediate preliminary relief which virtually always includes a freeze of the defendants' assets. This enables the Commission to achieve two critical objectives: an immediate cessation of the illegal practices and a freeze on the defendants' assets, preserving them for consumer redress, if appropriate.

The Commission also relies on administrative litigation to pursue nonfraud cases involving novel or complex legal issues, often challenging advertising claims. Litigated and negotiated administrative orders establish important precedent in areas such as unfairness and advertising substantiation.

All new rulemaking initiatives in 1994 were congressionally mandated. In the past year, the Commission has promulgated an important new rule governing the advertising, billing, and collection procedures for pay-per-call telephone service, and the Commission's top rulemaking priority, as required by statute, is now to develop and issue a rule by August 1995 defining and prohibiting deceptive telemarketing, as required by the Telemarketing and Consumer Fraud and Abuse Prevention Act. In addition, during the past year, the Commission extended the Mail Order Rule to cover sales via the telephone and related devices (e.g., fax machines and computers with modems).

Litigation and rulemaking activities are supplemented by an award-winning consumer and business education program. The program uses brochures, public service announcements, and video news releases to reach the widest possible audience. Select consumer publications are available on Capaccess, a computer bulletin board available to all federal agencies, and all brochures are available on CompuServe and the Internet. *Consumer Alerts* often are issued to coincide with major law enforcement actions so that consumers can learn how best to protect themselves from fraudulent and deceptive

operations. In addition, consumer education materials are being produced in other languages to reach non-English speaking audiences.

The Mission activities are also supplemented by close federal-state coordination. Formal joint actions most typically are undertaken together with the National Association of Attorneys General (NAAG) or the National Association of Consumer Agency Administrators (NACAA). Working with these organizations, joint resources are targeted to issues having a direct impact on consumers.

In addition to formal projects, staff attorneys working on individual cases typically consult with their colleagues in state and local consumer protection offices to coordinate law enforcement efforts. The momentum for joint action among federal, state, and local law enforcers has never been greater.

The Consumer Protection Mission is carried out through five law enforcement programs: Advertising Practices, Credit Practices, Enforcement, Marketing Practices, and Service Industry Practices. The Commission's 10 regional offices are an integral component of the Mission. The regional staff are responsible for a wide variety of significant consumer protection cases and serve as important contact points for state Attorneys General and other state and local consumer protection officials.

Advertising Practices Program

The Advertising Practices Program is designed to protect consumers from deceptive, unsubstantiated, or unfair advertising claims. It also administers federal laws requiring health warnings on tobacco products. In two rapidly evolving areas, environmental marketing claims and food advertising, the Program produced enforcement policy statements that provided guidance to industries on how to comply with Commission advertising standards.

One of the most important areas of emphasis was nutritional or health claims in food advertising. Consumers' interest in and concern about nutrition and health messages in food advertising is at a high level. In one poll, 76% of shoppers considered nutrition a very important factor in their grocery purchases, second only to taste. That interest has sparked the rapid development of new food products, such as low and reduced fat foods. This area has been a particularly active one, due to the degree of scientific research on this issue and the new FDA food labeling regulations pursuant to the Nutrition Labeling and Education Act of 1991 (NLEA), which became effective

Federal Trade Commission

in 1994. In 1994, the Commission issued its *Enforcement Policy Statement on Food Advertising*. The policy statement is designed to promote consistent results between the Commission's advertising enforcement program and NLEA labeling regulations, while accommodating the practical and legal differences between ads and labels.

Like food advertising, advertising and promotion of dietary supplements continue to increase as new scientific evidence becomes available regarding the potential health benefits of various nutrients. Because of increasing consumer interest in dietary supplements and concerns about deceptive claims, this product category is being closely monitored. The focus has been on unsubstantiated health and efficacy claims for supplements purporting, for example, to aid in weight loss and muscle building, to lower serum cholesterol, and to provide other nutritional benefits.

A growing number of drugs that have traditionally been available only by prescription are now allowed by FDA to be sold directly to consumers over-the-counter. Advertising issues involving these drugs continue to be an area of particular interest. An active Commission program of monitoring advertising claims for these "switched" products is an important consideration to FDA in its review of proposals to sell a drug over-the-counter. Because most claims regarding a drug's efficacy, safety, and freedom from side effects cannot be judged by consumers for themselves, they are closely monitored.

Another area of emphasis during the past year was "green" claims. During the late 1980's and early 1990's, the environment was one of the fastest-growing consumer concerns. New product introductions have kept pace with this concern. The Commission's cases involving deceptive environmental advertising are consistent with the principles enunciated by its guidelines.

New information technologies have had a significant impact on advertising. Advances in telecommunications and marketing are shifting a growing portion of consumer spending from the marketplace to the living room. Infomercials, home shopping channels, catalogs, on-line shopping services, and other forms of nonretail, direct sales continue to be a growing and dynamic segment of the advertising market. Similarly, the growth in home shopping and interactive television points to the need to continue to adapt traditional consumer protection principles to this rapidly developing area.

The Commission has important responsibilities for administering the Federal Cigarette Labeling and Advertising Act and for administering and enforcing the Comprehensive Smokeless Tobacco Health Education Act. In fiscal year 1994, the Commission requested that the National Cancer Institute convene a conference to address certain issues concerning the test methodology currently used to measure the tar, nicotine, and carbon monoxide content of cigarettes, as well as the manner in which information about those yields is communicated to consumers. Also in fiscal year 1994, the Commission commenced a rulemaking proceeding, pursuant to its responsibilities under the Smokeless Tobacco Act, to determine whether it should require health warnings on sponsored race cars and other event-related objects bearing brand names, logos, or promotional messages for smokeless tobacco products.

Credit Practices Program

The Credit Practices Program is charged with enforcing a number of federal credit statutes, in addition to the FTC Act. Discriminatory credit granting practices are specifically prohibited by federal statute and are among the program's top priorities. The Equal Credit Opportunity Act, enforced by the Commission, directs that individuals' creditworthiness is to be judged by their financial condition and history, not by certain prohibited factors. Working together with the Civil Rights Division of the Department of Justice, the Commission entered into a settlement in the second federal race discrimination mortgage underwriting case. As important as the specific relief obtained, the case helped trigger a coordinated attack on this problem through a federal agency task force on which the Commission has been an active member.

Credit bureaus play a critical role in the ease and speed with which individuals are able to obtain credit. With files on over 180 million Americans, each of the major credit bureaus has a tremendous responsibility to ensure the accuracy and privacy of this personal and sensitive information. The Commission has specific statutory responsibilities in this area which are set out in the Fair Credit Reporting Act. In response to a flood of consumer complaints about credit bureaus, the top subject of complaint and inquiry at the Commission for several years, a number of enforcement actions were taken.

Federal Trade Commission

Before entering into credit and lease transactions, consumers must know the applicable terms and conditions. In the Truth in Lending and Consumer Leasing Acts, Congress mandated that certain information must be placed in advertisements and must be given to consumers before transactions are consummated. A uniform term, annual percentage rate (APR), was created to allow for credit comparison shopping and fair competition among creditors. The credit market breaks down when creditors fail to provide information, or worse, provide incorrect information. In its jurisdiction over millions of creditors, the Commission's role is not to control the terms of transactions but to ensure that the marketplace operates properly.

An inevitable consequence of granting credit is default by a certain percentage of consumers. In addition to creditor collection activities, many of these debts are assigned to debt collectors for collection activity. While there is no reason legitimate debts should not be collected, certain activities by debt collectors violate the Fair Debt Collection Practices Act. The Commission played a critical role in clarifying the line of proper collection tactics and prosecuting those who cross that line under the Fair Debt Collection Practices Act. The Program also made it clear that creditors bear some responsibility for collectors' actions of which they are aware. With a significant increase in consumer complaints about collection agency tactics, the Commission reinvigorated its debt collection enforcement program.

Finally, credit and other markets breakdown when merchants engage in unfair or deceptive trade practices. Given the importance of credit in individuals' lives, many of these illegal practices focus on credit issues. They include advance fee loan fraud, phony gold cards, misuse of bank drafts, false advertising about secured credit cards, vacation scams, and credit repair. The Commission also made clear that those who support fraud artists may themselves become liable and addressed deceptive advertising on the information superhighway.

Enforcement Program

The Enforcement Program has two main responsibilities: enforcing orders across a variety of consumer protection issues and enforcing and administering more than a dozen statutes and rules on a regular basis and numerous other rules and guides on a less frequent basis. The Program rigorously enforced Commission orders to

demonstrate that compliance is required and that violations will be costly. The Program also focused on implementing the directives of the 1992 Energy Policy Act (EPA 92), on executing a Commission initiative to review all of its regulations periodically, and on enforcing rules where violations seem most egregious.

As part of its enforcement efforts, the Program conducted sweeps of particular industries' compliance with Commission orders. In addition, numerous other order violations involving nutrition issues and performance claims were investigated.

The rule and statute enforcement program engaged in numerous rulemaking proceedings to respond to changing market conditions and Congressional directives. Pursuant to EPA 92 directives, the program engaged in rulemakings that promote the use of cleaner fuels and of vehicles using such fuels. The Commission amended the Octane Posting Rule, effective October 1993, to cover liquid alternative fuels such as methanol. Pursuant to EPA 92, the Commission also began a rulemaking to require, for alternative-fueled vehicles (AFVs), labels that help consumers choose among competing AFVs.

To promote the use of more efficient, less wasteful products, pursuant to EPA 92, the Commission amended the Appliance Labeling Rule, which requires energy efficiency information for major home appliances to be displayed on "Energy Guides." The Commission amended the Rule to include plumbing products and to require sellers, effective October 1994, to disclose the water usage rates of these products. In 1994, the Commission added lighting products to the Rule, and starting April 1995, these products will be labeled to encourage the use of lighting products that can deliver desired lighting using less energy than regular incandescent bulbs. The Commission concluded a proceeding it had initiated to make the Rule more user-friendly, and new versions of the Energy Guides will appear in 1995.

The Program also coordinates the Commission's periodic review of the economic and other impact of all rules and guides to determine whether they should be retained, repealed, or revised. As a result, three guides were repealed as obsolete in fiscal year 1994. The Commission also initiated a review of the Care Labeling Rule, which involves questions about whether the Rule should be revised to remove potential barriers to trade under NAFTA (*i.e.*, to permit the use of symbols, in lieu of words, to convey care information), and environmental issues concerning dry cleaning solvents.

Federal Trade Commission

Marketing Practices Program

The Marketing Practices Program investigates and attempts to halt fraud that consumers cannot readily detect and economic harm caused by merchants who fail to provide consumers with needed information. The Program reflects the variety, prevalence, and severity of consumer problems in the areas of telemarketing, business opportunity, franchise, and investment fraud.

One of the most prevalent consumer protection problems was economic fraud directed at consumers and small businesses. Through federal court cases and rule enforcement, the Commission targeted fraud that could not be readily detected by reasonably diligent consumers or that was aimed at vulnerable populations of consumers, such as elderly people. Often, perpetrators of this type of fraud used new technologies not yet understood by consumers or made novel applications of familiar technologies to confuse consumers.

Fraudulent telemarketing of household goods and services, such as vitamins, health care products, estate planning services, travel services, vacation packages, and home security systems was an area of Commission focus. The cases often involved elderly victims who did not realize that a salesperson was, in fact, a telephone con artist. These schemes typically used sweepstakes or other promotional mailings to lure their victims. Consumers called to claim their prizes and were talked into buying expensive goods and services through a series of misrepresentations.

Other areas of concern were fraudulent use of payment systems, such as "900" or pay-per-call information services, bank drafts, and credit cards; fraudulent sale of franchises, business and employment opportunities, often with the aid of telecommunications technology and electronic fund transfers; fraudulent sale of goods and services to small businesses; fraudulent solicitation of charitable contributions; and fraud on the Internet.

Fraudulent sale of franchises and of business and employment opportunities, often with the aid of telecommunications technology and electronic fund transfers, has become an area of concern. These cases involve extremely sympathetic victims -- people who have invested severance pay, retirement savings, and often all of their assets in business opportunities that seem likely to reap financial success and provide economic security. Recent estimates suggest that tens of thousands of investors lose as much as \$500 million annually in franchise and business opportunity fraud.

During fiscal year 1994, the Commission organized and hosted nine regional law enforcement conferences to address the problem of telemarketing fraud at the regional and local level. The approximately 1,000 federal, state, and local law enforcers who attended these conferences will use the information from the conferences to work with the Commission on joint investigations, enforcement actions, and consumer education projects.

The Program also combated consumer injury that occurred when sellers failed to provide important information to consumers. By enforcing the Funeral Rule, the Commission imposed sanctions on funeral providers who failed to give consumers information about choices and prices for all goods and services sold. The Commission enforced the Franchise Rule, imposing sanctions on franchisees who failed to provide presale disclosure documents to prospective investors, and the Pay-Per-Call Rule, imposing sanctions on information providers who sold information by telephone without providing cost and other material information to consumers.

Service Industry Practices Program

The Service Industry Practices Program focused on fraud in the sale of goods or services as investments, principally by telemarketers. Investment fraud cases challenge the deceptive sale of phony art, services related to government lotteries for FCC licenses or oil and gas rights to federal lands, jewelry-grade gemstones sold as investment-grade stones, overgraded numismatic coins, precious or strategic metals, and stamps. Consumer losses from this type of fraud are estimated to be in the billions.

As part of its effort to combat investment fraud, as well as other types of telemarketing fraud, the Commission maintains the NAAG-FTC Telemarketing Database. This electronic database supplies over 70 law enforcement agencies (including the FBI, DOJ, Postal Service, and 40 state AGs) with access to recent complaints from telemarketing fraud victims, including those who have called the 800-number hotline operated by the National Consumers League.

The Program also focused on health care fraud, seeking to prevent health care providers from misinforming prospective purchasers about the efficacy and risks associated with various health care services.

Recognizing that product standards and certifications are procompetitive only if the information they convey is accurate, the

Federal Trade Commission

Commission also focused law enforcement initiatives on targets using standards and certifications to deceive prospective purchasers.

ECONOMIC ANALYSIS

The Bureau of Economics provided economic support to the Commission's antitrust and consumer protection activities, advised the Commission and other government entities about the impact of regulation on competition and consumer welfare, and analyzed economic phenomena in the American industrial economy, as they related to antitrust and consumer protection.

In fiscal year 1994, the Bureau of Economics provided guidance and support to the Competition and Consumer Protection Missions. Economists offered advice on the economic merits of potential antitrust actions, distinguishing between situations where the marketplace performed reasonably well and situations where the market might be improved by Commission action. When enforcement actions were initiated, economists integrated economic analysis into the proceeding, provided expert testimony, and helped devise remedies that would improve market competition.

Economists supported the Consumer Protection Mission by assessing the benefits and costs of alternative policy approaches. Potential consumer protection actions were evaluated not only for their immediate impact, but also for their longer-term effects on price, product variety, and overall consumer welfare.

Although the Commission is primarily an enforcement agency, it also analyzes data and publishes information about the nation's industries, markets, and business firms. Much of this work is undertaken by the Bureau of Economics. In fiscal year 1994, economists conducted studies on several topics in antitrust and consumer protection.

The Bureau of Economics also coordinated the Commission's Consumer and Competition Advocacy Program, which the Commission used to provide advice to federal, state, and other regulatory entities concerning the actual or potential economic impact of existing and proposed trade regulations.

Antitrust

Economists participated in investigations of alleged antitrust violations, advised the Commission on proposed antitrust actions, and provided economic expertise for matters in litigation. These activities consumed the bulk of the Bureau's resources.

The Bureau also maintained a small research program in support of the Commission's antitrust activities. During the year, two studies were released. One was a case study of resale price maintenance, and the other was an examination of the effects of unfair imports on U.S. industries. Ongoing studies included the measurement of market power in long distance telecommunications and the output and price effects of vertical integration in the brokerage/specialist business.

Consumer Protection

In support of the Consumer Protection Mission, economists evaluated proposals for full-phase investigations, consent negotiations, consent settlements, and complaints. In addition, economists routinely provided day-to-day guidance on individual matters, provided litigation support services, and made policy recommendations directly to the Commission.

In addition to the Bureau's direct support for individual consumer protection cases, economists conducted a limited amount of research on consumer protection topics of interest to the Commission. Such ongoing work included a study of the factors that affected the content of health claims in food advertising over the past 40 years, and an examination of the effects of food advertising policy on the consumption of fats and cholesterol in the American diet.

Consumer and Competition Advocacy

The interests of consumers may not always be presented during consideration of legislative or regulatory initiatives. Consequently, laws may be enacted or regulations issued that unintentionally may harm consumers by restricting entry, limiting competition, chilling innovation, raising prices, or reducing the quality of goods and services. The goal of the Commission's advocacy activities is to reduce such harm to consumers by informing appropriate governmental and self-regulatory bodies about the potential effects on consumers, both positive and negative, of proposed legislation, rules, or industry guides or codes. The Bureau of Economics is the central source of planning, coordination, review, and information for work in this area. During fiscal year 1994, the Commission staff submitted 16 comments to federal and state agencies. Comment submissions covered such subject areas as advertising, antitrust, auto brokering,

Federal Trade Commission

communications, occupational licensing, labeling, leasing, transportation, and utilities.

MANAGEMENT AND ADMINISTRATION ACTIVITIES

Budget and Finance

In fiscal year 1994, the Commission had a total budget authority of \$92.6 million and used 933 workyears.

To meet the goals of the National Performance Review, the Budget and Finance Division began to restructure its activities. It entered into a cross-servicing agreement with the Department of the Interior through which voucher payments processing was transferred to the Bureau of Reclamation's Administrative Support Center (ASC) in Denver. It also worked with the Division of Personnel to transfer its payroll and personnel systems to the ASC by December, 1995. The Division worked with the Office of Management and Budget to establish a buyout program, which helped reduce the Commission's workforce to accommodate lower staffing levels.

The Division managed the Commission's financial services, such as maintenance of a general ledger accounting system and review and payment of all invoices. It was responsible for issuing accurate and timely financial reports to program offices, the Department of the Treasury, and the Office of Management and Budget. It also carried out Commission-wide management programs for audit follow-up and reviewed and reported on internal controls. The Division planned and carried out the fiscal year 1994 budget, supported the fiscal year 1995 budget request through Congress, and developed the fiscal year 1996 budget request.

Personnel

In fiscal year 1994, the Division of Personnel continued to assist the Commission in meeting the objectives outlined in the National Performance Review (NPR). A major accomplishment in this area was the administration of the Commission's buyout program. A total of 55 employees elected to take advantage of this program and retire with the buyout incentive. This buyout, in turn, created savings for the Commission because certain positions were refilled at lower grade levels and skill mixes were adjusted to allow organizational components to operate more efficiently.

Also related to the NPR, the Division of Personnel continued to work with the Commission managers to reduce the number of

supervisors and eliminate unnecessary levels of review. The Division was also active in providing traditional recruitment, training, and employee and labor relations services to Commission employees and managers.

Planning and Information

The Commission's information management program continued to be coordinated by the three divisions of the Office of the Deputy Executive Director for Planning and Information. The efforts of that office were split between maintaining the essential services provided in previous years and expanding or improving service in key areas. The program focused on seven key initiatives designed to make improvements in the Commission's information systems environment and its component parts. Those initiatives were:

Upgrade workstations and printers

Continued emphasis was placed upon upgrades of computer workstations and printers. By the end of the fiscal year, all individual workstations had 386-level microprocessing systems or better, and a two-year project was begun to further upgrade workstations to a configuration capable of better meeting the Commission's evolving network requirements. Upgrades of central processing units, memory, disk capacity, and core workstation software (including WordPerfect, WordPerfect Office, DOS, and Windows) were started. All obsolete printers were removed from service as primary printers. A limited number of additional laptop computers were purchased for Commission staff to use when working away from their regular offices.

Expand local area network and communications systems

All Commission offices were linked to the local area network. Additional functionality that was added to the local and wide area networks included outbound faxing; a central server for accessing CD-ROM-based libraries of information; improved external remote access to our systems; and outbound, network-based modem access for regional offices.

Federal Trade Commission

Implement direct access to full text of Commission documents

Planning and Information completed the initial phase of an application to maintain a comprehensive database of Commission documents and other related information. This phase focused on creating a document repository that can be easily accessed and searched by all Commission staff and from which documents of interest can be quickly retrieved. The application was loaded onto 16 special workstations distributed throughout the headquarters buildings and was structured to become available at each desktop, with workstation upgrades planned for fiscal year 1995.

Improve access to existing corporate information

The first phase of hardware installation to support a new Unix-based computer system was completed. The Unix system will replace the Commission's long-obsolete Prime central computer system. This multiyear effort will transfer all applications running on the Commission's two Prime computers. The first computer (System B) was shut down by the end of the fiscal year. STAFFID, a replacement for the Locator and several other databases used by most Commission applications, was redesigned and reprogrammed to run on the new system.

Develop and implement a new Commission-wide correspondence management program

In coordination with Commission operating bureaus and offices, Planning and Information began to review the Commission's overall approach to consumer correspondence management. This review included analysis of information requirements, researching alternative correspondence management methods, and the selection and implementation of an appropriate Commission-wide solution. Several procedural changes were implemented that eliminated a substantial backlog of unanswered correspondence and established a procedure to acknowledge correspondence within one week of receipt.

Automate Commission forms and related workflow processes

The Commission began converting forms from a paper to an electronic/e-mail environment. An electronic forms software package was selected, and plans were developed for converting existing paper forms to an electronic format.

Expand and improve user training and direct support services

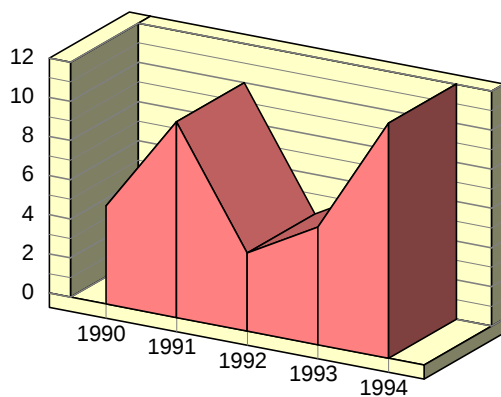
The Commission will not realize the value of its information systems resources unless Commission staff use those resources effectively. During this year, Planning and Information continued to enhance the information systems training and support services provided to Commission staff. Staff was added to the Information Center to provide better customer support. New training opportunities were developed. Improvements were also made to user documentation and the tracking, analysis, and followup of user problems.

Regional Offices

The regional offices continued to play a key role in fulfilling the Commission's missions during fiscal year 1994. To augment their ongoing consumer protection enforcement activities, the regional offices sponsored a number of telemarketing fraud conferences throughout the country. These conferences brought together federal, state, and local law enforcement officials to coordinate efforts to combat telemarketing fraud. As part of their overall competition enforcement activities, the regional offices played an increasingly important role in merger enforcement. They served as strong intermediaries with state and local officials to facilitate the Commission's law enforcement partnership with other agencies.

APPENDIX

PART II CONSENTS PUBLISHED FOR COMMENT *COMPETITION MISSION*



COMPETITION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Adobe Systems, Inc.	9410059	07/26/94	Merger	Professional Illustration Computer Software
Boulder Ridge Cable TV	8910104	06/24/94	Horizontal Restraints	Cable Television
Columbia/HCA Healthcare Corporation	9410108	09/14/94	Merger	Outpatient Surgical Services
First Data Corporation	9310090	08/17/94	Merger	Consumer Money Wire Transfer Services
HealthTrust, Inc., The Hospital Company	9410020	07/08/94	Merger	Inpatient Acute-care Hospital Services
Medical Staff of Good Samaritan Regional Medical Center	9010032	08/31/94	Horizontal Restraints	Health Care
Revco D.S., Inc.	9410075	07/14/94	Merger	Drug Stores
Rite Aid Corporation	9410081	08/31/94	Merger	Drug Stores
Roche Holdings, Inc.	9410085	08/29/94	Merger	Drugs for Testing Presence of Illegal Drugs

Title	Number	Action Date	Type of Matter	Product or Service
Sulzer, Ltd.	9410073	09/27/94	Merger	Aluminum Polyester Powder
Tele-Communications, Inc.	9410008	11/15/93	Merger	Cable TV Programming
Trauma Associates of North Broward, Inc.	9210101	07/25/94	Merger	Health Care

COMPETITION MISSION (DETAIL) *Adobe Systems, Inc.; Aldus Corporation*

Adobe and Aldus agreed to modify their merger plan to settle Commission allegations that the proposed merger would have anticompetitive effects in the \$60 billion worldwide market of professional-illustration software products that enable graphic artists to create visual images using a desktop computer. The Commission alleged that the merger, valued at approximately \$0.5 billion, would result in a monopoly since Adobe and Aldus produce and sell the only two illustration software programs (Illustrator and Freehand). The complaint alleges that the professional-illustration software market is characterized by high developmental and reputational barriers that make production of a technically comparable illustration program difficult and time-consuming for other firms. Under terms of the proposed consent agreement, Aldus must divest its Freehand business and name to Altsys Corporation within six months.

Boulder Ridge Cable TV; Weststar Communications, Inc.

Boulder and Weststar, two California cable television operators, agreed to settle allegations that they entered into a mutual covenant “not to compete” in a number of areas in California and Hawaii as a result of Boulder’s acquisition of Three Palms, Ltd., a competing cable television operator in the Indian Wells Valley area of California. According to the complaint accompanying the proposed consent agreement, the “not to compete” clause in the acquisition agreement represents a market division agreement that would restrain competition in surrounding areas outside of the Boulder/Three Palms geographic market by prohibiting the parties from operating a cable television system within 15 miles of each other. The proposed consent agreement prohibits Boulder and Weststar from enforcing the

Federal Trade Commission

existing contract and from entering into similar agreements in the future.

Columbia/HCA Healthcare Corporation

The Commission will permit Columbia/HCA to acquire Medical Care America, Inc. under terms of a proposed consent agreement. The complaint issued with the proposed consent agreement alleged that the acquisition, combining two competing health care facilities in Anchorage, Alaska, could result in higher costs or reduced quality for outpatient surgery services in the area. The complaint further alleged that the market for these services is highly concentrated and that the acquisition could, therefore, deny patients the benefits of competition for outpatient medical care facilities based on price, quality, and service. The proposed consent agreement requires Columbia/HCA to divest Medical Care's Alaska Surgery Center, within one year, to a Commission approved acquirer that will operate the hospital in competition with Columbia/HCA. In an attempt to ensure that future acquisitions in the market do not raise the same antitrust concerns, the Commission included several prior approval provisions, including one prohibiting Columbia/HCA from acquiring a \$1 million or more interest in any outpatient surgical service facility in Anchorage for 10 years. This settlement results from the first challenge of an outpatient surgical center merger by any federal antitrust agency.

First Data Corporation

In the first challenge by any federal antitrust agency in the money transfer services industry, the Commission accepted a proposed consent agreement with First Data related to its proposed acquisition of Western Union Financial Services, Inc. According to the complaint accompanying the proposed consent agreement, the acquisition would create a monopoly in the market by combining the only two firms in the United States that provide consumer money wire transfer services. The complaint further alleges that it is difficult for new firms to gain the brand name recognition and to establish a nationwide network of retail outlets which is necessary to ensure consumers a healthy competitive market that provides fair money transfer fees and a high quality of services. Under terms of the proposed consent agreement, First Data can complete the acquisition

but must divest either its own MoneyGram consumer money wire transfer business or that of Western Union's, within 15 months, to a Commission-approved acquirer. In addition, the proposed order prohibits First Data from acquiring any interest in an entity that provides money wire transfer services in the United States for a period of 10 years. The Commission withdrew its acceptance of the proposed consent agreement in November, 1994, after First Data abandoned its acquisition plans.

HealthTrust, Inc., The Hospital Company

Under terms of a proposed consent agreement, the Commission will permit HealthTrust, now part of Columbia/HCA Healthcare Corp., to complete its proposed acquisition of Holy Cross Health Services of Utah. The agreement requires HealthTrust, which operates three hospitals in the Salt Lake City-Ogden metropolitan area, to divest Holy Cross Hospital of Salt Lake City and the assets of five clinics located in downtown Salt Lake City within six months to an acquirer preapproved by the Commission. According to the complaint issued with the proposed consent order, the acquisition of three hospitals from Holy Cross would significantly lessen competition and could raise prices for or reduce the quality of inpatient acute-care hospital services in the three-county area of Weber, Davis, and Salt Lake counties. In addition to other acquisition restrictions, the proposed consent agreement requires HealthTrust to obtain prior Commission approval for 10 years before acquiring any inpatient acute-care hospital or any hospital, medical, or surgical diagnostic or treatment facility in the counties specified in the complaint.

Medical Staff of Good Samaritan Regional Medical Center

Under terms of a proposed consent agreement, the Medical Staff of Good Samaritan Regional Medical Center in Phoenix, Arizona agreed not to enter into any conspiracy to boycott a competing hospital. According to the complaint issued with the proposed consent agreement, Samaritan Health Systems opened a multispecialty physician clinic that would have had the potential to hold down medical costs by offering one-stop shopping for medical services, extended hours, house calls, and other benefits to patients. The complaint alleged that a majority of the 500 physicians on the

Federal Trade Commission

medical staff at Good Samaritan threatened to boycott the new facility by withholding patient admissions from the hospital in an attempt to induce the hospital to terminate its affiliation with the clinic. The proposed consent agreement prohibits the medical staff from attempting to enter into any agreement to refuse to deal with health care services offered by Good Samaritan, the clinic, or any other health care provider. The proposed consent agreement does not prohibit the medical staff from entering into partnerships or forming joint ventures to offer health care services.

Revco D.S., Inc.

Under terms of a proposed consent agreement, Revco agreed to divest a pharmacy business in order to acquire Hook-SupeRx, Inc. The complaint accompanying the proposed consent agreement alleges that the merger of two of the largest drug store chains in the United States could raise prices and reduce service for prescription drugs sold in retail stores in Covington, Marion, and Radford, Virginia. The complaint further alleges that the merger would eliminate actual competition between the two firms and would increase the chances that Revco would unilaterally exercise market power. To restore the alleged lost competition and maintain an active competitive market in the three-city area of Virginia, the proposed consent agreement requires Revco to divest either the pharmacy business it already owns or the pharmacy business that it will acquire from Hook-SupeRx within one year to a Commission approved acquirer or acquirers who will continue to operate the stores as retail pharmacies. Finally, the proposed consent agreement requires Revco to obtain Commission approval for 10 years before acquiring any similar business interests in the relevant geographic market.

Rite Aid Corporation

Under terms of a proposed consent agreement, Rite Aid agreed to divest certain retail pharmacy outlets in Bucksport and Lincoln, Maine and in Berlin, New Hampshire to an acquirer approved by the Commission. The complaint accompanying the proposed consent agreement alleges that Rite Aid's proposed acquisition of LaVerdiere's Enterprises, Inc. could lead to higher prices for prescription drugs sold in retail stores in the three areas by increasing the likelihood that Rite Aid could exercise market power on its own

or collude with the few remaining retail pharmacy firms in the area. To restore competition that allegedly would be reduced by the acquisition, the proposed consent agreement requires Rite Aid to divest within 12 months either its own pharmacy stores or those of LaVerdiere's to an entity that will operate them in competition with Rite Aid. In addition, the proposed consent agreement requires Rite Aid to obtain Commission approval for 10 years before acquiring any stock in a firm engaged in the business of selling prescription drugs at retail outlets in the areas specified in the complaint.

Roche Holdings, Inc.

Under terms of a proposed consent agreement, Roche can acquire Syntex Corporation and its Syva Company subsidiary for \$5.3 billion. The complaint accompanying the proposed consent agreement alleged that the acquisition would substantially reduce competition and potentially create a monopoly in the market for pharmaceutical products used primarily by laboratories for testing for the presence of illegal drugs. To preserve competition allegedly threatened by the elimination of an active competitor in the market, the proposed consent agreement requires Roche to divest Syva's illegal-drug testing business to a Commission approved buyer that will operate the business in competition with Roche. The proposed consent agreement also requires Roche to obtain Commission approval for 10 years before acquiring assets of any company engaged in the manufacture of illegal drug reagent products.

Sulzer, Ltd.

Under terms of a proposed consent agreement, Sulzer is required to assist in the deterrence of anticompetitive behavior that may occur in connection with its proposed acquisition of a key competitor in the market for aluminum polyester powder, the Metco Division of The Perkin-Elmer Corporation. According to the proposed agreement, Sulzer must help launch a new manufacturer in the market by divesting a copy of the information needed to produce aluminum polyester powder, a thermal spray used in the housing of turbine aircraft engines to increase efficiency, and to provide specific technical assistance needed for a new manufacturer to develop and market a product comparable to Sulzer's Amdry 2010. According to the complaint accompanying the proposed consent agreement, the

Federal Trade Commission

elimination of a leading worldwide supplier could increase the likelihood that the remaining competitors in the market could raise prices and restrict output to purchasers of aluminum polyester powder. The proposed consent agreement also requires Sulzer to obtain prior Commission approval for 10 years before making any acquisition in the market defined by the complaint.

Tele-Communications, Inc.

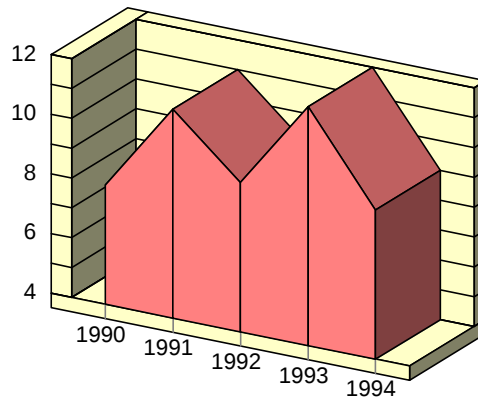
QVC Network, Inc. proposed to acquire Paramount Communications, Inc. for \$10 billion. The Commission alleged that QVC's acquisition of Paramount would violate antitrust laws by substantially lessening competition for the distribution of cable television programming to consumers in certain areas of the country and for cable premium-movie channels in the national market. According to the complaint accompanying the proposed consent agreement, Tele-Communications, Inc. is the nation's largest cable-television system owner and, with its Liberty Media Corporation affiliate, has ownership rights in many popular cable television programming networks. When QVC terminated its attempted acquisition of Paramount, the Commission withdrew its proposed consent agreement requiring TCI and Liberty to divest their stockholdings in QVC within 18 months.

Trauma Associates of North Broward, Inc.

Trauma Associates of North Broward, Inc. and 10 surgeons in Broward County, Florida agreed to settle charges that they illegally conspired to fix the fees paid for their professional services at the trauma centers located in the Broward General Medical Center and in the North Broward Medical Center. According to the complaint accompanying the proposed consent agreement, the respondents, acting as a group to collectively negotiate fees and contract terms, refused to accept individual contracts with the state-approved trauma centers established by the North Broward Hospital District at two area hospitals. The proposed consent agreement requires dissolution of Trauma Associates and prohibits the surgeons from entering into similar agreements to conspire to fix or increase prices for the provision of trauma surgical services in the future and from refusing to provide surgical services except on collectively-determined terms.

Federal Trade Commission

PART II CONSENTS PUBLISHED FOR COMMENT CONSUMER PROTECTION MISSION



CONSUMER PROTECTION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
American Institute of Smoking Cessation, Inc.	9323253	07/22/94	Diet and Smoking Programs and Advertising Claims	Weight Loss and Smoking Cessation Hypnosis Seminars
American Tobacco Company	9323368	09/29/94	Tar and Nicotine Advertising Claims	Cigarettes
Chemopharm Laboratory, Inc.	9323135	09/13/94	Environmental Benefit Claims Advertising	Superior Sno-N-Ice Melter (Ice Melting Product)
Gorayeb Seminars, Inc.	9323254	07/22/94	Diet and Smoking Programs and Advertising Claims	Weight Loss and Smoking Cessation Hypnosis Seminars
Hayes Microcomputer Products, Inc.	9223332	04/26/94	Computer Communications Equipment and Advertising Claims	Modems for Computers
Hyde Athletic Industries, Inc.	9223236	09/20/94	Advertising Claims	Athletic and Other Footwear
L&S Research Corporation	9123004	07/14/94	Bodybuilding and Weight Loss Products Advertising	Bodybuilding and Weight Loss Products

Title	Number	Action Date	Type of Matter	Product or Service
Notations, Inc.	9323163	09/13/94	Textile Fibers Identification Act	Women's Blouses
RN Nutrition	9123145	09/02/94	Nutritional Supplement Advertising	Calcium Supplement Products

CONSUMER PROTECTION MISSION (DETAIL) *American Institute of Smoking Cessation, Inc.;*
Kenneth C. Grossman; Jane A. Grossman

The American Institute of Smoking Cessation and two of its officers, Kenneth and Jane Grossman, agreed to settle allegations that they made unsubstantiated claims in their advertisements about the success of their smoking cessation and weight loss seminars. The proposed consent agreement prohibits the respondents from making any representation about the performance or efficacy of any smoking cessation or weight loss program, unless they possess and rely upon competent and reliable scientific evidence to substantiate the representation.

American Tobacco Company

American Tobacco Company agreed to settle allegations concerning tar and nicotine advertising for the company's Carlton brand cigarettes. The proposed consent agreement prohibits the company from disseminating ads for Carlton or any other cigarettes that make certain misrepresentations about the relative amount of tar and nicotine consumers will get by smoking the cigarettes.

Chemopharm Laboratory, Inc. d/b/a CP Industries

Chemopharm Laboratory agreed to settle allegations that it made false and unsubstantiated environmental benefit claims to market its ice melting product, Superior Sno-N-Ice Melter. The proposed consent agreement prohibits the company from making unsubstantiated environmental claims for any products it markets in the future.

Federal Trade Commission

Gorayeb Seminars, Inc.; Ronald B. Gorayeb

Gorayeb Seminars and its owner, Ronald Gorayeb, agreed to settle allegations that they made unsubstantiated claims in their advertisements about the success of their smoking cessation and weight loss seminars. The proposed consent agreement prohibits the respondents from making any representation about the performance or efficacy of any smoking cessation or weight loss program, unless they possess and rely upon competent and reliable scientific evidence to substantiate the representation.

Hayes Microcomputer Products, Inc.

Hayes Microcomputer Products, a major manufacturer and distributor of computer communications equipment, agreed to settle allegations that it made false and misleading claims in an advertising campaign about the escape sequence feature of its modems. The advertisements allegedly represented that the company's escape method was the only one available that did not create a substantial risk of data transmission failure. The proposed consent agreement prohibits the company from making similar false and unsubstantiated claims for any of its modem-related products in the future.

Hyde Athletic Industries, Inc.

Hyde Athletic Industries, a manufacturer of athletic and other footwear, agreed to settle allegations that it made misleading "Made in the USA" claims for its Saucony brand footwear. The complaint alleged that a substantial amount of Saucony footwear is assembled in foreign countries with foreign component parts and that, of the Saucony footwear assembled in the United States, a substantial amount consists largely of foreign component parts. In July 1995, the Commission rejected the proposed consent agreement with Hyde and directed staff to negotiate a new agreement, based on a narrower complaint. At the same time, the Commission announced that it would conduct a public workshop/conference to determine whether it should change its enforcement standard for "Made in the USA" claims.

L&S Research Corporation; Scott Chinery

L&S Research and its founder, Scott Chinery, agreed to settle allegations that they made numerous false and unsubstantiated claims in the advertising and sale of their bodybuilding and weight loss products. The proposed consent agreement prohibits the respondents from making misrepresentations regarding the efficacy of their products, unless they possess and rely upon competent and reliable scientific evidence to substantiate the representation. The proposed agreement also requires the respondents to pay \$1.45 million to the U.S. Treasury.

Notations, Inc.; Kurt Erman

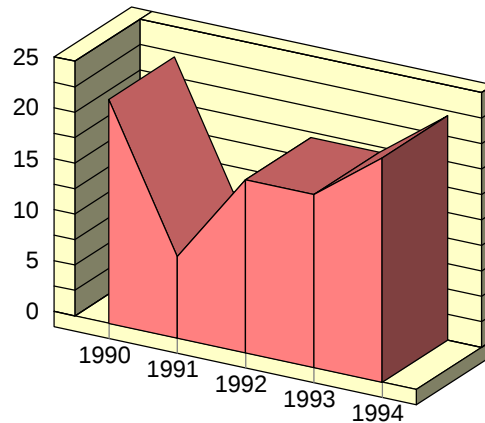
Notations and its president, Kurt Erman, agreed to settle allegations that they mislabeled the fiber content of various women's blouses they imported and sold. The complaint alleges that Notations included fiber trademarks in the blouses' hang tags which falsely implied that the blouses were made of silk. The proposed consent agreement prohibits the company and its president from including a fiber trademark which falsely states or implies that a fiber is present in any textile product or from similarly violating the Textile Fiber Products Identification Act and the Commission rules implementing the Act.

RN Nutrition; George Page Rank; James W. Nugent

RN Nutrition and its principals, George Rank and James Nugent, agreed to settle allegations that they made unsubstantiated and misleading claims to market their calcium supplement product, BoneRestore. The proposed consent agreement requires the respondents to have substantiation for claims that their food, drug, or supplement products will treat or cure any disease or condition; prohibits use of the name BoneRestore in a misleading way; and restricts the use of testimonial endorsements that do not represent typical results.

Federal Trade Commission

PART II CONSENT ORDERS ISSUED COMPETITION MISSION



COMPETITION MISSION (SUMMARY)

Title	Number	Date Accepted by Comm.	Action Date	Type of Matter	Product or Service
Alvey Holdings, Inc.	C3488	12/06/93	03/30/94	Merger	Horizontal Carousels
The American Association of Language Specialists	C3524	01/28/94	08/31/94	Horizontal Restraints	Conference Interpreting
The American Society of Interpreters	C3525				
Arizona Automobile Dealers Association	C3497	02/22/94	05/31/94	Horizontal Restraints	Automobile and Truck Dealers
Columbia Healthcare Corporation	C3505	02/07/94	07/05/94	Merger	Inpatient Acute-care Hospital Services
Columbia Hospital Corporation	C3472	08/26/93	11/19/93	Merger	Inpatient Acute-care Hospital Services
Community Associations Institute	C3498	02/23/94	06/06/94	Horizontal Restraints	Professional Residential Management Services
Cooper Industries, Inc.	C3469	06/24/93	10/25/93	Merger	Low Voltage Industrial Fuses

Part II Consent Orders Issued

Appendix

Title	Number	Date Accepted by Comm.	Action Date	Type of Matter	Product or Service
Dominican Santa Cruz Hospital	C3521	02/24/93	08/18/94	Merger	Inpatient Acute-care Hospital Services
Homecare Oxygen and Medical Equipment Company	C3532	10/28/93	09/14/94	Monopolization	Pulmonology Equipment
Home Oxygen and Medical Equipment Company	C3530				
Certain Home Oxygen Pulmonologists	C3531				
Imperial Chemical Industries, PLC	C3473	06/03/93	11/29/93	Merger	Acrylic Plastics
The Keds Corporation	C3490	09/24/93	04/01/94	Distributional Arrangements	Athletic and Casual Shoes
Marion Merrell Dow, Inc.	C3533	06/20/94	09/23/94	Merger	Dicyclomine
Martin Marietta Corporation	C3500	03/23/94	06/22/94	Merger	Satellites
McCormick & Company, Inc.	C3468	08/02/93	10/25/93	Merger	Dehydrated Onion
McLean County Chiropractic Association	C3491	01/03/94	04/07/94	Horizontal Restraints	Chiropractors
Personal Protective Armor Association	C3481	12/16/93	03/17/94	Horizontal Restraints	Soft Body Armor
Sara Lee Corporation	C3523	06/29/94	08/24/94	Merger	Chemical Shoe Care Products
TCH Corporation	C3519	02/23/94	08/16/94	Merger	Drug Stores
The Valspar Corporation	C3478	10/21/93	01/25/94	Merger	Coating Resins

COMPETITION MISSION *Alvey Holdings, Inc.* **(DETAIL)**

Alvey settled concerns that its acquisition of White Storage &

Federal Trade Commission

Retrieval Systems, Inc. could create a monopoly in the market for horizontal carousels, computer driven storage and retrieval devices often used in warehouses. The consent order permits Alvey to acquire White but requires the preapproved divestiture within six months of The Bushman Company, Alvey's subsidiary engaged in the manufacture and sale of horizontal carousels. The consent order requires Alvey for 10 years to obtain Commission approval before acquiring any firm that manufactured or sold horizontal carousels in the United States within the prior two years.

American Association of Language Specialists, The;
American Society of Interpreters, The

Two separate consent orders with The American Association of Language Specialists (TAALS) and the American Society of Interpreters (ASI) prohibit the associations headquartered in Washington, D.C. from conspiring with their members to fix the fees charged for providing translation services at conferences or high-level meetings of private business concerns, government officials and agencies, and other entities. The complaint accompanying the consent orders alleged that TAALS and ASI restrained competition by publishing lists of fees their members were required to charge for language interpretation and by establishing rules that, among other things, set guidelines for the provision of amenities to members, limited hours for services, and prohibited its language specialist members from engaging in any form of truthful and nondeceptive personal publicity and advertising. The consent orders prohibit the associations from interfering in the pricing practices of its members for three years and, for a period of 10 years, require the associations to declare out-of-order any person who makes a statement at an association meeting concerning fee standards.

Arizona Automobile Dealers Association

A consent order prohibits Arizona Automobile Dealers Association (AADA) from interfering with its member truck and automobile dealers' use of truthful and nondeceptive advertising concerning prices, discounts, and the availability of consumer financing. The complaint accompanying the consent order alleged that AADA deprived Arizona consumers of the benefits of competition in the sale of new cars and trucks by adopting policy

statements in its *Standards for Advertising Motor Vehicles* which prohibited AADA members from advertising prices equal or lower than a competitor's and from making comparisons about another dealer's services, quality, prices, or business methods. In addition to the other provisions of the consent order, AADA is required to remove any provision in its standards that is inconsistent with the terms of the consent order and to notify and distribute a copy of the revisions to all members.

Columbia Healthcare Corporation

A consent order settled antitrust concerns stemming from the largest merger in the United States hospital industry. Columbia and HCA-Hospital Corporation of America will merge to form Columbia/HCA Healthcare Corp. According to the complaint accompanying the consent order, the \$4 billion merger would substantially lessen competition for inpatient acute-care services in Richmond and Columbia Counties of Georgia and Aiken County in South Carolina. The consent order requires the divestiture of HCA Aiken Regional Medical Center in Aiken, South Carolina and prohibits Columbia/HCA from merging its remaining hospital in Aiken County with any other general acute-care hospital in that area without prior Commission approval for a period of 10 years.

Columbia Hospital Corporation

Columbia (now Columbia/HCA Healthcare Corp.) divested Kissimmee Memorial Hospital to Adventist Health System/Sunbelt Health Care Corporation to settle allegations that Columbia's acquisition of Galen Health Care, Inc. would substantially lessen competition for acute-care inpatient hospital services in Osceola County, Florida. The complaint accompanying the consent order alleged that the acquisition would significantly increase already high levels of concentration by creating a firm with the ability to exercise unilateral market power, thereby increasing the possibility of higher medical costs to consumers. The consent order requires Columbia and Galen to obtain prior Commission approval for 10 years for any future acute-care hospital merger in Osceola County.

Federal Trade Commission

Community Associations Institute

The Community Associations Institute (CAI) of Alexandria, Virginia agreed not to interfere with members' use of truthful advertising and with their solicitation of business from potential clients. CAI is a national association that includes condominium managers and others connected with the property management industry who offer their services as managers of residential community associations. According to the complaint accompanying the consent order, CAI enforced an ethical code that prohibited members from engaging in certain competitive practices designed to attract prospective clients. The complaint further alleged that the challenged conduct restrained competition and deprived customers of truthful information necessary for comparing the services offered by professional residential community association managers. The consent order prohibits CAI from limiting its members' participation in truthful business practices in the future and requires it to remove any provisions from its code of ethics that are inconsistent with the order's prohibitions. In addition, the order requires CAI to notify its members of the Commission's actions and to publish the code revisions in their two CAI publications.

Cooper Industries, Inc.

A consent order permits Cooper to acquire the Fusegear Group for \$32 million. The complaint accompanying the consent order alleged that the acquisition could have anticompetitive effects in the United States market for low voltage industrial fuses used to protect circuits in motors, controls, and switchgears that regulate the amount of current that flows into an electrical device. The order requires Cooper to license, within one year, all technology owned by Brush Fuses, Inc., the United States part of the Fusegear Group, used to manufacture the entire line of low-voltage industrial fuses to a licensee preapproved by the Commission.

Dominican Santa Cruz Hospital

Dominican agreed to settle allegations that the 1990 acquisition of AMI-Community Hospital by Dominican and Catholic Healthcare West created two dominant providers of acute-care hospital services in Santa Cruz County, California. According to the complaint

accompanying the consent order, the acquisition could promote the likelihood of collusion in the area and could deny patients and physicians the benefits of open competition based on quality, price, and service. The order requires Dominican and Catholic to obtain prior Commission approval for 10 years before acquiring any general acute-care hospital in Santa Cruz County.

Homecare Oxygen and Medical Equipment Company;

Home Oxygen and Medical Equipment Company;

Certain Home Oxygen Pulmonologists

Three separate consent orders with two San Francisco Bay area home medical equipment firms and their 28 investor physicians settled allegations that their physician joint ventures gained excessive market power in violation of federal antitrust laws. According to the complaints accompanying the consent orders, approximately 60% of the pulmonologists in the East Bay area were investors in the joint venture partnerships or practiced in groups which included one or more of the investors. The complaints further allege that the venture inhibited competition by allowing a group of specialists to gain control of the market for an ancillary service by controlling patient access to the service. The consent orders with Home Oxygen and Medical Equipment Company (a joint venture involving 13 physicians), Certain Home Oxygen Pulmonologists (a joint venture involving four other physicians), and Homecare Oxygen and Medical Equipment Company (a joint venture involving 11 physicians) prohibit all parties from acquiring or granting an ownership interest in any firm that sells or leases oxygen systems in the East Bay area if more than 25% of the pulmonologists in that market would be affiliated with the to-be-acquired firm. The consent orders are effective for 10 years.

Imperial Chemical Industries, PLC

Imperial Chemical Industries PLC (ICI) settled allegations that its acquisition of certain acrylic-plastic assets from E.I. du Pont de Nemours and Company would substantially lessen competition in the manufacture and sale of acrylic plastics in the United States and would increase the likelihood of collusion among the remaining firms in the market. The consent order requires ICI to divest one of three United States acrylic plastic manufacturing plants within 15 months to a Commission approved acquirer who intends to operate the

Federal Trade Commission

facility at or near capacity. The consent order also requires ICI to provide the purchaser technical assistance necessary to manufacture polymethyl methacrylate, acrylic plastics, for 18 months. ICI can divest facilities in Memphis, Tennessee, Olive Branch, Mississippi, or Compton, California. Finally, the order requires ICI to obtain prior Commission approval for 10 years before acquiring a substantial interest in any firm that owns or operates an acrylic plastic or acrylic sheet manufacturing facility in the United States.

Keds Corporation, The

Keds, a subsidiary of The Stride Rite Corporation, agreed not to fix the prices at which retailers advertised and sold its athletic and casual shoes to consumers. According to the complaint accompanying the consent order, Keds entered into an agreement with its retailers to sell certain shoes at or above minimum prices that Keds dictated through a written resale pricing policy and threatened to terminate business dealings with any retailer who refused to abide by the agreement. The complaint further alleged that these practices increased the prices of Keds' products and restricted price competition among retail dealers in the United States. The consent order requires Keds to place a statement on any footwear product on which they suggest a resale price indicating that retailers are free to determine the prices at which they will advertise and sell Keds footwear. This statement is required for a period of five years. The Commission worked in cooperation with the National Association of Attorneys General (NAAG). NAAG also entered into an agreement with Keds, in which Keds agreed to terminate the practices also challenged by the Commission.

Marion Merrell Dow, Inc.

Marion Merrell Dow (Marion) settled antitrust concerns stemming from its 1993 acquisition of Rugby-Darby Holding, Inc. According to the complaint accompanying the consent order, prior to the acquisition, Marion and Rugby-Darby were the only two U.S. firms approved by the Food and Drug Administration (FDA) to manufacture and sell dicyclomine hydrochloride, a prescription medication used in the treatment of irritable bowel syndrome. The complaint alleges that the acquisition lessened competition and created a monopoly in the market for dicyclomine tablets and

capsules. The consent order requires Marion to license its dicyclomine formulations and production technology to a Commission approved third party and to contract to manufacture dicyclomine to the licensee at a maximum price until the licensee receives FDA approval to independently produce and market its own. Marion also must obtain prior Commission approval for 10 years before acquiring any producer or distributor of dicyclomine.

Martin Marietta Corporation

Martin Marietta settled allegations regarding its \$208.5 million acquisition of General Dynamics Corporation's Space Systems Division. According to the complaint accompanying the consent order, Martin Marietta would gain a new expandable launch-vehicle (ELV) division that could share a close working relationship with its existing satellite development and manufacturing division. The complaint further alleges that because the ELV division receives detailed classified information from other satellite manufacturers, Martin Marietta could gain access to competing satellite manufacturers' proprietary information, increasing the likelihood that competition between satellite suppliers could decrease and that advancements in satellite research, innovation, and quality could be reduced. The consent order prohibits Martin Marietta's satellite manufacturing division from gaining access to competing satellite manufacturers' sensitive, nonpublic information obtained by Martin Marietta's ELV division. The order does not prevent Martin Marietta's satellite manufacturing division from exchanging information with its ELV division if it relates to Martin Marietta's own satellites.

McCormick & Company, Inc.

McCormick settled allegations regarding its 1993 acquisition of Haas Foods, Inc., a subsidiary of John I. Haas, Inc. According to the complaint issued with the consent order, the acquisition could enhance the likelihood that the remaining competitors in the market could engage in anticompetitive coordinated interaction to increase prices and restrict production. The consent order requires McCormick to divest several varieties of onion seeds necessary to produce crops of onions suitable for dehydration to an acquirer approved by the Commission.

Federal Trade Commission

McLean County Chiropractic Association

McLean County Chiropractic Association (McLean) agreed not to enter into any agreement to fix the maximum fees its member chiropractors could charge for services or to collectively attempt to negotiate fees with third party payers in an effort to fix the fees they would charge those payers. According to the complaint accompanying the consent order, the association engaged in a price fixing conspiracy, in an attempt to control chiropractic fees in the Bloomington/Normal area of Illinois. The consent order prohibits McLean from participating in any price fixing activities in the future and requires McLean to give its members copies of the settlement.

Personal Protective Armor Association

The Personal Protective Armor Association (PPAA) agreed to settle allegations that it conspired to restrain competition by declaring it unethical for its members to engage in truthful advertising, depriving purchasers of the benefits of truthful information about product performance, price disclosure, and availability. PPAA is a trade association of North American manufacturers of body armor and vests that protect wearers from certain bullet injuries. A consent order prohibits PPAA from adopting any policy that restricts its members from engaging in comparable advertising related to the price, quality, and service characteristics of soft body armor purchased by federal, state, and local law enforcement agencies. The order does not restrict PPAA from prohibiting representations that it reasonably believes to be false or deceptive.

Sara Lee Corporation

A consent order settled antitrust concerns stemming from Sara Lee's 1987 acquisition of the Esquire brand of shoe care products from Knomark, Inc. and its 1991 acquisition of the Griffin brand of self-service chemical shoe care products from Reckitt & Colman plc. The complaint accompanying the order alleges that the acquisitions substantially reduced competition in the United States market for self-service chemical shoe care products sold through grocery stores, drug stores and mass merchandisers. The complaint further alleges that Sara Lee, which sells such products through its Kiwi Brands Inc. subsidiary, made the acquisitions with the intent of maintaining a

dominant position in the market and did not report either transaction to the Commission or the Department of Justice as required under the Hart-Scott-Rodino Antitrust Improvements Act of 1976. The order requires Sara Lee to divest its Esquire and Griffin brands, along with related assets, to Hickory Industries, Inc. Sara Lee completed the divestiture in September, 1994.

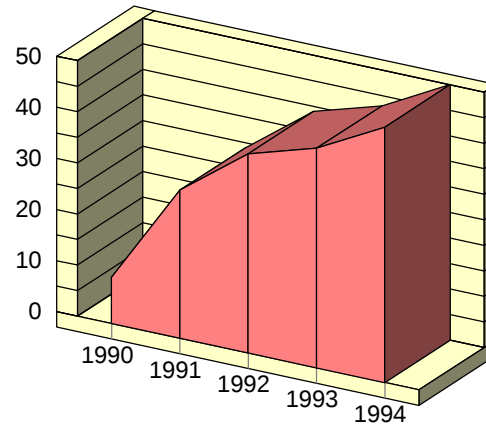
TCH Corporation

TCH Corporation and Green Equity Investors, L.P. agreed to settle allegations regarding their acquisition of the PayLess Drug Stores Northwest drug store chain from Kmart Corporation for \$1.16 billion. The complaint accompanying the consent order alleged that the acquisition could reduce competition and could increase the likelihood of higher prices or reduced customer service by retail stores selling prescription drugs in five areas of northern California, Oregon, and Washington. The order permits the acquisition but requires the companies to divest the pharmacy business in either their PayLess or the Thrifty Drug Stores/Bi-Mart stores in Bishop, Mount Shasta, and Taft, California; Florence, Oregon; and Ellensburg, Washington to a Commission approved acquirer within one year. The order contains several prior approval clauses, including a provision requiring approval of GEI's and TCH's future acquisitions of any firm engaged in the retail pharmacy business in the areas specified in the complaint.

Valspar Corporation, The

Valspar agreed to settle allegations that its acquisition of Cargill Inc.'s Resin Products Division eliminated competition between two leading firms and enhanced the likelihood of collusion or interdependent coordination among the remaining firms in the market. A consent order requires Valspar and its wholly-owned subsidiary, McWhorter, Inc., to divest assets used to manufacture certain coating resins. The divestiture must be accomplished within 12 months to a Commission approved independent company formed by Valspar through a "spin off" of Cargill's resins business, three Valspar resin producing plants, and certain nonexclusive licensing requirements. In addition, the order requires Valspar and the independent corporation to obtain prior Commission approval before acquiring any firm engaged in the manufacture of coating resins in the United States for a period of 10 years.

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



CONSUMER PROTECTION MISSION (SUMMARY)

Title	Number	Date Accepted by Comm.	Action Date	Type of Matter	Product or Service
AJM Packaging Corporation	C3508	04/19/94	07/19/94	Environmental Claims Advertising	Paper Plates
American Institute of Habit Control, Inc.	C3522	02/04/94	08/23/94	Health & Safety Products or Services Advertising	Smoking Cessation and Weight Loss Programs
America's Favorite Chicken Company	C3504	03/29/94	07/05/94	Environmental Claims Advertising	Fast Food Containers
Amoco Foam Products Company	C3514	05/09/94	08/09/94	Environmental Claims Advertising	Polystyrene Food Service Products
Archer Daniels Midland Company	C3492	01/05/93	04/12/94	Environmental Claims Advertising	Plastic Products

Federal Trade Commission

Title	Number	Date Accepted by Comm.	Action Date	Type of Matter	Product or Service
Beverly Hills Weight Loss Clinics International, Inc.	C3515	05/10/94	08/11/94	Diet Programs & Products Advertising	Weight Loss Programs
Doctors Medical Weight Loss Centers, Inc.	C3516				
Quick Weight Loss Centers, Inc. (Georgia)	C3518				
Quick Weight Loss Centers, Inc. (Texas)	C3517				
Diet Center, Inc.	C3475	09/24/93	12/22/93	Diet Programs & Products Advertising	Weight Loss Programs
Nutri/System, Inc.	C3474				
Physicians Weight Loss Centers of America, Inc.	C3476				
Eggland's Best, Inc.	C3520	02/01/94	08/15/94	Food Nutrition Advertising	Eggs
El Portal Luggage, Inc.	C3499	03/08/94	06/20/94	Advertising Claims	Luggage and Other Leather Goods
G.C. Thorsen, Inc. d/b/a G.C. Electronics, Inc.	C3467	07/14/93	10/08/93	Environmental Claims Advertising	Aerosol Products
Texwipe Company	C3466				
Gracewood Fruit Company	C3470	03/16/93	10/26/93	Food Nutrition Advertising	Grapefruit
Homespun Products, Inc.	C3483	12/17/93	03/17/94	Business Opportunities Investment Fraud	Work-at-home Business Opportunity
Russell J. Osborn d/b/a The Hairbow Company and Rainbow Productions, Inc.	C3482				
William E. Taylor and Susan L. Taylor d/b/a Sandcastle Creations	C3484				
New Mexico Custom Designs, Inc.	C3485	03/17/93			

Part II Consent Orders Issued

Appendix

Title	Number	Date Accepted by Comm.	Action Date	Type of Matter	Product or Service
Jockey International, Inc.	C3494	02/03/94	05/10/94	Advertising Claims, Mail/Telephone Order Rule	Underwear, Hosiery, and Sportswear
Keyes Fibre Company	C3512	05/03/94	08/02/94	Environmental Claims Advertising	Paper Plates
LePage's, Inc.	C3506	04/05/94	07/19/94	Environmental Claims Advertising	Transparent Tape, Plastic Tape Dispenser, Paperboard Backcard
Oak Hill Industries Corp.	C3507	04/04/94			Plastic Plates, Bowls, Utensils, and Film Packaging
Lifestyle Fascination, Inc.	C3513	04/29/94	08/04/94	Health & Safety Products or Services Advertising	Electronic Products Sold in Catalogs
Lomas Mortgage U.S.A., Inc.	C3462	06/30/93	10/07/93	Cost of Loans	Consumer Loans
MACE Security International, Inc.	C3487	01/03/94	03/25/94	Health & Safety Products or Services Advertising	MACE Formula to Stop Assailants
Manzella Productions, Inc.	C3503	03/28/94	06/30/94	Wool Labeling Statute	Gloves
Mia Rose Products, Inc.	C3509	04/05/94	07/19/94	Environmental Claims Advertising	Hair Sprays
Montgomery Ward & Company, Inc.	C3528	06/21/94	09/13/94	Pre-Sale Availability Rule	Consumer Product Warranties
Macy's Northeast, Inc.	C3527				
Sears, Roebuck & Co.	C3529				
Mr. Coffee, Inc.	C3486	03/18/93	03/25/94	Environmental Claims Advertising	Coffee Filters
Nissan Motor Corporation	C3502	02/28/94	06/29/94	Miscellaneous Advertising Practices	Automobile Manufacturing
North American Plastics Corporation	C3526	03/22/93	09/07/94	Environmental Claims Advertising	Plastic Trash Bags

Federal Trade Commission

Title	Number	Date Accepted by Comm.	Action Date	Type of Matter	Product or Service
Nu Skin International, Inc.	C3489	01/03/94	04/01/94	Business Opportunities Investment Fraud	Baldness Treatment, Wrinkle Cream, and Burn Cream
Numex Corporation	C3463	05/18/93	10/07/93	Infomercials	Handheld Mechanical Roller Device to Relieve Pain
Gisela E. Flick	C3464				
James L. McElhaney, M.D.	C3465				
Orkin Exterminating Company, Inc.	C3495	03/10/93	05/25/94	Environmental Claims Advertising	Pesticides Used in Residential Lawn Care Services
Osram Sylvania, Inc.	C3471	08/19/93	11/17/93	Energy Advertising	Light Bulbs
Presto Food Products, Inc.	C3480	11/23/93	02/23/94	Food Nutrition Advertising	Liquid Nondairy Creamer Products
Redmond Products, Inc.	C3479	10/21/93	02/10/94	Environmental Claims Advertising	Aerosol Hair Sprays
Samick Music Corporation	C3496	02/25/94	05/27/94	Miscellaneous Advertising Practices	Piano Soundboards
Unocal Corporation	C3493	12/23/93	04/28/94	Energy Advertising	Gasoline
Vein Clinics of America, Inc.	C3501	01/21/94	06/24/94	Health & Safety Products or Services Advertising	Nonsurgical Treatment for Varicose and Spider Veins
White Castle System, Inc.	C3477	10/12/93	01/06/94	Environmental Claims Advertising	Fast Food Containers
Wyatt Marketing Corporation, Inc.	C3510	04/26/94	07/27/94	Infomercials	Book on Availability of Government Grants and Loans
James R. Wyatt	C3511				

CONSUMER PROTECTION MISSION (DETAIL) *AJM Packaging Corporation; Abram Epstein*

AJM Packaging and its president, Abram Epstein, agreed to settle allegations that they made false and unsubstantiated claims that their Nature's Own Green Label disposable paper plates are biodegradable and recyclable. The consent order prohibits the respondents from

representing that any product or package they sell offers any environmental benefit unless they can substantiate the claim. Further, the respondents are prohibited from misrepresenting that any paper product or package is capable of being recycled or misrepresenting the extent to which recycling collection programs for such products are available.

American Institute of Habit Control, Inc.; Steven Present

The American Institute of Habit Control and its president, Steven Present, agreed to settle allegations that they made false and unsubstantiated claims in their advertisements about the success of their smoking cessation and weight loss seminars. The consent order prohibits the company and its president from making any representation about the performance or efficacy of any smoking cessation or weight loss program, unless they possess and rely upon competent and reliable scientific evidence to substantiate the representation.

America's Favorite Chicken Company

America's Favorite Chicken, the parent company of the Church's and Popeye's fast-food chains, agreed to settle allegations that it made false and misleading claims about the recyclability of its food containers. The consent order prohibits the company from misrepresenting the extent to which any product or package is capable of being recycled or misrepresenting the extent to which recycling collection programs are available for such products.

Amoco Foam Products Company; Amoco Chemical Company

Amoco Foam Products and its parent company, Amoco Chemical, agreed to settle allegations that they made false and unsubstantiated environmental claims for their foam polystyrene plates, cups, and other food service products. The consent order prohibits Amoco from misrepresenting the recyclability of their polystyrene food service products or packaging material and from misrepresenting that recycling collection programs for such products or packaging materials are available.

Federal Trade Commission

Archer Daniels Midland Company

Archer Daniels Midland Company (ADM) agreed to settle allegations that it made unsubstantiated representations in network television commercials and promotional materials about the biodegradability of plastic products containing its corn starch additive. The consent order prohibits the company from making any representations about the degradability of any ADM products or plastic product additives when disposed of in landfills, or about any environmental benefit offered by such products or additives, unless they possess and rely upon competent and reliable evidence to substantiate the representation.

Beverly Hills Weight Loss Clinics International, Inc.;
Doctors Medical Weight Loss Centers, Inc.;
Quick Weight Loss Centers, Inc. (Georgia);
Quick Weight Loss Centers, Inc. (Texas)

Four marketers of commercial diet programs agreed to settle allegations that they made deceptive weight loss, weight maintenance, and pricing claims. The consent orders prohibit the companies from misrepresenting the performance or safety of any diet program they offer in the future. In addition, the consent orders prohibit the companies from making any claims about the effect of their programs on weight loss, weight loss maintenance, or rate of weight loss, unless they possess and rely upon competent and reliable scientific evidence to substantiate the claims.

Diet Center, Inc.; Nutri/System, Inc.;
Physicians Weight Loss Centers of America, Inc.

Three of the nation's largest commercial diet program companies agreed to settle allegations that they engaged in deceptive advertising by making unsubstantiated weight loss maintenance claims and by using consumer testimonials without substantiation that the testimonials represented the typical experience of dieters on the programs. The consent orders prohibit the companies from making any representations about the performance or safety of any weight loss program they offer in the future, unless they possess and rely upon competent and reliable scientific evidence to substantiate the representations.

Eggland's Best, Inc.

Eggland's Best agreed to settle allegations that its advertising and promotional materials deceptively represented that Eggland's eggs will not increase consumers' serum blood cholesterol and that they are superior to regular eggs in this respect. The consent order prohibits the company from misrepresenting the amount of nutrients or other ingredients in its eggs or foods containing egg yolks. The order requires Eggland's to have scientific substantiation to support future health benefit claims for such foods and, for one year, to label certain egg packages with a corrective notice stating that no studies show its eggs are different from other eggs in their effect on serum cholesterol.

El Portal Luggage, Inc.

El Portal agreed to settle allegations that it misrepresented that foreign made articles were made in the United States. The consent order prohibits El Portal from misrepresenting the identity of the country of origin of any product it sells. The order also prohibits the company from removing, altering, obliterating, or concealing any country-of-origin designation attached to a product it receives or offers for sale.

G.C. Thorsen, Inc. d/b/a G.C. Electronics, Inc.; Texwipe Company

Two manufacturers of computer and office equipment care and maintenance products agreed to settle allegations that they made false and misleading environmental claims in the marketing of their aerosol cleaning products. The complaint alleged that the companies marketed their products as ozone-safe or ozone-friendly, when the products contained a known ozone-depleting chemical. The consent orders prohibit the companies from making representations about any environmental benefit in using their products, unless the companies possess and rely upon competent and reliable evidence to substantiate the claims.

Federal Trade Commission

Gracewood Fruit Company

Gracewood agreed to settle allegations that it made unsubstantiated claims about the health benefits of grapefruit and about the results of various studies of the benefits of grapefruit consumption. The consent order requires the company to have reliable scientific evidence to back up future claims that eating normal quantities of grapefruit provides a variety of health benefits, including significantly reducing serum cholesterol and the risk of stroke, heart attack, and several types of cancer.

*Homespun Products, Inc.; New Mexico Custom Designs, Inc.;
Russell J. Osborn d/b/a The Hairbow Company and Rainbow
Productions, Inc.;
William E. Taylor and Susan L. Taylor d/b/a Sandcastle Creations*

Four promoters of work-at-home business opportunities agreed to settle allegations that they misrepresented the weekly earnings that consumers could expect to realize by assembling craft items for the promoters. The consent orders prohibit the companies from making any material misrepresentations regarding the earnings or profits of participants in any work opportunity. In addition, the individual respondents doing business as Sandcastle Creations agreed to pay \$25,000 for consumer redress.

Jockey International, Inc.

Jockey International agreed to settle allegations that it failed to properly identify the country-of-origin and generic fiber names for clothing in advertisements contained in magazines and mail order catalogs. The consent order requires the company to disclose where its clothing is made and to use the correct generic fiber name.

Keyes Fibre Company

Keyes Fibre Company, maker of Chinet disposable tableware, agreed to settle allegations that it made false and unsubstantiated environmental claims for its paper plates. The consent order prohibits the company from making unsubstantiated claims that its products or packages are degradable, biodegradable, or photo degradable, or that

their degradability offers any environmental benefit when disposed of as trash and buried in a sanitary landfill.

LePage's, Inc.; Oak Hill Industries Corp.

Two companies agreed to settle allegations that they made false and misleading claims about the environmental benefits of their products. The consent orders prohibit the companies from representing that their products offer any environmental benefit unless they can substantiate the claims with competent and reliable scientific evidence.

Lifestyle Fascination, Inc.; Simon Pantierer; Eli Zabare

Lifestyle Fascination and two of its officials, Simon Pantierer and Eli Zabare, agreed to settle allegations that they made false and unsubstantiated claims for five products marketed through their catalog. The consent order prohibits the respondents from making the alleged false claims. It also prohibits them from making any representations about the performance, safety, or efficacy of consumer electric or electronic products they sell in the future, unless they possess and rely upon competent and reliable scientific evidence to substantiate the representation.

Lomas Mortgage U.S.A., Inc.

Lomas agreed to settle allegations that it deceptively represented the lock-ins it offered consumers on certain types of loans and that, in some instances, it failed to lock in the interest rate or the number of discount points at the level agreed to by consumers. The consent order prohibits Lomas from misrepresenting the terms or nature of lock-in agreements it offers consumers in the future and requires the company to pay \$300,000 in consumer redress.

MACE Security International, Inc.

MACE Security International and several other respondents agreed to settle allegations that they exaggerated the ability of their MACE formula to instantly stop assailants and that they failed to disclose important limitations on the product's effectiveness. The consent order requires the respondents to have competent and reliable

Federal Trade Commission

evidence to support any claims about the efficacy or performance of any chemical self-protection product they sell in the future.

Manzella Productions, Inc.; Anthony L. Manzella, Jr.

Manzella Productions and its owner, Anthony Manzella, Jr., agreed to settle allegations that they misrepresented that gloves made in China were made in the United States. The consent order prohibits the respondents from misrepresenting the extent to which any gloves or other apparel it sells in the future are made in the United States or any other country. The order also requires the respondents to pay \$7,500 to the U.S. Treasury.

Mia Rose Products, Inc.; Mia Rose Palencar

Mia Rose Products and a company officer, Mia Rose Palencar, agreed to settle allegations that they made false and unsubstantiated claims about Air Therapy and Pet Air air cleaning and freshening sprays. The consent order prohibits the respondents from making these claims in the future. In addition, the order prohibits the respondents from making any unsubstantiated efficacy or performance claims for any of their air cleaning, air freshening, or insecticidal products.

Montgomery Ward & Company, Inc.; Macy's Northeast, Inc.; Sears, Roebuck & Company

Three companies agreed to settle allegations that they failed to make the text of manufacturers' consumer products warranties available to consumers prior to purchase, in violation of the Pre-Sale Availability of Written Warranty Terms Rule. The consent orders prohibit the companies from violating the Rule in the future.

Mr. Coffee, Inc.

Mr. Coffee agreed to settle allegations that it made false and unsubstantiated environmental claims for its coffee filters and packaging. The consent order prohibits false or unsubstantiated environmental claims about any paper product or package it markets in the future, including claims concerning a new, chlorine-free

manufacturing process and the recycled and recyclable claims contained on the Mr. Coffee filters package.

Nissan Motor Corporation

Nissan agreed to settle allegations that it falsely represented to consumers that they could readily obtain \$100 if they bought a Honda Accord or Toyota Camry after test driving a Stanza. The allegations concerned advertisements made in connection with the Nissan Challenge promotion campaign. The consent order requires the company to make certain disclosures in advertisements representing that a person who test drives a Nissan vehicle can obtain a promotional benefit, if significant restrictions prevent the person from readily obtaining the benefit.

North American Plastics Corporation; Harold V. Engh, Jr.

North American Plastics and a company officer, Harold Engh, Jr., agreed to settle allegations that they made unsubstantiated environmental claims for EnviroGard plastic trash bags, including representations that, when disposed of in landfills, the bags break down relatively quickly and offer a significant environmental benefit compared to other plastics bags. The consent order prohibits the respondents from making any unsubstantiated representation concerning the environmental benefit or degradability of any product.

Nu Skin International, Inc.; CJM, Inc.; CST Management, Inc.; CK & C, Inc.; Clara McDermott; Craig Tillotson; Craig Bryson

Nu Skin International, three other companies, and three leading distributors agreed to settle allegations that they falsely represented the earnings potential of Nu Skin distributors and that they made false and unsubstantiated claims for a baldness treatment, a wrinkle lotion, and a burn cream. The consent order requires the respondents to pay a total of \$1.225 million to the U.S. Treasury. In addition, the order prohibits the respondents from making the specifically challenged claims for the three products or substantially similar products and requires them to have evidence to back up similar claims for any product they market in the future. The consent order also contains required disclosures in connection with future earnings claims.

Federal Trade Commission

Numex Corporation; Gisela E. Flick; James L. McElhaney, M.D.

Numex Corporation and two of its officers, Gisela Flick and James McElhaney, agreed to settle allegations that they made numerous false or unsubstantiated claims in an infomercial promoting Therapy Plus, a handheld mechanical roller device that they claimed would relieve various kinds of musculoskeletal pain, including the pain of arthritis. The infomercial allegedly included a deceptive expert endorsement and deceptive consumer testimonials. The consent orders prohibit similar deceptive practices in the future and require future health and pain-relief claims to be substantiated with competent and reliable scientific evidence.

Orkin Exterminating Company, Inc.

Orkin agreed to settle allegations that it made unsubstantiated advertising claims about the safety of the pesticides used in the company's residential lawn care service programs. The consent order prohibits the company from advertising that its pesticides are as safe as some common household products or that they pose no significant risk to human health or the environment, unless it possesses competent scientific evidence to substantiate the claims.

Osram Sylvania, Inc.

Osram agreed to settle allegations that packages for Sylvania's Energy Saver bulbs, while claiming cost-savings and environmental benefits, falsely represent that the bulbs provide the same amount of light as the ordinary, higher-wattage bulbs they are designed to replace. The consent order prohibits Osram from misrepresenting the relative light output or wattage of any light bulb it sells in the future, except for certain specialty light bulbs. In addition, Osram must clearly and prominently disclose this fact to consumers when claimed electricity cost-savings or environmental benefits are attributable to the fact that the bulbs produce less light.

Presto Food Products, Inc.

Presto agreed to settle allegations that it made false and misleading representations about the amount of total fat or saturated fat in liquid nondairy creamer products. The consent order prohibits

Presto from misrepresenting the amount of total fat, saturated fat, or cholesterol in any milk product or nondairy milk substitute.

Redmond Products, Inc.

Redmond Products agreed to settle allegations that it made deceptive and unsubstantiated environmental claims in the labeling and advertising of its Aussie and New Zealand Paradise aerosol hair sprays. The consent order prohibits the company from making unsubstantiated representations, through the use of such terms as “environmentally formulated,” that any product it sells containing volatile organic compounds will not harm the atmosphere or the environment. The order also prohibits Redmond from making unsubstantiated representations about the environmental benefit of cosmetic products it sells in the future.

Samick Music Corporation

Samick Music agreed to settle allegations that it misrepresented the wood content of the soundboards in pianos it sold through retailers across the country. The consent order prohibits the company from misrepresenting the composition of its piano soundboards or any other piano parts in the future. The consent order also requires the company to pay \$266,000 to the U.S. Treasury.

*Unocal Corporation; Union Oil Company of California;
Leo Burnett Company, Inc.*

Unocal Corporation, Union Oil Company of California, and their advertising agency, Leo Burnett Company, Inc., agreed to settle allegations that they made unsubstantiated performance longevity claims in advertising for Unocal’s 89 and 92 octane gasoline grades. The consent order prohibits the respondents from making any claims about the attributes or performance of any gasoline without having competent and reliable scientific evidence to substantiate them and requires a corrective statement to be inserted into every consumer bill.

Vein Clinics of America, Inc.; D. Brian McDonagh, M.D.

Vein Clinics and a company officer, D. Brian McDonagh, agreed to settle allegations that they misrepresented the risks, recurrence rate,

Federal Trade Commission

and exclusivity of Vein Clinics' compression sclerotherapy, a nonsurgical treatment for varicose and spider veins. The consent order prohibits the company and its officer from misrepresenting the likely recurrence rate for any venous disease following treatment and from misrepresenting the newness, availability, safety, risks, or potential side effects of any cosmetic or plastic surgery procedures.

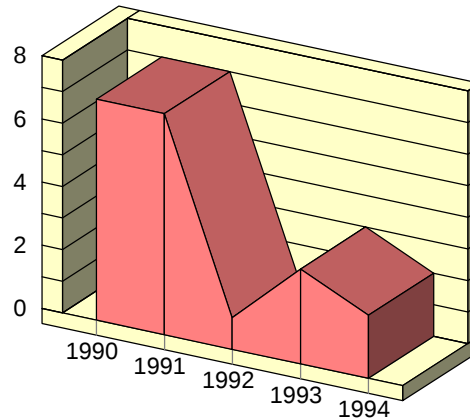
White Castle System, Inc.

White Castle System agreed to settle allegations that it made false and misleading recyclability claims on its fast food containers. The consent order prohibits the company from misrepresenting the extent to which paper products or packages are capable of being recycled or the extent to which recycling collection programs are available for such products.

Wyatt Marketing Corporation, Inc.; James R. Wyatt

Wyatt Marketing and James Wyatt agreed to settle allegations that they made false claims about Wyatt's book on the availability of government grants and loans, including that consumers who used the book could get an average of \$87,500 in such loans or grants. The challenged claims were made in an infomercial for the book, *101 Ways to Get Cash From the Government*. The consent orders prohibit Wyatt and his company from making future unsubstantiated claims regarding, among other things, the availability of grants, loans, or other benefits from any source for any purpose; the terms or conditions of getting government loans or grants; methods for starting or operating a business; or whether a book contains information on a particular subject.

**PRELIMINARY/PERMANENT INJUNCTIONS
COMPETITION MISSION**



COMPETITION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Abbott Laboratories	X920038	05/27/94	Bid Rigging	Infant Formula
Red Apple Companies, Inc.	D09266	09/23/94	Merger	Supermarkets
Sisters of Charity Healthcare Systems, Inc.	9310125	01/31/94	Merger	Inpatient Acute-care Hospital Services

COMPETITION MISSION (DETAIL) *Abbott Laboratories*

A 1992 administrative complaint alleged that Abbott Laboratories, the largest U.S. manufacturer of infant formula, communicated with its competitors in an effort to submit similar types of bids to supply formula to Puerto Rico under the U.S. Government's funded Special Supplemental Food Program for Women, Infants and Children (WIC). The U.S. District Court for the District of Columbia found that, although Abbott Laboratories submitted a plausible explanation for its second round bid strategy, the submission of three noncompetitive second round bids is questionable and raises the possibility of a collusive bidding pattern. The judge dismissed the complaint and ruled that the Commission failed to prove that Abbott was acting in collusion with its

Federal Trade Commission

competitors. The judge commented that, while the Commission was not able to sustain its case against Abbott, "there is little doubt in this court's view that violative conduct occurred." The court also praised the Commission for bringing the case and for obtaining the restitution that was received from Mead Johnson & Company and American Home Products. The Commission determined not to appeal the decision.

Red Apple Companies, Inc.

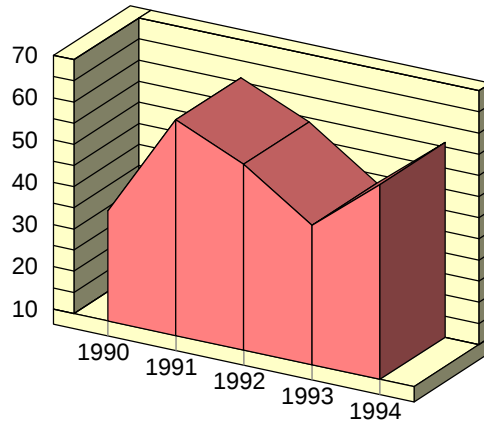
The Commission authorized staff to file a preliminary injunction in federal district court to block Rite Aid Corporation's proposed acquisition of certain Sloan's Supermarkets, Inc. and Red Apple Companies, Inc. supermarkets located in Manhattan, New York. These same stores were already involved in an ongoing Commission administrative proceeding. The Commission had earlier issued an administrative complaint challenging the acquisition of certain Sloan's supermarkets by Red Apple Companies, Inc. (D-9266). The requested relief described in the Notice of Contemplated Relief attached to the complaint identified certain Sloan's stores to be divested. After issuance of the complaint, staff learned that the respondents were planning to sell some of the supermarkets listed in the Notice of Contemplated Relief to Rite Aid Corporation, who planned to convert these supermarkets into retail drug stores. The Commission authorized staff to file a preliminary injunction in federal district court to block the sale of these stores. This is the first time the Commission authorized staff to seek injunctive relief to prevent the shut down and sale of assets that were potential candidates for divestiture under the Notice of Contemplated Relief portion of an administrative complaint.

Sisters of Charity Healthcare Systems, Inc.

The Commission authorized staff to seek a preliminary injunction in federal district court to block Sisters of Charity's proposed acquisition of Parkview Episcopal Medical Center. The Commission alleged that the acquisition would substantially reduce competition and tend to create a monopoly by combining the only two general acute-care hospitals in Pueblo County, Colorado. The parties abandoned the transaction before the case was filed in court.

Federal Trade Commission

PRELIMINARY AND PERMANENT INJUNCTIONS CONSUMER PROTECTION MISSION



CONSUMER PROTECTION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
AAA Quality Electric, Inc.	X940040	03/17/94	Miscellaneous Advertising Practices	Electrical Repair Company
Anthony J. Prall	X910073	02/22/94	Alcohol & Tobacco Advertising	Breathalyser Device
Barry L. Freedman (Wolf Group)	X940029	09/12/94	Business Opportunities Investment Fraud	Vending Machines Sold as Business Opportunities
Donald Ira Pinansky (Wolf Group)				
Gerald A. Newmann (Wolf Group)				
James M. Hayes (Wolf Group)				
John C. Daley (Wolf Group)				
Joseph Leonardo (Wolf Group)				
Sandy P. Klein (Wolf Group)				
Barry and Sarah Gross (Southwest Sunsites)	X870011	08/04/94	Advertising Claims	Land

Preliminary/Permanent Injunctions**Appendix**

Title	Number	Action Date	Type of Matter	Product or Service
The Baylis Company, Inc.	X940022	01/10/94	Publishing, Telemarketing Fraud, and Advertising Claims	Alcohol Abuse Prevention Program
Bill Whitely (American Microtel)	X920030	12/23/93	Lottery Application Filing Svcs. Investment Fraud	Wireless Cable Television Lottery
Brian Corzine (Chase Consulting)	X940076	09/12/94	Credit Service Fraud	Credit Repair Program on an On-line Computer Service
Car Checkers of America, Inc.	X930019	11/16/93	Franchise Rule	Mobile Auto Inspection Services
Chase-Blade, Inc. and Blade Thomas (LaserVision)	X940026	03/23/94	Health & Safety Products or Services Advertising	Pinhole Eyeglasses
Christopher Puma d/b/a Southland Consultants	X940075	08/23/94	Credit Services Fraud	Advance Fee Loans
Communi-dyne, Inc.	X940002	07/12/94	Franchise Rule	Coin Operated Breathalyzer Devices
Comtel Data Systems, Inc.	X940046	04/12/94	Franchise Rule	Public Fax Machines and Display Rack Opportunities
Dahlonge Mint d/b/a Chattanooga Coin Co.	X940037	04/11/94	Advertising Claims	Collectable Coins
Delta Financial Services, Inc.	X920049	09/30/94	Credit Services and "900" Number Rule	Unsecured Loans
Digital Communications, Inc.	X940017	11/03/93	Telemarketing	Mobile Radio Systems
Durand Keith Demlow (Earthbound)	X940001	09/09/94	Health & Safety Products or Services Advertising	AIDS, ARC, and HIV Treatment or Cure
Lifeline, Inc. & Robert Danek (Earthbound)				
Electronic Clearing House, Inc.	X940035	01/04/94	Awards & "Free" Prizes Telemarketing	Prize-promotion Telemarketing
Gem Merchandising Corporation	X940058	05/17/94	Awards & "Free" Prizes Telemarketing	Medical Alert Systems Marketing

Federal Trade Commission

Title	Number	Action Date	Type of Matter	Product or Service
Henry Ginsberg (Academic Guidance Services)	X920073	11/10/93	Business Opportunities Investment Fraud	Licenses to Sell College Financial-aid Information to Students
Heritage Publishing Company	X940057	06/27/94	Charitable Solicitation Telemarketing	Donations to Nonprofit Entities
Hillary's Gourmet Ice Cream, Inc.	X940047	04/26/94	Franchise Rule	Gourmet Ice Cream Parlor
International Assets Trading Company, Inc.	X920075	11/22/93	Gemstones Investment Fraud	Gemstone Appraisal Services
International Computer Concepts, Inc.	X940071	08/17/94	Franchise Rule	Computer Software Display Rack Business
James Norman Wells	X900059	02/11/94	Diet Programs & Products Advertising	Diet Program
Dorothy S. Wells	X900059	08/24/94		
Main Distribution Center, Inc.	X940060	07/05/94	Telemarketing and Advertising Claims	Photocopier Toner and Other Office Supplies
Marketing Twenty-One, Inc. d/b/a Genesis Enterprises	X940064	07/13/94	Charitable Solicitation Telemarketing	Donations to Nonprofit Entities
Megatrend Telecommunications, Inc.	X940016	11/05/93	Franchise Rule	Cordless, Coinless Telephone
National Dietary Research, Inc.	X940020	11/09/93	Diet Products and Advertising	Weight Loss Product
Natural Vision International, Ltd.	X940031	10/20/93	Health & Safety Products or Services Advertising	Pinhole Eyeglasses
John App	X940030	10/19/93		
NCH, Inc. d/b/a National Clearing House, Inc.	X940023	02/14/94	Charitable Solicitation Telemarketing	Solicit Funds by Telephone for a Charitable Organization
Pase Corporation	X940059	06/13/94	Business Opportunities Investment Fraud	Work-at-home Business Opportunity

Preliminary/Permanent Injunctions**Appendix**

Title	Number	Action Date	Type of Matter	Product or Service
Publishing Clearing House, Inc.	X940063	07/13/94	Charitable Solicitation Telemarketing	Solicit Funds by Telephone for a Charitable Organization
Renaissance Fine Arts, Ltd.	X940048	01/27/94	Art Investment Fraud	Art Auction Firm
Salsa's Franchise Development Corporation	X940053	05/09/94	Franchise Rule	Various Restaurant Franchises
Scott Wilcox	X940011	10/25/93	Awards & "Free" Prizes Telemarketing	Direct-mail Promotions
Silueta Distributors, Inc.	X940010	11/22/93	Diet Products Advertising (in Spanish)	Cellulite Treatment
SMI/USA, Inc.	X940003	10/22/93	Franchise Rule	Self-improvement Courses, Tapes, and Other Products
Southeast Necessities Co., Inc. d/b/a Dr.'s Choice	X940075	09/07/94	Franchise Rule	Display Racks Featuring Diet Products as Business Opportunity
Telefundors for the Gleaners	X940028	03/01/94	Charitable Solicitation Telemarketing	Solicit Funds for Teenage Drug and Alcohol Rehabilitation Programs and Food Banks
Thomas A. Peltier (Interactive Communications Assets)	X910024	02/25/94	Credit Card & Credit Svcs Fraud	Credit Services Marketing
Turcal, Inc. d/b/a ProMatch Advertising Network	X940027	03/03/94	Real Estate Advertising Practices	Timeshare Resale Services
United Holdings Group, Inc.	X940043	04/06/94	Charitable Solicitation Telemarketing	Prize-promotion Techniques to Induce Consumers to Donate Money
William F. Lawler (Hawthorne Communications, Inc.)	X940018	11/20/93	Infomercials	Computer-based Consulting Business
Winner's Circle of Chicago, Inc.	X910040	02/04/94	Awards & "Free" Prizes Telemarketing	Memberships in Camping, Resort and Buying Clubs
Wolf Group	X940029	03/03/94	Business Opportunities Investment Fraud	Vending Machines Sold as Business Opportunities

Federal Trade Commission

Title	Number	Action Date	Type of Matter	Product or Service
Worldwide Credit, Inc.	X930007	07/06/94	Credit Card & Credit Svcs Fraud	Advance Fee Loans

CONSUMER PROTECTION MISSION (DETAIL)

AAA Quality Electric, Inc.; All County Management Services, Inc.

The Commission alleged that AAA Quality Electric and several other companies operating under the umbrella of All County Management Services sold unnecessary electrical repairs to consumers and charged their credit cards without authorization, including double billing for service calls. The Commission is seeking a permanent injunction and redress for consumers.

*Anthony J. Prall; Patriot Alcohol Testers, Inc.;
Patriot Industries, Inc.*

Anthony Prall, owner of Patriot Alcohol Testers and Patriot Industries was charged with three counts of criminal contempt for allegedly violating a court order which prohibited making deceptive claims about the Patriot 5000, a coin-operated blood alcohol breathalyser. The allegations stem from a 1991 Commission case in which defendants were alleged to have misrepresented the profitability of the Patriot 5000 device and its accuracy in measuring intoxication.

*Barry L. Freedman; Donald Ira Pinansky; Gerald A. Newmann;
James M. Hayes; John C. Daley; Joseph Leonordo; Sandy P. Klein*

The Commission obtained a settlement with seven individuals, collectively called the Wolf Group and led by Marvin Wolf, regarding allegations that they were involved in a deceptive scheme to sell vending machines as business opportunities. The settlement prohibits the defendants from making any future misrepresentations in connection with marketing franchises or business opportunities or in connection with any telemarketing activities.

Barry Gross; Sarah Gross

The Commission is seeking payment of consumer redress, required by a 1990 court order, from Barry and Sarah Gross, trustees

of the Sydney and Sarah Gross Trust. Consumer redress in the amount of \$2.5 million is required in conjunction with the settlement with Southwest Sunsites, Inc. The payments were unconditionally guaranteed by the Sydney and Sarah Gross Trust. The defendants made payments totaling over \$1 million to the fund, however \$965,500 remains unpaid. The Commission asked the court to order the trustees to pay all sums owed under the redress agreement plan.

Baylis Company, Inc., The

The Commission alleged that Baylis and three individual defendants deceptively solicited advertising for a purported drug and alcohol abuse prevention program called Health Watch and Health Watch Prevention Services. Baylis allegedly solicited magazine ads from small businesses in 22 states, enticing them to pay as much as \$1,595 each for ads by falsely representing that Baylis is a nonprofit organization and that it spends a substantial portion of its advertising proceeds to support substance abuse programs in schools in the advertisers' communities. The Commission is seeking a permanent injunction and redress for the small businesses allegedly victimized by the defendants.

Bill Whitely

The Commission obtained a settlement with Bill Whitely, a defendant in the case against American Microtel, regarding an allegedly deceptive scheme to sell application services for a federal lottery to award licenses to operate wireless cable systems. The settlement permanently bans Whitely from offering consumers any application preparation or filing services for any federal lottery or any investment involving an FCC license.

Brian Corzine d/b/a/ Chase Consulting

A court froze the assets of Brian Corzine and issued an order temporarily halting him from making false claims in the course of promoting his \$99 credit repair program on America On-line. The program allegedly advises consumers to take illegal steps in order to repair their credit records, while representing that it is 100% legal. This is the Commission's first case targeting advertising on the

Federal Trade Commission

information superhighway. The Commission is seeking a permanent injunction and redress for consumers.

Car Checkers of America, Inc.

The Commission obtained a settlement with Car Checkers, a franchisor of mobile auto inspection services, to settle allegations it deceived franchisees into purchasing the franchise by making false claims, using company officials to pose as successful franchisees, and falsely representing other aspects of operating a Car Checkers franchise. The settlement prohibits Car Checkers and its officers from making any false or misleading representations as to the success, expected profit, or volume of business of any franchise or business venture they may offer in the future.

Chase-Blade, Inc.; Blade Thomas

The Commission obtained a settlement with Chase-Blade, Inc. and an officer, Blade Thomas, to settle allegations that they falsely represented their pinhole glasses could correct vision disorders and permanently cure a wide range of vision deficiencies, including farsightedness, nearsightedness, and astigmatism. The settlement prohibits the defendants from making future false claims or engaging in the specific challenged practices.

Christopher Puma d/b/a Southland Consultants; Jeanette Puma

A court issued a temporary restraining order and an asset freeze against Christopher Puma, doing business as Southland Consultants, and Jeanette Puma. The Commission alleged that the defendants falsely represented to consumers that they would receive loans upon payment of an advance fee and misrepresented the company's refund policy. The Commission is seeking a permanent injunction and consumer redress.

CommuniDyne, Inc.; Roger Gerber

The Commission obtained a settlement with CommuniDyne, a firm marketing franchises for coin operated alcohol breathalyzers to bars, and its principal, Roger Gerber, to settle allegations that they made false and misleading representations to sell their product as

business opportunities to distributors and that they violated provisions of the Franchise Rule by failing to make important, prepurchase disclosures. The settlement prohibits future misrepresentations and requires disclosures consistent with the Franchise Rule.

Comtel Data Systems, Inc.

A court froze the assets of Comtel and several other defendants and temporarily halted an allegedly deceptive nationwide scheme to sell public fax machine and display rack business opportunities. The Commission alleged that the defendants engaged in a variety of deceptive practices to entice consumers to invest from \$10,000 to nearly \$70,000 each. The Commission is seeking a permanent injunction and redress for purchasers of Comtel's business ventures.

Dahlonge Mint d/b/a Chattanooga Coin Co.; Lewis Revels

The Commission alleged that Chattanooga promoted coins issued by the Hutt River Province in Australia as official coins issued by the authority of a government, when the coins were actually privately minted commemorative tokens with no legally established monetary value. The Hutt River Province is a private farming property within Australia and not a government authorized to issue coins. The Commission asked the court to permanently prohibit Chattanooga and its president, Lewis Revels, from making these or any other deceptive claims in connection with the future marketing of collectible items and to order redress for consumers who purchased the Hutt River tokens.

*Delta Financial Services, Inc.; Lee Larson Elmore;
Delta American Financial Services Corporation*

The Commission obtained a settlement with Delta Financial Services, its principal Lee Larson Elmore, and a related company, Delta American Financial Services Corporation, settling allegations that they ran a deceptive "900" number loan brokering service. The defendants agreed not to falsely represent that they can routinely obtain unsecured loans for consumers with poor credit histories or to make any other deceptive credit-related claims in the future.

Federal Trade Commission

Digital Communications, Inc.

A court froze the assets of Digital Communications and nine other defendants and temporarily halted their allegedly deceptive practices involving the telemarketing of general partnership investments in specialized mobile radio networks. The Commission alleged that prospective investors paid approximately \$8,000 per partnership unit based, in part, on the defendants' false representations that the investment was a low risk, highly profitable venture. The Commission is seeking a permanent injunction and consumer redress.

Durand Keith Demlow; Lifeline, Inc.; Robert Danek

The Commission obtained two separate settlements with Durand Demlow and with Lifeline and its president, Robert Danek, to settle allegations that they made false claims in connection with the promotion of a phony AIDS cure sold under the names Imuno-Flex and Natur-Earth. The settlements permanently prohibit the respondents from, among other things, making any false or misleading representations about the safety or efficacy of the product or any other food or drug.

Electronic Clearing House, Inc.

The Commission obtained a settlement with Electronic Clearing House to settle allegations that it aided and abetted deceptive prize promotion telemarketers by continuing to process their credit card sales even when it knew, or should have known, about their deceptive sales practices. The settlement prohibits the company from assisting any prize promotion telemarketer, requires it to conduct monthly investigations of each telemarketer with whom it does business and whose credit card transactions total \$30,000 or more per month, and requires it to terminate any telemarketers who are engaging in fraudulent, deceptive, or unfair practices.

Gem Merchandising Corporation; Summit Medi-Alert, Inc.; Starcrest Services, Inc.; Willie E. Lennon; Alexander S. Estfan; Chantal Azanga

The Commission alleged that Gem Merchandising, two other telemarketers, and their principal officers and managers made

numerous false representations in a prize promotion scheme. The Commission alleged that consumers were promised a \$10,000 cashier's check, vacations, or other prizes if they agreed to purchase a medical alert system or other merchandise at prices ranging from \$598 to \$1,000. In almost all cases, consumers received only a vacation voucher containing a number of conditions that rendered it virtually impossible to use. The Commission is seeking a permanent injunction and consumer redress.

Henry Ginsberg

The Commission obtained a settlement with Henry Ginsberg in connection with its case against Academic Guidance Services. The Commission alleged that Ginsberg made numerous misrepresentations in the marketing of licenses to sell scholarship search information. The settlement bars Ginsberg from misrepresenting material facts about any business opportunity he sells in the future.

Heritage Publishing Company

Heritage Publishing, a for-profit corporation, agreed to settle allegations that it made numerous false representations in connection with its charitable solicitations and collections. The Commission alleged that Heritage misrepresented the percentage of consumers' donations that go to nonprofit entities and falsely represented that funds would be earmarked for activities in the donors' own areas. The settlement permanently prohibits Heritage from making these and other false representations in fundraising activity in the future; requires Heritage to disclose the percentage of collected funds that it turned over to charity in the past, when resoliciting certain former contributors; and requires the company to pay \$200,000 to the U.S. Treasury.

Hillary's Gourmet Ice Cream, Inc.; Hillary's Services, Inc.

The Commission obtained a settlement with Hillary's Services, its parent company, Hillary's Gourmet Ice Cream, and other defendants to settle allegations that they violated the Franchise Rule by making earnings claims to potential franchise buyers without providing the required documents to support the claims, failing to

Federal Trade Commission

refund franchise fees as promised, and failing to give a required disclosure statement to potential franchise buyers at least 10 days prior to their purchase. The settlement prohibits future violations of the Franchise Rule.

International Assets Trading Company, Inc.

The Commission obtained a settlement with International Assets, an investment telemarketer, to settle allegations that it falsely represented the market value and risks of its gemstone investments. The settlement prohibits similar deceptive conduct in the future and requires, in any future marketing of gemstone investments, that the company make certain disclosures to inform consumers of the risks involved.

International Computer Concepts, Inc.; Helen Schumaker; Lawrence Schumaker

A court froze the assets of International Computer Concepts, a franchiser of computer software display rack businesses, and temporarily barred it from engaging in a variety of allegedly deceptive activities. The Commission alleged that the company and its principals, Lawrence and Helen Schumaker, misrepresented the potential earnings of franchise buyers and violated the Franchise Rule. The Commission is seeking redress for franchisees and permanent prohibitions against similar misrepresentations and Franchise Rule violations.

James Norman Wells; Dorothy S. Wells

James Wells was arrested by federal authorities and charged with criminal contempt in connection with the Commission's case against Pacific Medical Clinics. Wells allegedly transferred, or directed the transfer of, assets in violation of a court-ordered asset freeze issued at the request of the Commission in 1990. Dorothy Wells, his former wife and officer of various corporations he controlled, was also arrested for her alleged participation in one of these transactions. Both defendants face prison sentences if held in criminal contempt.

*Main Distribution Center, Inc.; Corporate Business Products, Inc.;
Authorized Distribution Center, Inc.*

A court froze the assets and temporarily halted the allegedly deceptive office supply sales practices of Main Distribution Center, Corporate Business Products, Authorized Distribution Center, and four officers of the companies. The Commission alleged that the defendants deceived consumers into purchasing office supplies by making false and misleading statements about the prices of the supplies they sold and the companies they represented. The Commission is seeking a permanent injunction and redress for consumers.

*Marketing Twenty-One, Inc. d/b/a Genesis Enterprises;
Markos Mensoza*

A court temporarily halted the activities of Marketing Twenty-One, a group of Las Vegas telefundlers, that were soliciting donations on behalf of charities. The Commission alleged that the defendants deceptively offered highly valuable prizes to consumers in return for tax deductible donations to the designated charity. The Commission further alleged that the consumers did not receive the promised prizes and that the donations were not tax deductible. The Commission asked the court to permanently halt the allegedly fraudulent practices, to freeze the assets of the defendants to preserve funds for consumer redress, and to appoint a receiver to take control of the company.

Megatrend Telecommunications, Inc.; Alan D. Wittstein

The Commission alleged that Megatrend Telecommunications and its president, Alan Wittstein, made false representations to potential buyers of their TableMate system franchise. TableMate is a cordless, coinless telephone designed to be used in restaurants, bowling alleys, and similar locations. The defendants allegedly misrepresented the ease with which franchise owners could find TableMate system buyers, failed to provide prospective franchise buyers with the required basic disclosure and earnings-claims documents, and violated the Franchise Rule. The Commission asked the court to prohibit Megatrend and Wittstein from making the misrepresentations described in the complaint and from violating the

Federal Trade Commission

Franchise Rule in the future. In addition, the Commission is seeking civil penalties from the defendants and redress for consumers.

National Dietary Research, Inc.

The Commission is seeking a preliminary injunction to halt National Dietary's alleged deceptive claims for a weight loss product while their case is being litigated. The Commission issued an administrative complaint alleging that National Dietary made deceptive and unsubstantiated claims for a purported weight loss product, Food Source One, and a purported cholesterol reducing product, Vancol 5000. The Commission further alleged that the company misrepresented that it is a bona fide, independent research organization and that certain of its newspaper advertisements were news stories.

Natural Vision International, Ltd.; John App; Larry Lindwall; Robert Bonk

The Commission obtained a settlement with Natural Vision International and two of its officers, Larry Lindwall and Robert Bonk, and a separate settlement with John App, a shareholder in Natural Vision, to settle allegations that they made false and unsubstantiated representations that their pinhole eyeglasses are an adequate substitute for sunglasses. The settlements prohibit the respondents from making the challenged representations in the future and permanently prohibit them from making any representation about the benefits or performance of any medical device or vision-related program, unless they can substantiate the representation with competent and reliable scientific evidence.

NCH, Inc. d/b/a National Clearing House, Inc.; Robin McLaurin; James H. Hart

The Commission alleged that NCH and two officers, Robin McLaurin and James Hart, misrepresented that consumers would receive specific valuable prizes in exchange for making a contribution to a charitable organization named Operation Life. In addition, the Commission further alleged that NCH had misrepresented the charitable activities in which Operation Life is engaged. This was the Commission's first enforcement action against a telefunder using

deceptive prize promotions. The Commission is seeking a permanent injunction and an order to freeze the defendants' assets to preserve funds for consumer redress.

Pase Corporation; Robert J. Febre; Melody Culver; Efraim Arenas

The Commission alleged that Pase and its principals, Robert Febre, Melody Culver, and Efraim Arenas, falsely represented that consumers investing in their work-at-home programs could reasonably expect to earn specified sums of money by performing certain minimal tasks. The Commission further alleged that the defendants used deceptive advertisements and mailings in connection with five of their work-at-home business opportunities and with three programs that purported to offer grants, loans, and credit cards to consumers. The Commission is seeking a permanent injunction, an asset freeze to preserve funds for consumer redress, and a preliminary injunction to halt the practices pending trial.

Publishing Clearing House, Inc.

A court temporarily halted the allegedly fraudulent activities of Publishing Clearing House, a group of Las Vegas telefundlers that were soliciting donations on behalf of charities. The Commission alleged that the defendant deceptively offered highly valuable prizes to consumers in return for tax deductible donations to a designated charity. The Commission further alleged that consumers did not receive the promised prizes and that the donations were not tax deductible. The Commission asked the court to permanently halt the allegedly fraudulent practices, to freeze the assets of the defendant to preserve funds for consumer redress, and to appoint a receiver to take control of the company.

Renaissance Fine Arts, Ltd.; Cornell Gabos

The Commission alleged that Renaissance Fine Arts, a company that conducts art auctions and sales in major cities throughout the United States, and its owner, Cornell Gabos, misrepresented the authenticity and value of the prints they sold to consumers. The Commission is seeking a permanent injunction and consumer redress.

Federal Trade Commission

Salsa's Franchise Development Corporation;
Pizza Chef Development Corporation; Risque Apparel Corporation;
Brantany Development Corporation; Brantany Industries, Inc.;
Preferred Restaurants, Inc.; Richard L. Levinger; Richard L. Kerns;
Ward H. Kerr; Michael A. Ruby

The Commission alleged that Salsa's Franchise Development and several related companies and individuals deceptively marketed franchises for various restaurants and two apparel-related businesses. The Commission further alleged that certain defendants misrepresented the earnings potential of franchisees and the costs of establishing and operating the businesses and failed to fulfill promises to refund franchise fees. The Commission is seeking a permanent injunction and consumer redress.

Scott Wilcox; Linda Wilcox; Direct Response, Inc.

A court froze the assets of Scott and Linda Wilcox and their company, Direct Response, and issued an order temporarily barring the defendants from engaging in a variety of deceptive cash and award direct mail promotions. The Commission alleged that the defendants' promotions were designed to get consumers nationwide to send money in order to receive the cash or awards. The Commission is seeking a permanent injunction and redress for consumers.

Silueta Distributors, Inc.; Stanley Klavir

A court issued a temporary restraining order against Silueta Distributors and its president, Stanley Klavir. The Commission alleged that the respondents falsely claimed that their Sistema Silueta, which was advertised through Spanish language commercials, would break down and reduce cellulite or fat. The Commission asked the court to prohibit the defendants from making similar false claims for any food, drug, or cosmetic in the future and to order redress for injured consumers.

*SMI/USA, Inc.; Paul J. Meyer; Charles G. Williams;
James L. Sirbasku; William Garner*

The Commission alleged that SMI/USA, a company that sells franchises for self-improvement courses, tapes, and other products, violated a 1970 Commission order by misrepresenting to potential franchisees the ease of selling SMI products and the income they could expect to earn and by failing to provide certain statistical information to prospective franchisees at the times required by the order. The Commission further alleged that the defendants violated the Franchise Rule. The Commission asked the court to order SMI/USA, Paul Meyer, Charles Williams, James Sirbasku, and William Garner to pay redress to consumers and civil penalties for each violation and to prohibit them from violating the 1970 order and the Franchise Rule in the future.

Southeast Necessities Co., Inc. d/b/a Dr.'s Choice

A court froze the assets of two individuals and two companies and temporarily barred the defendants from engaging in a variety of deceptive practices. The defendants engaged in the practices, which included using phony references, as part of a nationwide scheme to sell distributorships for display racks featuring diet and other products as business opportunities. The Commission is seeking a permanent injunction and redress for purchasers of their business ventures.

Telefundors for the Gleaners

A court issued an order temporarily barring deceptive practices and freezing the assets of 24 defendants collectively called Telefundors for the Gleaners. The Commission alleged that the defendants participated in a telefunding scheme in which they deceptively claimed that consumers would receive valuable prizes in return for donations to a designated charity and misrepresented the charitable activities consumers' donations would support. Funds were allegedly solicited for teenage drug and alcohol rehabilitation programs purportedly run by AWARE and for food banks purportedly run in consumers' communities by The Gleaners, a Las Vegas based food bank. The Commission is seeking a permanent injunction and consumer redress.

Federal Trade Commission

Thomas A. Peltier; Peltier Enterprises, Inc.

Thomas Peltier and Peltier Enterprises agreed to settle allegations concerning their role in the allegedly deceptive use of “900” number telephone lines to market credit services. The settlement prohibits the defendants from misrepresenting the nature of any credit card or credit-related service and requires them to pay \$35,000 to the U.S. Treasury. In addition, the defendants are required to ensure that clients to whom they provide “900” services are not making misrepresentations to callers.

Turcal, Inc. d/b/a ProMatch Advertising Network; Michael Cevatli; Glenn Kennedy

A court issued a temporary restraining order and asset freeze and appointed a receiver to manage the financial affairs of Turcal. The Commission alleged that the company and two of its officers, Michael Cevatli and Glenn Kennedy, made numerous misrepresentations in the telemarketing of their timeshare resale services. The Commission alleged that, for an advance fee of \$190 to \$375, the defendants falsely promised to match timeshare owners who wanted to sell their timeshares with prospective buyers. The Commission is seeking a permanent injunction to prohibit the defendants from engaging in similar deceptive practices in the future in the advertising and sale of their timeshare resale services.

United Holdings Group, Inc.; John J. Roberts; Christopher L. Vener

A court issued a temporary restraining order and an asset freeze against United Holdings Group and two company officers, John Roberts and Christopher Vener. The Commission alleged that the defendants used misleading telemarketing and prize promotion techniques to induce consumers nationwide to donate \$700 to \$1,500 to support a charity. The Commission is seeking a permanent injunction and consumer redress.

William F. Lawler

The Commission obtained a settlement with William Lawler, an officer of Tronsoft, Inc., to settle allegations that he used deceptive testimonials and other means to represent that those who buy Tronsoft

products will typically earn substantial incomes by operating businesses out of their homes. The settlement prohibits future violations of the Franchise Rule and deceptive practices similar to those challenged.

Winner's Circle of Chicago, Inc.; William H. Bailey

The Commission alleged that Winner's Circle and its principal, William Bailey, agreed to send video cassette recorders worth at least \$189 each, to approximately 47 consumers who attended a 1992 company sales presentation for a resort membership. The Commission further alleged that Winner's Circle was in civil contempt of a 1991 settlement with the Commission resolving allegations in connection with similar campaigns run by the company in the past.

Wolf Group

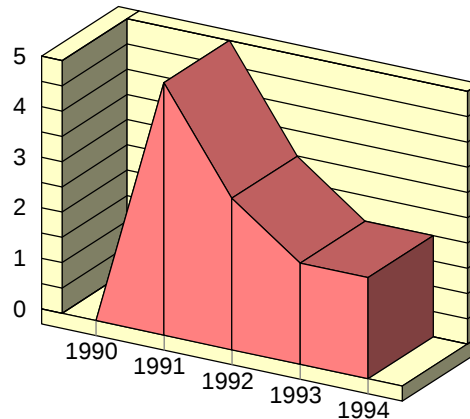
A court froze the assets and issued an order temporarily halting an allegedly deceptive vending machine business opportunity scheme, led by Marvin Wolf and involving at least 30 corporations and 16 individuals. Since the Commission filed the complaint in court, several defendants have settled; however, litigation continues against the remaining individual and corporate defendants. The Commission is seeking permanent injunctions and consumer redress.

Worldwide Credit, Inc.; Carey E. Benzenberg

The Commission obtained a settlement with Worldwide Credit and its president, Carey Benzenberg, prohibiting the defendants from misrepresenting the availability of consumer loans and any material terms or conditions under which loans will be granted in the future. The complaint alleged that the defendants falsely represented to consumers that they would receive loans upon payment of a \$250 advance fee and misrepresented the company's refund policy.

Federal Trade Commission

CIVIL PENALTY ACTIONS COMPETITION MISSION



COMPETITION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Pennzoil Company	9010154	08/12/94	HSR	Crude Petroleum and Natural Gas
Rubus Development Corporation	C3224	12/14/93	Merger	Supermarkets

COMPETITION MISSION (DETAIL)

Pennzoil Company

Pennzoil agreed to pay \$2.6 million in civil penalties to settle allegations that it acquired more than \$15 million in Chevron Corporation voting securities in violation of the notification and waiting period requirements under the Hart-Scott-Rodino Antitrust Improvements Act of 1976. According to the complaint, Pennzoil claimed that Chevron's stock was being acquired under the "solely for the purpose of investment" exemption, but Pennzoil's senior management, anticipating membership on Chevron's Board of Directors, participated in the formulation of Chevron's basic business decisions.

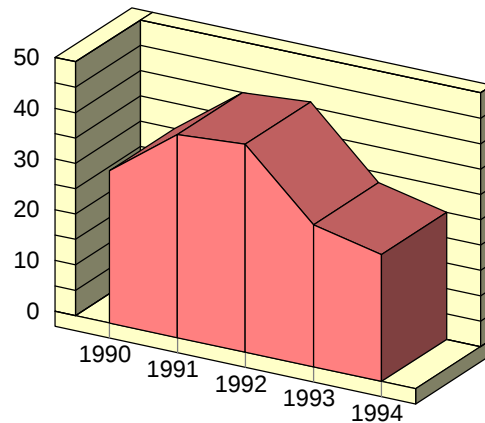
Rubus Development Corporation

Rubus agreed to pay \$400,000 in civil penalties to settle allegations that it violated several provisions of a 1988 consent order.

The order required, among other things, the divestiture of 12 supermarkets in New Mexico and Texas within nine months. According to the complaint, filed in U.S. District Court for the District of Columbia, Rubus, formerly known as Supermarket Development Corporation, and its successor, Furr's Supermarkets, Inc., failed to maintain the marketability and the physical condition of six grocery stores prior to divestiture, exercised unauthorized control over grocery stores that they were required to manage independently pending divestiture, and acquired grocery stores without obtaining prior Commission approval. The judgment requires the \$400,000 civil penalty to be paid to the United States Treasury Department in three installments. \$150,000 was paid when the court approved the settlement, and the remainder is scheduled to be paid in two subsequent installments of \$125,000 each.

Federal Trade Commission

CIVIL PENALTY ACTIONS CONSUMER PROTECTION MISSION



CONSUMER PROTECTION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Advance Watch Company, Ltd. d/b/a Value-by-Mail	X940066	07/18/94	Mail/Telephone Order Rule	Retailer of Consumer Goods
Agway Petroleum Corporation	X940007	10/08/93	Octane Rule	Gasoline Sales
American Sports Collectibles	X940012	10/01/93	Mail/Telephone Order Rule	Baseball Cards and Other Sports-related Merchandise
Best of Baseball and All Sports, Inc.	X940013	10/26/93		
Steve Myland d/b/a Steve Myland Enterprises	X940014	11/03/93		
Asics Tiger Corporation	X940074	04/22/94	Health & Safety Products or Services Advertising	Athletic Shoes
Bally's Health & Tennis Corporation	X940050	04/18/94	Unfair Debt Collection Practices	Health Club
CIT Group/Sales Financing, Inc.	X940077	09/23/94	Credit Discrimination	Consumer Loans
Coastal Refining and Marketing, Inc.	X940054	06/03/94	Octane Rule	Gasoline Sales

Civil Penalty Actions

Appendix

Title	Number	Action Date	Type of Matter	Product or Service
Coverall North America, Inc.	X940025	03/18/94	Franchise Rule	Commercial Janitorial Franchises
Dahlberg, Inc.	X940021	01/19/94	Advertising Claims	Hearing Aid
General Nutrition, Inc.	X940044	05/23/94	Advertising Claims	Nutritional Supplements
Haband Company	X940079	09/30/94	Mail\Telephone Order Rule	Clothing Retailer
Hachette Book Group USA, Inc. and Grolier, Inc.	X940039	01/27/94	Unordered Merchandise Statute	Yearbooks and Supplement Books
International Bartending Institute	X940072	09/06/94	Franchise Rule	Bartending Schools
J.C. Pro Wear, Inc.	X940045	03/21/94	Franchise Rule	Sports Apparel Outlets
John Appel (SMI/USA)	X940003	10/26/93	Franchise Rule	Self-improvement Courses, Tapes, and Other Products
Joseph Haney (SMI/USA)				
Loizou, Inc. (A & G Auto Sales)	X940052	04/14/94	Used Car Rule	Used Car Dealership
Lonnie R. Divine	X920067	12/15/93	Cooling-Off Rule & Door-to-Door Sales	Magazine Subscriptions
Mission Plans, Inc.	X940073	09/14/94	Funeral Rule	Funeral Services
Moffitt Oil Company, Inc.	X940005	11/01/93	Octane Rule	Gasoline Sales
Mohl Fur Company, Inc.	X940065	12/14/93	Fur Products Labeling Act	Fur Garments
Rocket Gas and Car Wash, Inc.	X940006	04/04/94	Octane Rule	Gasoline Sales
Sol Levinson and Brothers, Inc.	X940069	08/16/94	Funeral Rule	Funeral Services
Tri-Star Marketing Corp. (Megatrend Telecommunications)	X940016	11/08/93	Franchise Rule	Cordless, Coinless Telephone
West Capital Financial Services Corp.	X940062	07/07/94	Credit Card & Credit Svcs Fraud	Household Goods Security Interests

CONSUMER PROTECTION MISSION (DETAIL) *Advance Watch Company, Ltd. d/b/a Value-By-Mail; David Schechter*

Advance Watch Company and its chief operating officer, David Schechter, agreed to settle allegations that they violated the Mail

Federal Trade Commission

Order Rule by failing to provide consumers with the option to delay or cancel their orders and receive prompt refunds, that they violated the Warranty Rule by failing to provide copies of written warranties or to provide instructions for obtaining free copies prior to the sale of consumer goods, and that they violated the FTC Act by falsely representing that consumers would readily obtain a prompt and full refund. The settlement prohibits future violations of the Rules and the FTC Act and requires payment of a \$32,500 civil penalty.

Agway Petroleum Corporation

Agway Petroleum, a gasoline distributor, agreed to settle allegations that it violated the Fuel Rating Rule by failing to properly certify the octane ratings of gasoline it sold to retail gas stations. The settlement prohibits future violations of the Rule and requires payment of a \$25,000 civil penalty.

American Sports Collectibles; Best of Baseball and All Sports, Inc.; Steve Myland d/b/a Steve Myland Enterprises

Three direct mail marketers of baseball cards and other sports related merchandise agreed to settle allegations that they violated the Mail Order Rule by failing to notify consumers of delays in shipping their orders and of their right to cancel and by failing to provide prompt refunds. The settlements prohibit future violations of the Mail Order Rule and require payment of civil penalties of \$13,500, \$12,500, and \$20,000 respectively.

Asics Tiger Corporation

Asics agreed to settle allegations that it violated a 1991 Commission order under which it had agreed not to make unsubstantiated injury reduction or performance claims for its gel athletic shoes. The settlement prohibits the company from violating any terms of the original order and requires payment of a \$250,000 civil penalty.

Bally's Health & Tennis Corporation

Bally's and its two subsidiaries agreed to settle allegations regarding the health clubs' billing, cancellation, refund, and debt collection practices. The settlement requires the defendants to refund membership or other fees to customers and to pay \$120,000 in civil penalties.

CIT Group/Sales Financing, Inc.

CIT agreed to settle allegations that it treated unmarried coapplicants for mobile home loans and other loans less favorably than married coapplicants, in violation of the Equal Credit Opportunity Act. The settlement prohibits future discrimination on the basis of marital status and requires payment of a \$150,000 civil penalty.

Coastal Refining and Marketing, Inc.

Coastal Refining and Marketing, a gasoline distributor, agreed to settle allegations that it violated the Fuel Ratings Rule by allegedly transferring gasoline to its customers without certifying the octane rating of the fuel. The settlement prohibits future violations the Rule and requires payment of a \$32,500 civil penalty.

Coverall North America, Inc.

Coverall North America, a seller of commercial janitorial franchises, agreed to settle allegations that it violated the Franchise Rule by failing to provide potential buyers with required information, such as a document substantiating earnings claims; by failing to provide required information about the company's franchises in its basic disclosure document; and by not providing the disclosure document within 10 business days before consumers purchased a franchise. The settlement prohibits future violations of the Franchise Rule and requires a payment of a \$100,000 civil penalty.

Dahlberg, Inc.

The Commission alleged that Dahlberg, maker of Miracle-Ear brand hearing aids, violated a 1976 Commission order by making

Federal Trade Commission

numerous false and unsubstantiated claims about its Miracle-Ear Clarifier, a noise suppression hearing aid. The Commission alleged that Dahlberg marketed the Clarifier through a national advertising campaign in which the company falsely claimed that the Clarifier would focus its amplification on sounds the user wanted to hear, such as speech, or would otherwise distinguish speech from noise and that it would reduce all unwanted background noise. The Commission asked the court to prohibit Dahlberg from making similar false and unsubstantiated claims in the future and to order it to pay civil penalties.

General Nutrition, Inc.

General Nutrition, the largest retailer of nutritional supplements in the United States, agreed to settle allegations that it violated the terms of two previous Commission orders. The Commission alleged that General Nutrition failed to substantiate disease treatment, weight loss, muscle building, and endurance claims for over 40 products; failed to make certain disclaimers when advertising the efficacy of energy boosting vitamin products it sold; and made prohibited claims about certain amino acid products. The settlement prohibits future violations of any provision of the two previous orders and requires payment of a \$2.4 million civil penalty.

Haband Company, Inc.

Haband, a mail order catalog clothing retailer, agreed to settle allegations that it violated the Mail Order Rule by substituting materially different merchandise for the merchandise ordered by consumers, without the consumers' prior approval. The settlement prohibits future violations of the Mail Order Rule and requires payment of a \$49,000 civil penalty.

Hachette Book Group USA, Inc.; Grolier, Inc.

Hachette and its wholly owned subsidiary, Grolier, Inc., agreed to settle allegations that Grolier mailed consumers information about various yearbooks or supplements, regarded consumers' failure to return cancellation cards as authorization to send the products, and then shipped the products and billed consumers for them in violation of a federal law under which consumers do not have to pay for

unordered merchandise. The settlement requires the defendants to pay a \$200,000 civil penalty.

International Bartending Institute; James H. Haren

The International Bartending Institute and its chairman, James Haren, agreed to settle allegations that they violated the Franchise Rule by failing to provide potential buyers with important prepurchase information and by misrepresenting the start up costs and potential profits of their franchises. The settlement prohibits future violations of the Franchise Rule and requires payment of a \$50,000 civil penalty.

J.C. Pro Wear, Inc.

The Commission alleged that J.C. Pro Wear, a seller of sports apparel outlets, falsely claimed to be in compliance with the Franchise Rule and violated the Rule, in part, by failing to provide prospective franchisees with the disclosure documents required by the Rule. The Commission asked the court to prohibit the defendants from making similar misrepresentations, to prohibit them from violating the Rule in the future, and to order them to pay civil penalties.

John Appel; Joseph Haney

Two former officers of SMI/USA, Inc., a company that sells franchises for self improvement courses, tapes, and other products, agreed to settle allegations that they violated a 1970 Commission order by misrepresenting to potential franchisees the ease of selling SMI products and the income that they could expect to earn and by failing to provide certain statistical information to prospective franchisees at the times required by the order. The settlement prohibits the two officers from selling similar business opportunities or products related to them in the future and requires payment of civil penalties of \$20,000 and \$10,000 respectively.

Federal Trade Commission

*Loizou, Inc. d/b/a A&G Auto Sales; George E. Loizou;
Andreas E. Loizou*

Loizou, Inc., a used car dealership, and two officers, George and Andreas Loizou, agreed to settle allegations that they violated the Used Car Rule by failing to display the required Buyers Guide on the side window of used cars offered for sale and that they did not provide other warranty information required by the Warranty Disclosure Rule. The settlement prohibits future violations of the Used Car Rule and requires payment of a \$20,000 civil penalty.

Lonnie R. Divine

Lonnie Divine, a door-to-door magazine marketer, agreed to settle allegations that he misrepresented cancellation rights to his customers nationwide and failed to provide them with proper cancellation documents, in violation of the Cooling Off Rule. Divine also allegedly misrepresented when consumers would begin receiving their magazine subscriptions. The settlement bars similar practices in the future and requires payment of a \$10,000 civil penalty.

Mission Plans, Inc.; Donald Earthman; Michael Earthman

Mission Plans, a company that markets and sells insurance funded, preneed funeral arrangement plans nationwide, and its owners, Donald and Michael Earthman, agreed to settle allegations that they violated the Funeral Rule by failing to provide consumers with general price lists and itemized statements of the funeral goods and services they had selected and that they violated the Cooling-Off Rule by failing to provide consumers with a written notice regarding their cancellation rights following sales presentations in consumers' homes. The settlement prohibits future violations of the Rules and requires payment of a \$20,000 civil penalty.

Moffitt Oil Company, Inc.

Moffitt Oil Company, a fuel distributor, and three of its officials agreed to settle allegations that they violated the Fuel Ratings Rule by pumping gasoline into underground storage pumps belonging to a gasoline retail chain, Rocket Gas and Car Wash, Inc. The underground pumps were connected to gasoline pumps on which the

octane rating of the gasoline was allegedly overstated. The settlement prohibits future violations of the Fuel Ratings Rule and requires payment of a \$90,000 civil penalty.

Mohl Fur Company, Inc.; Robert Mohl

Mohl Fur Company, a fur garments importer, and its president, Robert Mohl, agreed to settle allegations that they failed to disclose whether their fur garments were natural, dyed, or artificially colored and that they failed to disclose the country of origin of the pelts in their imported fur products, among other violations of the Fur Products Labeling Act. The settlement requires the respondents to adhere to certain requirements for future sales to retailers and requires payment of a \$70,000 civil penalty.

Rocket Gas and Car Wash, Inc.; Mansoorali Virani

Rocket Gas and Car Wash, a gasoline retail chain, and its principal officer, Mansoorali Virani, agreed to settle allegations that they violated the Fuel Ratings Rule by overstating the octane rating of gasoline they sold to consumers and by mislabeling their fuel pumps. The settlement prohibits future violations of the Fuel Ratings Rule and requires payment of a \$140,000 civil penalty.

*Sol Levinson and Brothers, Inc.; Burton H. Levinson;
Irvin B. Levinson; Stanley T. Levinson; Ira J. Levinson*

Sol Levinson and Brothers and Burton, Irvin, Stanley, and Ira Levinson agreed to settle allegations that they violated the Funeral Rule by failing to give consumers an itemized printed or typewritten general price list and a casket price list, by failing to give price information over the telephone, and by conditioning the sale of certain funeral goods and services upon the purchase of other goods and services. The settlement prohibits future violations of the Funeral Rule and requires payment of a \$100,000 civil penalty.

*Tri-Star Marketing Corp. of North Myrtle Beach; M. Douglas Cooke;
Michael D. Gibbons*

Tri-Star Marketing and its officers, Douglas Cooke and Michael Gibbons, agreed to settle allegations that they violated the Franchise

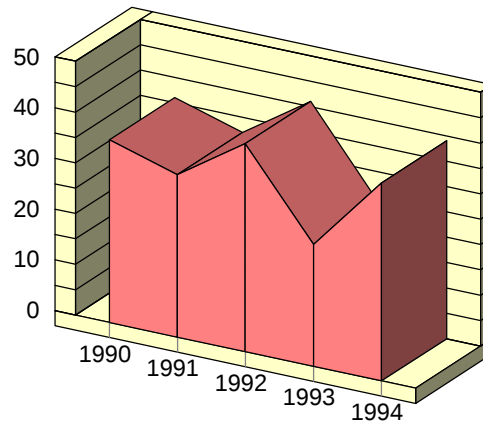
Federal Trade Commission

Rule by failing to provide prospective buyers with the required basic disclosure and earnings claims documents and by making unsubstantiated earnings claims. The settlement prohibits future violations of the Franchise Rule and misrepresentations of any material term or condition of any franchise or business and requires payment of a \$5,000 civil penalty.

West Capital Financial Services Corp.; Michael Joplin

West Capital and its president, Michael Joplin, agreed to settle allegations that they violated the Credit Practices Rule by taking a security interest in consumers' household goods as a condition of extending credit. The settlement prohibits future violations of the Credit Practices Rule, requires the respondents to relinquish any household goods security interests they hold, and requires payment of a \$25,000 civil penalty.

CONSUMER REDRESS ACTIONS¹
CONSUMER PROTECTION MISSION



CONSUMER PROTECTION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Academic Guidance Services, Inc.	X920073	10/13/93	Business Opportunities Investment Fraud	Licenses to Sell College Financial Information to Students
American Microtel (Danny Sterk/Codima, Inc.)	X920030	10/06/94	Lottery Application Filing Services. Investment Fraud	Wireless Cable Television Lottery
American Microtel, Inc. and James D. Greenbaum	X920030	12/23/93	Lottery Application Filing Services Investment Fraud	Wireless Cable Television Lottery
Eric Kyle and First Atlantic Equity (American Microtel)				
Charles C. Davis (American Microtel)				
Claude A. Blanc, Jr. (Factory Direct)	X920062	01/24/94	Franchise Rule; Business Opportunity Investment Fraud	Vending Machines Sold as Business Opportunities

¹The Commission makes every effort to collect the full amount of each judgement, whether ordered by a court or obtained through a settlement. Despite its best efforts, however, the Commission is not always able to collect the full amount.

Federal Trade Commission

Title	Number	Action Date	Type of Matter	Product or Service
Denny Mason	X930022	04/19/94	Prize Scheme Claims by Mail and Telemarketing Advertising Claims	Prize Promotions
Douglas Wayne Osborne (Osborne Precious Metals, Inc.)	X920052	03/10/94	Precious Metals Investment Fraud	Precious Metal Investments
Fred Hyde (Solomon Trading Co.)	X910090	06/29/94	Art Investment Fraud	Art Investments
Garry Schaeffer (International Assets)	X920075	10/28/93	Gemstones Investment Fraud	Gemstone Appraisal Services
Sarabeth Koethe and Gem Sciences International (International Assets)				
Thomas V. Lopes (International Assets)				
Goddard Rarities and Dennis Goddard	X930054	08/23/94	Rare Coins Investment Fraud	Rare Coin Investments
Invention Submission Corporation	X930032	02/07/94	Advertising Claims	Invention Promotion Services
James Rodgers and Randy Allen McCall (American Buyers Network)	X940067	01/31/94	Credit Card & Credit Services Fraud	"Gold Card" Marketing
Jordan Ashley, Inc.	X940015	04/13/94	Franchise Rule	Greeting Card Display Racks
Larkin, Hoffman, Daly & Lindgren, Ltd.	X930006	05/26/94	Rare Coins Investment Fraud	Rare Coin Investments
LaserVision, Inc.	X940026	03/23/94	Health & Safety Products or Services Advertising	Pinhole Eyeglasses
Mary Redhead and Thelma Magno (Earthbound)	X940001	06/20/94	Health & Safety Products or Services Advertising	AIDS, ARC, and HIV Treatment or Cure
Meehan Marketing Group and David Weston	X940024	07/14/94	Specialized Mobile Radio Licensing Investment Fraud	FCC program to license Specialized Mobile Radio program
Glenn Morganstern				

Consumer Redress Actions

Appendix

Title	Number	Action Date	Type of Matter	Product or Service
National Art Publishers and Distributors, Inc.	X940042	08/30/94	Miscellaneous Telemarketing	Vintage Movie Posters
Nutrition Research & Marketing, Inc. d/b/a Nutrition Science	X940008	11/01/93	Diet Programs & Products Advertising	Diet Pills
Pacific Inspection and Research Laboratory, Inc.	X930026	10/05/93	Advertising Claims	Thermal Windows
Professional Product Research Company, Inc.	X940033	10/18/93	Health & Safety Products or Services Advertising	Pinhole Eyeglasses
National Syndications, Inc.	X940032			
Rapaport Corporation	X940019	03/14/94	Business Opportunities Investment Fraud	Work-at-home Business Opportunity
Robert M. Farmer/D. Dietel/S.Lick (American Standard Credit)	X930041	08/29/94	Credit Card & Credit Services Fraud	Secured Credit Cards
Ronald F. Way (Hawthorne)	X940018	11/20/93	Infomercials	Computer-based Consulting Business
Shawmut Mortgage Company	X940041	12/13/93	Credit Discrimination	Mortgage Loan
Sierra Pacific Marketing, Inc.	X930020	02/22/94	Awards & "Free" Prizes Telemarketing	Prize Promotion Telemarketing
Sunbelt Construction Company	X940051	02/22/94	Advertising Claims	Land Sales
Tiny Doubles International, Inc.	X900055	03/29/94	Franchise Rule	Photography
Vendall Marketing Corporation	X940038	09/13/94	Business Opportunities Investment Fraud	Vending Machines Sold as Business Opportunities
James E. Mobley (Vendall Marketing Corp.)				
Wolf Consulting/D. Wolf/B. Wolf	X940029	09/20/94	Business Opportunities Investment Fraud	Vending Machines Sold as Business Opportunities
Solomon J. Samarel (Wolf Consulting)				
World Wide Classics, Inc.	X920033	12/15/93	Miscellaneous Investment Fraud	Stamp Investments

Federal Trade Commission

CONSUMER PROTECTION *Academic Guidance Services, Inc.* **MISSION (DETAIL)**

The Commission obtained a settlement with Academic Guidance Services, settling allegations that it deceptively marketed to prospective business operators the right to sell college financial aid information to students. The settlement permanently bans the company from selling or leasing customer lists in the future and discharges all contractual obligations of the company's licensees. In addition, the company agreed to pay \$300,000, to be used for redress, to licensees who paid a fee to the firm after July 16, 1989.

American Microtel, Inc.; Eric Kyle; Danny Sterk; Codima, Inc.; First Atlantic Equity; James D. Greenbaum; Charles C. Davis

The Commission obtained settlements with American Microtel and six other defendants in connection with an allegedly deceptive scheme to sell application services for a federal lottery to award licenses to operate wireless cable systems. The settlements ban the defendants for various lengths of time from selling application services for any federal lottery and ban some defendants from future sales of any investment offering that involves a license issued by the FCC. In addition, the settlements require the payment of consumer redress in the following amounts: American Microtel, \$500,000; Eric Kyle, \$5,000; Danny Sterk and his company Codima, \$15,000; Charles Davis, \$20,000; and James Greenbaum, \$95,000.

Claude A. Blanc, Jr.; Michelle Hartzheim; Factory Direct, Inc.; Vendorline, Inc.

The Commission obtained settlements with two individuals and two corporate defendants in connection with allegations that they made numerous false representations and failed to provide key prepurchase information to induce consumers to invest thousands of dollars in vending machine business opportunities. The settlement permanently bans the defendants from any involvement in the vending machine business and from owning an interest in a company selling any business opportunity. The settlement also requires that approximately \$290,000 in frozen assets be transferred into a consumer redress fund for those who invested in this business opportunity scheme.

Denny Mason; Benedict Spano; Anthony Della Iacono

The Commission obtained a settlement with Denny Mason, a cluster of major Las Vegas, Nevada-based telemarketing companies, and their principal officers in connection with allegations that they made false representations to consumers across the nation that they had won valuable prizes. The defendants used a variety of misrepresentations to get the consumers, many of them elderly, to purchase cosmetics, vitamins, environmentally safe cleaning products, water purifiers, and other products. The defendants also allegedly aided and abetted other telemarketers engaging in similar deceptive sales practices. The settlement requires payment of \$900,000, to be used for redress to consumers, and imposes numerous restrictions and disclosure requirements on future telemarketing efforts. In addition, three defendants are permanently barred from participating in any prize promotion marketing program in the future.

Douglas Wayne Osborne; Osborne Precious Metals, Inc.

The Commission alleged that Douglas Osborne and his firms misrepresented or failed to disclose the fees and commissions associated with their investments and that they misrepresented the risk and profit potential of the investments. A court ordered Douglas Osborne to post a \$5 million bond before engaging in any kind of telemarketing activity in the future. The court also entered a \$13.3 million judgment against the defendants.

Fred Hyde

A court permanently enjoined Fred Hyde, the principal of Solomon Trading Company, Inc., from deceptively marketing artwork and ordered him to pay \$872,184 to redress the losses of retail customers who purchased from Solomon. Hyde was alleged to have misrepresented the investment value of art prints telemarketed to consumers around the country.

*Garry Schaeffer; Sarabeth Koethe;
Gem Sciences International (GSI); Thomas V. Lopes*

The Commission obtained three settlements with defendants to settle allegations that they operated a deceptive telemarketing scheme

Federal Trade Commission

to sell gemstones as investments. The settlements include various provisions permanently prohibiting the defendants from engaging in similarly deceptive conduct in the marketing of any investment in the future. The defendants are also required to make certain disclosures to inform consumers of the risks, if they again market gemstones as investments. In addition, one defendant agreed to a lifetime ban on telemarketing investment products, and another will post at least a \$50,000 bond before engaging in telemarketing investments in the future. The settlements require Schaeffer to pay \$50,000, Koethe and GSI to pay \$20,000, and Lopes to pay \$45,000 for consumer redress.

Goddard Rarities, Inc.; Dennis S. Goddard

Dennis Goddard and his firm, Goddard Rarities, agreed to settle allegations that they deceptively telemarketed rare coins as investments. The settlement prohibits the defendants from making claims similar to the allegedly deceptive representations challenged by the Commission. The settlement also requires the defendants to post a \$100,000 bond for the protection of their customers before they market any coin or other investment opportunity in the future and Dennis Goddard to release his claim on corporate assets so they can be used for consumer redress.

Invention Submission Corporation

Invention Submission and other defendants agreed to settle allegations that they misrepresented the nature, quality, and success rate of the invention promotion services sold to consumers for prices ranging from hundreds of dollars to a total package price of approximately \$5,000. The settlement requires the defendants to provide, on initial contact with prospective clients, an affirmative disclosure of its success rate and to give consumers a right to cancel their contracts and obtain refunds. In addition, Invention Submission is required to pay \$1.2 million for consumer redress.

James Rodgers; Randy Allen McCall

James Rodgers, Randy McCall, and the companies they operate agreed to settle allegations that they and their distributors made numerous deceptive claims to consumers who bought American Buyers Network gold credit cards. The settlement includes various

prohibitions and requirements in connection with the defendants' future efforts to sell credit-related products or services and requires payment of \$50,000 for consumer redress.

*Jordan Ashley, Inc.; Thomas P. Norton; Christine M. Heller;
Kelli J. Blasi*

A court ordered Jordan Ashley and other corporate and individual defendants to pay more than \$9.1 million for consumer redress in connection with their involvement in a variety of deceptive practices to sell greeting card display rack business opportunities. In addition, Thomas Norton was permanently barred from participating in the marketing or selling of any franchise or business opportunity and is required to post a performance bond in the amount of \$5 million before engaging in any telemarketing activities. Christine Heller and Kelli Blasi were enjoined from making misrepresentations to any potential investor in a franchise or business venture and were prohibited from violating any provision of the Franchise Rule in the future.

Larkin, Hoffman, Daly & Lindgren, Ltd.

The law firm of Larkin, Hoffman, Daly & Lindgren agreed to pay \$375,000 to settle allegations that the law firm fraudulently agreed to prevent the Commission from collecting on an \$11.2 million federal court judgement against William J. Ulric and his firm, Security Rare Coin & Bullion Corporation. According to the complaint, the defendant helped the coin marketer fraudulently transfer several million dollars in rare coins into trusts for his three daughters and then convert a substantial portion of the coins back to his own use. The firm also unlawfully and wrongfully acted to conceal assets belonging to the coin marketer to put these assets beyond the reach of the Commission.

LaserVision, Inc.; Chase Revel; Neil Mikesell

LaserVision, Chase Revel, and Neil Mikesell agreed to settle allegations that they made numerous false and unsubstantiated claims about the vision improvement benefits of their pinhole eyeglasses, which are opaque plastic lenses with multiple pinholes. The settlement prohibits the defendants from making future false claims

Federal Trade Commission

or from engaging in the practices challenged by the Commission. In addition, the settlement requires payment of \$425,000 for consumer redress.

*Mary L. Redhead and Thelma M. Magno d/b/a Earthbound;
Post Office & More*

Mary Redhead and Thelma Magno agreed to settle charges that they falsely promoted Imuno-Plex, an algae-based food supplement, as a treatment or cure for HIV disease, AIDS and AIDS-related complex, and their symptoms. The settlement prohibits Redhead and Magno from making future false and misleading representations about the safety or efficacy of Imuno-Plex or any other food or drug and requires them to pay \$9,430 for consumer redress.

Meehan Marketing Group, Inc.; Glenn Morgenstern; David Weston

Meehan Marketing Group, company officer David Weston, and Glenn Morgenstern agreed to settle allegations stemming from their role in an allegedly fraudulent scheme to sell investments using federal licenses for certain radio channels under the Federal Communications Commission's Specialized Mobile Radio (SMR) licensing program. The two settlements prohibit the defendants from misrepresenting the price, profit, or appreciation of any SMR license or investment, as well as the risks of any other investment offering they make in the future. The settlements also require Meehan and Weston to pay \$165,000 and Morgenstern to pay \$40,000 for consumer redress.

*National Art Publishers and Distributors, Inc.; Benjamin Valenty;
Charles McLaughlin*

National Art Publishers and two of its principal officers, Benjamin Valenty and Charles McLaughlin, agreed to settle allegations that they were involved in a fraudulent scheme to sell movie posters as investments. The settlement prohibits a variety of deceptive activities and bans Valenty from ever telemarketing investment products again. In addition, National Art Publishers is required to pay \$250,000 for consumer redress.

*Nutrition Research & Marketing, Inc. d/b/a Nutrition Science
Research & Marketing Institute;
Hi-Health Supermart Corporation; Simon D. Chalpin*

Nutrition Research & Marketing, Hi-Health Supermart, and their president, Simon Chalpin, agreed to settle allegations that they deceptively marketed HGH-3X, a purported diet pill, throughout the United States. The Commission alleged that the pill was falsely promoted as boosting the user's metabolism, resulting in weight loss without dieting or exercising. The settlement prohibits the defendants from making claims about any weight control product they market in the future, without scientific evidence to back them up, and from making the false claims challenged by the Commission. The defendants also agreed to pay \$225,000 for consumer redress.

Pacific Inspection and Research Laboratory, Inc.; Ronald J. Weisel

Pacific Inspection and Research Laboratory and Ronald Weisel, its coowner and Vice President, agreed to settle allegations that they misrepresented the results of thermal performance tests that they conducted on windows, and that the tests were performed according to applicable industry standards and accepted engineering practices. The settlement requires the defendants to retract the results obtained from tests conducted between January 1, 1984, and March 6, 1992, and to inform the recipients of those test values of the restrictions. In addition, the settlement prohibits future test misrepresentations and requires Weisel to pay \$60,000 for consumer redress.

Professional Product Research Co., Inc.; National Syndications, Inc.

National Syndications and Professional Product Research agreed to settle allegations that they made numerous false and unsubstantiated claims about the vision improvement benefits of their pinhole eyeglasses, which are opaque plastic lenses with multiple pinholes. The Commission alleged that the defendants represented, among other things, that the pinhole glasses could correct vision disorders and permanently cure a wide range of vision deficiencies. The two settlements prohibit the defendants from making the alleged false claims and from engaging in the challenged practices in the future. In addition, the two companies agreed to provide refunds to all consumers who purchased the pinhole eyeglasses from them.

Federal Trade Commission

National Syndications is also required to deposit \$313,000 into an escrow account to guarantee the availability of redress funds.

Rapaport Corporation; Mayfair Gift Company

Rapaport and Mayfair Gift, two advertisers of home-based work opportunities, and their owners agreed to settle allegations that they misrepresented the earnings of prospective workers and misrepresented that their workers were fulfilling a significant marketplace demand for their products. The settlement permanently prohibits the defendants from engaging in similar deceptive practices and requires them to pay \$40,000 for consumer redress.

Robert M. Farmer; Douglas R. Dietel; Scott T. Lick

A court found that Robert Farmer, Douglas Dietel, and Scott Lick participated in a deceptive “900” telephone number scheme run by American Standard Credit Systems, Inc. to market secured Visa and Mastercard credit cards. The court order permanently prohibits the defendants from engaging in these deceptive practices and requires payment of \$2 million in consumer redress. Based on the defendants’ financial condition, however, it is unclear whether the redress can be collected.

Ronald F. Way

Ronald Way agreed to settle allegations in connection with his promotion of a 30-minute infomercial about a starter kit for various computer-based consulting businesses that buyers can operate from home. The settlement prohibits the defendant from engaging in the challenged practices in the future and from future violations of the Franchise Rule. Way also agreed not to object to a claim filed by the Commission in his Chapter 7 bankruptcy proceeding for \$2.465 million to be used for consumer redress.

Shawmut Mortgage Company

Shawmut Mortgage agreed to settle allegations that it denied loans to consumers on the basis of their race or national origin. The settlement includes a comprehensive fair lending compliance program that Shawmut implemented in 1992 to improve its outreach to, and

ensure fair treatment of, African American and Hispanic mortgage applicants. The settlement also requires payment of at least \$960,000 into a consumer redress fund. The funds will be used to compensate victims of Shawmut's alleged illegal discrimination, as determined under a procedure set out in the settlement.

*Sierra Pacific Marketing, Inc.; Steven Morris Rowe;
Robert Morris Rowe; Gary D. Hosman*

Steven Rowe, Robert Rowe, and Gary Hosman, the principal officers of Sierra Pacific Marketing, agreed to settle allegations that they conducted a nationwide telemarketing scheme in which they falsely told consumers they had won valuable prizes and then used a variety of misrepresentations to induce the consumers to purchase cosmetics, vitamins, water purifiers, and other products for prices ranging from \$399 to thousands of dollars. The settlement permanently bars the defendants from any future role in any type of sweepstakes or prize promotion scheme. In addition, the defendants agreed to pay \$1 million for consumer redress.

Sunbelt Construction Company

Sunbelt Construction agreed to settle allegations that it violated a 1977 Commission order requiring it to provide water, electricity, and telephone connections for lots in three west central Arizona subdivisions. The Commission alleged that Sunbelt mismanaged an account set up to provide the utilities connections, including that it made improper loans to company officers, in violation of the order. The settlement requires the defendant to transfer its liquid property and other assets to the Commission for distribution, as practicable, to debtors and to consumers who purchased lots in the subdivisions and whose lots have not yet received the required improvements.

*Tiny Doubles International, Inc.; Morris Samuel Friedman;
American Mobile Phone Systems, Inc.*

Tiny Doubles International and two other defendants agreed to settle allegations, arising from their efforts to market retail stores that sell miniature statues embodying customer photographs, that they violated the Franchise Rule by failing to provide required disclosure documents and that they violated the FTC Act by falsely claiming that

Federal Trade Commission

their stores were not franchises and by misrepresenting the earnings history of existing stores. The settlement prohibits future violations of the Franchise Rule and requires payment of \$800,000 in consumer redress.

Vendall Marketing Corporation; James E. Mobley

Vendall Marketing, three related corporations, and their principal officers agreed to settle allegations that they engaged in a variety of deceptive practices as part of a nationwide scheme to sell vending machines as business opportunities. The settlements prohibit misrepresentations in connection with the defendants' future marketing of any franchise or business venture and place restrictions on the defendants' future sales of vending machines. James Mobley, one of the individual defendants, is required to pay \$50,000, and other defendants are required to turn over proceeds amounting to as much as \$90,000, to be used for consumer redress, if practicable.

*Wolf Consulting; Solomon J. Samarel; David L. Wolf;
Bonnie Wolf*

Four defendants agreed to settle allegations in connection with their roles in an allegedly fraudulent scheme led by Marvin Wolf to market vending machine distributorships. The settlements prohibit misrepresentations of any franchise or business opportunity the defendants market, misrepresentations in connection with any telemarketing activity, and violations of the Franchise Rule. Wolf Consulting, David Wolf, and Bonnie Wolf agreed to pay \$85,000 for consumer redress. In addition, Solomon Samarel agreed to pay \$10,000 for consumer redress and to post a \$1 million bond before he gains any ownership interest in, or serves as an officer of, any entity that sells franchises or business opportunities. Any bond would be used to protect his future customers, should he engage in deceptive practices.

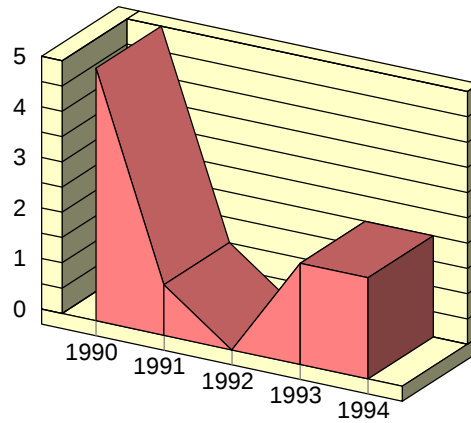
*World Wide Classics, Inc.; World Wide Classics of Indiana, Inc.;
Ronald T. Schaefer*

World Wide Classics and World Wide Classics of Indiana agreed to settle allegations that they misrepresented the investment potential of the stamps and related philatelic items they sold to consumers

through infomercials and telemarketing. The settlement prohibits the firms and other corporate and individual defendants from misrepresenting the investment potential of any stamps or related items, animated art, or any other investment offering. In addition, Ronald Schaefer, past president and current chairman of the board of both firms, is required to post a \$200,000 performance bond before resuming any telemarketing activities. The settlement includes a judgment of \$10 million for distribution to creditors and consumers.

Federal Trade Commission

PART III ADMINISTRATIVE COMPLAINTS COMPETITION MISSION



COMPETITION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Hospital Board of Directors of Lee County	D09265	05/06/94	Merger	Inpatient Acute-care Hospital Services
Red Apple Companies, Inc.	D09266	05/27/94	Merger	Supermarkets

COMPETITION MISSION (DETAIL) *Hospital Board of Directors of Lee County*

An administrative complaint alleged that the proposed acquisition of Cape Coral Hospital in Lee County, Florida by the Hospital Board of Directors of Lee County would substantially reduce competition for inpatient acute-care hospital services in Lee County. A temporary restraining order entered by a federal district court in Florida was dissolved when the court held that the proposed acquisition constituted state action and was, therefore, immunized from the federal antitrust laws. The United States Court of Appeals for the Eleventh Circuit granted the Commission's motion for an injunction pending an appeal from the district court's decision.

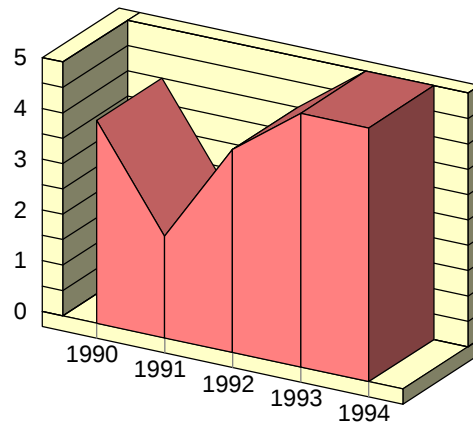
Red Apple Companies, Inc.

The Commission challenged the 1991 and 1993 acquisitions of 32 Sloan's Supermarkets, Inc. stores by Red Apple Companies, Inc.

According to the administrative complaint, the acquisitions could substantially reduce competition and result in higher prices and lower quality and selection for groceries in supermarkets in the residential neighborhoods of Manhattan's Upper East and Upper West Sides, Chelsea, and Greenwich Village. The requested relief, following an outcome against Red Apple in the administrative proceedings, could require Red Apple to divest certain supermarkets and could prohibit future acquisitions of supermarkets in New York County.

Federal Trade Commission

PART III ADMINISTRATIVE COMPLAINTS CONSUMER PROTECTION MISSION



CONSUMER PROTECTION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Dillard Department Stores, Inc.	D09269	09/14/94	Credit Card & Credit Services Fraud	Credit Card Bills
Hawthorne Communications, Inc.	D09264	11/16/93	Infomercials	Computer-based Consulting Business
Metagenics, Inc. d/b/a Ethical Nutrients	D09267	08/16/94	Health & Safety Products or Services Advertising	Calcium Supplements
National Dietary Research, Inc.	D09263	11/09/93	Health & Safety Products or Services Advertising	Cholesterol-lowering Products & Weight Loss Products
New Balance Athletic Shoe, Inc.	D09268	09/06/94	Advertising Claims	Athletic and Other Footwear

CONSUMER PROTECTION MISSION (DETAIL) *Dillard Department Stores, Inc.*

The Commission issued an administrative complaint alleging that Dillard Department Stores violated federal law by making it unreasonably difficult for consumers to remove unauthorized charges from their Dillard's credit card bills. The Commission also alleged

that Dillard treated a payment for questioned charges as a waiver of the cardholder's claim that the charges were unauthorized and held cardholders liable for charges by their family members, even when the charges were unauthorized and applicable state law does not impose liability. In addition, the Commission alleged that Dillard illegally reported negative information about these cardholders to credit bureaus and instituted unwarranted collection procedures against them.

Hawthorne Communications, Inc.

The Commission issued an administrative complaint alleging that Hawthorne Communications, an Iowa advertising agency, and Ronald F. Way and William F. Lawler, two officers of Tronsoft, Inc., made misleading claims to market products sold by Tronsoft. The complaint alleged that the respondents used deceptive testimonials and other means to represent that consumers who buy Tronsoft's products or services, including the Tronsoft Home Business Starter Kit, typically readily succeed in operating businesses out of their homes and earn substantial incomes.

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

The Commission issued an administrative complaint alleging that Metagenics and its president, Jeffrey Katke, used a host of unsubstantiated and misleading claims to market calcium supplement products sold under the name Bone Builder. The Commission alleged that Metagenics made unsupported representations that their supplements were superior to other forms of calcium in preventing or treating bone ailments and that Metagenics used the name Bone Builder in a misleading manner.

National Dietary Research, Inc.

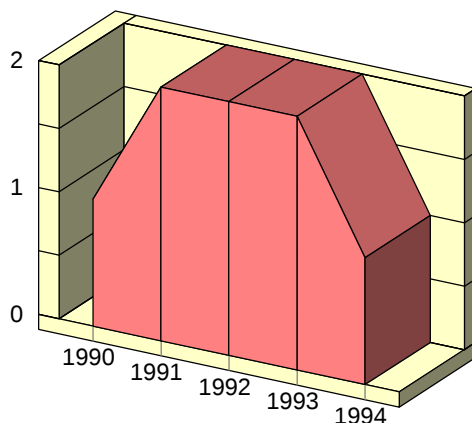
The Commission issued an administrative complaint alleging that National Dietary Research made deceptive and unsubstantiated claims for a purported weight loss product, Food Source One, and a purported cholesterol reducing product, Vancol 5000. The complaint further alleged that the company misrepresented that it is a bona fide, independent research organization and that certain of its newspaper advertisements were news stories.

Federal Trade Commission

New Balance Athletic Shoe, Inc.

The Commission issued an administrative complaint alleging that New Balance Athletic Shoe made false and misleading advertising and labeling claims that its athletic shoes are made in the USA. In 1995, the Commission, after a show-cause proceeding, issued an order amending the administrative complaint to delete a charge related to New Balance Shoes assembled in the United States.

**PART III CONSENTS PUBLISHED FOR COMMENT
CONSUMER PROTECTION MISSION**



CONSUMER PROTECTION MISSION (SUMMARY)

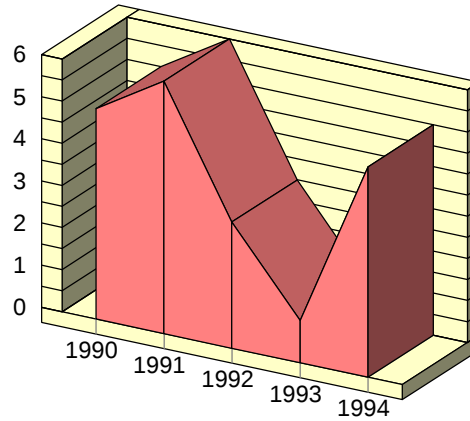
Title	Number	Action Date	Type of Matter	Product or Service
Schering Corporation	D09232	08/05/94	Weight Loss Fiber Content and Fiber Benefit Advertising Claims	Weight Loss/Control or Maintenance Product and Fiber Supplement

CONSUMER PROTECTION MISSION (DETAIL) *Schering Corporation*

Schering Corporation, a major national pharmaceutical manufacturer, agreed to settle allegations that it made false and unsubstantiated claims that its product, Fibre Trim, is a high fiber product and that it is an effective weight loss product. The proposed consent agreement would prohibit Schering from making any representation about the weight loss benefits, nutrient content, or nutrient-related health benefits of any food, food supplement, or drug without competent and reliable scientific evidence to substantiate the claim.

Federal Trade Commission

PART III CONSENT ORDERS ISSUED COMPETITION MISSION



COMPETITION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Abbott Laboratories	D09253	02/04/94	Horizontal Restraints	Infant Formula
Baltimore Metropolitan Pharmaceuticals Association, Inc.	D09262	02/25/94	Horizontal Restraints	Pharmacy Services
Columbia Hospital Corporation	D09256	05/05/94	Merger	General Acute-care Hospital Services
Detroit Automobile Dealers Association, Inc.	D09189	04/20/94 07/20/94	Horizontal Restraints	Automobile and Truck Dealerships
Textron Inc.	D09226	05/06/94	Merger	Structural Blind Rivets

COMPETITION MISSION *Abbott Laboratories* (DETAIL)

A consent order settled allegations that Abbott deprived consumers of the benefits of competition by drafting industry guidelines that restrained the advertising practices of its competitors and by entering into unlawful information exchanges with competitors regarding market practices. The order prohibits Abbott from entering into agreements with any competitor to restrict infant formula marketing practices and from conspiring with its competitors not to use mass media advertising to promote infant formula products.

to consumers in the United States. The order does not prohibit Abbott from lobbying government bodies, from exchanging technical or scientific information with other competing manufacturers, or from encouraging its competitors to adopt industry-wide ethical codes to prevent false or deceptive marketing practices.

Baltimore Metropolitan Pharmaceuticals Association, Inc.

A consent order settled allegations that Baltimore Metropolitan Pharmaceuticals and the Maryland Pharmacists Associations illegally conspired with their members to boycott Baltimore, Maryland's prescription-drug benefit plan in an attempt to control the reimbursement fees paid to participating pharmacies. The 1993 administrative complaint alleged that the two associations entered into agreements with member pharmacists to refuse to participate in the prescription-drug benefit plan insured by the Prudential Insurance Company of America that compensated participating pharmacists when they filled prescriptions for city employees and retirees. The order prohibits the two associations from engaging in similar refusal-to-deal agreements in the future.

Columbia Hospital Corporation

Under terms of a consent order, Columbia is prohibited from merging with Medical Center Hospital, located in Punta Gorda, Florida. A 1993 administrative complaint challenged Columbia's proposed acquisition of Medical Center Hospital located in Charlotte County, Florida from Adventist Health System/Sunbelt Health Care Corporation. The complaint alleged that the merger would significantly increase the already high levels of concentration in the area by eliminating competition between Medical Center and Fawcett Memorial Hospital, a hospital in Port Charlotte, Florida already owned by Columbia Hospital. The consent order prohibits Columbia from merging its hospital with any other hospital in the Charlotte County area for 10 years without prior Commission approval.

Detroit Automobile Dealers Association, Inc.

In two separate consent orders, 144 Detroit-area automobile dealerships, owners and managers of dealerships, and dealer associations agreed not to conspire to limit their dealership hours of

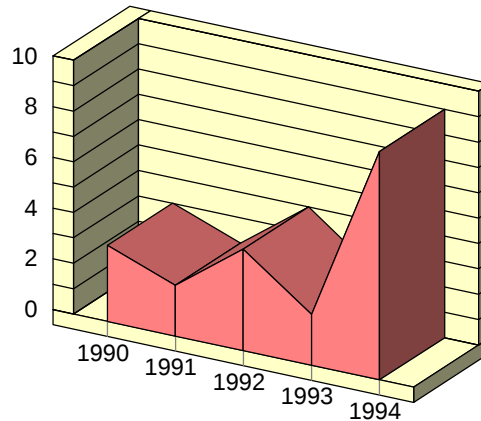
Federal Trade Commission

operation in the future. The consent orders are the result of a 1984 administrative complaint alleging that individuals, dealerships, and dealer associations conspired illegally to restrain competition in the Detroit area by closing their showrooms on Saturdays and most week nights. Under terms of the orders, the parties are required to operate their showrooms under a mandatory hours provision and must disclose their hours of business in all advertising for one year. A separate consent order with The Detroit Auto Dealers Association (DADA) and James Daniel Hayes prohibits similar agreements that limit showroom hours and requires DADA to publish specific advertisements concerning the extended hours of dealers subject to the order. Twenty-four dealerships and individuals continue to pursue the case, pending before the Commission on remand from the United States Court of Appeals for the Sixth Circuit.

Textron Inc.

A consent order settled allegations that Textron's 1989 acquisition of Advel PLC would reduce competition in the United States and world markets in the production of structural blind rivets. The order requires Textron to establish a new competitor in the United States market for monobolts, structural blind rivets that join sheets of materials to the frames of trucks, buses, and other ground transportation vehicles. The order also requires Textron to license to a Commission approved entity the technology to manufacture and sell the monobolt rivets in the United States and Canada, to provide the acquirer certain manufacturing assets and technical assistance for five years to ensure a competitive level of production, and to obtain Commission approval for 10 years before acquiring any firm engaged in the manufacture and sale of structural blind rivets.

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



CONSUMER PROTECTION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Del Dotto Enterprises, Inc.	D09257	04/21/94	Infomercials	Cash Flow System for Purchasing Real Estate and Obtaining Credit
Hawthorne Communications, Inc.	D09264	08/09/94	Infomercials	Computer-based Consulting Business
Revlon, Inc.	D09231	11/17/93	Health Product Advertising	Cellulite Treatment and Sunscreen Products
Sonic Technology Products, Inc.	D09252	06/21/94	Miscellaneous Advertising Practices	Ultrasonic Flea and Rodent-control Device
Synchronol Corp.	D09251	10/01/93	Infomercials	Cellulite Treatment and Baldness Cure
Thomas L. Fenton	D09251	05/13/93		
Trans Union Corporation, Inc.	D09255	11/18/93	Privacy of Credit Reports	Credit Bureau
W.D.I.A. Corporation	D09258	05/27/94	Privacy of Credit Reports	Information Broker

Federal Trade Commission

CONSUMER PROTECTION MISSION (DETAIL) *Del Dotto Enterprises, Inc.; David P. Del Dotto; Yolanda Del Dotto*

David and Yolanda Del Dotto and their firm, Del Dotto Enterprises, agreed to settle allegations that they misrepresented numerous features of their Cash Flow System, including that it has helped hundreds of thousands of consumers make substantial sums of money buying and selling real estate. The consent order prohibits the Del Dottos and their firm from making false claims regarding real estate, credit, investments, or business opportunities. It also prohibits misrepresentations that any endorsement for a product or service represents the typical or ordinary experience of previous users and representations that any advertisement is not paid advertising.

Hawthorne Communications, Inc.

Hawthorne agreed to settle allegations that it used deceptive testimonials and other misrepresentations in a 30-minute infomercial promoting its Tronsoft Home Business Starter Kit. The consent order prohibits Hawthorne from distributing or assisting others to distribute the infomercial and from misrepresenting the success or income of consumers who use the Tronsoft Kit or any similar product.

Revlon, Inc.; Charles Revson, Inc.

Revlon and its subsidiary, Charles Revson, agreed to settle allegations that they made unsubstantiated advertising claims for their Ultima II ProCollagen Anti-Cellulite Body Complex and PhotoAging Shield products. Revlon is required by the consent order to have scientific evidence to support any future claims about the effectiveness of cellulite treatments or sunscreen products. Revlon is also required to disclose the sun protection factor value in any sunscreen ad in which it makes claims regarding the ability of the product to protect against the sun's rays.

Sonic Technology Products, Inc.

Sonic Technology Products and two of its officers agreed to settle allegations that they made false and unsubstantiated claims about Sonic's ultrasonic pest control devices. The consent order prohibits the company from representing that any pest control device can

eliminate rodent or flea infestations or that such a device can repel fleas.

*Synchronal Corporation; Thomas L. Fenton;
Richard E. Kaylor; Ana Blau*

The consent order with Synchronal settled several allegations that it and several other respondents made false and unsubstantiated claims in infomercials for a purported baldness cure, the Omexin System for Hair, or for a cellulite treatment, the Anushka Bio-Response Body Contouring Program, or both. The consent order requires Synchronal to pay \$3.5 million in consumer redress and prohibits Synchronal and two of its officers, Richard Kaylor and Ana Blau, from making any unsubstantiated product claims in the future. Further, the order prohibits the respondents from disseminating the two infomercials and from misrepresenting the results of any tests or studies in connection with the marketing of any product or service in the future. A separate consent order with Thomas Fenton settled charges in connection with his role in the Omexin infomercial.

Trans Union Corporation, Inc.

Trans Union, one of the three major credit bureaus in the United States, agreed to settle Commission charges in connection with its prescreening practice of providing lists of consumers meeting certain credit criteria to credit grantors. The company allegedly failed to require these credit grantors to make a firm offer of credit to each person on these lists, as required by a federal law that governs the privacy of consumer credit data. The settlement requires Trans Union to modify and enforce its future contracts to reflect this requirement.

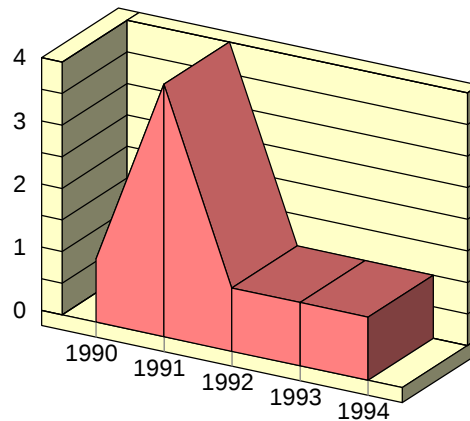
W.D.I.A. Corporation; Mark W. Hanna; Janice L. Campanello

W.D.I.A. and two of its officers, Mark Hanna and Janice Campanello, agreed to settle allegations in connection with their role as an information broker, a firm that buys large volumes of credit and other information about consumers at discounted rates from the major credit bureaus and then resells the data to lower-volume buyers. The company agreed not to furnish any consumer report for any purpose not permitted under the Fair Credit Reporting Act. W.D.I.A. is also

Federal Trade Commission

required to take certain steps to ensure that subscribers have permissible purposes for accessing consumer reports.

**INITIAL DECISIONS
COMPETITION MISSION**



COMPETITION MISSION (SUMMARY)

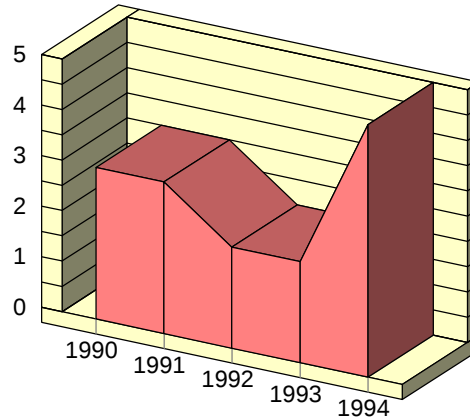
Title	Number	Action Date	Type of Matter	Product or Service
R.R. Donnelley & Sons Co.	D09243	12/30/93	Merger	Gravure Printing

COMPETITION MISSION (DETAIL) *R.R. Donnelley & Sons Co.*

An Administrative Law Judge (ALJ) upheld an administrative complaint that challenged Donnelley's September 1990 acquisition of four printing plants from Meredith/Burda Company L.P. The ALJ ordered Donnelley to divest the Arizona, Iowa, North Carolina, and Virginia plants, including all related assets, rights, and technology, within one year to a Commission approved acquirer. The initial decision also required Donnelley to divest comparable assets of its own if any of the former Meredith/Burda assets have been sold or closed. The initial decision held that the required divestitures are necessary to reestablish Meredith/ Burda's printing business to its preacquisition status as a viable competitor in gravure printing used for magazines, catalogs, advertising inserts, and other large-scale volume, multipage publications. Finally, the initial decision also requires Donnelley to obtain Commission approval for 10 years before acquiring any interest in any entity engaged in the publication gravure printing in the United States.

Federal Trade Commission

FINAL ORDERS COMPETITION MISSION



COMPETITION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Adventist Health System/West	D09234	04/01/94	Merger	Inpatient Acute-care Hospital Services
Coca-Cola Bottling Company of the Southwest	D09215	08/31/94	Merger	Carbonated Soft Drinks
Coca-Cola Company	D09207	06/13/94	Merger	Carbonated Soft Drinks
College Football Association	D09242	06/16/94	Horizontal Restraints	Cable TV Sports Programming

COMPETITION MISSION (DETAIL) *Adventist Health System/West*

The Commission upheld the decision of an Administrative Law Judge (ALJ) and ruled that the acquisition by Adventist of the assets of Ukiah General Hospital did not substantially lessen competition for the provision of general acute-care hospital services in Ukiah, California. The 1989 administrative complaint charged that the acquisition injured consumers by making Adventist the dominant medical facility, owning three of the five hospitals in the area north of San Francisco and Santa Rosa, California. The Commission ruled that the evidence did not support the relevant geographic markets alleged in the complaint and dismissed the complaint.

Coca-Cola Bottling Company of the Southwest

The Commission reversed a 1991 dismissal of a complaint by an ALJ and ruled that Coca-Cola Bottling Company's (CCBCS) acquisition of the Dr Pepper franchise from San Antonio Dr Pepper Bottling could substantially reduce competition for branded carbonated soft drinks in the 10-county area around San Antonio, Texas. The ALJ's decision, appealed by Commission staff, had concluded that the relevant product market was broader and included a larger geographic market than defined by the 1988 administrative complaint. The ALJ had also found that competition in the market for soft drinks in the area was healthy, with both low prices and excess capacity. Under terms of the Commission's final order, CCBCS is required to divest, within 12 months, the Dr Pepper assets it acquired in 1984 to an acquirer approved by the Commission. In addition, the order places restrictions on future acquisitions of branded carbonated soft drink assets.

Coca-Cola Company

The Commission reversed an ALJ's decision that the proposed acquisition by Coca-Cola of one of its largest competitors, the Dr Pepper Company, would violate the federal antitrust laws. The transaction, enjoined after a federal district court granted the Commission's motion for a preliminary injunction, was litigated in administrative proceedings. The Commission reversed the ALJ's initial decision and issued a final order requiring Coca-Cola to obtain prior Commission approval for 10 years before acquiring certain brand name soft drink concentrate manufacturers.

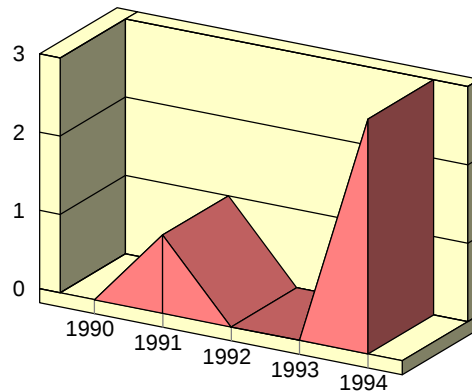
College Football Association

The Commission affirmed an initial decision when it dismissed an administrative complaint challenging agreements negotiated by the College Football Association (CFA) and Capital Cities/ABC, Inc. to televise certain college football games. According to the final order, CFA, composed of 66 major football-playing colleges and universities, is a nonprofit association, and does not carry on business for its own profit or for that of its members. The Commission ruled that it did not have the jurisdiction to challenge CFA's activities due to the association's nonprofit exemption under Section 4 of the FTC

Federal Trade Commission

Act and its recognition as a tax-exempt entity under the Code of the Internal Revenue Service.

**FINAL ADJUDICATIVE ORDERS
CONSUMER PROTECTION MISSION**



CONSUMER PROTECTION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Griffin Systems, Inc.	D09249	04/29/94	Contractual Misrepresentations	Auto Service Contracts
Stouffer Foods Corporation	D09250	09/26/94	Deceptive Low Sodium Claims	Frozen Food
Trans Union Corporation, Inc.	D09255	09/28/94	Privacy of Credit Reports	Credit Lists

CONSUMER PROTECTION MISSION (DETAIL) *Griffin Systems, Inc.; Gennaro J. Orrico; Alfonso S. Giordano; Robert W. Boughton*

The Commission upheld an Administrative Law Judge's initial decision that Griffin Systems and its principals deceptively and unfairly promoted Vehicle Protection Plan auto service contracts and misrepresented the terms for canceling the service contracts they sold to consumers. The final order prohibits the defendants from materially misrepresenting or unilaterally canceling any service contract they offer in the future.

Stouffer Foods Corporation

The Commission upheld an Administrative Law Judge's initial decision that Stouffer made deceptive low sodium claims for Lean

Federal Trade Commission

Cuisine frozen entrees. The final order and opinion broadened the Administrative Law Judge's order and prohibits the company from misrepresenting the existence or amount of sodium or any other nutrient or ingredient in any frozen food product it markets in the future, to include all nutrients and ingredients.

Trans Union Corporation, Inc.

The Commission upheld an Administrative Law Judge's initial decision that Trans Union violated the Fair Credit Reporting Act. The Judge prohibited Trans Union from compiling and selling target-marketing lists based on federally-protected information that includes the credit habits of consumers, unless the company has a reason to believe the buyer intends to make a firm offer of credit to each consumer on the lists.

**RULEMAKING ACTIVITIES
(Including Guides and Other Policy Statements)****CONSUMER PROTECTION
MISSION***Alternative Fuel Labeling Rule*

The Commission initiated a rulemaking proceeding to establish uniform labeling requirements for alternative fuels and alternative-fueled vehicles, disclosing cost and benefit information to enable consumers to make reasonable purchasing choices and comparisons.

Appliance Labeling Rule

The Commission made several amendments to the Appliance Labeling Rule in fiscal year 1994. The first amendment requires showerheads, kitchen and lavatory faucets, water closets (toilets), and urinals to disclose their water-usage rates. The information is required to be displayed on the products and their packaging and labeling, as well as in catalog advertising and point of sale promotional materials.

The second amendment requires that the packaging or labeling of three types of light bulbs make disclosures designed to help consumers purchase the most energy-efficient bulbs that meet their needs. The amendment applies to three categories of light bulbs or tubes known in the industry as lamps: general service fluorescent lamps, medium base compact fluorescent lamps, and general service incandescent lamps, including reflector lamps, commonly known as spot lights or flood lights.

The third amendment requires that labels be easier to read and more useful to consumers in comparing the energy efficiencies of various home appliances.

The final amendment requires that manufacturers of residential pool heaters, instantaneous water heaters, and heat pump water heaters display EnergyGuide labels, which show estimated energy efficiency for appliances.

Care Labeling Rule

As part of its periodic review of rules and guides, the Commission initiated a review of the Care Labeling Rule to determine whether it should be modified to permit the use of care symbols, instead of words, and to require that instructions be provided for both washing and dry cleaning when both methods can be used. The Rule was

Federal Trade Commission

enacted in 1971 to make it easier for consumers, professional launderers, and dry cleaners to determine proper clothing care.

Fair Packaging and Labeling Act

The Commission amended its implementation regulations for the Fair Packaging and Labeling Act to coincide with Congress's 1992 amendment to the Act. The Commission's amended regulations require that labels and packages printed after February 14, 1994, be expressed in both the English and the metric system.

Food Advertising

The Commission issued an enforcement policy statement advising food advertisers to closely observe federal food labeling regulations when making health related claims or claims about the nutrient content of their products. The Commission stated that it will look to standards set by the Food and Drug Administration's new labeling regulations in evaluating whether nutrient content and health claims in advertising are deceptive.

Fallout Shelter Advertising Guides; Radiation Monitoring Instruments Advertising Guides; Shell Homes Advertising Guides

The Commission eliminated its *Guides for Advertising Fallout Shelters*, *Guides for Advertising Radiation Monitoring Instruments*, and *Guides for Advertising of Shell Homes*. The Commission decided that a lack of advertising and consumer demand for home fallout shelters and home radiation monitoring devices made the guidelines governing them unnecessary. In addition, marketing abuses addressed by the *Guides for Advertising Shell Homes* are now largely handled by state and local housing code authorities. The decision to repeal the guides is part of the Commission's periodic review of the regulatory and economic impact of its rules and guides.

Funeral Rule

When the Funeral Rule was promulgated in 1982, it mandated that the Commission review the Rule no later than four years after its effective date to determine whether it should be amended or

terminated. Pursuant to this mandate, the Commission amended the Funeral Rule to improve its effectiveness for consumers and to eliminate unnecessary compliance burdens on funeral providers. The amended Rule prohibits funeral providers from charging a casket-handling fee in addition to any nondeclinable basic services fee and modifies the Rule's telephone disclosure requirements. The Rule will retain its primary itemization, price, and other disclosure requirements.

Mail Order Rule

In response to the growth of telemarketing, the Commission amended its Mail Order Rule, effective March 1994, to include orders placed by telephone, fax or computer, as well as by mail.

900 - Number Rule

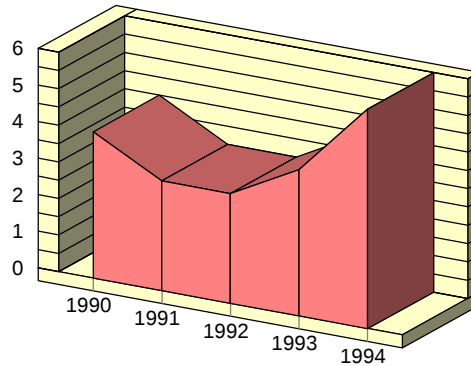
The Commission's 900-Number Rule took effect on November 1, 1993. The Rule implements the Telephone Disclosure and Dispute Resolution Act of 1992, 15 U.S.C. §5701 *et seq.*, and establishes requirements for advertising and operating pay-per-call services, as well as procedures for billing and collecting for such services.

Tire Advertising and Labeling Guides

The Commission amended its *Tire Advertising and Labeling Guides* to allow advertisements to use terms other than retread to designate that used or retreaded tires are not new, as long as the ads do not misrepresent the tires' performance, how they are manufactured, or any other attribute.

Federal Trade Commission

ORDER MODIFICATIONS COMPETITION MISSION



COMPETITION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Arkla, Inc.	C3265	03/28/94	Merger	Natural Gas Transmission
General Motors Corporation	C3132	10/29/93	Merger	Automobiles and Light Trucks
Institut Merieux S.A.	C3301	04/22/94	Merger	Rabies Vaccine
Promodes S.A.	D09228	01/28/94	Merger	Supermarkets
S.C. Johnson & Son, Inc.	C3418	11/08/93	Merger	Home Care Products
Union Switch & Signal Inc.	C0837	08/29/94	Horizontal Restraints	Railroad Signaling Equipment

COMPETITION MISSION *Arkla, Inc.* (DETAIL)

At the request of Arkla, the Commission reopened and modified a 1989 consent order to redefine the natural gas transmission assets Arkla was required to divest. Under the new order, Arkla is required to divest an undivided interest in the gas pipeline transmission portion of its pipelines that run from western Oklahoma to Arkansas and Louisiana.

General Motors Corporation; Toyota Motor Corporation

At the request of General Motors and Toyota, the Commission set aside a 1984 consent order that limited the duration and annual production output of small vehicles produced by their New United Motor Manufacturing, Inc. joint venture. The two firms showed that, due to changed conditions in the industry and public interest, continuance of the joint venture would not reduce competition in the manufacture and sale of small and intermediate cars in the United States.

Institut Merieux S.A.

The Commission eliminated a provision in a 1990 consent order requiring Pasteur Merieux Serums et Vaccines S.A. (formerly Institut Merieux S.A.) to lease the rabies vaccine business acquired through the 1989 acquisition of Connaught BioSciences, Inc. The Commission terminated the leasing requirement after receiving evidence that the entry of other firms into the market to distribute rabies vaccines in the United States would ensure that Merieux could no longer be a dominant firm.

Promodes S.A.

Promodes S.A.'s obligation to divest two Red Food Stores, Inc. stores in Tennessee was terminated. The Commission determined that Red Foods ability to compete was weakened by unanticipated costs and losses after a trustee attempted unsuccessfully for 21 months to divest the stores.

S.C. Johnson & Son, Inc.

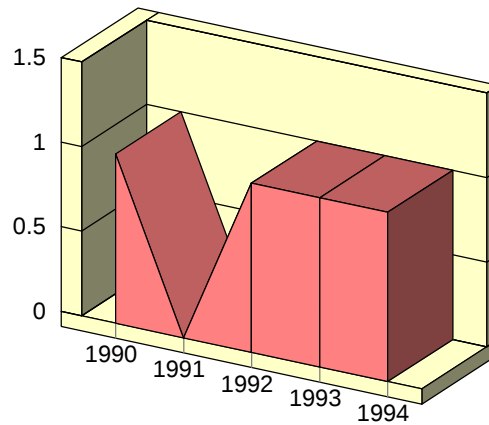
Johnson's obligations to divest its remaining international Renuzit air-freshener business and to operate the business independently under a hold-separate agreement were terminated. The Commission found no competitive concerns, in the United States market for air-freshener and furniture-care products, to justify retaining the requirement. The U.S. assets had been divested previously to an acquirer approved by the Commission.

Federal Trade Commission

Union Switch & Signal Inc.

The Commission terminated a 1964 consent order that prohibited General Railway Signal Co. and Westinghouse Air Brake Co. from entering into any agreement to fix prices, allocate customers or markets, or exchange any nonpublic information in the manufacture or sale of railroad signaling and control systems. In its petition, Union Switch & Signal Inc., successor to Westinghouse Air Brake Co., contended that competition in the railroad signaling/equipment market would be increased if Union Switch could be permitted to engage in certain licensing and distribution agreements with its parent company and with other subsidiaries of its parent that would coordinate their respective worldwide marketing efforts in a more efficient manner.

**ORDER MODIFICATIONS
CONSUMER PROTECTION MISSION**



CONSUMER PROTECTION MISSION (SUMMARY)

Title	Number	Action Date	Type of Matter	Product or Service
Service Corporation International	D09071	05/12/94	Funeral Rule	Funeral Homes

CONSUMER PROTECTION MISSION (DETAIL) *Service Corporation International*

The Commission modified a 1976 order that prohibits Service Corporation International, one of the largest operators of funeral homes and cemeteries in North America, from charging customers more than the funeral home's cost for specified items provided by third parties and from misrepresenting that the purchase of a casket for cremation is required by state law. The Commission deleted administrative provisions that require the company to distribute a copy of the 1978 order to its funeral homes and affected employees, to provide prior notice to the Commission of certain changes in its corporate organizations, and to notify the Commission by the tenth of each month about the acquisition or sale of any funeral homes in the preceding month.

CONSUMER AND BUSINESS EDUCATION EFFORTS

CONSUMER PROTECTION MISSION

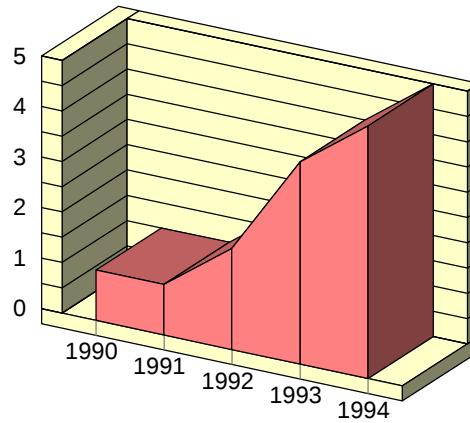
The Office of Consumer and Business Education produced 24 new publications and 46 revised publications. Of these 70 publications, 3 were business booklets, 11 resulted from joint efforts, 7 were in Spanish, and 7 were special enclosures for consumer complaint or redress letters. For National Consumers Week, the Office developed a special newspaper supplement, *Focus on Fraud*, and distributed 8,000 copies to Commission regional offices and requesting organizations for redistribution.

The Office distributed 19,000 copies of its business booklet, *Complying with the Funeral Rule*, to funeral directors nationally and distributed approximately 12,700 copies of its industry guide, *Complying with the "900" Number Rule*, to businesses. The Commission distributed more than three million copies of its education publications during the fiscal year.

The Office released a multimedia consumer education campaign on auto repair. It included a three-part television video series, radio public service announcements, and a booklet called *Taking the Scare Out of Auto Repair*. The campaign, a joint project with the National Association of Attorneys General (NAAG) and the American Automobile Association, won two prizes in the International Mercury Awards competition, one in video and the other in print. The booklet also won a Blue Pencil Award from the National Association of Government Communications (NAGC) and was an NAGC finalist in the video category.

The Office also did a multimedia campaign concerning telephone scams and older consumers with NAAG and the American Association of Retired Persons. This campaign won a Silver Medal in the International Mercury Awards.

**APPELLATE COURT REVIEW OF COMMISSION ACTIONS
COMPETITION MISSION**

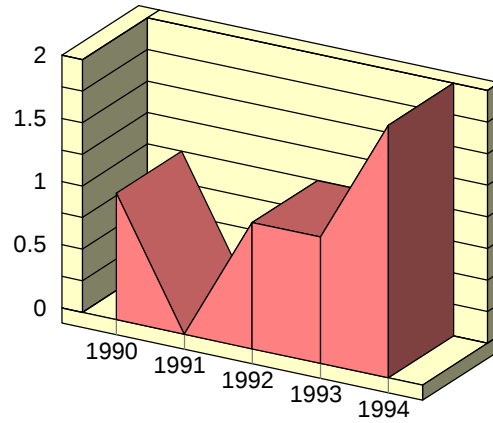


COMPETITION MISSION (SUMMARY)

<i>Appellate Court Decisions</i>				
Title	Number	Action Date	Type of Matter	Product or Service
Adventist Health System/West	D09234	05/18/94	Merger	Inpatient Acute-care Hospital Services
Harold A. Honickman	D09233	02/03/94	Merger	Carbonated Soft Drinks
Occidental Petroleum Corporation	D09205	01/12/94	Merger	Polyvinyl Chloride
William F. Farley	8910036	12/15/93	HSR	Fabricated Textile Products

Federal Trade Commission

SUPREME COURT REVIEW OF COMMISSION ACTIONS COMPETITION MISSION



COMPETITION MISSION (SUMMARY)

<i>Supreme Court Decisions</i>				
Title	Number	Action Date	Type of Matter	Product or Service
Olin Corporation	D09196	02/24/94	Merger	Pool Sanitizing Chemicals
Ticor Title Insurance Company	D09190	03/21/94	Horizontal Restraints	Title Insurance

COMPETITION MISSION *Adventist Health System/West*
(DETAIL)

On May 18, 1994, the U.S. Court of Appeals for the Ninth Circuit granted Ukiah Adventist Hospital's motion for voluntary dismissal of its complaint to enjoin the Commission's administrative proceedings challenging its parent Adventist Health System/West's 1988 acquisition of Ukiah General Hospital. While Ukiah Adventist's suit was pending, the Commission dismissed its administrative complaint, ruling that the evidence did not support the relevant geographic markets challenged in the administrative complaint.

Harold A. Honickman

On February 3, 1994, the U.S. Court of Appeals for the District of Columbia approved a stipulation and settlement of Honickman's complaint that challenged the Commission's denial of his petition to acquire Seven-Up Brooklyn Bottling Company assets. Subject to certain conditions, the Commission granted Honickman's request to acquire licenses to distribute soft drink brands formerly carried by Seven-Up Brooklyn in all or part of the New York territory formerly served by that company.

Occidental Petroleum Corporation

On January 12, 1994, the U.S. Court of Appeals for the Second Circuit granted a joint proposal to settle Occidental's appeal of a 1992 Commission decision and final order requiring divestiture of Occidental's suspension polyvinyl chloride (PVC) plant in Pasadena, Texas and the Burlington, New Jersey suspension and dispersion PVC plant acquired from Tenneco Polymers, Inc. in 1986. Under terms of the order, modified by the court, Occidental will divest a PVC plant in Addis, Louisiana, instead of the facility in Texas, within 12 months to a Commission approved acquirer. The modified order also prohibits Occidental from acquiring any PVC assets in the United States for a period of 10 years without receiving approval from the Commission.

Federal Trade Commission

Olin Chemical Company

On February 26, 1994, the Supreme Court denied Olin's petition for certiorari. The Court's ruling finalizes the Commission order requiring Olin to divest the swimming pool sanitizing chemicals business acquired in 1985 from FMC Corporation. The Commission's 1990 decision was affirmed on appeal in 1993 by the Ninth Circuit.

Ticor Title Insurance Company

On March 21, 1994, the Supreme Court denied Ticor's petition for certiorari to review the Third Circuit's decision affirming the Commission's final order. The Commission had ruled that Ticor's rate-making activities are not immune from the federal antitrust laws under either the "business of insurance" exception of the McCarran-Ferguson Act or the Noerr-Pennington doctrine.

William F. Farley

In December, the U.S. Court of Appeals for the Seventh Circuit reversed a decision by the district court, which had dismissed the Commission's complaint alleging that William F. Farley violated the Hart-Scott-Rodino reporting and filing requirements when he acquired stock in West Point Pepperell, Inc. The District Court for the Northern District of Illinois dismissed the complaint with prejudice after the Commission declined to produce nine internal documents protected by the work product and deliberative process privileges. Commission attorneys, acting under a special authorization of the U.S. Attorney General, plan to refile the Section 7A charges with the federal district court for a decision on the merits of the complaint.

ECONOMIC REPORTS AND WORKING PAPERS

ECONOMIC REPORTS Economic Reports are major, published reports concerning antitrust, consumer protection, or regulatory issues of policy interest to the Commission. These reports usually contain original research and entail a substantial commitment of resources.

Resale Price Maintenance: An Economic Study of the FTC's Case Against Corning Glass Works, Pauline M. Ippolito and Thomas R. Overstreet, Jr., January 1994.

This study was intended to help increase understanding of the economic motivation for Resale Price Maintenance (RPM) when the products at issue are relatively simple goods that do not fit the most well-known efficiency rationales for the practice. The study found no evidence of collusion among Corning's dealers or competitors and found that stock market movements and sale values for Corning and some of its competitors do not support anticompetitive theories. The authors found the results "consistent with the theory that RPM may at times be used as a method of increasing distribution of simple products sold through multiproduct dealers."

Effects of Unfair Imports on Domestic Industries: U.S. Antidumping and Countervailing Duty Cases, 1980-1988, Morris E. Morkre and Kenneth H. Kelly, February 1994.

This study analyzed the effects of dumped and/or subsidized imports on the domestic industries with which they competed. The authors found that, in nearly 90% of the 179 cases analyzed, unfair imports caused reductions of less than 10% in domestic industry revenue.

ECONOMIC WORKING PAPERS Economic Working Papers are preliminary, unpublished manuscripts, resulting from original research by staff. These reports typically entail relatively minor allocations of official time.

Antitrust: Results from the Laboratory, (WP#202), Charissa P. Wellford, October 1993.

The Antitrust Implications of Entry by Small-Scale Hospitals, (WP#203), John Simpson, October 1993.

Federal Trade Commission

Vertical Contracts as Strategic Commitments, (WP#204), Cindy R. Alexander and David Reiffen, December 1993.

Disentangling Regulatory Policy: The Effects of State Regulations on Trucking Rates, (WP#205), Timothy P. Daniel & Andrew N. Kleit, July 1994.

Reversing Roles: Stackelberg Incentive Contract Equilibrium, (WP#206), Richard E. Ludwick, Jr., July 1994.

Merger Analysis in the Courts, (WP#207), Malcolm B. Coate, August 1994.

ADVOCACY FILINGS (SUMMARY)

Matter Number	Agency/State/Organization	Subject/Issue	Commission Authorization Date
V930026	Federal Communications Commission	AT&T Price Cap Regulation	10/25/93
V940002	Federal Communications Commission	AT&T Petition	11/23/93
V940004	Louisiana	Embalming Requirement	01/14/94
V940007	Mississippi	Lawyer Advertising	01/14/94
V940006	Food and Drug Administration	Sunscreen Monograph	02/07/94
V940009	Indiana	Auto Brokering Prohibition	02/18/94
P944801	Federal Reserve Board	Federal Reserve Leasing Regulations	02/24/94
V940003	South Carolina	Legislative Audit: Utility Regulation	02/28/94
V940010	Pennsylvania	Preneed Funeral & Cemetery Contracts	03/28/94
V940011	California	Auto Dealer Regulation	04/29/94
V940014	Federal Maritime Commission	Competition Guidelines	05/19/94
V940015	California	Electric Power Regulation	06/08/94
V940012	American Bar Association	Commission on Lawyer Advertising	06/24/94
V940016	Bureau of Alcohol, Tobacco and Firearms	Unfair Trade Practices under Federal Alcohol Administration Act	07/27/94
V940017	Federal Aviation Administration	Airport Rates and Charges Policies	09/13/94
V940019	International Trade Commission	Effects of Import Restraints	09/29/94

The following items represent projects that have been closed without a comment being produced:

V930025: Kansas, "Any-Willing-Provider" Bill

V940008: North Dakota, Health Care Regulations

Federal Trade Commission

ADVOCACY FILINGS (DETAIL)

NATIONAL ORGANIZATIONS *American Bar Association: Commission on Lawyer Advertising*

Commission staff submitted comments to the American Bar Association's Commission on Lawyer Advertising. The comments recommended that some degree of regulation may be necessary to ensure against deception, especially on aspects of legal services about which consumers are not well informed. Some rules addressed to particular risks of misrepresentation may be too broad, however, and risk preventing the communication of truthful, nondeceptive information that consumers may find useful. Staff also suggested that broad rules to enforce criteria of dignity may prevent the communication of useful, nondeceptive information and may be more restrictive than necessary to promote the values at issue. In general, the staff cautioned that restrictions inhibiting competition and consumer choice could impose costs that should be considered carefully.

FEDERAL AGENCIES *Bureau of Alcohol, Tobacco and Firearms: "Exclusion" Inquiry*

Commission staff filed comments in response to a Bureau of Alcohol, Tobacco and Firearms (BATF) notice of proposed rulemaking which solicited comments about proposed rules to define *exclusion* under the Federal Alcohol Administration Act. BATF proposed that exclusion of a supplier should not be found unless a threat to retailer independence is demonstrated. Staff stated that this proposal could be consistent with efforts to promote a competitive marketplace, if reduction in retailer independence were due to another supplier's exercise of market power. Staff recommended that defining *exclusion* by reference to reduction in purchases from competitors will always be ambiguous. Instead, the focus should be on suppliers' acts that exclude their competitors by unreasonably restraining retailers' choices.

Federal Aviation Administration: Rates Policies

The staff of the Bureau of Economics filed comments in response to a Federal Aviation Administration (FAA) notice of proposed rulemaking which sought comments on policies to govern the setting of airport rates and charges. The staff recommended that a policy

requiring that prices reflect historical costs could frustrate the effort to use airport resources efficiently. According to the comment, in order to promote efficient utilization of airport facilities, the FAA should consider alternative cost-of-service ratemaking methods, such as price-cap regulation, that would permit the establishment of rates and charges that better reflect opportunity costs of resources.

Federal Communications Commission: AT&T Price Cap Regulation

The staff of the Bureau of Economics filed comments in response to a Federal Communications Commission (FCC) notice of proposed rulemaking which sought comments concerning proposals to revise price cap rules for AT&T. The comments were based on a Bureau of Economics study of the extent to which individual firms, particularly AT&T, could exert market power for long distance services. Staff supported proposals that would remove price caps from and streamline FCC regulation of optional long distance calling plans and commercial long distance services. Suggested benefits include savings in administrative costs, expedition of new services and price reductions, a decrease in regulatory delay, and an increase in flexible pricing, competition, and incentives to initiate proconsumer price and service changes.

Federal Communications Commission: AT&T Petition

The staff of the Bureau of Economics filed comments in response to a Federal Communications Commission notice of proposed rulemaking, which sought comments on an AT&T petition to remove its classification as a “dominant” carrier. AT&T has requested that it be classified as a “nondominant” carrier and that it be regulated in the same manner as its interexchange competitors. The staff filed a Bureau of Economics empirical assessment of AT&T’s market power in the long distance telecommunications market and asked that the study be considered in FCC’s deliberations on this issue.

Federal Maritime Commission: Competition Guidelines

The staff of the Bureau of Economics filed comments with the Federal Maritime Commission (FMC), which is considering whether to issue guidelines about its competition policies under the Shipping Act of 1984. The comments recommended that the FMC challenge

Federal Trade Commission

particular objectionable provisions contained in ocean carrier rate-making agreements, rather than challenge entire agreements; that the FMC use merger and antitrust joint venture analysis in assessing competitive effects under the Shipping Act; and that the FMC interpret the Shipping Act to address agreements that prevent rate reduction or service improvements.

Federal Reserve Board: Leasing Regulations

The Bureau of Consumer Protection staff filed comments in response to a Federal Reserve Board notice of proposed rulemaking concerning proposals to revise Regulation M, which implements the Consumer Leasing Act. Staff supported the Board's proposal for a segregation requirement, stating that the segregation of lease disclosures could benefit consumers by making information readily apparent and easily accessible. The Commission also suggested the use of a toll-free number to provide some of the required disclosures in media advertising.

Food and Drug Administration: Sunscreen Products Monograph

The staff of the Bureau of Consumer Protection filed comments with the Food and Drug Administration (FDA) concerning proposed rules requiring specific labeling language on sunscreen products. The staff concluded that some aspects of the FDA's proposal include terms and phrases for labels that may, unintentionally, misinform consumers about the level or type of protection that sunscreen products provide. Because the potentially serious health consequences that can result if consumers misinterpret sunscreen labeling, the FDA should conduct consumer research into how consumers interpret the proposed language and to test whether modified language might better inform consumers.

International Trade Commission: Effects of Unfair Imports

The staff of the Bureau of Economics testified before the International Trade Commission about the effects of orders in countervailing duty and dumping cases. The testimony described a Bureau of Economics report issued earlier in the year that identified decreases in domestic industry revenues due to unfairly dumped or subsidized imports.

STATES *California: Auto Dealer Regulation*

The San Francisco Regional Office filed comments with the California State Assembly concerning a bill that would clarify the status of businesses that offer the service of brokering new vehicle sales. According to the staff, the bill would enable businesses, such as individual brokers, credit unions, and buying clubs, to compete more effectively and would benefit California consumers by saving them money and inconvenience. Staff supported the bill but suggested that the ban on naming particular makes or models in advertisements could leave brokering services at a competitive disadvantage and increase consumers' costs.

California: Public Utilities Commission Electric Power Proposal

The staff of the Bureau of Economics filed comments with the California Public Utilities Commission concerning a proposal to permit retail wheeling of electric power. The comments included a Bureau of Economics study of competition issues in electric power and a copy of an earlier comment filed with the Illinois Commerce Commission on price-cap regulation. According to the staff comments, to promote competition in the power generation industry, artificial barriers to entry should be removed and traditional rate-of-return regulation should be reviewed. The comments also recommended that the regulators should position themselves to deal flexibly with competition in the transmission and distribution of electric power as increased competition in these areas becomes more feasible in the future.

Indiana: Auto Brokering Prohibition

The Chicago Regional Office filed comments with the Indiana House of Representatives concerning a bill that would ban brokering of new vehicle transactions. The bill would prevent anyone except dealers and owners from negotiating sales or leases of new cars and trucks, thereby prohibiting many of the car sales activities now sponsored by credit unions, buying clubs, and other organizations. The comments suggested that brokers can save consumers money in purchases and in search costs and that car dealers may participate with credit unions, buying clubs, and referral services to offer cars at reduced prices, gaining access to customers and potentially increasing

Federal Trade Commission

volume. The comments concluded that prohibiting brokering of new vehicle transactions would likely reduce competition and deprive consumers of cost savings.

Louisiana: Embalming Requirement

The Bureau of Consumer Protection filed comments in response to a proposal by the Louisiana Board of Embalmers and Funeral Directors to amend its rules governing the removal of bodies from the state. The proposed rule would require that, with some exceptions, a body could not be removed from the state unless it was first embalmed or cremated. The comments suggested that this requirement could force consumers to purchase services that they neither need nor want and could increase the costs borne by residents of other states arranging funerals for their relatives who die in Louisiana.

Mississippi: Lawyer Advertising Rules

The staff of the Office of Consumer and Competition Advocacy filed comments in response to a Mississippi Supreme Court Order concerning proposed amendments to the state bar's disciplinary rule on advertising. The comments noted that the amendments would restrict standards governing attorney advertising and that several of the proposals may restrict the flow of truthful and useful information to consumers. The comments suggested that the Court consider modifying the rules to permit a wider range of truthful communications and to narrow their prohibitions, targeting only those representations that pose a clear likelihood of consumer injury or that otherwise violate significant public policy objectives in a way injurious to consumers.

Pennsylvania: Preneed Legislation

The Cleveland Regional Office submitted comments to the Pennsylvania legislature concerning a bill to revise the state's laws regulating preneed sales of funeral and cemetery goods and services. Among other things, the bill would require that all or nearly all of the proceeds of such sales be deposited into a trust fund. The comments cautioned that a completely trusting approach may unintentionally retard the introduction and development of innovative forms of

competition. As an alternative, the comments suggested that preneed sellers be allowed to post a performance bond, under which a third-party guarantor would agree to pay the contract amount if the seller did not deliver at the time of need and that the legislature consider only requiring that prices for separate items in preneed contracts be no greater than, rather than identical to, the prices on the providers' lists.

South Carolina: Utilities Regulation

The staff of the Bureau of Economics filed comments with the South Carolina Legislative Audit Council regarding the statutes and regulations pertaining to the state's Public Service Commission that govern the trucking, telecommunications, and electric power industries. The comments recommended relaxing restrictions on entry into motor carrier markets, permitting incumbent telephone utilities more flexibility to adjust prices in response to new competition, and pursuing alternatives to rate-of-return regulation for telephone utilities. The staff comments recommended that those portions of the statutes that require traditional rate-of-return regulation and construct artificial barriers to entry should be revised in order to promote competition in the electric power industry.

Federal Trade Commission

INDEX OF CASES LISTED IN THE APPENDIX

<i>Respondent Name</i>	<i>Page</i>
A & G Auto Sales	94
A-1 All County Electric, Inc. (<i>See - AAA Quality Electric, Inc.</i>)	73
AA Investments (<i>See - Denny Mason</i>)	102
AAA Quality Electric, Inc.	73
ABBA Electric, Inc. (<i>See - AAA Quality Electric, Inc.</i>)	73
Abbott Laboratories	67, 117
Abram Epstein	56
Academic Guidance Services, Inc.	101
ACFM Services, Inc. (<i>See - Hillary's Gourmet Ice Cream, Inc.</i>)	78
Action Electric (<i>See - AAA Quality Electric, Inc.</i>)	73
Action Game Technologies, Inc. (<i>See - Wolf Group</i>)	86
Admatch Network (<i>See - Turcal, Inc.</i>)	84
Adobe Systems, Incorporated	33
Advance Watch Company, Ltd.	90
Adventist Health System/West	124, 139
Agway Petroleum Corporation	91
AJM Packaging Corporation	56
Alan D. Wittstein	80
Aldus Corporation	33
Alexander S. Estfan	77
Alfonso S. Giordano	127
All American Marketing, Inc. (<i>See - Telefundors for the Gleaners</i>)	84
All County Electric (<i>See - AAA Quality Electric, Inc.</i>)	73
All County Electric, Inc. of Georgia (<i>See - AAA Quality Electric, Inc.</i>)	73
All County Electric, Inc. of Illinois (<i>See - AAA Quality Electric, Inc.</i>)	73
All County Electric, Inc. of Massachusetts (<i>See - AAA Quality Electric, Inc.</i>)	73
All County Electric, Inc. of Texas (<i>See - AAA Quality Electric, Inc.</i>)	73
All County Management Services, Inc.	73
Allied Electric (<i>See - AAA Quality Electric, Inc.</i>)	73
Allied Electrical Corporations, Inc. (<i>See - AAA Quality Electric, Inc.</i>)	73
Allstate Locating, Inc. (<i>See - Dr.'s Choice</i>)	84
Allstates Leasing, Inc. (<i>See - Wolf Group</i>)	86
Alvey Holdings, Inc.	44
American Association of Language Specialists, The	5
American Buyers Network (<i>See - James Rodgers</i>)	103
American Health Associates, Inc. (<i>See - Denny Mason</i>)	102
American Institute of Habit Control, Inc.	57

Index of Cases Listed in the Appendix

American Institute of Smoking Cessation, Inc.	40
American Manufacturing Industries, Inc. (<i>See - Wolf Group</i>)	86
American Microtel, Inc. (<i>See also - Bill Whitely</i>)	74, 101
American Mobile Phone Systems, Inc.	108
American Society of Interpreters, The	45
American Sports Collectibles	91
American Sports Productions (<i>See - American Sports Collectibles, Inc.</i>)	91
American Standard Credit Systems, Inc. (<i>See - Robert M. Farmer</i>)	107
American Tobacco Company	40
America's Favorite Chicken Company	57
Amerivest, Inc. (<i>See - Vendall Marketing Corporation</i>)	109
Amoco Chemical Company	57
Amoco Foam Products Company	57
Ana Blau	122
Andreas E. Loizou	94
Anthony Della Iacono	102
Anthony J. Prall	73
Anthony L. Ingram (<i>See - New Mexico Custom Designs, Inc.</i>)	60
Anthony L. Manzella, Jr.	61
Anthony R. Pironti (<i>See - National Syndications, Inc.</i>)	106
Anushka (<i>See - Synchronal Corporation</i>)	122
Archer Daniels Midland Company	58
Arizona Automobile Dealers Association	5
Arkla, Inc.	132
Asics Tiger Corporation	91
Authorized Distribution Center, Inc.	79
Autobahn Motors, Inc. (<i>See - Detroit Automobile Dealers Association, Inc.</i>)	118
Auto Checkers International, Inc. (<i>See - Car Checkers of America, Inc.</i>)	74
AWARE (<i>See - Telefundors for the Gleaners</i>)	84
Bally's Health & Tennis Corporation	93
Baltimore Metropolitan Pharmaceuticals Association, Inc.	118
Barry L. Freedman (<i>See also - Wolf Group</i>)	73, 86
Barry Gross	73
Baylis Company, Inc., The	74
Benedict Spano	102
Benjamin Valenty	105
Best of Baseball and All Sports, Inc.	91
Beverly Hills Weight Loss Clinics International, Inc.	58
Bill Whitely	74
Blade Thomas	75
Blazers Franchise Development Corp. (<i>See - Salsa's Franchise Development Corporation</i>)	82

Federal Trade Commission

Bonnie Wolf (<i>See also - Wolf Group</i>)	86, 109
Boulder Ridge Cable TV	33
Bradley Philip Schwab (<i>See - AAA Quality Electric, Inc.</i>)	73
Brantany Industries Corp.	82
Brantany Development Corporation	82
Brian O'Shaughnessy (<i>See - Digital Communications, Inc.</i>)	76
Brian Corzine	74
Brian Phillip Jobe (<i>See - Sonic Technology Products, Inc.</i>)	121
Brian Kaplan (<i>See - Best of Baseball and All Sports, Inc.</i>)	91
Bullock's, Inc. (<i>See - Macy's Northeast., Inc.</i>)	62
Burger Quik, Inc. (<i>See - Wolf Group</i>)	86
Burton H. Levinson	96
Cape Coral Hospital (<i>See - Hospital Board of Directors of Lee County</i>)	111
Capital Cities/ABC, Inc. (<i>See - College Football Association</i>)	125
Car Checkers of America, Inc.	74
Carey E. Benzeberg	86
Catholic Healthcare West (<i>See - Dominican Santa Cruz Hospital</i>)	47
Certain Home Oxygen Pulmonologists	48
Chantal Azanga	77
Charity Center, Inc. (<i>See - Telefundors for the Gleaners</i>)	84
Charles C. Davis	101
Charles G. Williams	83
Charles McLaughlin	105
Charles Revson, Inc.	121
Chase Consulting	74
Chase Revel	104
Chase-Blade, Inc.	75
Chattanooga Coin Co.	76
Chemopharm Laboratory, Inc.	40
Christine M. Heller	104
Christopher Puma	75
Christopher L. Vener	85
CIT Group/Sales Financing, Inc.	92
CJM, Inc.	63
CK&C, Inc.	63
Clara McDermott	63
Claude A. Blanc, Jr.	101
Clyde G. King (<i>See - Wolf Group</i>)	86
Coastal Refining and Marketing, Inc.	92
Coca Cola Bottling Company of the Southwest	125
Coca-Cola Company	125

Index of Cases Listed in the Appendix

Codima, Inc.	101
Coin Management, Inc. (<i>See - Wolf Group</i>)	86
Collectibles Clearinghouse, Inc. (<i>See - World Wide Classics, Inc.</i>)	109
College Football Association	125
Columbia/HCA Healthcare Corporation	34
Columbia Healthcare Corporation	46
Columbia Hospital Corporation	46, 118
Com-Net, Inc. (<i>See - James Rodgers</i>)	103
Communidyne, Inc.	76
Community Associations Institute	46
Complete Athlete Holding Company (<i>See - American Sports Collectibles</i>)	91
Comtel Data Systems, Inc.	76
Comtel Group, Inc. (<i>See - Comtel Data Systems, Inc.</i>)	76
Cooper Industries, Inc.	47
Cornell Gabos	82
Corporate Business Products, Inc.	79
Corporate Travel Services, Inc. (<i>See - Wolf Group</i>)	86
Coverall North America, Inc.	92
CP Industries	40
Craig Bryson	63
Craig Tillotson	63
CST Management, Inc.	63
D. Brian McDonagh, M.D.	65
D.J.I. Manufacturing, Inc. (<i>See - Comtel Data Systems, Inc.</i>)	76
Dahlberg, Inc.	92
Dahlonga Mint	76
Dale Andrew Sparks (<i>See - AAA Quality Electric, Inc.</i>)	73
Danny Sterk	101
David P. Del Dotto	121
David Jordan (<i>See - Denny Mason</i>)	102
David S. Katz (<i>See - American Sports Collectibles, Inc.</i>)	91
David Krischer (<i>See - Main Distribution Center, Inc.</i>)	79
David Rolfe (<i>See - Digital Communications, Inc.</i>)	76
David Schechter	90
David Weston	105
David L. Wolf (<i>See also - Wolf Group</i>)	86, 109
DBJ I, Inc. (<i>See - Wolf Group</i>)	86
Del Dotto Enterprises, Inc.	121
Delta American Financial Services Corporation	76
Delta Financial Services, Inc.	76
Dennis S. Goddard	103

Federal Trade Commission

Denny Mason	102
Detroit Automobile Dealers Association, Inc.	118
Diet Center, Inc.	58
Digital Communications, Inc.	76
Digital Communications of Denver, Inc. (<i>See - Digital Communications, Inc.</i>)	76
Dillard Department Stores, Inc.	113
Direct Response, Inc.	83
DLW Distributors, Inc. (<i>See - Wolf Group</i>)	86
Doctors Medical Weight Loss Centers, Inc.	58
Doctors Weight Loss Center (<i>See - Doctors Medical Weight Loss Centers, Inc.</i>)	58
Dominican Santa Cruz Hospital	47
Don K. Gearheart (<i>See - Quick Weight Loss Centers, Inc. (Texas); Quick Weight Loss Centers, Inc. (Georgia)</i>)	58
Donald Earthman	95
Donald Moffitt, Jr. (<i>See - Moffitt Oil Company, Inc.</i>)	95
Donald A. Rabbitt (<i>See - Digital Communications, Inc.</i>)	76
Donald Ira Pinansky (<i>See also - Wolf Group</i>)	73, 86
Dorsey Dan Gray (<i>See - Publishing Clearing House, Inc.</i>)	82
Dorothy Jean Lagman (<i>See - AAA Quality Electric, Inc.</i>)	73
Dorothy S. Wells	89
Douglas R. Dietel	107
Douglas J. Irvine (<i>See - Comtel Data Systems, Inc.</i>)	76
Douglas Wayne Osborne	102
Dr.'s Choice	84
Durand Keith Demlow	77
Earthbound	105
Efraim Arenas	81
Eggland's Best, Inc.	59
Eli Zabare	61
El Portal Luggage, Inc.	59
Electronic Clearing House, Inc.	77
Enter "900" Corporation (<i>See - James Rodgers</i>)	103
Entertainment Enterprises, Inc. (<i>See - Wolf Group</i>)	86
Eric Kyle	101
Ethical Nutrients	114
Factory Direct, Inc.	101
First Data Corporation	34
First Atlantic Equity	101
Fletcher Mckamie (<i>See - Denny Mason</i>)	102
Fred Hyde	102
Future Images, Inc. (<i>See - Telefundors for the Gleaners</i>)	84

Index of Cases Listed in the Appendix

Future World, Inc. (<i>See - Denny Mason</i>)	102
G & S Marketing, Inc. (<i>See - Homespun Products, Inc.</i>)	60
G. C. Electronics, Inc.	59
G. C. Thorsen, Inc.	59
Galen Health Care, Inc. (<i>See - Columbia Healthcare Corporation; Columbia Hospital Corporation</i>)	46
Garry Schaeffer	102
Gary D. Hosman	108
GBC Enterprises, Inc. (<i>See - Wolf Group</i>)	86
Gem Sciences International (GSI)	102
Gem Merchandising Corporation	77
General Motors Corporation	133
General Nutrition, Inc.	93
General Railway Signal Co. (<i>See - Union Switch & Signal Inc.</i>)	134
Genesis Enterprises	80
Gennaro J. Orrico	127
George Page Rank	42
George E. Loizou	94
Gerald A. Newmann (<i>See also - Wolf Group</i>)	73, 86
Gisela E. Flick	63
Glenn Morgenstern	105
Glenn Kennedy	84
Goddard Rarities, Inc.	103
Gold Coast Developers, Inc. (<i>See - Jordan Ashley, Inc.</i>)	104
Gorayeb Learning Systems, Inc. (<i>See - Gorayeb Seminars, Inc.</i>)	41
Gorayeb Seminars, Inc.	41
Gracewood Fruit Company	59
Green Equity Investors, L.P. (<i>See - TCH Corporation</i>)	52
Gregory A. Straw (<i>See - Homespun Products, Inc.</i>)	60
Griffin Systems, Inc.	127
Grolier, Inc.	93
H. Jolyon Lammers (<i>See - Hillary's Gourmet Ice Cream, Inc.</i>)	78
Haband Company, Inc.	93
Hachette Book Group USA, Inc.	93
Hairbow Company, The	60
Harold V. Engh, Jr.	63
Harold A. Honickman	139
Hawthorne Communications, Inc. (<i>See also - Ronald F. Way</i>)	107, 114, 121
Hayes Microcomputer Products, Inc.	41
HCA-Hospital Corporation of America (<i>See - Columbia Healthcare Corporation</i>)	46
Health & Tennis Corp. of America, Inc. (<i>See - Bally's Health & Tennis Corporation</i>)	91

Federal Trade Commission

HealthTrust, Inc., The Hospital Company	35
Helen J. Caswell (<i>See - Rapaport Corporation</i>)	107
Helen Schumaker	79
Henry Ginsburg	78
Heritage Publishing Company	78
Hi-Health Supermart Corporation	106
Hillary's Gourmet Ice Cream, Inc.	78
Hillary's Services, Inc.	78
Holiday Magic (<i>See - Rapaport Corporation</i>)	107
Home Oxygen and Medical Equipment Company	48
Homecare Oxygen and Medical Equipment Company	48
Homespun Products, Inc.	60
Honor America, Inc. (<i>See - Wolf Group</i>)	86
Hospital Board of Directors of Lee County	111
Howard Newman (<i>See - Digital Communications, Inc.</i>)	76
HSI Services, Inc. (<i>See - Hillary's Gourmet Ice Cream, Inc.</i>)	78
Hyde Athletic Industries, Inc.	41
Imperial Chemical Industries, PLC	48
Indoor Amusement Games, Inc. (<i>See - Wolf Group</i>)	86
Institut Merieux S.A.	133
Interactive Communications Technology (<i>See - Thomas A. Peltier</i>)	84
International Assets Trading Co., Inc.	79
International Bartending Institute	93
International Charity Consultants, Inc. (<i>See - Telefundors for the Gleaners</i>)	84
International Computer Concepts, Inc.	79
Intromark, Inc. (<i>See - Invention Submission Corporation</i>)	103
Invention Submission Corporation	103
Ira Smolev (<i>See - Synchronal Corporation</i>)	122
Ira J. Levinson	96
Irvin B. Levinson	96
J. C. Pro Wear, Inc.	94
Jackson Quast (<i>See - Baylis Company, Inc., The</i>)	74
James D. Greenbaum	101
James H. Haren	93
James H. Hart	81
James Daniel Hayes (<i>See - Detroit Automobile Dealers Association, Inc.</i>)	118
James M. Hayes (<i>See also - Wolf Group</i>)	73, 86
James E. Holler (<i>See - Wolf Group</i>)	86
James Kardas (<i>See - MACE Security International, Inc.</i>)	61
James Kardaf (<i>See - MACE Security International, Inc.</i>)	61
James L. McElhaney, M.D.	63

Index of Cases Listed in the Appendix

James E. Mobley	109
James L. O’Laughlin (<i>See - J.C. Pro Wear, Inc.</i>)	94
James W. Nugent	42
James Rodgers	103
James Rubbico (<i>See - Telefundors for the Gleaners</i>)	84
James L. Sirbasku	83
James Norman Wells	79
James Edward Willis (<i>See - AAA Quality Electric, Inc.</i>)	73
James R. Wyatt	66
Jameson & Adams, Inc. (<i>See - Wolf Group</i>)	86
Jane A. Grossman	40
Janice L. Campanello (<i>See - W.D.I.A. Corporation</i>)	122
Janice Lynn Zoyes (<i>See - Dr.’s Choice</i>)	84
Jeanette Puma	75
Jeffrey Katke	114
Jerald L. Woods (<i>See - Digital Communications, Inc.</i>)	76
Jo Ann Moffitt (<i>See - Moffitt Oil Company, Inc.</i>)	95
Jockey International, Inc.	60
John App	81
John Appel (<i>See also - SMI/USA, Inc.</i>)	83, 94
John C. Daley (<i>See also - Wolf Group</i>)	86
John L. Drummey, Sr. (<i>See - Detroit Automobile Dealers Association, Inc.</i>)	118
John J. Roberts	85
John Rubbico (<i>See - Telefundors for the Gleaners</i>)	84
Jon E. Goodrich (<i>See - MACE Security International, Inc.</i>)	61
Jordan Ashley, Inc.	104
Joseph Haney (<i>See also - SMI/USA, Inc.</i>)	83, 94
Joseph Leonardo (<i>See also - Wolf Group</i>)	86
Joseph Rubbico (<i>See - Telefundors for the Gleaners</i>)	84
Joyce Eve Schaefer (<i>See - World Wide Classics, Inc.</i>)	109
Joyce A. Schuman (<i>See - Doctors Medical Weight Loss Center, Inc.</i>)	58
Keds Corporation, The	49
Kelli Blasi	104
Kenneth C. Grossman	40
Keyes Fibre Company	60
Kiwi Brands Inc. (<i>See - Sara Lee Corporation</i>)	51
Kurt Bollinder (<i>See - Baylis Company, Inc.</i>)	74
Kurt Erman	42
L&S Research Corporation	42
Lakota Information Services, Inc. (<i>See - James Rodgers</i>)	103
Larkin, Hoffman, Daly & Lingren, Ltd.	104

Federal Trade Commission

Larry Brown (<i>See - Professional Product Research Company, Inc.</i>)	106
Larry Lindwall	81
Larry R. Nelson (<i>See - Rapaport Corporation</i>)	107
LaserVision, Inc.	104
Lawrence Schumaker	79
Lawson Kerster (<i>See - Digital Communications, Inc.</i>)	76
Lee Larson Elmore	76
Lee Geller (<i>See - Car Checkers of America, Inc.</i>)	74
Legacy Unlimited, Inc. (AZ, NV) (<i>See - Sierra Pacific Marketing, Inc.</i>)	108
Leo Burnett Company, Inc.	65
Leonard B. Evans (<i>See - Digital Communications, Inc.</i>)	76
Leonard Feldman (<i>See - Professional Product Research Company, Inc.</i>)	106
LePage's, Inc.	60
Leta B. Keenihan (<i>See - Heritage Publishing Company</i>)	78
Lewis Revels	76
Lifeline, Inc.	77
Lifestyle Fascination, Inc.	61
Linda Wilcox	83
Loizou, Inc.	94
Lomas Mortgage U.S.A., Inc.	61
Lonnie R. Divine	95
Lorim M. Martin (<i>See - Publishing Clearing House, Inc.</i>)	82
Louis Abramowitz (<i>See - Wolf Group</i>)	86
LP Holdings, Inc. (<i>See - LePage's, Inc.</i>)	60
M. Douglas Cooke	96
M.A.A., Inc. (<i>See - Publishing Clearing House, Inc.</i>)	82
MACE Security International, Inc.	61
Macy's California, Inc. (<i>See - Macy's Northeast, Inc.</i>)	62
Macy's Northeast, Inc.	62
Macy's South, Inc. (<i>See - Macy's Northeast, Inc.</i>)	62
Magnum Vending Corporation (<i>See - Wolf Group</i>)	86
Main Distribution Center, Inc.	79
Malcolm Foster (<i>See - Oak Hill Industries Corp.</i>)	60
Mansoorali Virani	96
Manzella Productions, Inc.	61
Marc Frank Kallen (<i>See - Dr.'s Choice</i>)	84
Marion Merrell Dow Inc.	49
Mark W. Hanna	122
Marketing Twenty-One, Inc.	80
Markos Mendoza	80
Martin S. Berger (<i>See - Invention Submission Corporation</i>)	103

Index of Cases Listed in the Appendix

Martin Marietta Corporation	50
Martin Mayer (<i>See - Telefundors for the Gleaners</i>)	84
Marvin Wolf (<i>See - Wolf Group</i>)	86
Mary L. Redhead	105
Maryland Pharmacists Association (<i>See - Baltimore Metropolitan Pharmaceuticals Association</i>)	118
Mayfair Gift Company	107
McAlister Motors, Inc. (<i>See - Detroit Automobile Dealers Association, Inc.</i>)	118
McCormick & Company	50
McLean County Chiropractic Association	50
McWhorter, Inc. (<i>See - Valspar Corporation, The</i>)	52
Medical Center Hospital (<i>See - Columbia Hospital Corporation</i>)	118
Medical Staff of Good Samaritan Regional Medical Center	35
Meehan Marketing Group, Inc.	105
Megatrend Telecommunications, Inc.	80
Melody Culver	81
Metagenics, Inc.	114
Mia Rose Products, Inc.	62
Mia Rose Palencar	62
Michael Cevatli	84
Michael Earthman	95
Michael D. Gibbons	96
Michael Joplin	96
Michael Kody Sawyer (<i>See - Telefundors for the Gleaners</i>)	84
Michael Minetti (<i>See - Denny Mason</i>)	102
Michael Plummer (<i>See - Telefundors for the Gleaners</i>)	84
Michael A. Ruby	82
Michael Welch (<i>See - Telefundors for the Gleaners</i>)	84
Michelle Hartzheim	101
Mission Plans, Inc.	95
Moffitt Oil Company, Inc.	95
Mohl Fur Company, Inc.	95
Montgomery Ward & Co., Inc.	62
Morris Samuel Friedman	108
Mr. Coffee, Inc.	62
National Art Publishers & Distributors, Inc.	105
National Clearing House, Inc.	81
National Dietary Research, Inc.	80, 114
National Health Care Associates (<i>See - Denny Mason</i>)	102
National Syndications, Inc.	106
NationalVending System Ltd., Inc. (<i>See - Jordan Ashley, Inc.</i>)	104

Federal Trade Commission

Natural Vision International, Ltd.	81
NCH, Inc.	81
Neil Mikesell	104
New Balance Athletic Shoe, Inc.	115
New Horizons International, Inc. (<i>See - Telefundors for the Gleaners</i>)	84
New Image Way (<i>See - Denny Mason</i>)	102
New Mexico Custom Designs, Inc.	60
Nissan Motor Corporation in U.S.A.	62
North American Pharmaceutical, Inc. (<i>See - Wolf Group</i>)	86
North American Plastics Corporation	63
Northwest Marketing, Inc. (<i>See - Wolf Group</i>)	86
Notations, Inc.	42
Novelty Plush, Inc. (<i>See - Wolf Group</i>)	86
Nu Skin International, Inc.	63
Numex Corporation	63
Nutri/System, Inc.	58
Nutrition Research & Marketing, Inc.	106
Nutrition Science Research & Marketing Institute	106
Oak Hill Industries Corp.	60
Occidental Petroleum Corporation	139
Olin Chemical Company	140
Olympic Entertainment, Inc. (<i>See - Wolf Group</i>)	86
Omexin Corporation (<i>See - Synchronal Corporation</i>)	122
Omni Investors Group, Inc. (<i>See - Wolf Group</i>)	86
Omni Marketing Group, Inc. (<i>See - Wolf Group</i>)	86
Orkin Exterminating Company, Inc.	64
Osborne Precious Metals, Inc.	102
Osborne Stern & Company (<i>See - Osborne Precious Metals, Inc.</i>)	102
Osram Sylvania, Inc.	64
Ottavio Ronca (<i>See - Telefundors for the Gleaners</i>)	84
Outreach America, Inc. (<i>See - Wolf Group</i>)	86
Pacific Inspection and Research Laboratory, Inc.	106
Pacific Medical Clinics Management, Inc. (<i>See - James Norman Wells</i>)	79
Pase Corporation	81
Patrick Brett (<i>See - Denny Mason</i>)	102
Patriot Alcohol Testers, Inc.	73
Patriot Industries, Inc.	73
Paul J.Meyer	83
Peltier Enterprises, Inc.	84
Pennzoil Company	87
Performance Electric (<i>See - AAA Quality Electric, Inc.</i>)	73

Index of Cases Listed in the Appendix

Performance Service Contractors, Inc. (<i>See - AAA Quality Electric, Inc.</i>)	73
Personal Protective Armor Association	51
Personal Security, Inc. (<i>See - MACE Security International, Inc.</i>)	61
Physicians Weight Loss Centers, Inc. (<i>See - Physicians Weight Loss Centers of America, Inc.</i>)	58
Physicians Weight Loss Centers of America, Inc.	58
Pizza Chef Corporation, U.S.A. (<i>See - Salsa's Franchise Development Corporation</i>)	82
Pizza Chef Development Corporation	82
Pizza King, Inc. (<i>See - Wolf Group</i>)	86
Pizza Royale, Inc. (<i>See - Wolf Group</i>)	86
Planet Smart Marketing, Inc. (<i>See - Telefundors for the Gleaners</i>)	84
Post Office & More	105
Preferred Marketing Services (<i>See - Telefundors for the Gleaners</i>)	84
Preferred Restaurants, Inc.	82
Premium Awards Processing Co., Inc. (<i>See - Telefundors for the Gleaners</i>)	84
Presto Food Products, Inc.	64
Professional Product Research Co., Inc.	106
Project America, Inc. (<i>See - Wolf Group</i>)	86
ProMatch Advertising Network	84
Promodes, S.A.	133
Publishing Clearing House, Inc.	82
Quick Weight Loss Centers, Inc. (Texas)	58
Quick Weight Loss Centers, Inc. (Georgia)	58
R.R. Donnelley & Sons Co.	123
R&J Vending, Inc. (<i>See - Wolf Group</i>)	86
Rainbow Productions, Inc.	60
Randy Allen McCall	103
Randy Mason (<i>See - Denny Mason</i>)	102
Rapaport Corporation	107
Raymond L. Reed (<i>See - Publishing Clearing House, Inc.</i>)	82
Red Apple Companies, Inc.	68, 111
Redmond Products, Inc.	64
Regeneration & Renewing, Inc. (<i>See - Telefundors for the Gleaners</i>)	84
Renaissance Fine Arts, Ltd.	82
Revco D.S., Inc.	36
Revlon, Inc.	121
Richard A. Baylis (<i>See - Baylis Company, Inc.</i>)	74
Richard E. Kaylor	122
Richard Kern	82
Richard L. Levinger	82
Ricky Mason (<i>See - Denny Mason</i>)	102

Federal Trade Commission

Risque Apparel Corporation	83
Rite Aid Corporation (<i>See also - Red Apple Companies, Inc.</i>)	36, 68
RN Nutrition	42
Robert Bonk	81
Robert W. Boughton	127
Robert B. Danek	77
Robert M. Farmer	107
Robert J. Febre	81
Robert P. Gould (<i>See - MACE Security International, Inc.</i>)	61
Robert Mohl	95
Robert Morris Rowe	108
Robin McLaurin	81
Roche Holdings, Ltd.	37
Rocket Gas and Car Wash, Inc.	96
Roger Gerber	75
Ron G. Pepka (<i>See - Publishing Clearing House, Inc.</i>)	82
Ronald V. Cook (<i>See - Telefundors for the Gleaners</i>)	84
Ronald B. Gorayeb	41
Ronald Ladner (<i>See - Telefundors for the Gleaners</i>)	84
Ronald Merenstein (<i>See - Main Distribution Center, Inc.</i>)	79
Ronald T. Schaefer	109
Ronald F. Way	107
Ronald J. Weisel	106
Ross L. Anderson (<i>See - Vendall Marketing Corporation</i>)	109
Roy Moffitt (<i>See - Moffitt Oil Company, Inc.</i>)	95
Roy L. Shifrin (<i>See - Publishing Clearing House, Inc.</i>)	82
Rubus Development Corporation	87
Russell J. Osborn	60
S. Louis Termini (<i>See - Hillary's Gourmet Ice Cream, Inc.</i>)	78
S.C. Johnson & Son, Inc.	133
S.E.C. Enterprises, Inc. (<i>See - Denny Mason</i>)	102
S.E.C. Enterprises Sales, Inc. (<i>See - Denny Mason</i>)	102
S.M.R. Digital Communications, Inc. (<i>See - Digital Communications, Inc.</i>)	76
S&M Manufacturing Corporation (<i>See - Wolf Group</i>)	86
S&M Industries, Inc. (<i>See - Wolf Group</i>)	86
Salsa's Franchise Development Corporation	82
Samick Music Corporation	65
Sandcastle Creations	60
Sandy P. Klein (<i>See also - Wolf Group</i>)	72, 88
Sara Lee Corporation	51
Sarabeth Koethe	102

Index of Cases Listed in the Appendix

Sarah Gross	73
Schaefer & Associates, Inc. (<i>See - World Wide Classics, Inc.</i>)	109
Schering Corporation	116
Scott Chinery	42
Scott Lick	107
Scott Wilcox	83
Sears, Roebuck & Co.	62
Security Printing, Inc. (<i>See - Denny Mason</i>)	102
Service Corporation International	135
Shawmut Mortgage Company	107
Sheldon C. Wagner (<i>See - Wolf Group</i>)	86
Sherri L. Harvey (<i>See - Telefundors for the Gleaners</i>)	84
Showcase Corporation (<i>See - American Sports Collectibles</i>)	91
Sierra Pacific Marketing, Inc.	108
Silueta Distributors, Inc.	83
Simon D. Chalpin	106
Simon Pantierer	61
Sisters of Charity Healthcare Systems, Inc.	68
SMI/ USA, Inc.	83
Smoothline Corporation (<i>See - Synchronal Corporation</i>)	122
Software Express, Inc. (<i>See - Comtel Data Systems, Inc.</i>)	76
Sol Levinson and Brothers, Inc.	96
Solomon Jack Samarel (<i>See also - Wolf Group</i>)	86, 109
Solomon Trading Company, Inc. (<i>See - Fred Hyde</i>)	102
Sonic Technology Products, Inc.	121
Southeast Necessities Co., Inc.	84
Southland Consultants	75
Southwest Sunsites, Inc. (<i>See - Barry Gross</i>)	73
Spectathlete Partnership (<i>See - American Sports Collectibles</i>)	91
Stanley Klavir	83
Stanley T. Levinson	96
Starcrest Services, Inc.	77
Steve Myland	91
Steve Myland Enterprises	91
Steven Morris Rowe	108
Steven Present	57
Steven Toth (<i>See - Main Distribution Center, Inc.</i>)	79
Stouffer Foods Corporation	127
Sulzer Limited	37
Summit Medi-Alert, Inc.	77
Sunbelt Construction Company	108

Federal Trade Commission

Susan L. Taylor	60
Sydney and Sarah Gross Trust (<i>See - Barry Gross</i>)	73
Synchronal Corporation	122
TCH Corporation	52
Technosystems Consolidated Corporation (<i>See - Invention Submission Corporation</i>)	103
Tele-Communications, Inc.	38
Telefundors for the Gleaners	84
Textron Inc.	119
Texwipe Company	59
Thelma M. Magno	105
Thomas L. Fenton	122
Thomas V. Lopes	102
Thomas P. Norton	104
Thomas A. Peltier	84
Ticor Title Insurance Company	140
Tiny Doubles International, Inc.	108
Topp Kat, Inc. (<i>See - Telefundors for the Gleaners</i>)	84
Toppkat II, Inc. (<i>See - Telefundors for the Gleaners</i>)	84
Toyota Motor Corporation	133
Trans Union Corporation, Inc.	122, 128
Trauma Associates of North Broward, Inc.	38
Treat Vendor, Inc. (<i>See - Wolf Group</i>)	86
Tri-Star Marketing Corp. of North Myrtle Beach	96
Trina Frederico (<i>See - Telefundors for the Gleaners</i>)	84
Turcal, Inc.	84
U.S. Health, Inc. (<i>See - Bally's Health & Tennis Corporation</i>)	91
U-Vend, Inc. (<i>See - Wolf Group</i>)	86
Ukiah Adventist Hospital (<i>See - Adventist Health System/West</i>)	124, 139
Union Oil Company of California	65
Union Switch & Signal Inc.	134
United Holdings Group, Inc.	85
Unocal Corporation	65
Valspar Corporation	52
Value-by-Mail	90
Vein Clinics of America, Inc.	65
Vendall Corporation (<i>See - Vendall Marketing Corporation</i>)	109
Vendall Manufacturing, Inc. (<i>See - Vendall Marketing Corporation</i>)	109
Vendall Marketing Corporation	109
Vendorline, Inc.	101
Vincent Leonardo (<i>See - Wolf Group</i>)	86
Voice Interactive Processing, Inc. (<i>See - James Rodgers</i>)	103

Index of Cases Listed in the Appendix

W. Lowell Robertson (<i>See - Sonic Technology Products, Inc.</i>)	121
W.D.I.A. Corporation	122
Walter Robert Rebar (<i>See - Main Distribution Center, Inc.</i>)	79
Ward H. Kerr	82
Wendy Mandell Geller (<i>See - Car Checkers of America, Inc.</i>)	74
West Capital Financial Services Corp.	96
Western Invention Submission Corporation (<i>See - Invention Submission Corporation</i>)	103
Westinghouse Air Brake Co. (<i>See - Union Switch & Signal Inc.</i>)	134
Weststar Communications, Inc.	33
White Castle Systems Inc.	65
William H. Bailey	85
William F. Farley	140
William Garner	83
William Jervis (<i>See - Telefundes for the Gleaners</i>)	84
William F. Lawler	85
William E. Taylor	60
Willie E. Lennon	77
Winner's Circle of Chicago, Inc.	85
Wolf Consulting	109
Wolf Group	86
World Wide Classics, Inc.	109
World Wide Classics of Indiana, Inc.	109
Worldwide Credit, Inc.	86
Wyatt Marketing Corporation, Inc.	66
Yolanda Del Dotto	121