

Commission Enforcement Actions Involving the Internet and Online Services

The Commission's first "Internet" case

1. FTC v. Corzine, CIV-S-94-1446 (E.D. Cal. filed Sept. 12, 1994)

! Defendant: Brian Corzine, a/k/a Brian Chase, d/b/a Chase Consulting. x(1)

! Defendant ran advertisements on America Online, offering a credit repair kit. He represented that purchasers of his credit repair kit could legally establish a new credit file. The credit repair kit sold for \$99.

! On September 12, 1994, the FTC filed a complaint, charging defendant with misrepresentations in violation of § 5 of the FTC Act. The Court entered an *ex parte* Temporary Restraining Order, including a freeze of defendant's assets. On November 21, 1994, the Court entered a Consent Decree, enjoining defendant against making misrepresentations concerning credit repair programs and requiring the payment of \$1,917 in consumer redress.

<http://www.ftc.gov/opa/predawn/F95/chaseconsultin.htm> (press release - complaint/TRO)

The Commission's first online sweep: Chicago Regional Office's cases

Credit repair

2. Martha Clark, Docket No. C-3667 (final consent June 10, 1996)

! Respondent: Martha Clark, d/b/a Simplex Services. x(2)

! Respondent maintained a site on the World Wide Web, offering a credit repair kit. The FTC alleged she falsely represented that purchasers of her credit repair kit could remove accurate, non-obsolete information from their credit reports. Her program sold for \$39.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 10, 1996. The order requires respondent to cease and desist from making misrepresentations concerning methods of removing adverse information from a credit report.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp37.htm> (press release - final consent)

3. Brian Coryat, Docket No. C-3666 (final consent June 10, 1996)

! Respondent: Brian Coryat, d/b/a Enterprising Solutions. x(3)

! Respondent maintained a site on the World Wide Web, offering a credit repair kit and a credit repair agency business opportunity. The FTC alleged he falsely represented that purchasers of his credit repair kit could remove accurate, non-obsolete information from their credit reports, and that purchasers of the business opportunity could earn over \$1000 a day. The credit repair kit sold for \$24.95, and the business opportunity for \$49.95.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 10, 1996. The order requires respondent to cease and desist from misrepresenting methods of removing adverse information from a credit report, and concerning the earnings potential of business opportunities.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

4. Lyle R. Larson, Docket No. C-3672 (final consent June 12, 1996)

! Respondent: Lyle R. Larson, d/b/a Momentum. x(4)

! Respondent placed advertisements on the Internet offering a credit repair kit. The FTC alleged he falsely represented that purchasers of his credit repair kit could remove accurate, non-obsolete information from their credit reports, and that they could legally establish a new credit file. The credit repair kit sold for \$75 to \$100.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 12, 1996. The order requires respondent to cease and desist from misrepresenting methods of removing adverse information from a credit report, and the legality of credit repair products.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

5. Rick A. Rahim, Docket No. C-3671 (final consent June 12, 1996)

! Respondent: Rick A. Rahim, d/b/a NBDC Credit Resource Publishing. x(5)

! Respondent placed classified advertisements on America Online and CompuServe, offering a credit repair kit. The FTC alleged he falsely represented that purchasers of his credit repair kit could legally establish a new credit file. The credit repair kit sold for \$19.

On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 12, 1996. The order requires respondent to cease and desist from misrepresenting the legality of credit repair products.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

Business opportunities

6. Timothy R. Bean, Docket No. C-3665 (final consent June 10, 1996)

! Respondent: Timothy R. Bean, d/b/a D.C. Publishing Group. x(6)

! Respondent maintained a World Wide Web site offering a publishing and printing home business opportunity. The FTC alleged he falsely represented that purchasers of the business opportunity could earn \$4,000 or more per month, as well as other earnings amounts. His program sold for \$9.95 to \$19.95.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 10, 1996. The order requires respondent to cease and desist from misrepresenting the earnings potential of business opportunities.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

7. Robert Serviss, Docket No. C-3669 (final consent June 12, 1996)

! Respondent: Robert Serviss, d/b/a Excel Communications. x(7)

! Respondent placed classified advertisements on America Online and CompuServe, offering a business opportunity consisting of sales of "business reports." The FTC alleged he falsely represented that purchasers of the business opportunity could make up to \$100,000 per month. The business opportunity sold for \$97 to \$147.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 12, 1996. The order requires respondent to cease and desist from misrepresenting earnings potential of business opportunities.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

8. Sherman G. Smith, Docket No. C-3668 (final consent June 12, 1996)

! Respondent: Sherman G. Smith, d/b/a Starr Communications. x(8)

! Respondent placed classified advertisements on America Online, offering a business opportunity consisting of locating people who are entitled to a refund from the FHA on their mortgage insurance. The FTC alleged he falsely represented that purchasers of the business opportunity could make more than \$5,000 per month. The business opportunity sold for \$42.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 12, 1996. The order requires respondent to cease and desist from misrepresenting the earnings potential of business opportunities.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

Cash grants

9. Randolph D. Albertson, Docket No. C-3670 (final consent June 12, 1996)

! Respondent: Randolph D. Albertson, d/b/a Wolverine Capital x(9)

! Respondent placed classified advertisements on America Online, offering a cash grant matching service, for a fee of \$19.95. The FTC alleged he falsely represented that most of his customers are approved for cash grants.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 12, 1996. The order requires respondent to cease and desist from making misrepresentations in connection with cash grant assistance programs.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

Goods advertised but not furnished

10. FTC v. Brandzel, 96 C. 1440 (N.D. Ill. filed Mar. 13, 1996)

! Defendants: Robert A. Brandzel and U.S. Telemedia, Inc. x(11)

! Defendants offered computer memory chips for sale, posting advertisements in a Usenet newsgroup. Defendants received money from consumers who ordered the chips, but almost never shipped any product or returned the money, the FTC alleged.

! On March 13, 1996, the FTC filed a complaint, charging defendants with violations of § 5 of the FTC Act and the Mail Order Rule. On the same day, the Court entered an *ex parte* Temporary Restraining Order, including a freeze of defendants' assets. The Court entered a stipulated Preliminary Injunction on March 29, 1996.

! On Sept. 24, 1996, the FTC announced a settlement with the defendants, under which they will pay \$5,500 in consumer redress. The order prohibits defendants from misrepresenting the time within which their merchandise will be shipped, and requires compliance with the Mail Order Rule.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9609/telemed.htm> (press release - settlement)

Another credit repair case

11. FTC v. Consumer Credit Advocates, 96 Civ. 1990 (S.D.N.Y. filed Mar. 19, 1996)

! Defendants: Consumer Credit Advocates, P.C.; Consumer Credit and Legal Services, P.C.; John E. Petiton; and David B. Markowitz. x(15)

! Defendants posted an advertisement in approximately three thousand Usenet News groups, offering credit repair services. The FTC alleged defendants falsely represented that they could remove accurate, non-obsolete adverse information from credit reports. They charged a minimum retainer of \$500, and an additional fee per disputed item of \$125 to \$750.

! On March 19, 1996, the FTC filed a § 13(b) complaint and consent order. The order enjoins defendants from misrepresenting various aspects of their credit repair services, and requires them to make affirmative disclosures to consumers concerning the efficacy of credit repair services. Defendants were also required to pay \$17,500 in consumer redress.

<http://www.ftc.gov/opa/1996/9603/consum.htm> (press release - complaint/settlement)

The Commission's first big Internet case

12. FTC v. Fortuna Alliance, L.L.C., et al., Civ. No. C96-799M (W.D. Wash. filed May 23, 1996).

! Defendants: Fortuna Alliance, L.L.C.; Augustine Delgado; Libby Gustine Welch; Donald R. Grant; and Monique Delgado. x(20)

! Defendants marketed a pyramid investment scheme through a Web site and through word-of-mouth. They represented that consumers would receive an income of \$5,000 per month for each \$250 invested. In addition, defendants encouraged investors to set up their own Web sites in order to propagate the scheme, and provided them with advice and promotional materials to help them do so. Although

defendants dressed up the investment scheme in New Age vestments, the FTC alleged it was nothing but a high-tech chain letter, with certain losses for the great majority of investors and tremendous profits for the defendants. At least 25,000 consumers paid money into this scheme.

! On May 23, 1996, the FTC filed a complaint, charging defendants with violations of § 5 of the FTC Act. On May 24, the FTC obtained an *ex parte* Temporary Restraining Order freezing the defendants' assets, appointing a receiver to manage the company, and requiring defendants to repatriate company funds that were transferred to overseas accounts. The TRO also directed that promotional materials be removed from Fortuna's Web site and be replaced with a notice advising of the FTC's action and a hypertext link to a page on the FTC's Web site containing additional information and documents from the lawsuit. On June 10, the Court entered a Preliminary Injunction and held defendants in contempt for failure to comply with the requirement to repatriate assets. On June 27, with the funds still not repatriated, the Court issued civil arrest warrants against three individual defendants whom the FTC served process on in Belize.

! The scheme allegedly took in more than \$11 million from consumers. Defendants systematically transferred the bulk of their profits — over \$5 million — to offshore bank accounts. Most of the money went to an account at a bank located in Antigua. At FTC's request, the Department of Justice's Office of Foreign Litigation brought an action for a *Mareva* injunction in an Antiguan court. The action was successful in freezing defendants' funds held in the bank pending development of the FTC action.

! On February 24, 1997, the district court entered a stipulated final judgment. The judgment requires defendants to offer full refunds to all Fortuna members. Payment of redress is secured by a letter of credit for \$2.8 million, drawing on the funds in the Antiguan bank account, as well as additional funds still frozen in the U.S. In addition, during the course of the proceeding, the district court entered an order directing the receiver to return to consumers approximately \$2 million, in the form of checks that defendants had received but not deposited.

! On October 30, 1997, the FTC filed another contempt action against Fortuna and all of the individual defendants except Monique Delgado. The FTC alleged that these defendants had failed to pay the additional \$2 million required for consumer redress, and that they had failed to provide copies of on-going solicitations, as required. The FTC also alleged that the defendants and their lawyer had misrepresented the effect of the prior consent agreement, stating that Fortuna's prior solicitations had been legal. Hearings on the contempt action were held on Dec. 4 and 17, 1997, and defendants were ordered to comply with the final order and make additional redress payments.

! On June 5, 1998, the Court entered a final contempt order, banning defendants from promoting any marketing program until their \$2.2 million deficiency was paid. The FTC's redress administrator made partial payments to remaining consumers. Overall, 15,622 consumers from the U.S. and 70 foreign countries received approximately \$5.5 million in refunds.

<http://www.ftc.gov/opa/1996/9605/fortuna.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1997/9710/cntmpt1.htm> (press release - contempt)

<http://www.ftc.gov/opa/1997/9702/fortuna4.htm> (press release - settlement)

<http://www.ftc.gov/opa/1998/9807/fortunar.htm> (press release - contempt, redress)

<http://www.ftc.gov/ro/fortuna.htm> (web site - summary of actions)

Cases with multiple forms of advertising, including online solicitations

13. FTC v. Chappie (Infinity Multimedia), No. 96-6671-CIV-Gonzalez (S.D. Fla. filed June 24, 1996)

! Defendants: William B. Chappie; Joseph A. Wentz; Quality Marketing Associates, Inc.; and Infinity Multimedia, Inc. x(24)

! Defendants promoted a CD-ROM display rack business opportunity at franchise and business opportunity shows, in newspaper advertisements, and through a site on the World Wide Web.

An *ex parte* complaint charged violations of § 5 of the FTC Act and the Franchise Rule.

! On June 25, 1996, the Court entered an *ex parte* TRO against the defendants, including an asset freeze and the appointment of a receiver. On July 2, 1996, the receiver placed a notice on Infinity's home page, advising of the FTC's action and linking to further information on the FTC's Web site.

! On January 15, 1997, the Court entered a stipulated permanent injunction that provided \$340,000 for consumer redress, dissolved the two corporate defendants, and barred Joseph Wentz from engaging in the sale of any future franchise or business opportunity. On Nov. 7, 1998, the FTC announced a settlement with remaining defendant William Chappie. The settlement required Chappie to pay \$70,000 in consumer redress and permanently banned him from selling or assisting others in selling business ventures in the future.

<http://www.ftc.gov/opa/1996/9606/infinity.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1996/9609/infinit3.htm> (press release - settlement Infinity, Quality, Wenz)

<http://www.ftc.gov/opa/1998/9811/chappie.htm> (press release - settlement Chappie)

14. Zygon International, Inc., Docket No. C-3686 (consent finalized Sept. 24, 1996)

! Respondents: Zygon International, Inc. and Dane Spotts. x(26)

! Respondents marketed consumer products such as the "Learning Machine" and the "SuperMind," which purportedly accelerated learning and enabled users to lose weight, quit smoking, increase their I.Q., and learn foreign languages overnight. Respondents advertised through national publications, a mail-order catalog, and a home page on the Internet.

! The FTC alleged that the respondents lacked substantiation for their product claims. The Commission's action was the result of a coordinated investigation by the FTC, the Attorneys General of Illinois, Pennsylvania, Texas, and Washington, and the District Attorney of Napa County, California.

! On September 24, 1996, the Commission finalized an administrative consent order in which Zygon agreed to pay \$195,000 in redress and refrain from making unsubstantiated health claims.

<http://www.ftc.gov/opa/1996/9604/zygon.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1996/9609/petapp56.htm> (press release - final consent)

Internet cases from Operation Missed Fortune

15. FTC v. The Mentor Network, Inc., Civ. No. SACV96-1104 LHM (EEEx) (C.D. Cal. filed Nov. 5, 1996)

! Defendants: The Mentor Network, Inc. and Parviz Firouzgar. x(28)

! Starting in July 1995, defendants operated an alleged pyramid scheme. Consumers paid \$24 to join,

and \$30 a month thereafter (for a minimum of one year), of which \$7.50 was to be paid to a bona fide charitable organization that assists needy children in foreign countries and \$15 was to be paid to consumers as recruitment bonuses. Defendants' stated that consumers who recruited only three new members could earn thousands of dollars per month. Defendants marketed their program through participants' Web pages, as well as through other means. At least 2,300 consumers subscribed, paying over \$110,000 per month.

! On November 5, 1996, the FTC filed an action against defendants, alleging violations of § 5 of the FTC Act. The complaint alleged that defendants' misrepresented that consumers would receive a high level of income from participating in their program, and that defendants provided participants with the means and instrumentalities of deception, in the form of promotional materials used in recruiting new participants. On November 6, the Court granted an *ex parte* Temporary Restraining Order freezing the defendants' assets and appointing a temporary receiver to manage the company. On December 4, the parties stipulated to issuance of a preliminary injunction and appointment of a permanent receiver.

! On January 22, 1997, staff reached a settlement with defendants, which prohibited them from operating a chain or pyramid program, prohibit making false earnings claims and required payment of \$75,000 for consumer redress. Following approval by the Commission, the settlement was filed on March 17, and entered by the Court on March 25, 1997.

<http://www.ftc.gov/opa/1996/9611/misdfort.htm> (press release - sweep)

<http://www.ftc.gov/opa/1997/9703/mentor2.htm> (press release - settlement)

16. FTC v. Global Assistance Network for Charities, Civ. No. 96-02494 PHX RCB (D. Ariz. filed Nov. 5, 1996)

! Defendants: Global Assistance Network for Charities, aka GANC; Eileen Belcar; and Cedrick Robles. x(31)

! Starting in March 1996, defendants allegedly operated a pyramid scheme that purported to raise money for charities. Consumers paid an initial fee of \$70, and \$50 a month thereafter for membership. Defendants' promotional materials claimed that consumers would receive over \$89,000 per month once their matrix was filled. Defendants also claimed that 10% to 100% of the earnings would be donated to charities. Defendants marketed their program on a Web site as well as through other media. In October 1996, defendants estimated membership at 200 people.

! On November 5, 1996, the FTC filed an action against defendants, alleging violations of § 5 of the FTC Act. The complaint alleges that defendants' representations that consumers would receive over \$89,000 per month, and that consumers would receive a full refund if they did not make a profit, were deceptive. On the same day, the Court granted an *ex parte* Temporary Restraining Order, which among other things, prohibited the defendants from continuing to market GANC, froze the defendants' assets and required the defendants to provide access to their business records. On November 14, 1996, the Court issued a preliminary injunction order which extended relief similar to that contained in the TRO for the duration of the action.

! On April 24, 1997, the Court entered a stipulated final order, requiring defendants to pay \$4,900 in consumer redress.

<http://www.ftc.gov/opa/1996/9611/misdfort.htm> (press release - sweep)

<http://www.ftc.gov/opa/1997/9705/ganc.htm> (press release - settlement)

The cases of the hijacked modem

17. FTC v. Audiotex Connection, Inc., CV-97-0726 (E.D.N.Y. filed Feb. 13, 1997)

! Defendants: Audiotex Connection, Inc.; Promo Line, Inc.; Internet Girls, Inc.; William Gannon; and David Zeng. x(36)

! Defendants maintained adult entertainment sites at www.beavisbutthead.com, www.sexygirls.com, and www.1adult.com. The Commission alleged that consumers who visited one of these sites were solicited to download a viewer program, called “david.exe,” in order to view “free” images. Once downloaded and executed, the program disconnected the computer from the consumer’s own access provider, turned off the consumers’ modem speakers, dialed an international telephone number and reconnected the computer to a remote foreign site. The international call was charged to consumers at more than \$2 per minute, and charges kept accruing until the consumer shut down his computer entirely. Consumers received telephone bills for calls purported made to Moldova, when those calls actually went only as far as Canada.

! On February 13, 1997, the FTC filed a complaint against defendants, alleging violations of § 5 of the FTC Act. The Court entered an *ex parte* Temporary Restraining Order with a freeze over defendants’ assets. On February 21, defendants stipulated to a preliminary injunction and placed \$1 million in escrow for potential redress.

! The defendants agreed to settle the suit, and the Commission filed an amended complaint and a proposed consent agreement with the Court on November 4, 1997. The amended complaint added Internet Girls, Inc. as a defendant and dropped Anna M. Grella, the estranged wife of William Gannon.

! The Court signed the proposed settlement agreement on November 13, 1997. The order barred the defendants from misrepresenting that consumers can use certain software programs to view computer images for free, from offering calls connected through the Internet without posting specific disclosures, and from causing consumers to be billed for calls to destinations other than those listed on their telephone bills. The order required the defendants to receive written or contractual assurances from third parties that consumers’ calls will go to the destinations billed. The order also provided for most consumers to receive telephone credits through AT&T or MCI. The defendants (together with the Beylen respondents listed below) paid the two long-distance carriers approximately \$760,000 to administer a redress program, in addition to paying the FTC \$40,000 to refund losses incurred by non-AT&T or non-MCI customers. In this case and *Beylen Telecom, Ltd.*, described below over 27,000 victims who could be identified received back full redress totaling \$2.14 million.

<http://www.ftc.gov/opa/1997/9702/audiotex.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1997/9711/audiot-2.htm> (press release -settlement)

18. Beylen Telecom, Ltd. Docket No. C-3782 (final consent Jan. 23, 1998)

! Respondents: Beylen Telecom, Ltd., NiteLine Telemedia, Inc. and Ron Tan x(39)

! In a companion case to *FTC v. Audiotex Connection, Inc.*, respondents maintained adult entertainment Web sites at www.erotic2000.com or erotica2000.com. According to the Commission, consumers who visited one of these sites were solicited to download a viewer program “david.exe” in order to “free” images. Again, the program disconnected the computer from the consumer’s own access provider, turned off the consumers’ modem speakers, dialed an international telephone number and

reconnected the computer to a remote foreign site. The international call was charged to consumers at more than \$2 per minute, and consumers received telephone bills for calls purported made to Moldova, when those calls actually went only as far as Canada.

! The respondents settled the action through an administrative consent order containing terms substantially similar to those in the *Audiotex* order. On Nov. 4, 1997, the Commission issued a proposed settlement and after a public comment period, the Commission issued a final complaint and consent order on January 23, 1998.

<http://www.ftc.gov/opa/1997/9711/audiot-2.htm> (press release -proposed consent)

<http://www.ftc.gov/opa/1998/9802/petapp8.htm> (press release -final consent)

Cases involving Commercial On-line Services: deceptive advertising and billing practices

19. America Online, Inc., FTC File No. 952-3331 (final consent Mar. 28, 1998)

20. CompuServ, Inc., FTC File No. 962-3096 (final consent Mar. 28, 1998)

21. Prodigy Services Corp., FTC File No. 952-3332 (final consent Mar. 28, 1998)

! Respondents: America Online, Inc. (AOL), CompuServ, Inc., and Prodigy Services Corp. x(42)

! Respondents made “free trial” offers to consumers, but according to the FTC, did not adequately disclose that consumers would automatically be charged if they did not affirmatively cancel before the end of the trial period. Respondents also allegedly debited consumers’ bank accounts without proper authorization.

! On May 1, 1997, the Commission approved for public comment separate consent agreements with the companies. On March 28, 1998, the Commission finalized these consent orders. The orders prohibit the respondents from misrepresenting the terms and conditions of any online service trial offer. The consent order with AOL also requires clear disclosures regarding any electronic fund transfers from consumers’ accounts.

<http://www.ftc.gov/opa/1997/9705/online.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1998/9803/petapp17.htm> (press release - final consent)

Cases from Project Field of Schemes

22. FTC v. JewelWay International, Inc., Action No. CV97-383 TUC JMR (D. Ariz. filed June 24, 1997)

! Defendants: JewelWay International, Inc., Bruce A. Caruth, Robert J. Charette, Jr., Donilyn A. Walden, Greg G. Stewart, and two relief defendants. x(47)

! Defendants ran an alleged pyramid scheme via a Web site and through group presentations, offering consumers the chance to earn up to \$2,250 a week plus bonuses for the purchase of expensive homes, automobiles, and vacations, by participating in a purported multi-level marketing scheme to sell fine jewelry. Consumers paid \$250 to \$2,750 or more and then had to recruit at least two new JewelWay representatives.

! On June 24, 1997, the FTC filed a complaint alleging the pyramid scheme was deceptive, in violation of the FTC Act, and the Court entered an ex parte TRO and appointed a receiver. Defendants

stipulated to a preliminary injunction.

! On November 17, 1997, the Court approved a stipulated permanent injunction and final order. The order requires a payment of \$5 million in redress for approximately 150,000 investors. The order prohibits all defendants and JewelWay representatives from operating any pyramid schemes and requires the defendants to establish a product re-purchasing program.

<http://www.ftc.gov/opa/1997/9707/field.htm> (press release - sweep)

<http://www.ftc.gov/opa/1997/9707/field2.htm> (case digest -sweep)

<http://www.ftc.gov/opa/1997/9711/jewel-2.htm> (press release - settlement)

23. FTC v. Rocky Mountain International Silver and Gold, Inc., Action No. 97-WY-1296 (D. Colo. filed June 23, 1997)

! Defendants: Steve Lucas and Jansey Lynn Lucas, d/b/a Rocky Mountain International Silver and Gold

! According to the FTC, defendants ran a pyramid scheme via a Web site and through group presentations, offering consumers the chance to “put as much silver, gold, platinum and cash in your pocket in the shortest amount of time as is humanly possible!” and promising high incomes and money-back guaranteed success. In fact, members earn income solely by recruiting others, not by selling silver coins, and they cannot obtain refunds upon request.

! On June 23, 1997, the FTC filed a complaint alleging the pyramid scheme was deceptive, in violation of the FTC Act. The Court entered an ex parte TRO and appointed a receiver. Defendants stipulated to a preliminary injunction. Discovery and litigation continues.

<http://www.ftc.gov/opa/1997/9707/field.htm> (press release - sweep)

<http://www.ftc.gov/opa/1997/9707/field2.htm> (case digest -sweep)

24. FTC v. Dayton Family Productions, Inc. CV-S-97-00750-PMP (LRL)
(D. Nev. filed June 27, 1997)

! Defendants: Dayton Family Productions, Inc., J. J. Dayton Associates, Inc., High Voltage Pictures, Inc. aka High Voltage Entertainment, John Rubbico, John Iavarone, Glen Burke, Ignacio Jimenez, Kevin Roy, Fred Davidson, American Family Productions, Inc., American Family Consultants, Inc., Reunion Management, Inc., Icon Management Services, Inc., Aztec Escrow, Inc., Raymond Filosi, and Richard S. Hart. x(65)

! Through telemarketing, an Internet Web site, and other promotions, defendants allegedly solicited consumers to invest in two general partnerships that would fund low-budget, family films being produced by Lyman Dayton. According to the FTC, defendants diluted each investor’s promised stake by raising more money than they represented. Also, defendants allegedly misrepresented that could expect a 500 percent return and that Dayton had previously won several specified awards.

! On June 27, 1997, the FTC filed suit alleging violations of the FTC Act and the Telemarketing Sales Rule and the Court granted the FTC’s motion for an *ex parte* Temporary Restraining Order with an asset freeze. In July 1997 the Commission filed an amended complaint, naming additional defendants, and obtained litigated or stipulated preliminary injunctions against all defendants.

! The Commission obtained default judgments against Rubbico, Hart, and Davidson, and a settlement with defendant Filosi, prohibiting him from making future misrepresentations about investments. On Oct. 1, 1998, the Court approved a stipulated final judgment against High Voltage Pictures, Inc., High Voltage Entertainment, Inc., J.J. Dayton Associates, Inc., and Aztec Escrow, Inc. and four individuals. The order bans the individuals — Iavarone, Burke, Jimenez, and Roy — from future telemarketing activity. It also prohibits the sale of any customer lists and requires payment of \$19,500 in disgorgement, subject to a \$1 million avalanche clause if defendants materially misrepresented their financial condition. On Apr. 10, the Court approved the Commission's motion to dismiss American Family Consultants, Inc. and Reunion Management Partners, Inc. as defendants.

<http://www.ftc.gov/opa/1997/9707/field2.htm> (press release - sweep)

<http://www.ftc.gov/opa/1998/9810/dayton-2.htm> (press release - settlement)

25. FTC v. Intellicom Services, Inc., Action No. 97-4572 TJH (Mcx)(C.D. Cal. filed June 23, 1997)

! Defendants: Intellicom Services, Inc. d/b/a Intellicom Group, Connectkom Services, Inc., Enternet 2000, Inc., World Net Development Group, Inc., Riviera Consulting, Inc., Granite Consulting, Inc., Brookside Management, Inc., Mediatech, Inc., American Long Distance Corp., Networkd Consulting, Inc., Perspective Consulting, Inc., All Administrative Services, Inc., Prostaff Administrators, Inc., Support Staff Administrators, Inc., Frontline Consulting, Inc., Marc D. Levine, Ira Itskowitz, Mark Ericson, Paul Perelman d/b/a Connectkom Group, Mark V. Nachamkin a/k/a Mark Nash and d/b/a Enternet Communications, James C. Q. Slaton d/b/a Home Net Partners, Timothy D. Grayson, David Z. Diamand, Eugene Evangelist, Kent Bollenbach, Brent Morris, and Erica Llanos. o(92)

Relief Defendants: Dixon Capital Corporation; Greg Harrington; Chad Harrington (dismissed 3/99); T.L. Laidlaw (dismissed 3/99); and James M. Leonard.

! Defendants purportedly ran a fraudulent scheme promoting and selling general partnership interests in high-technology businesses, promising enormous profits in ventures such as Internet access and Internet shopping malls.

! On June 23, 1997, the FTC filed a complaint against twelve individual defendants and numerous corporations. The Court entered an *ex parte* TRO and appointed a receiver. The Court granted a preliminary injunction against eleven of the individual defendants on July 14 and against the twelfth on July 21, 1997.

! From Dec. 1998 through Feb. 1999, the Commission approved settlements with most of the individual defendants. These final settlements included over \$24 million in monetary judgements, separately assessed as follows: Mark Levine & Ira Itskowitz, \$11.178 million jointly and severally; Mark Ericson \$834,147; Mark Nachamkin \$4,550,426; Paul Perelman \$1,305,598; Eugene Evangelist \$1,556,000; Timothy Grayson \$1,825,800; Brent Morris \$2,258,000; Erica Llanos \$76,811; David Diamand \$521,549; James Slaton \$90,000. The Commission also settled its action with Frontline Consulting. The settlements listed above included telemarketing bans against Frontline and all of the individuals defendants except David Diamand. Diamand stipulated to a complete ban on investment sales. The Commission moved to dismiss two relief defendants and settled its suit with three other relief defendants. The Commission's motion for summary judgment is still pending against one individual, Kent Bollenbach, and motions for default judgment are pending against the fourteen remaining corporate defendants.

<http://www.ftc.gov/opa/1997/9707/field.htm> (press release - sweep)

<http://www.ftc.gov/opa/1997/9707/field2.htm> (case digest -sweep)

<http://www.ftc.gov/opa/1999/9901/intell.htm> (press release - settlement)

Coordinated U.S./Australian action against deceptive domain name registrar

26. Internic.com (August 27, 1997)

! Australian Defendants: Internic Technology Pty Ltd and Peter Zmijewskix x(94)

! Defendants operated a Web site that allegedly misled consumers into thinking they were using the official domain name registration service "InterNIC," at www.internic.net. The *bona fide* InterNIC was operated by Network Solutions, which had an exclusive contract with the U.S. government to issue Internet domain names. Australia-based Internic Technology Pty Ltd and Peter Zmijewski allegedly operated a copy-cat Internet site at www.internic.com. As many as 13,000 consumers in 9 countries signed up for their domain names with the copy-cat site, paying \$250 instead of the \$100 normally charged for Internet registrations. The defendants allegedly forwarded \$100 to Network Solutions and pocketed the difference.

! On August 27, 1997, FTC staff issued an advisory opinion stating that the practices of Internic.com likely violated the FTC Act. The staff referred the case to the Australian Competition and Consumer Commission, which filed charges in Federal Court in Australia on May 1, 1998 alleging deceptive and misleading conduct. The ACCC charged that consumers who used the copy-cat site were deceived into believing they were using the services provided by InterNIC.

! In June 1999, the ACCC and the defendants reached a settlement that set up a compensation trust fund containing \$A250,000 (approximately \$161,000 U.S.) for consumer redress and barred the Australia-based company from using the internic name.

<http://www.ftc.gov/opa/1997/9708/internic.pr3.htm> (press release -advisory letter)

<http://www.ftc.gov/opa/1998/9805/accc.htm> (press release - ACCC complaint)

<http://www.ftc.gov/opa/1999/9906/interni1.htm> (press release -ACCC settlement)

Deceptive promotion of a health product with a natural "high"

27. Global World Media Corp. and Sean Shayan, Docket No. C-3772 (consent finalized Oct. 9, 1997)

! Respondents: Global World Media Corp. and Sean Shayan. x(96)

! Respondents marketed Herbal Ecstasy, a dietary supplement product promoted as a natural herbal "high," in media, including the Internet, with large youth audiences. Respondents allegedly made false claims about the product's safety, used endorsements of a fictitious doctor, and failed to disclose other health and safety risks.

! On October 9, 1997, the Commission issued a final consent order, barring respondents from making false or unsubstantiated claims about food, drugs, or dietary supplements and requiring the respondents to disclose certain warnings.

<http://www.ftc.gov/opa/1997/9707/ecstasy.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1997/9710/petapp54.htm> (press release - final consent)

Another Internet pyramid scam, this time with “spam”

28. FTC v. Nia Cano, et al., Civil No. 97-7947-CAS-(AJWx) (C.D. Cal. filed Oct. 29, 1997)

! Defendants: Nia Cano d/b/a Credit Development Int'l and Drivers Seat Network; Charles Johnson, Jaime Martinez, Jelena Tkalec, Robert Larson, David Lewis, and Bryan McCord. x(103)

Relief Defendant: Leaders Alliance, Inc.

! The FTC alleged that defendants ran a pyramid scheme and falsely promised consumers an unsecured VISA or MasterCard and the opportunity to receive \$18,000 in monthly income. The defendants purportedly recruited new members at live sales presentations. Many participants built their downline through unsolicited bulk e-mail (“spam”).

! On October 29, 1997, the FTC filed a complaint against the defendants. The Court entered an *ex parte* TRO, ordered a freeze on the defendants’ assets, and appointed a receiver to oversee the defendants’ business. On November 20, 1997, the Court held a contested hearing to determine whether a Preliminary Injunction should issue. The Court found that a Preliminary Injunction should issue and that the asset freeze and receivership should remain in place.

! In April 1998, the Commission asked leave to file an amended complaint, adding Jelena Tkalec, Robert Larson, Bryan McCord and David Lewis as defendants.

! On June 26, 1998, the Court approved proposed settlements between the Commission and the corporate defendants and individual defendants Nia Cano, Charles Johnson, and Bryan McCord. The settlements provide nearly \$2 million in consumer redress, enjoin the defendants from operating pyramid or Ponzi schemes, and liquidate the businesses involved in the alleged scheme. The Court approved settlements with individuals Tkalec and Lewis on Oct. 14, 1998 and on March 17, 1999, the Court approved the Receiver's redress plan.

<http://www.ftc.gov/opa/1997/9711/cdi.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1998/9804/petapp24.htm> (press release - amended complaint)

<http://www.ftc.gov/opa/1998/9806/cano2.htm> (press release - settlement Cano, Johnson, McCord)

The first action targeting deceptive “spam”

29. FTC v. Internet Business Broadcasting, Inc., et al., Civil No. WMN-98-495 (D. Md. filed February 19, 1998)

! Defendants: Thomas Maher, Dorian Reed, Audrey Reed, Internet Bus. Broadcasting, Inc. x(107)

! Defendants’ spam messages and Internet home page allegedly contained false and misleading income claims for their business opportunity to resell advertising space on their “City Edition” Internet newspaper sites. Defendants also allegedly failed to give disclosures to investors, as required by the Franchise Rule.

! On February 19, 1998, the FTC filed its complaint against the defendants and requested permanent injunctive relief and consumer redress.

! On April 19, 1999, the Court entered a default judgment against defendants Dorian and Audrey Reed in the amount of \$613,110. The Court approved the FTC's voluntary dismissal, without prejudice, of allegations against defendant Thomas Maher. (Staff was unable to locate Maher to effectuate personal service, and service by publication was not feasible).

<http://www.ftc.gov/opa/1998/9803/ibb.htm> (press release- complaint/TRO)

A credit repair scam, with "spam"

30. FTC v. Dixie Cooley, d/b/a DWC, Civil No. CIV-98-0373-PHX-RGS (D. Ariz. filed March 4, 1998)

! Defendant: Dixie Cooley. x(108)

! Defendant sent out spam promoting a credit repair service, which the Commission alleged violated the FTC Act and the Credit Repair Organizations Act ("CROA").

! On July 22, 1998, the Commission moved for a default judgement, and the Court entered a final order on August 19, 1998. The order permanently bans Ms. Cooley from engaging in or assisting others engaged in the business of credit repair services and prohibits her from violating CROA and misrepresenting any fact concerning her ability to perform or provide any credit-related services or products for consumers, including debt consolidation, obtaining or arranging loans, or arranging any extension of credit, and from misrepresenting any fact material to a consumer's decision to purchase any product or service. Dixie Cooley was ordered to pay \$15,451.75 in redress.

<http://www.ftc.gov/opa/1998/9810/operasetl-3.htm> (press release- final judgment)

Project Net Opp: Internet-related business opportunity scams

31. FTC v. Hart Marketing Enterprises Ltd., Inc., et al., Civil No. 98-222-CIV-T-23E (M.D. Fla. filed February 2, 1998)

! Defendants: Hart Marketing Enterprises Ltd., Inc., Internet Space Station, Four Seasons Distributing, Inc., James Weems, Robert Lemcke aka Mark Walker, and Edward Patrick Evans aka Patrick Evans aka Edward Adams, and Bruce Blaire. x(115)

! Defendants promoted and sold free-standing computer kiosks with cash acceptors designed to allow customers to access the Internet, for a fee, from public locations such as hotels, airports or bookstores. Defendants allegedly made false earnings claims and gave phony references, in violation of the FTC Act, and allegedly failed to give disclosures in violation of the Franchise Rule.

! On February 3, 1998, the Court entered an ex parte TRO, and on March 20, 1998, the Court entered a stipulated preliminary injunction.

! On August 26th, 1998, the Court entered a default judgment against defendants Hart Marketing, Internet Space Station, and Four Seasons Distributing in the amount of \$872,882.95. On December 17, 1998, the Court entered a default judgment against defendant Lemcke in the amount of \$872,882.95. On January 13, 1999, the Court entered stipulated final judgments against defendants James Weems, Bruce Blair, and Patrick Evans.

<http://www.ftc.gov/opa/1998/9803/netopp.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1999/9901/hart2.htm> (press release - final orders)

32. FTC v. TouchNet, et al., Civil No. 98-0176 R (W.D. Wash. filed February 11, 1998)

! Defendants: TouchNet, Inc., Touchstone Telecommunications & Advertising, Inc., Eric Carino, and Malissa Carino. x(119)

! Defendants allegedly promised investors \$15,000 a month as an “Internet Consultant,” designing Web pages for businesses to appear in defendants’ “World Virtual City.” Defendants previously sold allegedly deceptive 900 number and prepaid phone card business ventures.

! On February 18, 1998, the Court entered a stipulated temporary restraining order. On June 29, 1998, the Court entered a stipulated permanent injunction, banning defendants from operating any business opportunity, franchise or business venture; enjoining collection of any amounts due from purchasers; and requiring defendants to notify them that their contracts are rescinded.

<http://www.ftc.gov/opa/1998/9803/netopp.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1999/9901/hart2.htm> (press release - settlement)

33. FTC v. FutureNet, et al., Civil No. 98-1113GHK (AIJx) (Filed February 17, 1998)

! Defendants: FutureNet, Inc., FutureNet Online, Inc., Alan J. Setlin, Robert DePew, Larry Stephen Huff, Chris Lobato, and David Soto. x(126)

! Defendants claimed recruits could earn substantial incomes by joining a multilevel marketing program selling Internet access devices, but according to the Commission, defendants ran an illegal pyramid, where income was dependent not on product sales but on recruitment of paying members “downline.”

! On February 23, 1998, the Court issued a temporary restraining order freezing defendants’ assets and appointing a receiver for the corporate defendants. On March 6, 1998, the Court issued a preliminary injunction continuing the TRO’s provisions.

! On April 8, 1998, a stipulated final judgment was filed, banning the corporate defendants and two individual defendants from operating pyramid schemes and selling distributorships through multi-level marketing; ordering payment of \$1,000,000 in consumer redress, and requiring a bond of \$100,000 to \$1,000,000, to escalate as sales grow, before engaging in any multi-level marketing.

! On Nov. 24, 1998, Larry Stephen Huff agreed to settle allegations against him. The proposed settlement would bar him from participating in future pyramid schemes and *any* form of multi-level marketing. Based on Mr. Huff’s financial disclosures, no consumer redress was ordered. However, should those financial disclosure statements prove to be false, an avalanche clause would make Huff liable for \$21 million in consumer redress.

! On Dec. 22, 1998, the Commission announced settlements with the two remaining defendants, Robert De Pew and David Soto. The settlements bar them from: participating in any future pyramid schemes; misrepresenting sales, earnings or other material facts about products or services they sell; selling electric power or other energy services without meeting licensing and registration requirements; and participating in any multi-level marketing program owned, operated or controlled by the other FutureNet principals. Both defendants also are required to obtain \$1 million performance bonds before engaging in future

multi-level marketing. If their financial disclosure statements are shown to be false, they also will face a \$21 million judgment.

<http://www.ftc.gov/opa/1998/9803/netopp.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1998/9804/futurenet.htm> (press release - settlement w FutureNet)

<http://www.ftc.gov/opa/1998/9811/huff.htm> (press release - settlement w Huff)

<http://www.ftc.gov/opa/1998/9812/depew.htm> (press release - settlement w DePew, DeSoto)

34. FTC v. Inetintl.com, Inc., et al., Civil No. CV 98-2140 CAS (CWx) (C.D. Cal. filed March 25, 1998)

! Defendants: Inetintl.com, Inc. aka Inet International, Craig A. Lawson aka Bob Bryan, Erik R. Arnesen, and Stanley R. Goldberg aka Geoff Stevens. x(130)

! Defendants ran an Internet access business opportunity, in which investors sold Internet access and other computer-related products and services to the public. Defendants allegedly made false earnings claims and used phony references, in violation of Section 5, and allegedly failed to make disclosures required by the Franchise Rule.

! On March 26, 1998, the Court issued a temporary restraining order freezing defendants' assets and appointing a receiver over the corporation and defendant Lawson.

! The FTC moved for summary judgment against the defendants, and on May 11, 1999 announced that the Court had found in favor of the Commission. The Court barred Inet, Goldberg, and Lawson for life from offering for sale any business venture, franchise or investment opportunity. The Court ordered Arneson to post a performance bond in the amount of \$250,000 before advertising, promoting, or selling franchises, business ventures, or investment opportunities in the future. The Court also ordered total consumer redress of \$1.76 million, \$478,088 of which is to be paid by Goldberg. Goldberg has appealed the Court's decision. Lawson is a fugitive and a warrant has been issued for his arrest.

<http://www.ftc.gov/opa/1998/9804/inet.htm> (press release - complaint/prelim inj)

<http://www.ftc.gov/opa/1999/9905/inet12.htm> (press release final judgment)

35. FTC v. GreenHorse Communications, Inc., Civil No. CV-98-245-M (D.N.H. filed May 4, 1998)

! Defendants: GreenHorse Communications, Inc. and Lynn Haberstroh. x(132)

! Defendants represented that investors who paid \$14,000 to \$15,000 could earn as much as \$134,992 within their first year of operating an Internet Web site development business.

! Defendants allegedly failed to provide prospective franchisees with the disclosure documents required by the Franchise Rule and failed to substantiate earnings claims.

! On May 4, 1998, the Court approved a settlement which bars defendants from future violations of the Franchise Rule; requires them to offer refunds and contract cancellation to any investor in the business opportunity; and bars them from selling, renting or transferring their customer lists or information about their customers.

<http://www.ftc.gov/opa/1998/9805/greenhorse.htm> (press release - complaint/settlement)

The first action against an online auction seller

36. FTC v. Craig Hare, Civil No. 98-8194 CIV HURLEY (M.D. Fla. filed March 30, 1998)

! Defendants: Craig Lee Hare aka Danny Hare, dba Experienced Designed Computers and C&H Computer Services x(133)

Relief defendant: Stephanie J. Herter aka Stephanie Branham.

! Defendant Hare ran an online auction where the winning bidders paid for, but allegedly never received, their goods from Hare; relief defendant deposited checks endorsed by Hare.

! On April 2, 1998, the Court issued a temporary restraining order with asset freeze. On June 16, 1998, the Court approved the parties' stipulation to an extended, modified TRO.

! On October 12, 1998, the Court approved a stipulated final order, permanently banning defendant Hare from engaging in Internet commerce.

! The FTC referred the Hare case to the FBI in West Palm Beach Florida and the U.S. Attorney for the Southern District of Florida. On February 12, 1999, after pleading guilty to one count of criminal wire fraud, Hare was ordered to pay \$22,000 in restitution and sentenced to six months home detention and three years probation.

<http://www.ftc.gov/opa/1998/9804/hare.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1999/9902/hare3.htm> (press release - criminal plea)

"Spam" advertising a high-tech chain letter (pyramid)

37. Calvin P. Schmidt, Docket No. C-3834 (final consent Nov. 16, 1998)

! Respondent: Calvin P. Schmidt d/b/a DKS Enterprises, DS Productions, DES Enterprises, www.mkt-america.com, and www. mkt-usa.com. x(134)

! Respondent's Web sites and "spam" e-mail messages promoted "Mega\$Nets" and "Megaresource," According to the Commission these were high-tech chain letter software programs, whereby a consumer who sent money to persons on the top of a list of names would receive "access codes" from those persons, enabling the consumer to "unlock" the software, delete the last name on the list, add the consumer's own name to the top, and duplicate the software.

! Respondent allegedly made false and unsubstantiated earnings claims through this pyramid or chain marketing program, in which most participants typically lose money, and also allegedly provided others with the means and instrumentalities to perpetuate this unlawful scheme.

! On November 16, 1998, a consent agreement with respondent became final. The consent order bars him from participating in electronic chain letters, pyramid programs, or Ponzi schemes, assisting or providing others the means to do so, or making earnings claims without substantiation.

<http://www.ftc.gov/opa/1998/9807/meganet.htm> (press release - final consent)

A fake government agency

38. U.S. Consumer Protection Agency, Civil No. 5:98cv00160 (N.D. Fla. filed June 8, 1998)

! Defendant: Robert M. Oliver, d/b/a U.S. Consumer Protection Agency and Consumer Protection Agency of Bay County. x(135)

! Defendant allegedly violated Section 5 of the FTC Act by falsely representing earnings to individuals interested in owning and operating a local consumer protection agency franchise. Defendants also allegedly violated the law by claiming their franchise was a government agency, and by failing to make disclosures required by the Franchise Rule.

! In a stipulated final judgment signed on November 25, 1998 by the Court, Robert Oliver was permanently enjoined from violating the FTC Act in connection with the offering, promotion, and sale of franchises and in connection with the sale of "consumer protection" services. The order also permanently enjoins Oliver from violating the Franchise Rule.

<http://www.ftc.gov/opa/1998/9812/oliver.htm> (press release - complaint/settlement)

An investment scam from Project Risky Business

39. FTC v. World Interactive Gaming Corp., Civil Action No. CV 98 5115 (E.D.N.Y. filed August 11, 1998).

! Defendants: World Interactive Gaming Corp., Jeffrey Burton, and Lawrence Blocker, d/b/a James Lawrence and Associates, and Gregory Flemming. o(139)

! Defendants telemarketed shares in an Internet gambling casino, Golden Chips Casino, telling investors profitability would mimic "Microsoft, Netscape and Yahoo." The FTC alleged that they misled consumers by claiming that World Interactive should 'conservatively' earn \$100 million in its first year and that investors could expect to make \$150,000 or more in one year from their \$10,000 investment.

! On August 17, 1998, the Court heard the FTC's request for a temporary restraining order. On September 23, 1998 the FTC amended its complaint adding Gregory Flemming as a defendant. Defendants entered into a stipulated preliminary injunction on Sept. 9, 1998. In December 1998, the Commission filed a motion for contempt. After 4 separate hearings, the contempt motion was settled on April 23, 1999.

! A proposed settlement will bar deceptive claims in the future, require more than \$500,000 to be returned to investor-victims, and require the defendants to post a \$2 million bond prior to engaging in, or assisting others engaging in, the promotion, advertising, marketing or sale of an investment in any company that owns or intends to own an online gaming entity.

! Bohemia, New York based World Interactive Gaming Corp. and its principals, Jeffrey Burton and Lawrence Blocker, d/b/a/ James Lawrence and Associates, were parties to the settlement.

! In addition to the \$550,000 consumer redress and \$2 million bond requirements, the proposed settlement, which requires the court's approval, would bar Burton and Blocker from misrepresenting the nature and quality, likely return, associated risk or other any other material facts regarding any investment. The settlement bars the use of aliases and bars the defendants from selling, renting or disclosing their customer list. The proposed order imposes a judgment of \$1.8 million suspending payment of all but \$813,049 frozen by the court in conditional settlement of the judgment, based on

financial declarations provided by the defendants. Of the \$813,049, \$550,000 will be available for consumer redress. Should the court find that the defendants misrepresented their financial situations, the entire \$1.8 million becomes due. A separate proposed default judgment against another defendant, Gregory Flemming, similarly enjoins him, imposes a \$1.8 million judgment, and requires a \$2 million bond before he markets any investment.

! The Commission's vote to approve the filing of the proposed consent judgment was 5-0. It and the proposed default judgment were filed by the FTC in the United States District Court for the Eastern District of New York on November 9, 2000, and are awaiting court approval.

<http://www.ftc.gov/opa/1998/9808/risky.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1998/9809/petapp5198.htm> (press release - amended complaint)

<http://www.ftc.gov/opa/2000/11/wig.htm> (press release - settlement)

The first Internet privacy case

40. Geocities, Docket No. C-3849 (final consent Feb. 12, 1999).

! Respondent: GeoCities x(140)

! GeoCities, one of the most popular sites on the World Wide Web, agreed to settle Federal Trade Commission charges that it misrepresented the purposes for which it was collecting personal identifying information from children and adults, in the first FTC case involving Internet privacy.

! Under the settlement, GeoCities has agreed to post on its site a clear and prominent Privacy Notice, telling consumers what information is being collected and for what purpose, to whom it will be disclosed, and how consumers can access and remove the information. To ensure parental control, GeoCities also will have to obtain parental consent before collecting information from children 12 and under.

<http://www.ftc.gov/opa/1998/9808/geocitie.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1999/9902/petapp4.99.htm> (press release - final consent)

Another deceptive business opportunity

41. United States v. PVI, Inc., Civ. No. 98-6935 (S.D. Fla., filed Sept. 1, 1998)

! Defendant: PVI, Inc., d/b/a Photo Vend International x(141)

! PVI sold business opportunities involving digital photo sticker vending machines. PVI solicited investors via e-mail, telephone presentations and written promotional materials and allegedly violated the Franchise Rule by: (1) failing to provide prospective buyers with timely, accurate and complete disclosure documents as required by the Franchise Rule; and (2) making earnings representations without providing prospective buyers with the required earnings claim document.

! The Department of Justice filed a complaint on behalf of the FTC on Sept. 1, 1998. On September 10, 1999, the court approved a stipulated final order filed by the parties. The order required the defendant to pay a civil penalty of \$11,000 and prohibited the company from future violations of the Franchise Rule and from making any false or misleading statement or representation of material fact, including representations relating to the income, profit, or sales volume of a franchise.

<http://www.ftc.gov/opa/1998/9809/vendup2.htm> (press release - complaint)

<http://www.ftc.gov/opa/1999/9909/photo-vend2.htm> (press release - final order)

More deceptive health claims

42. American Urological Clinic, et al., Civil No. 1:98-CV-2199 (JOS) (N.D. Ga. filed August 6, 1998).

! Respondents: David A. Brady, American Urological Corporation, The Institute of Sexual Research, Inc., The Clinic for Natural Solutions, Inc., Old Well Corporation (Texas), The Institute of Sexual Research, Ltd., and Old Well Corporation (North Carolina). x(148)

! Respondents used Internet Web sites and direct mail to market Viagra-like products for \$39.45 to \$98.95. They sold their products under the names "Alprostaglandin®," "The Celldenaphil-pc System," "Renak-pc," "Oral Pentalomil®," "Prosta-Gen®," "Testosterone-21," "Väegra®," "Urophil," and "VasoGenitine." According to the Commission, the defendants misrepresented that their products had been developed by legitimate medical enterprises and that clinical studies proved that the products effectively eliminated impotence in 68 to 94 percent of men.

! The Commission filed its case on August 3, 1998, and the U.S. District Court for the Northern District of Georgia (in Atlanta) granted the Commission's motion for a TRO and a freeze over the assets of Brady and his companies

! On April 29, 1999, the Court approved a final stipulated order against the defendants. The settlement imposes an \$18.5 million judgment on the defendants for consumer redress, which they will satisfy by giving up more than \$2 million in frozen assets. The Order prevents them from selling their customer lists and requires Brady to obtain a \$6 million bond before promoting, offering for sale, and selling any impotence treatment product. It also requires him to post a \$1 million performance bond for the first five years if he makes claims about the performance, safety, efficacy or health benefits of a food, dietary supplement, or drug other than a product to treat impotence. The performance bond would decrease after five years and be eliminated in the tenth year. Finally, the Order prohibits the defendants from 1) misrepresenting whether certain organizations have reviewed or approved any product or ingredient, 2) misrepresenting the nature or extent of the scientific evidence concerning any impotence treatment product, and 3) making unsubstantiated claims about the performance, safety, efficacy, approval or health benefits of any food, dietary supplement, or drug.

<http://www.ftc.gov/opa/1998/9808/brady.htm> (press release - complaint)

<http://www.ftc.gov/opa/1999/9905/brady2.htm> (press release - settlement)

43. TrendMark International, Inc., Docket No. C-3829 (final consent Oct. 6, 1998).

! Respondents: TrendMark Inc. dba TrendMark International, William McCormack and E. Robert Gates. x(151)

! Respondents allegedly made a host of unsubstantiated weight loss and health-related claims about their "THIN-THIN" Diet™ program. Respondents advertised the program in unsolicited commercial e-mail sent to users of America OnLine (AOL) and on its Web site.

! On June 25, 1993 the Commission approved a proposed consent with the respondents and gave its final approval on October 6, 1998. The consent order prohibits the respondents from making claims about the health benefits, performance or efficacy of its NEURO-THIN and LIPO-THIN products, or any food, drug or device without competent and reliable scientific substantiation. The agreement also prohibits respondents from misrepresenting the results of any test, study or research, and requires them to disclose clearly and prominently any material connection between a product endorser and the respondents. The consent agreement allows the respondents to use certain claims that are approved for labels by the Food and Drug Administration's Nutrition Labeling and Education Act of 1990.

<http://www.ftc.gov/opa/1998/9806/trendmrk.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1998/9810/petapp5298.htm> (press release - final consent)

44. American College For Advancement in Medicine, Docket No. C-3882 (final consent July 13, 1999).

! Respondent: American College for Advancement in Medicine (ACAM) x(152)

! ACAM advertised and promoted its non-surgical EDTA "chelation therapy" online. ACAM allegedly made false and unsubstantiated claims that its therapy was effective in treating atherosclerosis.

! On July 13, 1999, the Commission announced its final approval of an administrative settlement with respondents. Under this consent agreement, ACAM is prohibited from representing -- absent competent and reliable scientific information -- that chelation therapy is effective in treating atherosclerosis or any human circulatory disease.

<http://www.ftc.gov/opa/1998/9812/acam.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1999/9907/bpamoco2-3.htm> (press release - final consent)

Failure to provide rebates on computer equipment.

45. U.S. v. Iomega Corp., Civil Action No: 1:98CV00141C (D. Utah, complaint and consent filed Dec. 9, 1998).

! Defendant: Iomega Corp. x(153)

! Iomega is the world's leading manufacturer of portable data storage products, including the "Zip Drive," the "Ditto Drive," the "Jazz Drive," and "Zip Disks." In promoting these products, Iomega allegedly violated the Mail Order Rule by failing to send a cash rebate, merchandise premium, or both within the times stated in the advertisements, or, where no time was stated in the advertisements, within a reasonable period of time.

! Iomega agreed to settle the charges against it and pay a \$900,000 civil penalty -- the largest penalty ever obtained for non-fraudulent violations of the Mail Order Rule. A complaint and consent were filed in federal court on Dec. 9, 1998.

<http://www.ftc.gov/opa/1998/9812/iomega2.htm> (press release - complaint/settlement)

Internet credit card "cramming"

46. FTC v. J.K. Publications, Inc., et al (aka Netfill), Docket No. CV-990004 ABC (AJWx)(C.D. Cal., filed Jan 5. 1999).

! Defendants: J.K. Publications, MJD Service Corp., Kenneth H. Taves (also d/b/a Netfill, netfill.com, xbc.com, –Bill, Online Billing, Assist Online, Herbal Care, Discreet Bill, KULM Consulting Group, TAL Services), Teresa Callei Taves (also d/b/a Netfill, netfill.com –Bill, Herbal Care), Gary Neal Mittman (also d/b/a Adult Bank, netfill.com, adultbank.com), Dennis Rappaport (also d/b/a Adult Bank), Maurice O’Bannon (also d/b/a MJD Enterprises and Adult Bank), TAL Services, Inc., Discreet Bill, Inc., Adult Banc, Inc., and Herbal Care, Inc. x(164)

! Defendants allegedly charged consumers for Internet services that consumers had never ordered, authorized, or even heard of. Consumers received monthly credit card or debit card statements with charges of \$19.95 alongside the names N-Bill, Netfill, MJD Service Corp., and Webtel. When consumers asked their banks about these charges, consumers were told they are for "Internet services" or "adult Internet services," even though some of these consumers reported that they did not own computers. Consumers had difficulty challenging these charges, and if consumers called defendants’ toll-free number and got through at all, consumers received a voice recording telling them to input their credit card number for customer assistance. Customers who reached a real person and managed to obtain a credit often found similar charges reappearing on later statements.

! On Jan. 5, 1999, the FTC filed a complaint with a motion for an *ex parte* TRO. On Jan. 6th, the Court granted the FTC’s motion and prohibited further unauthorized charges, froze the defendants’ assets, and appointed a receiver over J.K. Publications and MJD Service Corp. On January 20, the Commission filed an amended complaint, dismissing Net Options, Inc. and naming Dennis Rappaport, Maurice O’Bannon, TAL Services, Inc., Discreet Bill, Inc., Adult Banc, Inc., and Herbal Care, Inc. as additional defendants. The parties agreed to an initial extension of the TRO and the Court extend it again on Feb. 11, 1999.

! After hearing argument, the Court issued a preliminary injunction, continuing the TRO’s conduct prohibitions, asset freeze, and receivership. The Court released assets for attorneys fees but extended the receivership estate to include several named affiliates and the assets and business records of individual defendants Ken and Theresa Taves.

! In April, the Court held a hearing to determine whether Ken and Teresa Taves were in contempt for transferring and failing to disclose a Malibu residence worth approximately \$2 million. The Court heard a second contempt motion over the Taves’ failure to disclose and repatriate \$6.2 million held in the Cayman Islands. The Court found the Taves in civil contempt on both motions. The U.S. Attorneys’ office for Los Angeles moved for criminal contempt, and Ken Taves was incarcerated.

! On June 10, 1999, the Court entered a stipulated final judgment against Mittman. In late February 2000, Ken Taves was indicted for making false statements to FTC attorneys. On March 8, 2000, the Court issued a default judgment against Rappaport, holding him liable for up to \$40 million in redress.

! The Commission filed a motion for summary judgment against the other defendants in November 1999. After a hearing in April 2000, the Court issued a 72-page decision, finding all but one defendant (O’Bannon) liable for “unfair” practices and unauthorized credit card charges. After a trial on June 14, 2000, the court issued a 43-page decision finding that over 90 percent of defendants charges (\$43 million) were fraudulent. After subtracting the amount of credits or chargebacks that had already been

issued, the court found the defendants liable for \$37.567 million in redress to consumers.

<http://www.ftc.gov/opa/1999/9901/netfill.htm> (press release -complaint/TRO)

<http://www.ftc.gov/opa/1999/9902/petapp4.99.htm> (press release - adding defendants, dismissing Net Options)

<http://www.ftc.gov/opa/2000/09/netfill.htm> (press release - final order and injunction)

Operation New ID -- Bad Idea: online promises of a new credit identity.

47. **FTC v. Mehmet Akca a/k/a Matt Akca also d/b/a AKCA**, Civil Action No. 99-S-204 (D. Colo.)
48. **FTC v. All About Communications USA, Inc.**, 99-6122-CIV-FERGUSON, (S.D. Fla., filed Feb. 1, 1999).
49. **FTC v. Cliff Cross and d/b/a Build-It-Fast**, Civ. No. M099CA018 (W.D. Tex., filed Feb. 1, 1999).
50. **FTC v. Kevin Drake d/b/a New Credit '98**, 3-99 CVO213-R (N.D. Tex., filed Feb. 2, 1999).
51. **FTC v. David E. Dunn d/b/a Pro Se Publications**, 3-99 CVO 211-G (N.D. Tex., filed Feb. 1, 1999).
52. **FTC v. Edward Lane d/b/a Edward Lane & Associates**, Civ. No. CY-99-3005-WFN (E.D. Wash., Jan. 29, 1999).
53. **FTC v. Ross Sanford Leiss, d/b/a RLeiss & Associates**, Civ. No. 99-102-A (E.D. Va. Jan. 29, 1999).
54. **FTC v. Michael Lyons d/b/a Lyons Publishing**, 99 CV 6049 (W.D.N.Y. filed Jan. 29, 1999).
55. **FTC v. Ralph Lewis Mitchell, Jr.**, CV 99-984 TJH (BQRx) (C.D. Cal., filed Jan. 29, 1999).
56. **FTC v. Frank Muniz**, No. 4:99-CV-34-RD (N.D. Fla. filed Feb. 1, 1999).
57. **FTC v. Philip D. Miller d/b/a New Start**, Civ. No. WMN 99-251 (D. Md., filed Jan. 29, 1999).
58. **FTC v. Patrick R. Kelly d/b/a Patrick R. Kelly Enterprises and P.R.K. Enterprises**, 99 CIV 562 (E.D.N.Y. filed Jan. 29, 1999).
59. **FTC v. Steve Neizianya d/b/a Standard Business Services**, 3-99 CV0214-L (N.D. Tex., filed Feb. 2, 1999).
60. **U.S. v. A. James Black**, Civ. No. 99-113 (M.D. Fla., filed Feb. 2, 1999).

! Defendants: Mehmet Akca, All About USA, Inc., Michael Cilone, and Rachel Cilone, Cliff Cross¹,

¹ In addition to the civil case brought by the FTC against Clifton W. Cross, on May 9, 2001, Cross was sentenced to forty nine months in federal incarceration and ordered to pay nearly \$171,000 in restitution as part of a guilty plea resolving criminal charges stemming from the scam. The criminal case was prosecuted by the United States Attorney for the Western District of Texas.

Kevin Drake, David E. Dunn, Edward Lane, Ross Sanford Leiss, Michael Lyons, Ralph Lewis Mitchell, Jr., Frank Muniz, Philip D. Miller, Patrick R. Kelly, Steve Neizianya, and A. James Black. x(180)

! Defendants offered a variety of credit kits, ranging in price from \$19.95 kit to \$59.95. Their Web site or e-mail solicitations made claims including promises of “a TOTALLY NEW-CLEAN credit file,” “a brand new credit file in less than 30 days,” “A COMPLETELY NEW CREDIT FILE -- LEGALLY, and totally separate from your present credit file.”

! The Commission (and in one case, the Department of Justice) filed complaints in federal court during late January or early February 1999, alleging violations of Section 5 of the FTC Act and Section 404(a)(2) of the Credit Repair Organizations Act “CROA.” The government has sought injunctive relief and redress for consumers.

! In October 1999, The FTC announced that defendants in the **Mehmet Akca, All About Communications USA, Inc., David E. Dunn, Edward Lane, Ross Sanford Leiss, Michael Lyons, Frank Muniz, Philip D. Miller, and Steve Neizianya** matters agreed to settle federal charges that the “file segregation” advice and products violated federal law.²

! The settlements will provide consumer redress for victims of the scam; bar future violations of the Credit Repair Organizations Act; bar deceptive claims about file segregation -- including claims that it is legal -- and require that the defendants notify their victims that using a false identification number to apply for credit is a felony. Thirteen of the sixteen settlements announced as part of the sweep provided for full consumer redress. Financial declarations filed by three defendants indicate an inability to provide redress. (Not all of the cases in the sweep were Internet related. Also, some of the cases included in the settlement are from the second round of the sweep, which was announced in May 1999). Their settlements contain provisions to allow reopening of the issue if defendants are found to have misrepresented their inability to pay. All the settlements contain record keeping provisions to allow the FTC to monitor compliance.

! The Commission votes to accept the proposed stipulated final judgments were 4-0.

! A similar settlement was announced with Clifton W. Cross, individually and dba as Build-It-Fast on June 21, 2001. Settlement of the FTC charges bars the defendant from representing that other government identification numbers can be lawfully used to conceal actual credit histories or that using alternate numbers is legal. In addition, the settlement bars him from misrepresenting material facts concerning credit-related products or any other product or service. The settlement also bars violations of the Credit Repair Organizations Act, which prohibits charging or accepting payment for credit repair services before the services are provided and advising consumers to hide their true credit history. The settlement also bars the defendant from using or selling his customer lists. Finally, the settlement contains provisions concerning defendant’s inability to pay and reopening the matter in the event that defendant misrepresented this.

<http://www.ftc.gov/opa/1999/9902/consumerweek2.htm> (press release - sweep)

<http://www.ftc.gov/opa/1999/9910/badidea.htm>

² On May 4, 1999, the Commission voted 4-0 to dismiss its federal court case against Ralph Lewis Mitchell, Jr., doing business as **Mitchell Enterprises**, brought as part of “Operation New ID --Bad Idea,” a law enforcement sweep focusing on companies that illegally encouraged consumers to create false credit identities. (FTC Matter No.: x990031).

“Dream Car” pyramid, the 1st case in the Rolling Internet Pyramid Sweep

61. FTC v. Five Star Auto Club, Inc., Civil No. 99-1693 (S.D.N.Y. filed March 8, 1999).

! Defendants: Five Star Auto Club, Inc., Michael R. Sullivan, Angela C. Sullivan, Advance Funding Inc., Thomas Lee Bewley, and Judy L. Bewley. x(186)

! The Commission alleged that Defendants operated an illegal pyramid scheme that purported to allow members to “drive their dream vehicle for free” while earning large monthly commissions. The FTC contended that the vast majority of participants could never qualify for free automobile leases and were destined to lose money in the scheme. Defendants, as well as a number of Five Star participants, made extensive use of the Internet to recruit new entrants into the scheme.

! On March 8, 1999, the U.S. District Court in White Plains, New York, froze the assets of Five Star Auto Club, Inc. and the Sullivans, appointed a receiver to run the corporate defendant, and enjoined the defendants from making further misrepresentations. On April 5, 1999, the same parties stipulated to a preliminary injunction. On April 8, 1999, the FTC filed an amended complaint naming Advance Funding, Inc., Thomas Lee Bewley, and Judy L. Bewley as defendants.

! On January 3, 2000, the court entered a stipulated permanent injunction against the Bewleys, prohibiting them from engaging in pyramid schemes and from making or providing others with the means of making material representations or omissions in connection with legitimate multi-level marketing programs. The settlement required that the defendants' business assets be used to establish a consumer redress fund.

! On May 17, 2000, following trial, the court ruled that Five Star was a pyramid scheme that prevented the vast majority of participants from realizing the rewards promised by the defendants. On June 13, 2000, the court issued its final order barring Michael and Angela Sullivan, for life, from engaging in any further pyramiding or multi-level marketing activity. The court also shut down Five Star and its Web site and ordered liquidation of its assets; ordered the defendants to pay \$2.9 million in consumer redress; and placed the Sullivans under strict conduct prohibitions when selling any business venture in the future.

<http://www.ftc.gov/opa/1999/9903/nasaarelease.htm> (press release - sweep)

<http://www.ftc.gov/opa/2000/01/fyi0002.htm> (press release - Bewley final order)

<http://www.ftc.gov/opa/2000/07/fivestar.htm> (press release - final judgment)

Mislabeled clothes in online catalogs

- 62. Wal-Mart Stores, Inc.** File No. 992 3007
- 63. Burlington Coat Factory Warehouse Corp.** File No. 992 3002
- 64. Delia’s Inc.**, File No. 992 3008
- 65. Woolrich, Inc.**, File No. 992 3003
- 66. Gottschalks, Inc.**, File No. 992 3004
- 67. Bugle Boy Industries, Inc.**, File No. 992 3009

! Respondents: Wal-Mart Stores, Inc., Burlington Coat Factory Warehouse Corp., Delia's Inc., Woolrich, Inc., Gottschalks, Inc., Bugle Boy Industries, Inc. x(192)

! The above respondents agreed to settle FTC allegations that they violated the Textile Fiber Products Identification Act and/or the Wool Products Labeling Act and Commission rules under those Acts. The FTC alleged that the respondents failed, in their online promotional materials, to clearly and conspicuously state that each textile or wool item advertised or offered for sale was either imported, made in the USA, or a combination of both as required by law.

! In February 1998, the Commission adopted various streamlining amendments to the Textile and Wool Rules. It also revised definitions of mail order catalog and mail order promotional materials to include materials disseminated electronically via the Internet. Six months after the amendments were announced, the FTC surfed more than 200 sites to determine whether on-line sellers of textile products were complying with the origin disclosure requirements. These cases arose from the FTC's compliance surf.

! On March 16, 1999, the Commission voted to accept the proposed consents in these cases. After a public comment period, the Commission announced its final approval on June 10, 1999.

<http://www.ftc.gov/opa/1999/9903/musatex.htm> (press release - proposed consents)

<http://www.ftc.gov/opa/1999/9906/fyi17-99.htm> (press release - final consent)

Deceptive Internet mall promotions

68. iMall, File No. 972-3224 (stipulated final judgement approved Apr. 15, 1999)

! Respondents: iMall, Carl R. Pickering, and Mark R. Commer. x(195)

! The Commission alleged that, between July 1995 and August 1998, iMall used direct mail, radio ads, television infomercials, a promotional cassette, and telemarketing calls to promote free seminars where consumers would hear about two Internet-related business opportunity programs. The iMall Opportunity Program offered investors the opportunity to become "consultants" and make money selling Web pages on the iMall site. The Internet Yellow Pages (IYP) program offered investors the opportunity to make money selling advertising space on the IYP Web site contained within the iMall site. The Commission alleged that, at these seminars, the respondents made false earnings claims for their Internet-based businesses and that they violated the Franchise Rule.

! On April 15, 1999, the Commission announced a \$4 million settlement with the respondents. The Stipulated Final Judgment and Order barred Craig R. Pickering and Mark R. Comer for life from selling any Internet or pay-per-call business opportunity; barred them for 10 years from selling franchises; required a \$500,000 bond before selling certain types of business opportunities; and barred future violations the Franchise Rule. iMall was permanently barred from violating the Franchise Rule and from misrepresenting material facts about any business opportunity it promotes. The Order called for iMall to pay \$750,000 and Pickering and Comer to pay \$3.25 million in consumer redress.

<http://www.ftc.gov/opa/1999/9904/imall1.htm> (press release - consent)

False claims for "Vitamin O"

69. Rose Creek Health Products, Inc., (E.D. Wa. filed March 11, 1999)

! Defendants: Rose Creek Health Products, Inc., The Staff of Life, Inc., Donald L. Smyth x(198)

! Defendants sold 2 ounce bottles of Vitamin O for \$20 to \$25, claiming that it enriched the bloodstream with supplemental oxygen. The defendants' ads -- which appeared in USA Today and in other newspapers, and on the Internet -- also claimed that Vitamin O could cure or prevent serious diseases such as cancer, heart disease, and lung disease.

! The FTC filed suit in federal court, alleging that the defendants made false and unsubstantiated claims for a product that appears to be nothing more than saltwater. The Commission obtained a stipulated preliminary injunction from defendants and is seeking a permanent injunction.

! On April 28, 2000, the Commission filed a proposed consent settle this matter. Upon approval by the court, the settlement requires defendants to pay \$375,000 in consumer redress and defendants from making false or unsubstantiated claims about Vitamin "O" and any other food drug or dietary supplement, and from making any false or unsubstantiated claims about medical research studies or the endorsement of any academic, scientific, or government organization. The order also bars defendants from passing on deceptive promotional material for their distributors to use and bars defendants from falsely representing that any user's testimonial reflects a typical experience.

<http://www.ftc.gov/opa/1999/9903/rosecreek.htm> (press release - complaint)

<http://www.ftc.gov/opa/2000/05/rosecreek2.htm> (press release - proposed consent)

More "spam" scammers

70. LS Enterprises, Docket No. C-3884 (final consent Aug. 2, 1999).

! Respondents: LS Enterprises, LLC, Internet Promotions, LLC, and Louis Salatto x(201)

! The Commission charged an online entrepreneur with making false and unsubstantiated claims in bulk e-mail messages. The respondents allegedly used spam to promote its bulk-e-mail program and other work-at-home business opportunities, and made false claims about their experience and ability to provide products or services, as well as false claims about free merchandise and potential income for purchasers.

! Following a public comment period, on August 2, 1999 the Commission announced its final approval of a settlement with respondents that bars them from making deceptive claims in future bulk e-mail and requires them to substantiate claims for the programs they promote. They also must post a \$100,000 bond before sending unsolicited commercial e-mail in the future.

<http://www.ftc.gov/opa/1999/9904/spam2.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1999/9908/FYI-20.99.htm> (press release - final consent)

Deceptive laundry products

71. FTC v. TradeNet Marketing, Inc., Civil Action No. 99-944-CIV-T-24B (M.D. Fla. stipulated judgements filed April 21, 1999)

! Defendants: L.W. Cooper and TradeNet Marketing, Erwin Richard Annau and Top Marketing Business Consulting, and Alberto Guerrero x(206)

! According to the FTC, the defendants falsely touted "The Laundry Solution" and "The SuperGlobe" as effective substitutes for laundry detergents. They allegedly claimed that these liquid-filled plastic balls would clean laundry without polluting the earth's waterways by emitting a negative charge or by means of "structured water" or "IE crystals."

! In three separate agreements reached with the defendants, the defendants are barred from claiming their laundry balls or any similar product cleans as well as conventional laundry detergent. The agreements also required the defendants to pay \$155,000 in satisfaction of monetary judgments. These funds are to be divided equally among the FTC and eleven states that participated in this action: Arizona, Arkansas, Hawaii, Idaho, Illinois, Michigan, Missouri, Nebraska, Nevada, New York, and Oklahoma.

<http://www.ftc.gov/opa/1999/9904/tradenet.htm> (press release - complaint/settlement)

Deceptive “pretexting” by online information broker

72. FTC v. James J. Rapp, et al (“Touch Tone”), Civil Action No. 99-WM-783 (D. Colo. filed April 21, 1999).

! Defendants: James J. Rapp and Regana L. Rapp, individually and doing business as Touch Tone Information, Inc. x(208)

! Touch Tone is an information broker that offers current bank numbers, brokerage account numbers, specific balances, and other personal information about individuals through its Web site at: <http://pidirectory.com/touchtone>

! On April 21, 1999, the FTC filed suit in federal court, alleging that the defendants engaged in illegal “pretext” calling, posing as consumers and calling banks and using deceptive means to obtain consumers' private financial information. The FTC's complaint alleges that Touch Tone engages in “deceptive” practices, in violation of Section 5 of the FTC Act, and that pretexting without a without consumers' knowledge or consent is also an “unfair” act practice in violation of the statute. Litigation is ongoing.

<http://www.ftc.gov/opa/1999/9904/touchtone.htm> (press release - complaint)

Operation New ID -- Bad Idea II – more promises of a new credit identity

73. FTC v. Donna Payne, d/b/a Strategic Information Services, (N.D. Ohio)

74. FTC v. Frederick P. Ray, d/b/a F.P.R., Civil Action No. 99-04703SVW (RNBx)
(C.D. Cal.)

75. FTC v. James Fite, d/b/a Internet Publications Civil Action No. 99-04706JSL (BQRx)
(C.D. Cal.)

76. United States of America v. David Story, d/b/a Network Publications (N.D. Tex.)

77. FTC v. John Williams, d/b/a Speed Credit (S.D. Tex.)

78. FTC v. Eric Volkert and Cynthia Volkert, d/b/a Fresh Start Publication, Civil Action No. H-99-1326 (S.D. Tex.)

79. FTC v. West Coast Publications, LLC. (C.D. Cal.)

! Defendants: Donna Payne, Frederick P. Ray, James Fite, David Story, John Williams, Eric Volkert and Cynthia Volkert, West Coast Publications, LLC. and Gilberto Lopez. o(217)

! Defendants offer credit repair kits for \$21.95 to \$129.95 through Internet Web sites and e-mail. They promise to give consumers a new credit identity, saying:

"Anyone can have a New Credit File virtually overnight. . . .";

"WIPE OUT ALL OF THE OLD BAD CREDIT ON YOUR OLD FILE. . . ."; and

"Credit Start Over. There's a way to obtain a new Social Security No. . . ."

! In its second crack-down against credit schemes in 1999, the Commission (and in one case the Dept. of Justice) filed suit alleging violations of Section 5 of the FTC Act and Section 404(a)(2) of the Credit Repair Organizations Act "CROA." The government has sought injunctive relief and redress for consumers.

! In October 1999, The FTC announced that defendants in the **Frederick P. Ray, Internet Publications**, and **Fresh Start** matters agreed to settle federal charges that the "file segregation" advice and products violated federal law.

! The settlements will provide consumer redress for victims of the scam; bar future violations of the Credit Repair Organizations Act; bar deceptive claims about file segregation -- including claims that it is legal -- and require that the defendants notify their victims that using a false identification number to apply for credit is a felony. Thirteen of the sixteen settlements announced as part of the sweep provided for full consumer redress. Financial declarations filed by three defendants indicate an inability to provide redress. (Not all of the cases in the sweep were Internet related. Also, some of the cases included in the settlement are discussed during the first sweep from February 1999.) Their settlements contain provisions to allow reopening of the issue if defendants are found to have misrepresented their inability to pay. All the settlements contain record keeping provisions to allow the FTC to monitor compliance.

! The Commission votes to accept the proposed stipulated final judgments were 4-0.

<http://www.ftc.gov/opa/1999/9905/id21a4.htm> (press release - sweep)

<http://www.ftc.gov/opa/1999/9910/badidea.htm>

Financial information unfairly collected from children

80. Liberty Financial Companies, Inc., FTC File No. 982 3522 (consent announced May 6, 1999)

! Respondent: Liberty Financial Companies, Inc. x(218)

! Respondent operates The Young Investor Web site, an Internet site directed at children and teens focusing on issues relating to money and investing. The Commission alleged that the site falsely represented that personal information collected from children in a survey would be maintained anonymously, and that participants would be sent an e-mail newsletter as well as prizes.

! The Commission reached a proposed consent that prohibits such misrepresentations in the future and would require Liberty Financial to post a privacy notice on its children's sites and obtain verifiable

parental consent before collecting personal identifying information from children. The proposed consent has been published for public comment.

<http://www.ftc.gov/opa/1999/9905/younginvestor.htm> (press release - proposed consent)

Deceptive exercise equipment claims

81. Fitness Quest, Inc. Docket No. C-3886 (final consent Aug. 6, 1999)

! Respondents: Fitness Quest, Inc. and Robert R. Schnabel, Jr. x(220)

! Fitness Quest sold three exercise gliders -- Gazelle Glider, SkyTrek, and Airofit and two abdominal devices -- Abs Only Machine and Ab Isolator directly to consumers through infomercials, on the Internet and also through retailers. The FTC alleged that Fitness Quest made unsubstantiated claims that, under ordinary use, their exercise gliders would allow consumers to burn up to 1,000 calories an hour or, as in their ads for the abdominal exercisers, that the Ab Isolator and Abs Only Machine were twice as effective as regular sit-ups.

! A proposed consent was announced on May 12, 1999. After a public comment period, the Commission announced its final approval on August 6, 1999. The consent with the respondents prohibits them from making a variety of weight-loss and related claims for their exercise equipment and weight-loss products without competent and reliable evidence.

<http://www.ftc.gov/opa/1999/9905/fitness.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1999/9908/fyi-21.99.htm>

Inconspicuous computer leasing terms

82. Dell Computer Corporation, Docket No. C-3888 (final consent Aug. 6, 1999)

83. Micron Electronics, Inc., Docket No. C-3887 (final consent Aug. 6, 1999)

! Respondents: Dell Computer Corporation, Micron Electronics, Inc. x(232)

! Dell and Micron design, manufacture, and market computer systems for consumers and businesses. According to the FTC, the companies disseminated misleading leasing ads through television, print, or the Internet. The FTC alleged that the Dell and Micron placed material cost information in inconspicuous or unreadable fine print or omitted such information altogether.

! The Commission's settlements with Dell and Micron would require the companies to provide consumers with clear, readable, and understandable information in their lease advertising.

<http://www.ftc.gov/opa/1999/9905/dell.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1999/9908/fyi-21.99.htm> (press release - final consent)

The FTC's first action against unnamed defendants

84. FTC v. Benoit (aka One or More Unknown Parties), Civil Action No. 3:99 CV 181

(W.D.N.C. filed May 11, 1999)

! Defendant(s): Andrew Wells Benoit, Susan Carroll, WorldNet, Inc. o(235)

! Defendants allegedly sent consumers a deceptive e-mail message in order to get them to place expensive overseas calls. According to the FTC, the defendants sent consumers an e-mail informing them that their "order" had been received and processed and that their credit card would be billed \$250 to \$899. The e-mail advised consumers that if they had questions about their "order," they should call a telephone number in the 767 area code. Consumers didn't know the area code was in a foreign country, Dominica, West Indies, and rather than reaching a customer "representative," consumers were connected to an audiotext entertainment service with sexual content. Consumers incurred expensive telephone charges for this unhelpful international, long-distance call.

! In its first ever "John Doe" complaint, the FTC charged the defendants with violating Section 5 of the FTC Act. On May 11, 1999, the Commission sought and obtained an asset freeze from the Court, thereby stopping any flow of money to the defendants through the telephone payment system.

<http://www.ftc.gov/opa/1999/9905/audiot10.htm> (press release - complaint/TRO)

Modeling scheme

85. FTC v. Screen Test U.S.A., Inc., Civil Action No. 99-2371 (WGB) (D.N.J. filed May 24, 1999)

! Defendants: Screen Test U.S.A., Inc., Fred Vanore d/b/a Vanore Productions, World Wide Casting, Inc., American Child Actor and Modeling Association, Inc., Premier Marketing, Inc. d/b/a Screen Test U.S.A., Alice B. McManus, R. J. Ims Corp. d/b/a Screen Test U.S.A., Richard J. Ims, Jr., Premier Marketing, Inc. d/b/a Screen Test U.S.A., Showbiz Central of Westchester, Inc. d/b/a Screen Test U.S.A., John T. Yannielli, Tomorrow's Stars, Inc., Edward J. Bauer, and Helen J. Bauer, Angela Ims, Jeffrey C. McManus and JCM Marketing, Inc., and Thomas J. Yannielli x(252)

! The Commission alleges that, via television, radio, Internet and newspaper ads, Screen Test U.S.A. deceptively markets a \$45 "screen test" and other services to consumers. To add credibility to their activities, Screen Test U.S.A. encourages parents to check the company out with the American Child Actor and Modeling Association (ACAMA) -- a purported non-profit organization at www.acama.com. According to the FTC, ACAMA is actually a shell corporation of the owner of Screen Test U.S.A., Fred Vanore.

! On May 24, 1999 the FTC filed suit under Section 5 of the FTC Act alleging that defendants have misrepresented the objective or professional quality of their "screen tests" and pictures, customers' rates of success, and the independent status of ACAMA. The FTC also alleged violations of the Cooling-Off Rule, 16 C.F.R. Part 429.

! The Court granted the FTC's motion for and *ex parte* TRO, with an asset freeze and appointment of a receiver, and approved stipulated preliminary injunctions against all defendants. The New York City Department of Consumer Affairs, the Connecticut Department of Consumer Protection, and the Attorneys General for Pennsylvania, New Jersey and Florida also filed separate lawsuits against the defendants and provided tremendous assistance to the FTC.

! On February 3, 2000, the FTC announced settlements with all defendants, including four added to an

amended complaint. The settlement permanently banned defendants from marketing and selling their purported "screen test services" and prohibited them from misrepresenting: 1) the need for or use of photographic services; 2) the experience or professional qualifications of any person; 3) the likelihood of business or employment success; and 4) the independence or objectivity of any nonprofit organization. The order also barred defendants from violating the Cooling-Off Rule and from distributing or selling their customer lists or identification information. The settlements also called for payment of \$972,000 in consumer redress.

<http://www.ftc.gov/opa/1999/9905/screen.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/2000/02/screentestusa.htm> (press release - settlement)

Small Business Sweep – Web site “cramming” cases

86. **FTC v. Shared Network Services, LLC, et al.** CIV. S-99-1087 WBS JFM (E.D. Cal. filed June 2, 1999).
87. **FTC v. WebViper, LLC, et al.**, 99-T-589-N (M.D. Ala. filed June 9, 1999).
88. **FTC v. Wazzu Corporation, et al.**, SACV-99-762-AHS (C.D. Cal. filed June 7, 1999).

! Defendants: Shared Network Services d/b/a First Page, Peter Westbrook, WebViper, LLC d/b/a Yellow Web Services, Tigerhawk, LLC d/b/a Yellow Web Services, Thomas J. Counts, Patrick C. Taylor, Richard M. Bagdonas, Wazzu Corp., Jayme Amirie, Kenneth Gharib, and Kirk Waldfogel. o(263)

! The defendants allegedly charged small businesses for “free” Web site services. According to the Commission, the defendants offered small businesses Web sites for a free 30-day trial period. Small businesses allegedly were told that they would have 30 days to cancel, that they would have a free period of time to review a sample Web site or written materials, or that they could sign up for 30 days without any obligation whatsoever. In each case, however, the Commission charged that small businesses had unauthorized fees “crammed” onto their phone bills (Shared Network and Wazzu) or direct invoices (WebViper).

! The Commission filed three separate lawsuits in early June 1999, alleging that the defendants had deceived small businesses through their telemarketing solicitations and billing practices.

! In the **Shared Network Services** matter, TRO and asset freeze were entered on June 3, 1999. A Stipulated Preliminary Injunction was entered on June 7, 1999 and a Final Judgment and Order for Permanent Injunction and Consumer Redress was entered on June 12, 2000. The order enjoins defendants from misrepresenting that they will not charge customers for website services before the end of a trial period, and that they will not charge customers who cancel before the end of a free trial period, or within some specified period. The order also requires that defendants not charge customers for website services unless the customer takes affirmative steps to order the web services. The order prohibits defendants from representing that consumers are legally liable to pay for unauthorized services. Defendants are also permanently enjoined from billing after a free trial period and must pay valid refund requests within 7 days. The order also sets forth certain requirements if they record a sales pitch. Finally, the order requires that defendants redress a specified class of consumers; however, the amount

of redress has not yet been established.

! In the **Web Viper** matter, defendant Bagdonas was dismissed and a Final judgment and order was filed May 30, 2000, which enjoins the remaining defendants from misrepresenting that they are obligated to pay for services received during a free trial period or for unauthorized services; enjoins defendants from billing prior to three days after the expiration of the trial period; and requires defendants to honor cancellation requests. A judgment of \$88,426.25 was suspended.

<http://www.ftc.gov/opa/1999/9906/small9.htm> (press release - complaints)

Operation Cure.all cases

- 89. Magnetic Therapeutic Technologies, Inc.,** 982-3150
- 90. Pain Stops Here!, Inc.,** File No. 982-3175
- 91. Melinda R. Sneed and John L. Sneed d/b/a Arthritis Pain Care Ctr,** File No. 982-3182
- 92. Body Systems Technology, Inc.,** File No. 982-3177

! Respondents: Magnetic Therapeutic Technologies, Inc. and Jim B. Richardson; Pain Stops Here! Inc. and Sande R. Caplin; Melinda R. Sneed and John L. Sneed d/b/a Arthritis Pain Care Center; Body Systems Technology, Inc., William E. Chace, and James D. Davis. x(272)

! The Commission announced four cases that resulted from the agency's previous "Health Claims Surf Days" – law enforcement surveillance sweeps in 1997 and 1998 by officials in over 25 countries. The cases involved settlements with companies and individuals that allegedly used the Internet to make deceptive and unsubstantiated health claims concerning "miracle cures" for serious illnesses -- including cancer, arthritis, heart disease, and liver disease.

! *Magnetic Therapeutic Technologies, Inc.* (MTT) and *Pain Stops Here!, Inc.*, (PSH) allegedly made unsubstantiated health claims about their magnetic therapy products. MTT allegedly represented that its products could treat cancers, HIV, high blood pressure, and other conditions, while PSH. allegedly represented that its devices could effectively treat cancer, liver disease, arthritis, and other ailments. The consent order prohibits MTT and PSH from making unsubstantiated health claims in the future.

! *John Sneed and Melinda Sneed d/b/a Arthritis Pain Care Center* (APCC) marketed CMO, a fatty acid from beef tallow, and allegedly claimed that it could cure most forms of arthritis and treat numerous other diseases. The FTC charged that APCC's efficacy claims were unsubstantiated and that its claims about NIH and other scientific studies were false. The settlement prohibits APCC from making unsubstantiated claims for any food, drug, dietary supplement or program.

! *Body Systems Technology, Inc.* (BST) allegedly sold shark cartilage capsules as well as capsules and liquid containing a Peruvian plant derivative called Cat's Claw. The allegedly promoted these products as scientifically-proven treatments for cancer, HIV/AIDS, and arthritis. The FTC charged that BST's claims were unsubstantiated. The consent order prohibits BST from making unsubstantiated health claims for any food, drug, dietary supplement or program. Also, the order requires BST to identify and make refunds to purchasers of their products.

! All four proposed settlements were announced on June 24, 1999. After a public comment period, the

Commission gave final approval to these settlements on Sept. 20, 1999.

<http://www.ftc.gov/opa/1999/9906/opcureall.htm> (press release - proposed consents)

<http://www.ftc.gov/opa/1999/9909/fyi990920.htm> (press release - final consent)

Another deceptive laundry product

93. FTC v. OneSource Worldwide Network, Inc. 3-99 CV1494-L (N.D. Tex. complaint and stipulated final judgment filed July 1, 1999).

! Defendants: OneSource Worldwide Network, Inc. and James Michael Fobair. x(274)

! Defendants marketed The EarthSmart Laundry CD for \$80 on the Internet and elsewhere. The CD is a plastic disc -- purportedly filled with "structured water" -- to be used in washing machines instead of conventional detergents. The FTC alleged that defendants misrepresented that the Laundry CD cleans as well as conventional detergents. The FTC also alleged that the defendants made other false or unsubstantiated scientific, environmental and efficacy claims and that their testimonials did not reflect consumers' typical or ordinary experience.

! A proposed settlement filed in federal court on July 1, 1999 would prohibit defendants from claiming that the Laundry CD or any similar product cleans as well as conventional laundry detergent and would require them to pay \$50,000 in disgorgement. These funds are to be divided equally among the FTC and six states that participated in this action: Arkansas, Illinois, Michigan, Missouri, Nevada and Texas. The order would prohibit the defendants from making unsubstantiated claims or misleading testimonials, and provides an avalanche clause of \$7.5 million in the event the defendants are found to have given false financial data to the FTC.

<http://www.ftc.gov/opa/1999/9907/onesource.htm> (press release - complaint/settlement)

94. FTC v. David Martinelli, Jr., 3:99 CV 1272 (CFD) (D. Conn. July 1999)

! Defendants: DP Marketing, David Martinelli, Jr. (a/k/a David Martin) and Deana Plourde x(277)

! Defendants allegedly sent consumers unsolicited e-mail or "spam" and represented that consumers could make \$13.50/hr working at home processing applications for credit, loans or employment, and as a consumer service representative. Defendants sold a "how to" kit for 9.95 to \$28.72, but it allegedly only included instructions to place advertisements identical to the ones

they had responded to. Consumer allegedly could only earn money by recruiting others to pay for the same information. The FTC alleged that defendants violated federal law by making false earnings claims, by failing to disclose that they were offering a pyramid work-at-home scheme; and by providing the "means and instrumentalities" to others to commit deceptive acts.

! The defendants agreed to a stipulated preliminary injunction, which the Court entered on Sept. 23, 1999. The Order prohibited further misrepresentations, pending a full trial.

! In November 2000, defendants agreed to a stipulated final judgment and order in order to settle the charges. The agreement bars future participation in pyramid schemes, bars misrepresentation of earnings and income potential, and requires that if the defendants make earnings claims in connection with a multilevel marketing program, they clearly and conspicuously disclose the actual profits made by

participants and the percentage of participants who have made such profits before accepting payment from investors. It prohibits false or misleading statements or misrepresentations in the marketing, sale, or distribution of any product or service and prohibits the defendants from providing others with the means and instrumentalities to commit deceptive acts. The settlement also contains various record keeping and reporting requirements designed to assist the FTC in monitoring the defendants' compliance. The order imposes a judgment of \$72,312 for consumer redress, based on financial declarations provided by the defendants. Should the court find that the defendants misrepresented their financial situations, \$430,140, the total amount paid by consumers to DP Marketing, becomes due.

! The Commission's vote to approve the filing of the proposed consent judgment was 5-0. It was filed by the FTC in the United States District Court for the District of Connecticut, and entered by the Court on November 14, 2000.

<http://www.ftc.gov/opa/1999/9907/dpmarket.htm> (press release - complaint)

<http://www.ftc.gov/opa/2000/11/dpfinal.htm> (press release - stipulated final judgment)

Another Web site "cramming" case - part of Small Business Sweep

95. FTC v. Web Valley, Inc. et al, Civil Action No. 99-1071 DSD/JMM (D. Minn. filed July 14, 1999)

! Defendants: Web Valley, Inc., Profile National Business Directory, Inc., Protel Advantage, Inc., U.S. Protel, Inc., Satya P. Garg, Blaine C. Christofferson, and Scott D. Lee. x(284)

! Defendants, through their telemarketing operations, called consumers touting the business benefits of having an Internet presence and offered to design and host an Internet Web site for a "free" 30-day trial period. The FTC charged that the telemarketers failed to disclose to consumers that, unless consumers initiated contact to cancel the service, the defendants would automatically charge consumers monthly fees of \$19.95 or \$24.95. Consumers allegedly were never told that these charges would be added to their local phone bills. The agency alleges that the scheme took in up to \$9 million for unordered services.

! The FTC filed suit on June 14, 1999 and obtained an *ex parte* TRO with a receiver and a freeze over the defendants' assets. On July 22nd, the Court granted a preliminary injunction against the defendants, without a receiver or an asset freeze.

! A stipulated permanent order against the Web Valley defendants was entered on June 5, 2000 in the District Court of Minnesota. The order resolved allegations that defendants fraudulently charged consumers' telephone bills for unordered and unauthorized web pages. The order provides for \$3,050,000 of consumer redress. The defendants have directly paid about \$1.4 million and the remainder will come from reserve funds held by two thirty party aggregators. In addition to providing redress, the order prohibits violations of Section 5 and contains fencing-in relief. It also requires that the defendants post performance bonds if they telemarket web sites or Internet-related services.

<http://www.ftc.gov/opa/1999/9907/webvalley.htm> (press release - complaint/TRO)

Operation Trip Trap – Online travel scams

96. FTC v. American Int'l Travel Serv., Inc., Civil Action No. (S.D. Fla. July 1999)

! Defendants: American International Travel Services, Inc. d/b/a Magic World Tour & Travel, Silver Lake Resort, Ltd., Alfred H. Jugo, A.J. Stanton, Jr., and Lawrence S. Gilbert. o(289)

! Defendants initially solicited consumers via the Internet, direct mail, and out-bound telephone calls. These initial contacts led to a telemarketing solicitation in which the defendants allegedly told consumers that they had won or been specially selected to receive vacations to Florida, the Bahamas, or other destinations.

! The FTC alleged that defendants operated a common enterprise to deceive consumers, in violation of the FTC Act and the Telemarketing Sales Rule (TSR). The defendants

allegedly misrepresented the nature of the vacation packages offered and failed to disclose restrictions and conditions on the packages, including the requirement that consumers attend one--and sometimes two--sales pitch seminars for a timeshare purchase during their trip. Defendants also allegedly failed to disclose their refund policies and material aspects of their prize promotions.

! On July 27, 1999, the court entered an ex parte TRO with asset freeze entered against the defendants and a stipulated preliminary injunction was entered on Aug. 6, 1999.

<http://www.ftc.gov/opa/1999/9908/triptrap.htm> (press release - complaint/TRO)

97. FTC v. Cerkenik-Anderson Travel, Inc., d/b/a College Tours, Student Tours, and Mexico Tours Civ. Action No. (D. Ariz. filed July 1999)

! Defendants: Cerkenik-Anderson Travel, Inc. d/b/a College Tours, Student Tours and Mexico Tours, and Andy Anderson. o(291)

! The FTC filed suit in federal court alleging that defendants violated the FTC Act by misrepresenting the nature of spring break and post-graduation vacations to college students and their parents. The defendants allegedly misled purchasers about the quality of accommodations offered and the cost or value of various benefits and activities they arranged.

! On December 28, 1999, the Court entered a stipulated agreement having the force of a preliminary injunction.

<http://www.ftc.gov/opa/1999/9908/triptrap.htm> (press release - complaint)

Rolling Internet Pyramid Sweep - large pyramid promoting environmental and health products

98. FTC v. Equinox Int'l Corp. et al, Civil Action No. CV-S-99-0969-JBR-RLH (D. Nev. filed Aug. 3, 1999)

! Defendants: Equinox International Corporation, Advanced Marketing Seminars, Inc., BG Enterprises, Inc., and William Gould. x(295)

! Defendants allegedly operated a multi-level marketing company which offered distributorships for products including water filters, vitamins, nutritional supplements, and skin care products. Equinox distributors ran classified ads in the "Help Wanted" sections of newspapers which implied that a salaried

position was being offered. Persons who responded to the ads allegedly were given a sales presentation designed to recruit new distributors. Equinox also advertised and communicated with distributors through its Web site at www.equinoxinternational.com. This site contained several testimonials and information about distributorships, Equinox products and payout plans.

! The FTC and 5 states filed a joint action on Aug. 3, 1999, alleging that the defendants operated a pyramid scheme, made false earnings claims, failed to disclose material information, and violated the FTC Act as well as state securities laws, deceptive trade practices laws, false advertising laws, pyramid laws, and licensing requirements. State co-plaintiffs were Hawaii, Maryland, Nevada, North Carolina, Pennsylvania, South Carolina - later joined by Tennessee, Michigan, and Virginia, with South Carolina dropping its suit. The Court granted the FTC and states' request for an *ex parte* TRO and imposed a freeze on the defendants' assets and a receivership over their business.

! On Sept. 14, 1999, after a full hearing, the Court issued a modified preliminary injunction against the defendants. Pending a full trial, the Order prohibits any pyramid activity or misrepresentations about earnings. It requires defendants to modify their business terms and keeps a receiver in place to monitor defendants' business and prevent the dissipation of assets.

! Trial began April 3, 2000 and after the FTC and the states had presented their case, the parties reached a final settlement. The Court approved a provisional stipulated final judgment and order on April 20, 2000. The settlement bars Gould, for life, from engaging in any multi-level marketing operations. It also orders that cash and corporate and individual assets be placed in the hands of the court-appointed receiver for liquidation. The assets have an estimated liquidated value of \$40 million to \$50 million. Proceeds from the sale of assets will be used for consumer redress and payment of certain court-approved expenses, including the payment of states plaintiffs' fees and costs and fees and costs to defendants' and private class action plaintiffs' lawyers.

<http://www.ftc.gov/opa/1999/9908/equinox1.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/2000/04/equinox.htm> (press release - settlement)

“Guaranteed” credit cards

99. FTC v. Credit National, et al, 99 CV 07989 (C.D. Cal. filed Aug. 5, 1999)

! Defendants: Credit National, Inc. and Mark Wolf, d/b/a Credit America o(297)

! Defendants allegedly marketed "guaranteed approved" credit cards and lines of credit to consumers in print, direct mail, and Internet ads and invited consumers to call an "800" number. Consumers who called the number were sent a packet of materials containing written guarantees of unsecured credit cards regardless of past credit history, along with applications requiring a \$28 fee. Consumers who paid the fee received various credit card applications or nothing at all, rather than the promised credit cards.

! The FTC filed suit in federal court alleging violations of the FTC Act and the Telemarketing Sales Rule. The Court granted the Commission's motion for an *ex parte* Temporary Restraining Order with an asset freeze and the appointment of a receiver. A preliminary injunction was entered on August 23, 1999.

<http://www.ftc.gov/opa/1999/9908/operationafl.htm> (press release-sweep/complaint)

The FTC's 100th Case: cross-national action against page jacking and mouse trapping

100. FTC v. Carlos Pereira d/b/a atariz.com, Civil Action No. 99-1367-A (E.D. Va. filed Sept. 14, 1999)

! Defendants: Carlos Pereira, WTFRC, Pty Ltd., Guisepe Nirta, Gregory Lasarado o(301)

! Defendants allegedly engaged in “pagejacking” and “mouse trapping” to drive unsuspecting consumers to adult sites and hold them there. According to the FTC, defendants first captured and made counterfeit copies of over 25 million Web pages. They then inserted a “redirect” command in these counterfeit pages and placed them under defendants’ Web site, usually at www.atariz.com. When consumers used a search engine to look up information on the Internet, they sometimes pulled up listings for defendants’ counterfeit sites. Though these listings described pages devoted to recipes, kids games, automobiles or other everyday topics, if a consumer clicked on the listing for a counterfeit site, he was taken immediately to sexually explicit adult Web sites operated by defendants. Once there, a consumer could not easily leave because defendants disabled a consumer’s normal browser functions. If he tried to escape by hitting the “back” or “close it” buttons on his browser, the consumer would just receive more pages of graphic sexual content.

! On September 14, 1999, the Commission filed suit and alleged that defendants had violated Section 5 of the FTC Act. The FTC alleged that defendants had deceived consumers by pagejacking Web sites and misleading consumers about where they were going. The FTC also alleged that defendants had engaged in illegal and unfair practices when the mouse trapped consumers and preventing them from leaving defendants’ sites. The Court granted the FTC’s motion for an *ex parte* Temporary Restraining Order with a provision to suspend several of defendants’ domain name registrations. On September 21, 1999, the Court issued a Preliminary Injunction and continued these suspensions.

! The FTC cooperated closely with the Australian Competition and Consumer Commission in this case. The ACCC executed search warrants on the business premises of the Australian defendants and looked into possible criminal or civil actions in that country.

! The FTC amended its complaint and added Gregory Lasarado on February 9, 2000.

! On February 28, 2000, the Court entered default judgments and permanent injunctions against WTFRC and Nirta, barring further “pagejacking” or “mouse trapping” and permanently suspending the domain names they had used to perpetuate their scheme.

<http://www.ftc.gov/opa/1999/9909/atariz.htm> (press release - complaint/TRO)

Another large Web site cramming case - part of Small Business Sweep

101. FTC v. U.S. Republic Communications, Inc., Civil Action No. H-99-3657 (S.D. Texas filed Oct. 21, 1999).

! Defendants: U.S. Republic Communications, Inc. and T. Gary Remy x(303)

! Remy and U.S. Republic allegedly used telemarketers to target small businesses, offering to design and host Web sites on a free trial basis. They claimed their service included “registering” the small businesses’ Web sites with major Internet search engines to drive potential customers to the sites. The small businesses allegedly were told that they would receive paperwork about the Web site and that no charges would be incurred unless the business ordered the Web site on a permanent basis. Despite their claims, U.S. Republic added charges of \$25 a month to the telephone bills of small businesses, often

when the defendants had not sent a sample Web site design or when the small businesses had rejected the offer. Many times the defendants continued to charge small businesses even after they stated they had "canceled."

! The FTC alleged violations of Section 5, and the defendants entered into a Stipulated Final Order to settle these allegations. The order bars the defendants from misrepresenting their Web site services and from misrepresenting that consumers are under no obligation and will not be charged during a trial period. The Order requires defendants to disclose, in certain instances, that they cannot guarantee that a Web site will be indexed or listed by major search engines. The Order also requires that approximately 124,000 small businesses be notified that they may have a right to cancel their Web site and collect redress.

! The Commission's complaint and the Stipulated Final Order were filed on Oct. 21, 1999 in federal district court for the Southern District of Texas. Through the redress process, defendants returned \$2.8 million to consumers

<http://www.ftc.gov/opa/1999/9910/republic2.htm> (press release - complaint/stipulated final order)

Unsubstantiated body-building supplement claims

102. FTC v. AST Nutritional Concepts & Research, Inc., et al, Civ. No. 99-WI-2197
(D. Colo. filed Nov. 15, 1999)

103. FTC v. MET-RX USA, Inc., et al. Civil Action No. SAC V-99-1407
(C.D. Cal. filed Nov. 15, 1999)

! Defendants: AST Nutritional Concepts & Research, Inc. and Paul Delia; Met-RX USA, Inc. and Met-RX Substrate Technology, Inc. x(307)

! On their Web sites and through direct sales, magazines and retail stores, defendants allegedly advertised that their health supplements would increase strength and muscle mass "safely and with minimal or no negative side effects." The companies' androgen products contained various combinations of the steroid hormones androstenedione, androstenediol, norandrostenedione, and/or norandrostenediol. These substances convert in the body to testosterone, estrogen, and/or other potent hormones, and allegedly could pose safety risks and unwanted side effects similar to those of more potent hormones.

! The FTC challenged the companies' lack of substantiation for the safety or lack of side effects of their products. Without admitting liability, the defendants entered into stipulated final orders which would prohibit them from making unsubstantiated efficacy, performance or safety claims about their products. The proposed orders also would require the following labeling and advertising disclosure for any androgen supplement for which any efficacy, performance, or safety claim is made:

WARNING: This product contains steroid hormones that may cause breast enlargement, testicle shrinkage, and infertility in males, and increased facial and body hair, voice deepening, and clitoral enlargement in females. Higher doses may increase these risks. If you are at risk for prostate or breast cancer you should not use this product.

Finally, the proposed orders also would require the following labeling and advertising disclosure for any androgen supplement containing ephedra (also known as ephedrine):

WARNING: This product contains ephedra. Taking more than the recommended serving may result in heart attack, stroke, seizure or death. Consult a health care practitioner prior to use if you have high blood pressure, heart or thyroid disease, diabetes, difficulty urinating, prostate enlargement, or glaucoma, or are using any prescription drug. Do not use if you are taking a MAO inhibitor or any allergy, asthma, or cold medication containing ephedrine, pseudoephedrine, or phenylpropanolamine. Discontinue use if dizziness, sleeplessness, loss of appetite, or nausea occurs.

<http://www.ftc.gov/opa/1999/9911/astmetrx.htm> (complaints/stipulated final orders)

! The Commission's complaints and the Stipulated Final Orders were filed on Nov. 15, 1999 in the federal district courts for the District of Colorado (AST) and the Central District of California (Met-Rx).

Y2K investment scheme

104. FTC v. Selket Precious Metals, Inc., et al (E.D. Cal. November 1999)

! Defendants: Selket Precious Metals Inc., and Paul H. Byus x(309)

! The defendants promoted two types of investments through Internet promotions and follow-up telephone pitches: shares of stock in Selket and certificates redeemable for gold from the company's mine. Potential investors allegedly were assured that an investment in Selket stock would appreciate, because Y2K related concerns would drive up the price of gold, and that gold certificates purchased would be just like money in the chaos following January 1, 2000.

! The Commission alleged that defendants made false claims about short-term investment returns and risk. The company entered into a stipulated final judgment which bars Selket from making false representations about the potential risk and return of investments in its mining operations, that its mine will be operational in any given period of time, that the value of any ore deposits has been proven, or that a known quantity of ore will be mined. In addition, the proposed order broadly prohibits Selket from misrepresenting the risk, value or any other fact material to any investment or investment offering.

! The complaint and stipulated final judgment were filed in the United States District Court, Eastern District of California on November 16, 1999.

<http://www.ftc.gov/opa/1999/9911/selket.htm> (press release-complaint/final order)

Defective HIV home test kits

105. FTC v. Cyberlinx, Civ.Act.#CV-S-99-1564-PMP-LRL (D. Nev. November 1999)

! Defendants: Cyberlinx and Jeffrey Stein x(311)

! Defendants marketed HIV home test kits on the Internet and claimed that the tests accurately detected HIV infection in humans. However, the FDA tested the kits sold by Cyberlinx using blood serum

samples known to contain antibodies to HIV (HIV-positive) and found that the test kits failed to consistently detect the presence of antibodies to HIV. On July 8, 1999, the FDA notified Cyberlinx's customers about the inaccurate test kit results. According to the FDA notification letter, the test kits were labeled "HIV ½ STAT-PAK Ultra Fast."

! The Commission alleged that defendants falsely represented the accuracy of their HIV test kits. Cyberlinx and Stein entered a stipulated final order which imposed a lifetime ban on them from marketing or selling any HIV home test kit. The order also required them to post a \$500,000 bond, or a \$1,000,000 if acting jointly, if they ever wished to market or sell any other medical device. Cyberlinx and Stein were required to pay the FTC money they received from the sale of their HIV test kits and were barred from transferring, disclosing, or selling information regarding any person who paid any money to either of them in connection with the purchase of any HIV home test kit.

<http://www.ftc.gov/opa/1999/9911/cyberlinx.htm> (press release - complaint/final order)

106. FTC v. David M. Rothbart and Medimax Inc., Case No. 99-1485-Civ-ORL-LSA (M.D. Fla. filed Nov. 22, 1999)

! Defendant: David M. Rothbart and Medimax Inc. x(313)

! Rothbart's Web site, www.medimaxrx.com, offered several tests for a variety of diseases or conditions. The site prominently featured an HIV "rapid test" that was supposed to accurately detect HIV infection in human blood in 15 minutes. The FTC alleged that this HIV test was not approved for sale in the United States and that "nine of ten of Rothbart's HIV tests provided false negative results when tested with HIV-positive blood; the tenth test did not work at all."

! The Commission filed suit under seal on Nov. 22, alleging that Rothbart had violated Sections 5(a) and 12 of the FTC Act. The Court granted the FTC's motion for a Temporary Restraining Order, stopping him from engaging in the marketing or sale of HIV tests and freezing his assets.

<http://www.ftc.gov/opa/1999/9912/medimax.htm> (press release - complaint)

<http://www.ftc.gov/opa/2000/03/medimax3.htm>

Rolling Internet Pyramid Sweep – another pyramid promoting health products

107. FTC v. John T. Polk, Civil Action No. JFM 99CV 3679 (D. Md. filed Dec. 9, 1999)

! Defendants: John T. Polk, Patrick Farah, Peter Hirsch, USAurance Group, Inc., AKAHI Corp., AKAHI.COM, Inc., 2XTREME Performance International, LLC., and AFEW, Inc. x(321)

! Defendants allegedly used Web sites, direct mail, infomercials, telemarketing and seminars to convince consumers they could make substantial income by investing in their multi-level marketing scheme, which marketed nutritional supplements, beauty, weight-loss and other products. Defendants also allegedly claimed their recruiting tools -- called "Businesses in a Box"-- would generate a specific level of earnings and help develop an investor's "downline." The FTC alleged that defendants' earnings claims were false, that 2Xtreme was actually a pyramid scheme, and that 2Xtreme provided deceptive promotional materials and other 'means and instrumentalities' to violate federal law.

! The FTC filed suit on Dec. 9, 1999 and requested entry of a preliminary injunction. Defendants Peter

Hirsch, John T. Polk, and AFEW, Inc. stipulated to the entry of a preliminary injunction against them. After a two-day hearing that concluded February 25, 2000, the Court issued a preliminary injunction against the remaining defendants, prohibiting them from operating illegal pyramid schemes and from making misrepresentations pending trial. The injunctions also froze the individual and corporate assets to preserve them for consumer redress

! On September 5, 2000 the Commission approved a Stipulated Final Judgment and Order with Peter Hirsch.

! On January 29, 2001, the FTC announced that the remaining defendants, Polk, Farah and AFEW, agreed to settle Federal Trade Commission charges that the scheme violated federal law. The settlements contain a lifetime ban on the defendants from any involvement in any multi-level marketing program. One defendant, John T. Polk, will also be banned from involvement in any business opportunity offer and barred from selling or sharing any information about the consumers who joined the pyramid. Defendant Patrick Farah will be barred from misrepresenting business opportunities. The settlements contain judgments totaling \$2.5 million, \$1.4 million of which will be suspended based on financial disclosures provided by the defendants. Should the disclosure documents be found to be inaccurate, the entire \$2.5 million will become immediately payable. The Commission vote to accept the consent judgments was 5-0.

<http://www.ftc.gov/opa/1999/9912/2xtreme.htm> (press release-complaint)

<http://www.ftc.gov/opa/2000/04/2xtreme.htm> (press release - prelim injunction)

<http://www.ftc.gov/opa/2001/01/2xtreme.htm> (press release - stipulated final judgments)

Privacy violations and deceptive spam

108. FTC v. Reverseauction.com, Inc. Civil Action No. 000032 (D.D.C. filed Jan. 2000)

! Defendant: Reverseauction.com, Inc. x(322)

! According to the FTC, ReverseAuction allegedly agreed to comply with eBay's User Agreement and Privacy Policy, only to harvest eBay users' personally identifying information and spam eBay members with a message stating that their user ID's "will EXPIRE soon." According to the FTC's complaint, ReverseAuction violated the law when it violated the eBay User Agreement and Privacy Policy, sent deceptive spam, and misrepresented that eBay authorized the mailing.

! The FTC obtained a stipulated consent agreement and final order from ReverseAuction, which bars ReverseAuction from misrepresenting that it will comply with another site's privacy policy, that consumer's user IDs will expire, or that another site has authorized use of consumers' personal information. The order also requires ReverseAuction to provide notice to consumers who, as a result of receiving ReverseAuction's spam, registered or will register with ReverseAuction. In addition, the order requires ReverseAuction to delete, and refrain from using or disclosing, the personal identifying information of eBay members who received ReverseAuction's spam but who have not registered with ReverseAuction. Finally, the settlement requires ReverseAuction to disclose its own privacy policy and maintain records to allow the FTC to monitor compliance.

<http://www.ftc.gov/opa/2000/01/reverse4.htm> (press release - complaint/final order)

Wholesaler of defective HIV test kits

109. FTC v. Alfa Scientific Designs, Inc.

! Defendant: Alfa Scientific Designs, Inc. (SD Cal January 13, 2000) x(323)

! Alfa Scientific allegedly sold deceptive HIV test kits online to distributors such as Medimax, named previously in an FTC action. Alfa Scientific's Web site offered test kits in bulk and claimed that its HIV tests detected HIV antibodies in human whole blood or serum with "very high specificity and sensitivity." However, according to an FTC expert's report, in most instances, when tested with HIV-positive whole blood samples, Alfa Scientific's tests produced false negative results.

! The FTC filed suit, claiming that the company misrepresented that its tests accurately detected HIV infection, in violation of Section 5(a) and 12 of the FTC Act. Alfa Scientific stipulated to a preliminary injunction that prohibits it from advertising or selling any HIV test kits and from misrepresenting any material facts about, or the accuracy of, any HIV test kit pending a full trial.

! On January 16, 2001, the Commission announced that it had settled its lawsuit against Alfa Scientific, and amended its complaint to name as additional defendants Alfa Scientific's President, Naishu Wang, M.D., Ph.D., and the company's Chief Executive Officer, David F. H. Zhou, M.D., Ph.D. The Commission alleged in its amended complaint that Alfa, Wang and Zhou violated federal law when they represented on their Internet site that their "Alfa HIV-1/2 Rapid Tests" accurately detected HIV infection in human blood. According to the FTC, independent tests showed that Alfa's HIV tests produced false negative results when tested with HIV-positive whole blood samples.

! The settlement prohibits Alfa, Wang and Zhou from making false or misleading representations in connection with the advertising or sale of any HIV test, or any other medical device not approved by the U.S. Food and Drug Administration, including any claims regarding the accuracy of the tests. The settlement also requires the defendants to notify the Commission of any complaints or refund requests in the future and allows the Commission, for a period of five years, to randomly select and test any HIV test or other unapproved device for accuracy.

<http://www.ftc.gov/opa/2000/01/alfa.htm> (press release - complaint/prelim injunction)

<http://www.ftc.gov/opa/2001/01/chembio.htm> (press release - complaint, order, statement of Commissioner Swindle)

Project Biz-illion\$ – deceptive business opportunities

- 110. FTC v. AMP Publications, Web Publications, Inc., Ranjit Narayan dba Nationwide Publications, Inc., ANA Keilty dba Keilty Enterprises: No. SACV 00-112 AHS-ANX (C.D. Cal. filed Feb. 1, 2000)**
- 111. FTC v. Home Professions, Inc. Civ. No. SACV 00-111-AHA (EEEx) (C.D. Cal. filed Feb. 1, 2000),**
- 112. FTC v. Innovative Productions and Shane D. Walls, No. 3-00CV0312-D (N.D. Tex. filed Feb. 10, 2000)**
- 113. FTC v. MediWorks, Inc., Civil No. 00-01079CAS (MANx) (C.D. Cal. filed Feb. 1, 2000)**
- 114. FTC v. Transworld Enterprises, Inc., No. 00 8126-CIV-GRAHAM (S.D. Fla. filed Feb. 17,**

2000)

115. U.S. v. Douglas C. McGlothlin, Civ. No. 00-0243 (D. Ariz.), *filed* Feb. 9, 2000.

116. U.S. v. Worldwide Coffee, Inc., 00-8137 Civ. No. (S.D. Fla.), *filed* Feb. 11, 2000.

! Defendants: *AMP*-- AMP Publications, Inc., Computer and Web Publications, Inc., Ranjit Narayan, Ann Keilty; *Home Professions* – Home Professions, Inc., Telesalescenter.com, Michael Petok; *Innovative Productions* -- Innovative Productions and Shane D. Walls; *Mediworks* – Mediworks, Inc.; Mediworks; MediDistribution, Inc.; United Legal Assoc. d/b/a United Medical Assoc.; Robert Seals; Tate Stringer; Cory Dixon d/b/a Medipros; and Corinna Krueger; *Transworld* – Transworld Enterprises, Inc., d/b/a ATM Int'l., Mark Goldstein a/k/a Mark Davis, and James A. Mackey, Jr.; *McGlothlin* – Douglas C. McGlothlin and Anthony Simeonov, both d/b/a Int'l Cigar Consortium; *Worldwide Coffee*– Worldwide Coffee, Inc., Jeffrey M. Salley and Terri Salley, o(348)

! The FTC, the Justice Department and law enforcement officials from 29 states announced Project Biz-illion\$, a multi-pronged attack on business opportunity scams. As part of the sweep, the FTC, the Office of Consumer Litigation of the Department of Justice, state attorneys general and state securities officials filed over 68 cases against these deceptive schemes. The cases listed here involved solicitations made via Internet Web sites or email.

! The defendants here allegedly promised substantial income through work-at-home (AMP), medical billing (Home Professions, Mediworks), envelope stuffing (Innovative Productions), ATM vending (Transworld), cigar vending (McGlothlin), or coffee vending (Worldwide Coffee) opportunities. The FTC alleged that defendants specific earnings claims were false in violation of the FTC Act, and in some cases, that the defendants failed to provide an earnings claim document as required by the FTC's Franchise Rule.

! In February 2001, the court entered a \$4.9 million default judgment against AMP and Narayan and permanently banned them from engaging in the sale of work-at-home business opportunities. Under a related settlement, CWP and Keilty are barred from marketing or selling any work-at-home business opportunity for seven years and are prohibited from making false and misleading statements when engaging in the promotion or sale of any product or service. The settlement further prohibits them from selling or disclosing their customer lists. Finally, the settlement contains various record-keeping provisions to assist the FTC in monitoring the defendants' compliance with the order.

! The Commission vote authorizing staff to file the proposed settlement was 5-0. The stipulated order for permanent injunctive relief was filed in the U.S. District Court for the Central District of California, in Santa Ana, on March 23, 2001, and entered by the court on March 27, 2001.

<http://www.ftc.gov/opa/2000/03/biz.htm> (press release - sweep)

<http://www.ftc.gov/opa/2001/04/cwp.htm> (press release - corrected order for permanent injunction and stipulated order for permanent injunctive relief)

Operation Cure.All2 cases -- one with deceptive “metatags” “mouseover text” and hyperlinks

117. CMO Distribution Centers of America, Inc., File No. 982 3180 (April 2000)

118. EHP Products, Inc. File No. 982 3181 (April 2000)

119. Michael D. Miller d/b/a Natural Heritage Enterprises, File No. 992 3225 (April 2000)

! Respondents: CMO Distribution Centers of America, Inc and Kalon Samulonis; EHP Products, Inc. and Elaine H. Parrish; and Michael D. Miller d/b/a Natural Heritage Enterprises x(353)

! The FTC alleged that defendants sold products containing cetylmyristoleate (CMO) or Essiac Tea and that they touted their products as being effective treatments or cures for various diseases, including arthritis, cancer, diabetes and AIDS, without adequate substantiation to support the claims.

! The FTC alleged that EHP and Miller used “metatags” to further their deceptive claims. Metatags are imbedded in a Web site’s source code and do not appear on a Web page visible to the consumer. Metatags are used by search engines to index and categorize Web sites. Here, EHP allegedly inserted keywords like “arthritis cure” and “medical breakthrough” in its metatags, and Miller allegedly inserted terms like “cancer treatment” and “cancer cures” in his metatags. Miller also allegedly attached text tags like “cures brain cancer” and “cures lupus” to graphics files on his site – text tags that would appear when a consumer’s cursor ran over graphics images. Finally, Miller also allegedly linked consumers to other Web sites that purportedly gave independent information about Essiac Tea, but in fact were created by Miller himself. These technical tricks, according to the FTC, exacerbated the deceptive nature of respondents’ claims.

! The FTC reached settlements with all the respondents in these cases. The consent orders bar Miller, CMO Distribution and EHP from making unsubstantiated claims for their respective products and for any food, drug, dietary supplement or program and from misrepresenting the results of any tests, study or research. The settlements also bar respondents from making any representations about the performance, safety, efficacy or health benefits of their products or any other food, dietary supplement or drug, without adequate substantiation. The orders require CMO

Distribution and EHP to offer full refunds to consumers who purchased their products and to notify their distributors of the settlements and to monitor their future advertising. The settlement with Miller would require him to pay \$17,500 in consumer redress and to notify purchasers that Essiac

Tea has not been demonstrated to be an effective remedy in fighting cancer or any other disease.

<http://www.ftc.gov/opa/2000/04/cure-all2.htm> (press release - complaints & consents)

“Alternative” cigarettes - deceptive health claims

120. Alternative Cigarettes, Inc., Dkt No. C-3956 (April 2000)

! Respondents: Alternative Cigarettes, Inc., and Joseph Pandolfino x(355)

! Alternative Cigarettes marketed "Pure" and "Gold" tobacco cigarettes, as well as "Herbal Gold" and "Magic" herbal cigarettes through a Web site at *www.altcigs.com* and through other media. The FTC alleged that the company’s advertisements implied, without a reasonable basis, that their tobacco-containing cigarettes were safer to smoke than other cigarettes because they contain no additives. The Commission also alleged that the company falsely implied that smoking its herbal cigarettes did not pose the health risks associated with smoking tobacco cigarettes.

! Under a settlement finalized on June 14, 2000, the company agreed to disclose prominently in future

ads making a "no additives" claim: "No additives in our tobacco does NOT mean a safer cigarette." It also agreed to disclose prominently on packages and in ads for herbal cigarettes that: "Herbal cigarettes are dangerous to your health. They produce tar and carbon monoxide."

<http://www.ftc.gov/opa/2000/04/alt-cigs.htm> (press release-complaint & consent)

"Deceptive and noncompliant online ads for auto leasing and credit."

121. R.N. Motors, Inc. Docket No. C-3947 (April 2000)

122. Simmons Rockwell Ford Mercury, Inc., Docket No. C-3950 (April 2000)

! Respondents: R.N. Motors, Inc., Red Noland Cadillac, Inc., and Nelson B. Noland; Simmons Rockwell Ford Mercury, Inc.; Simmons Rockwell Autoplaza, Inc.; Don Simmons, Inc.; Donald M. Simmons, II., and Richard L. Rockwell. x(363)

! Respondents advertised auto leasing costs on their Internet Web sites. According to the FTC, the ads either failed to reveal the true lease costs, including costs due at lease inception, or buried key cost information in inconspicuous or unreadable fine print. The FTC charged that such practices violated the Consumer Leasing Act (CLA) and were misleading, in violation of the FTC Act. In addition, respondent Simmons Rockwell et al.'s online credit ads failed to disclose or failed to disclose clearly and conspicuously required credit terms, in violation of the Truth in Lending Act (TILA).

! Under a settlement finalized on June 6, 2000, respondents are barred from misrepresenting the costs or terms of vehicle leasing, including the amount due at lease inception. Various advertising restrictions apply to the respondents, including a prohibitions on disseminating lease promotions that state payment amounts, or state that any or no initial payment is required at lease signing or delivery, unless the ads also clearly and conspicuously disclose other key lease information, such as the total amount due at lease inception. All respondents agree to remain in compliance with the CLA and Simmons Rockwell et al. agree to remain in compliance with the TILA.

! Final orders were issued against RN Motors et al. and Simmons Rockwell et al. in June 2000

<http://www.ftc.gov/opa/2000/04/leasing1.htm> (press release-complaint & consent)

Deceptive weight-loss claims

123. FTC v. Enforma Natural Products, Inc. Civil Action No.: 04376JSL(CWx) (C.D. Cal. filed April 25, 2000).

! Defendants: Enforma Natural Products, Inc., Andrew Grey, and Fred Zinos x(367)

! The defendants sold weight-loss pills called "Fat Trapper" and "Exercise In A Bottle" through television infomercials and their Web site at www.enformanatural.com. The FTC alleged that have settled FTC charges that they made false and unsubstantiated weight loss claims in their advertising of "The Enforma System."

! The FTC obtained two Stipulated Final Orders to settle its allegations. Both orders 1) prohibit the defendants from making unsubstantiated claims that any product, service or program causes or maintains

weight loss or avoids weight gain without dieting or exercise, prevents fat absorption, increases metabolism, burns fat, or allows weight loss even if users eat high fat foods; 2) require that future weight loss claims be accompanied by a clear and prominent disclosure that reducing calorie intake and/or exercising more is necessary to lose weight; 3) require that the defendants have scientific substantiation for any claims about the health or weight loss benefits, performance, safety or efficacy of any product, service or program; and 4) prohibit false claims about the existence or results of any tests, studies, or research. The Stipulated Order with Enforma Natural Products and Grey required that they pay to the FTC \$10 million as consumer redress.

! On January 10, 2002, the FTC announced that it has asked a federal district court to order Enforma Natural Products, Inc., Andrew Grey, and Michael Ehrman to show cause why they should not be held in civil contempt for violating the terms of a May 2000 final consent order prohibiting unsubstantiated claims for weight loss products. According to the FTC, although Enforma ceased broadcast of the two 30-minute infomercials in the United States shortly after it signed the order, it continues to advertise Fat Trapper Plus and Exercise In A Bottle in other media. For example, Enforma placed a 3½ minute abridged version of the infomercials on its Web sites. In addition, Enforma uses television commercials, print advertisements, and packaging to disseminate claims the FTC challenged as unsubstantiated.

! The FTC's application for contempt sanctions also notes that Ehrman, although not named in the underlying order, is liable for the order violations. According to the FTC, Ehrman, who was on notice of the order's requirements, is a key player in developing the company's advertising claims, such as those listed above, and in ensuring that such advertising is substantiated. The FTC contends that Ehrman acted in concert or participation with Enforma and Grey in violating the terms of the order.

! On July 23, 2002, the FTC filed a second civil contempt action against Enforma Natural Products, Inc. (Enforma) and its president, Andrew Grey, for continuing to violate the terms of a May 2000 final consent order prohibiting unsubstantiated claims for weight loss products.

! As ultimate relief, the FTC seeks excision of the trade names "Fat Trapper," "Fat Trapper Plus," and "Exercise In A Bottle." If the court agrees that trade name excision is warranted, the FTC's application further requests that all products bearing the deceptive and misleading trade names be immediately recalled. In addition, the contempt application seeks an accounting and disgorgement of all profits from sales of Fat Trapper, Fat Trapper Plus, and Exercise In A Bottle since May 11, 2000.

! Both contempt applications were filed in U.S. District Court for the Central District of California, in Los Angeles.

<http://www.ftc.gov/opa/2000/04/enforma.htm> (press release-complaint & consent)

<http://www.ftc.gov/opa/2002/01/enforma.htm> (press release – memo in support of order to show cause)

<http://www.ftc.gov/opa/2002/07/enforma.htm> (press release)

Day trading cases

124. In the matter of Computrade LLC, File No. 002-3085 (May 2000)

125. In the matter of Ellery Coleman, File No. 002 3053 (May 2000)

126. In the matter of Michael G. Chrisman and Michelle R. Chrisman, File No. 002 3113

(May 2000)

! Respondents: Computrade LLC and Bernard Lewis; Ellery Coleman d/b/a Granite Investments; Michael G. Chrisman and Michelle R. Chrisman D/b/a Daytrading International o(372)

! As part of a sweep conducted with the SEC and CFTC, the FTC targeted deceptive Internet "day trading" operations that sold combinations of 'real time' training, software programs, trading manuals, e-mail newsletters, and mentoring services for prices ranging from \$79 to \$4995. The FTC alleged that defendants promoted their systems using phony testimonials and claims such as ". . . Make money regardless of the market going up or down," ". . . return on account of 2041%," ". . . this service has returned an average of 167% annually." The FTC charged the operators with making unsubstantiated or false earnings claims or testimonial and deceptive claims about the risks of trading.

! The FTC obtained consent orders that bar false claims, including claims that day trading involves little or no financial risk. All of the settlements require respondents to have substantiation for any earnings claims about income or profit or about any financial benefit from the purchase or use of any trading program. The settlements also require that future advertisements contain the disclosure, "DAY TRADING involves high risks and YOU can LOSE a lot of money." "CURRENCY TRADING" and "FUTURES TRADING" would be substituted where appropriate.

<http://www.ftc.gov/opa/2000/05/daytrading.htm> (press release-complaints &consents)

127. FTC v. The Kohl Group, L.L.C., et al., Civil No. 00-06507 RSWL (Manx) (C.D. Cal. filed June 19, 2000). x(377)

! Defendants: The Kohl Group, LLC d/b/a Federal Information Services, Gregory Stewart Hall, Benjamin H. Kim, Douglas Lee, and Mark Arron Osborne.

! Defendants used the Internet, among other mediums to advertise their lists of foreclosed homes and lists of auction locations where, according to defendants, impounded and repossessed vehicles were sold. The defendants' classified advertisements, which invited consumers to call the company, appeared in the Internet versions of The Thrifty Nickel and The Pennysaver, in addition to the print versions of those papers.

! Consumers were induced into purchasing FIS's lists based on misrepresentations that characterized them as no-risk bargains. FIS also misrepresented that consumers could buy the foreclosed homes on its lists at prices substantially below their fair market values. The Los Angeles based defendants led consumers to believe that purchasing their lists was risk-free because of FIS's purported satisfaction-guaranteed refund policy. To the contrary, after paying for the lists, consumers learned from FIS's written materials that they had to meet certain previously undisclosed conditions in order to qualify for a refund. The refund conditions were onerous, and sometimes impossible to meet, effectively dissuading dissatisfied consumers from pursuing and obtaining refunds. In addition, FIS also improperly charged consumers' checking accounts and credit accounts without authorization.

! On June 19, 2000, the FTC filed a § 13(b) complaint, charging the defendants with: (1) falsely representing to consumers the availability of foreclosed homes substantially below their fair market price; (2) failing to disclose material conditions of their refund policy; and (3) assessing charges to credit cards and withdrawing money from bank accounts without authorization. The court issued a Temporary Restraining Order freezing the defendant's assets, appointing a receiver, and expediting discovery. On July 19, 2000, the court entered a stipulated preliminary injunction.

! On November 30, 2000, the court entered a stipulated Final Order. The settlement required defendant to pay \$1,138,428 for consumer redress, which is now being distributed among the victims. Defendants must post a \$100,000 bond if they continue to sell their foreclosed homes or auction lists, and they must disclose particular facts about the homes that appear on their lists. Defendants are also prohibited from violating the Telemarketing Sales Rule or making any material false representations. Additionally, within 15 business days after a request for a refund, defendants must provide a refund to consumers who have purchased any product or service subsequent to June 19, 2000.

<http://www.ftc.gov/opa/2000/06/auction.htm> (press release - complaint/order)

<http://www.ftc.gov/opa/2000/12/kohl.htm> (press release - settlement)

“Free” or low-cost PC’s

128. BUY.COM Inc., File No. 992 3282 (June 2000)

129. Value America, Inc., File No. 992 3206 (June 2000)

130. Office Depot, Inc., File No. 992 3313 (June 2000)

Respondents: BUY.COM Inc., Value America, Inc., Office Depot, Inc.

o(382)

! The FTC alleged that three retailers deceptively advertised the total costs of different computer systems by failing to inform consumers adequately that they would have to make a substantial up-front payment for a “free” or low-cost system, that consumers had to commit to a three-year contract with an Internet service provider, and that various other restrictions would apply, such as a penalty for early termination of the Internet service. The challenged advertisements appeared in newspapers, magazines, infomercials, radio, online banner ads and on company Web sites.

! The FTC obtained consent orders from all three retailers that prohibit any misrepresenting price or cost to consumers of any computer, computer-related product or Internet access service. If the companies advertise a price or rebate that is conditioned on the purchase of any other product or service, the companies must disclose clearly and conspicuously both that requirement and the price of the other product and service. The orders require clear disclosure of other restrictions, and the BUY.COM and Value America orders require clear and conspicuous disclosures of the amounts of any rebates and the before-rebate price. The Value American order requires the company to comply with the Mail Order Rule and to cancel orders and provide refunds to all customers who ordered a product before the agreement is final and whose order is more than 10 days late.

<http://www.ftc.gov/opa/2000/06/comp629.htm> (press release-complaints &consents)

Another Cure.all case - deceptive shark cartilage promotions

131. FTC v. Lane Labs-USA, Inc., et al Civil Action No. (D.N.J. filed June 28, 2000)

! Defendants: Lane Labs-USA, Inc., Cartilage Consultants, Inc., I. William Lane, and Andrew J. Lane

x(384)

! The FTC alleged that defendants engaged in a common enterprise to deceptively market BeneFin - a shark cartilage product -- and SkinAnswer - a skin cream - to consumers as cancer treatments. The FTC alleged that defendants had no substantiation for their treatment claims and falsely represented that the FDA had evaluated BeneFin and that clinical studies had shown BeneFin and SkinAnswer to be effective in preventing, treating, and curing cancer. The FTC alleged that Lane Labs bolstered its deceptive claims with embedded terms such as "non-toxic cancer therapy," "cancer treatment" and "cancer survivor" in its Web site's "metatags."

! The FTC obtained two separated Stipulated Final Orders which prohibit defendants from making unsubstantiated claims about any food, drug, or dietary supplement, including unsubstantiated claims that BeneFin (or any other shark cartilage product) or SkinAnswer (or any other glycoalkaloid product, prevents, treats or cures cancer. The orders prohibit defendants from making false claims about any tests, studies, or research and from misrepresenting that any government agency has evaluated the efficacy or safety of any food, drug, or dietary supplement. The order with Lane Labs required payment of a \$1 million judgment, \$550,000 to the FTC and \$450,000 for a clinical study of shark cartilage sponsored by the National Cancer Institute and Lane Labs.

<http://www.ftc.gov/opa/2000/06/lanelabs.htm> (complaint and settlement)

The first COPPA case -- privacy violation by failed dotcom

132. FTC v. Toysmart.com, LLC, No. 00-11341-RGS, (D. Mass. filed July 10, 2000, amended July 21, 2000).

! Defendants: Toysmart.com, LLC, and Toysmart.com, Inc. o(386)

! On July 10, 2000 the FTC file suit alleging that Toysmart had misrepresented it would "never" disclose, sell, or offer for sale consumers' personal information to third parties. On July 21st, the FTC announced that it would file an amended complaint alleging that Toysmart had also collected names, e-mail addresses, and ages of children under 13 without notifying parents or obtaining parental consent, as required under the Children's Online Privacy Protection Act (COPPA), 15 U.S.C. §§ 6503 and 16 C.F.R. §§§§ 312.3-312.5. The FTC's allegations arose after Toysmart began soliciting bids for its assets, including customer information, through its Web site and major newspapers.

! The FTC settled its charges with Toysmart, proposing a federal district court order that would require Toysmart to delete any information collected in violation of COPPA, prohibit Toysmart from misrepresenting its information collection practices, and bar the company from disclosing customer information, except as allowed by a related Bankruptcy Order. As part of the settlement, a proposed Bankruptcy order would allow the company to sell its customer information to a "Qualified Buyer" that would take over Toysmart's Web site and adhere to Toysmart's privacy policies as its successor-in-interest. Customers would be required to give their affirmative consent ("opt-in") to any new uses for their information.

! On August 17, 2000, the Bankruptcy Court rejected a motion by Toysmart to enter into a settlement with the FTC, stating that the court would impose no pre-set restrictions on the sale of Toysmart's assets since no buyer had come forward. The Court indicated it would hear objections to an asset sale if a new buyer made an offer.

Online pharmacies - false medical and privacy claims

133. FTC v. Sandra L. Rennert, et al., CV-S-00-0861-JBR) (D. Nev. filed July 6, 2000)

! Defendants: Sandra L. Rennert, Philip Rennert, Lyle Mortensen, International Outsourcing Group, Inc., Focus Medical Group, Inc., Trimline, Inc., Affordable Accents, Inc., World Wide RX, Inc., World Wide Medicine, Inc., PSRenn, Inc., and Doctors A.S.A.P., Inc. x(397)

! Operators of a group of Online pharmacies that promoted themselves touting medical and pharmaceutical facilities they didn't actually have and making privacy and confidentiality assurances they didn't keep. The FTC alleged that *www.worldwidemedicine.com*, *www.focusmedical.com* and other Web sites claimed they operated a "full-service clinic with a full-time staff ... [and] a licensed medical physicians network," when they actually employed only one out-state doctor who was paid \$10 for every Viagra request that he approved. The FTC also alleged that defendants had no "on-site pharmacy" as stated, that they misrepresented the security and encryption used to protect consumers' information, and that they used information in a manner contrary to their stated purpose. Finally, the FTC alleged that defendants sent "spam" to 11,000 customers informing them that their credit cards would be billed \$50 for "Y2K Remediation."

! The settlement with defendants prohibits their deceptive claims; requires disclosures about medical and pharmaceutical relationships; bars the billing of charge cards without consumer authorization; prohibits disclosure of the information collected from consumers without the consumers' authorization; and, requires them to notify consumers of their practices regarding the collection and use of consumers' personal identifying information. The settlement also requires defendants to disclose on any Web site offering prescription drugs, "Dispensing a prescription drug without a valid prescription is a violation of Federal law. More information on purchasing prescription drugs Online is available at *www.fda.gov*."

<http://www.ftc.gov/opa/2000/07/iog.htm> (press release- complaint & settlement)

Unauthorized credit card charges and deceptive adult verification claims

134. FTC v. Xpics Publishing, Inc. (CD Cal July 2000)

! Defendants: Xpics Publishing, Inc. and Mario G. Carmona and Brian M. Shuster x(402)

! The FTC alleged that Xpics misrepresented that consumers could obtain adult images online for "free" or for a "free" trial period by submitting credit card information for "age verification" purposes. The FTC alleged that Xpics used this credit card information to charge consumers for their purportedly "free" services and then made it difficult for consumers to cancel. The FTC alleged that Xpics even upgraded consumers to more expensive services rather than honor their cancellation requests.

! The FTC obtained a Stipulated Final Judgement and Order from defendants that required them to issue refunds to consumers who respond to host a banner ad on Yahoo at http://dir.yahoo.com/Society_and_Culture/Sexuality/Activities_and_Practices. This banner ad directed consumers

Project TooLate.com -Mail Order Rule violations by e-tailers

- 135. **U.S. v. CDnow, Inc., and CDnow Online, Inc.** (E.D. Penn.) (August 2000)
- 136. **U.S. v. Southdale Kay-Bee Toy, Inc.,** (D. Minn.) (August 2000)
- 137. **U.S. v. Federated Department Stores, Inc.,** (D. Del.) (August 2000)
- 138. **U.S. v. Franklin W. Bishop,** (N.D. Cal.) (August 2000)
- 139. **U.S. v. The Original Honey Baked Ham Company of Georgia, Inc.** (N.D. Ga.) (August 2000)
- 140. **U.S. v. Patriot Computer Corporation** (N.D. Tex.) (August 2000)
- 141. **U.S. v. Toysrus.com, LLC,** (D.N.J.) (August 2000)

! Defendants: CDnow, Inc., CDnow Online, Inc.; Southdale Kay-Bee Toy, Inc., KBkids.com LLC, Federated Department Stores, Inc., Macys.com, Inc. ; Franklin W. Bishop d/b/a Minidiscnow.com; The Original Honey Baked Ham Company of Georgia, Inc.; Patriot Computer Corporation; Toysrus.com, LLC, and Toysrus.com, Inc. x(413)

! The FTC alleged that seven large Internet e-tailers failed to comply with the Mail Order Rule during the 1999 holiday shopping season. The FTC alleged that all seven companies failed to offer buyers a timely option either to consent to a delay in shipping or to cancel their orders and grant prompt refunds. The FTC alleged that six companies (all but CDnow) sent no notices as required by the Rule and failed to deem certain orders canceled. Four defendants (KBkids.com, Macys.com, Toysrus.com, and Minidiscnow.com) were charged with taking orders without a reasonable basis for their shipping representations.

! The FTC obtained consent decrees with all seven companies and civil penalties totaling \$1.5 million. Macys.com was required to fund an Internet consumer education campaign about the Mail Order Rule. The penalty amounts against KBkids.com, Toysrus.com, and The Original Honey Baked Ham Co. took into account money the companies spent in mitigating consumer injury. CDnow's \$300,000 penalty was waived except for \$100,000 due to its poor financial condition. Minidiscnow.com, was required to reimburse each consumer who had ordered, but not received, any of the company's products. The consent decrees contained injunctive provisions prohibiting future Rule violations and required compliance reports within 120 days of the decrees demonstrating procedures to comply with the Rule.

A deceptive franchise opportunity

- 142. **FTC v. The Car Wash Guys International, Inc., et al.** Civil Action No. 00-8197 abc (RNBx) (C.D. Cal. filed July 31, 2000).

! Defendants: The Car Wash Guys Intl., Inc., Wash Guy.com, Inc., Lance Winslow, III, Michelle

! The FTC alleged that defendants misrepresented their mobile car wash franchise opportunities to consumers through *www.carwashguys.com* and *www.washguy.com*, promotional videos, CDs, and in-person and telephonic sales presentations. The FTC alleged that defendants misrepresented that their franchises were “turn-key” operations and that consumers could reasonably expect to earn profits of \$4000 to \$10,000 per month per unit. The FTC also charged defendants with violating the Franchise Rule by making earnings claims without handing out a required earnings claim document and by contradicting their own disclaimers.

! The FTC filed suit on July 31, 2000 under seal, and the Court granted the FTC’s *ex parte* motion for a temporary restraining order and an asset freeze. In August, the parties entered into a Stipulated Preliminary Injunction that prohibited further misrepresentations and violations of the Franchise Rule and maintained a freeze on most of defendants assets.

! The stipulated final order for permanent injunction, which was approved by the court on February 28, 2001, prohibits the defendants from making the types of misrepresentations alleged in the complaint and from misrepresenting the size of their business operation or the number or identities of their purchasers. The settlement also prohibits the defendants from making any representation concerning any franchise or business venture unless they have a reasonable basis for making such representation and possess written substantiation. In addition, the defendants are prohibited from violating the Franchise Rule in the future. The settlement further prohibits the defendants from taking any legal actions to enforce franchise agreements executed before the start of the Commission's enforcement action and from collecting on promissory notes signed by franchisees.

! The settlement contains a "right to reopen" provision that would trigger a monetary judgment of at least \$320,000 if the FTC finds that the defendants misrepresented their financial condition. Finally, the settlement contains various recordkeeping provisions to assist the FTC in monitoring the defendants' compliance.

! The Commission vote to authorize staff to file a stipulated final order for permanent injunction was 5-0. The settlement was filed in the U.S. District Court, Central District of California, Western Division, in Los Angeles, on February 26, 2001.

<http://www.ftc.gov/opa/2000/08/car-wash.htm> (press release - complaint & TRO)

<http://www.ftc.gov/opa/2001/03/carwash2.htm> (press release - stipulated final order)

Deceptive health claims for joint pain and ADHD

143. In the Matter of SmartScience Laboratories, Inc. File No. 992 3274 (August 2000)

! Respondents: SmartScience Laboratories, Inc. and Gene C. Weitz. x(417)

! The FTC alleged that SmartScience Laboratories and Weitz made unsubstantiated claims, through major newspapers and magazines and their Web site at *www.jointflex.com*, that their JointFlex product provided more pain relief than other over-the-counter pain creams; that its glucosamine and chondroitin sulfate contributed to pain relief when applied topically; and that testimonials from consumers appearing in their ads represented the typical or ordinary experiences of consumers who use the product. The FTC

also alleged that respondents' ads falsely portrayed the results of a consumer study and the experiences of two consumers who provided testimonials.

! The FTC obtained a consent agreement that prohibits SmartScience and Weitz from making unsubstantiated claims about the efficacy of JointFlex or any drug or dietary supplement in reducing, relieving or eliminating pain, or about the health benefits, performance, safety or efficacy of a product. The settlement also bars misrepresentations about test results, studies, surveys and research with respect to any product and requires that testimonials be truthful and not deceptive.

<http://www.ftc.gov/opa/2000/08/smartsience.htm> (press release - complaint and consent)

<http://www.ftc.gov/opa/2000/11/fyi0057.htm> (press release finalizing settlement)

144. In the Matter of Natural Organics, Inc., Docket No. 9294 (August 2000)

! Respondents: Natural Organics, Inc. and Gerald A. Kessler. x(419)

! The FTC alleged that Natural Organics, Inc., doing business as "Nature's Plus," advertised through print ads, a brochure, an informational letter, and its Web site and made unsubstantiated claims that its product Pedi-Active A.D.D. would treat or mitigate Attention Deficit Hyperactivity Disorder (ADHD) or its symptoms, including inattention and poor scholastic performance.

! In a consent reached with respondents, the notice order prohibits Natural Organics from claiming that any food, drug or dietary supplement will improve the attention span of children; will improve the scholastic performance of children; or can treat or mitigate ADHD or its symptoms, unless the claims are substantiated by competent and reliable scientific evidence. The order also would prohibit Natural Organics from using the name "A.D.D." or any other name that represents that the product can treat or mitigate ADHD, in connection with the sale of Pedi-Active A.D.D. or any other substantially similar product, unless Natural Organics could substantiate its claims. In addition, the notice order would prohibit respondents from making any unsubstantiated claims about the health benefits, performance, or efficacy of any food, drug or dietary supplement. The order would allow respondents to make representations specifically permitted by the FDA.

! Following a public comment period, the Commission has made final the consent agreement. The Commission vote to approve the agreement as final was 5-0. (FTC File No. 972-3175, Docket No. 09294)

<http://www.ftc.gov/opa/2000/08/natorganics.htm> (press release - complaint and consent)

<http://www.ftc.gov/opa/2001/09/fyi0147.htm> (press release - decision and order)

Operation Travel Unravel case

145. FTC v. Epic Resorts, LLC (M.D. Fla. filed Aug. 14, 2000)

! Defendants: Epic Resorts, LLC, Epic Travel, LLC, Thomas Flatley, and Scott Egelkamp. x(423)

! The FTC filed suit in federal court on Aug. 14, 2000, charging that Epic sent consumers unsolicited e-mails and faxes and invited them to call defendants' telemarketers about Florida and Bahamas vacation packages. That FTC alleged that, through these solicitations and outbound telemarketing calls, defendants violated the FTC Act and the Telemarketing Sales Rule (TSR) by misrepresenting that consumers had won or been specially selected to receive a vacation package and by deceiving

consumers about the total cost and the material restrictions and conditions related to defendants' vacation packages. The FTC also alleged that defendants violated the TSR when they called back consumers who said they wanted no more phone calls.

! Under the terms of the proposed order announced on September 5, 2001, ***which will become effective when signed by the district court judge***, Epic Resorts, Epic Travel, and Flatley are required to provide redress to consumers who returned their vacation packages within the defendants' 30-day cancellation period and sought, but did not receive, refunds from the company. The defendants also are enjoined from the illegal activities alleged in the complaint, including: 1) misrepresenting that consumers have won or have been specially selected to receive a package; 2) failing to disclose all material conditions associated with a package; or misrepresenting the total cost of the package; 3) violating the TSR and its "Do Not Call" provision; and 4) failing to provide credit card refunds within seven business days of receiving a returned package (as required by TILA).

<http://www.ftc.gov/opa/2000/08/travelunravel.htm>(press release-complaint)

<http://www.ftc.gov/opa/2001/09/epic.htm> (press release – stipulated final order)

Playgirl and High Society adult credit card scheme

146. FTC and State of New York v. The Crescent Publishing Group, Inc., et al. Civil Action No. 00CV6315 (S.D.N.Y. filed Aug. 23, 2000)

! Defendants: Crescent Publishing Group, Inc., Arachne, Inc., Back Break, Inc., Base Stealer, Inc., Bird N Bee, Inc., Bird of Paradise, Inc., Black Crow, Inc., Blast High, Inc., By Coastal, Inc., Casey Baby, Inc., Cheri, Inc., Crack Back, Inc., Daedalus, Inc., Daphne, Inc., Doric, Inc., Frau, Inc., Gold Finch, Inc., Green Parrot, Inc., Grey Dove, Inc., Grisette, Inc., Hades, Inc., Hoot Owl, Inc. Icse, Inc., Kick Over, Inc., Kick Turn, Inc., Kishkus, Inc., Klept, Inc., Knock Knee, Inc., Lackadaisical, Inc., Left Fielder, Inc., Lemon Zing, Inc., Lsthya, Inc., Marius, Inc., Maxmann, Inc., Menelaus, Inc., Muck-A-Muck, Inc., Multiline Media, Inc., Multimedia Forum, Inc., Multiple Factor, Inc., Nerve Wracking, Inc., NetTV, Inc., Off Year, Inc., Online Forum, Inc., Palantine, Inc., Persephone, Inc., PGTV 1, Inc., PGTV 2, Inc., Phocas, Inc., Pink Flamingo, Inc., Pliny, Inc., Right Fielder, Inc., Romulus, Inc., Scarecrow, Inc., Senora, Inc., Sisyphus, Inc., Speckled Sparrow, Inc., Split Back, Inc., Spruce, Inc., Stray Back, Inc., Trajan, Inc., TXA, Inc., Vespasian, Inc., Vestals, Inc., Wacky Back, Inc., White Cedar, Inc., and Bruce Chew and David Bernstein x(490)

! The FTC and the New York Attorney General's office brought a joint action in federal court against New York City-based Crescent Publishing Group, Inc., its owner, Bruce Chew, principal David Bernstein, and 64 affiliated corporations that operated adult entertainment Web sites such as www.highsociety.com and www.playgirl.com. The FTC alleged that defendants promoted scores of adult entertainment Web sites as "free" and purportedly required credit card numbers from consumers only to prove that they were adults. In fact, according to the FTC, thousands of consumers were charged recurring monthly membership fees ranging from \$20 to \$90, and consumers who tried to dispute the charges were met with a variety of barriers. The FTC alleged that defendants generated \$141 million of revenue in the first 10 months of 1999 alone and routinely changed corporate billing names to avoid detection. When Visa U.S.A. disqualified them from using its credit card system, defendants allegedly moved their merchant banking accounts to Guatemala and adopted several new merchant names.

! A preliminary injunction issued in the matter of Federal Trade Commission and the People of the State of New York v. **The Crescent Publishing Group, Inc., et al.**, by U.S. District Court Judge Lewis A. Kaplan bars the defendants from conducting business on the Internet without first obtaining a \$10 million bond that could be used "to satisfy any judgment entered against the defendants" following trial. The injunction also prevents the defendants from transferring assets to shareholders, officers and directors of their companies; requires repatriation of offshore funds; and requires clear and conspicuous disclosure of any charges for Web-based services.

! On November 5, 2001, the FTC announced that defendants agreed to pay \$30 million to settle Federal Trade Commission and New York State's Attorney General's charges that they illegally billed thousands of consumers for services that were advertised as "free," and billed other consumers who never visited the Web sites at all. The settlement bars the illegal practices in the future, and requires that the defendants post a bond - \$2 million for the corporate defendants and \$500,000 each for the individual defendants - before they are allowed to continue to market adult entertainment on the Internet.

<http://www.ftc.gov/opa/2000/08/crescent.htm> (press release -complaint)

<http://www.ftc.gov/opa/2001/03/fyi0112.htm>

<http://www.ftc.gov/opa/2001/11/crescentstlmt.htm> (press release - stipulated final judgment and order)

Enforma spokesmen and infomercial producers

147. FTC v. Steven Patrick Garvey, et al. Civil Action No. 00-09358-AHM (AIJx) (C.D. Cal. filed Aug. 31, 2000).

! Defendants: Steven Patrick Garvey a/k/a Steve Garvey, Garvey Management Group, Inc., Lark Kendall a/k/a Kendall Carson, Mark Levine, David Richmond, and Modern Interactive Technology, Inc. o(496)

! In a companion case to an earlier suit and settlement involving "The Enforma System" weight-loss program, the FTC charged two Enforma spokesmen, an infomercial company, and its two principles with playing an active role in developing deceptive advertising claims. The FTC alleged that baseball star Steve Garvey and "nutritionist" Kendall appeared on Enforma's Web site, on its packaging, and in the two infomercials that were broadcast more than 30,000 times. The Commission alleged that the infomercial defendants and these spokesmen developed and contributed to numerous deceptive claims about the efficacy of Enforma's "Fat Zapper" and "Exercise in a Bottle."

<http://www.ftc.gov/opa/2000/09/garveyrelease.htm> (press release-complaint)

Another distributor of defective HIV test kits

148. FTC v. Sovo Tec Diagnostics, Inc. et al, (N.D. Cal.) (September 2000)

! Defendants: Sovo Tec Diagnostics, Inc.; Amhad Shirzadi; and Deborah Colby (499)

! The Commission brought suit against the apparent distributor of faulty HIV test kits sold by Cyberlinx, a defendant in an earlier FTC suit. According to an FDA warning letter, Cyberlinx's test were labeled, "HIV ½ STAT-PAK Ultra Fast manufactured for Sovo Tec Diagnostics, Inc." The FTC charged Sovo Tec Diagnostics, Inc. ("Sovo Tec"), its President, Amhad Shirzadi, and Sovo Tec's General Manager,

Deborah Colby, with distributing rapid HIV tests under the names, "HIV ½ STAT-PAK Ultra Fast" and "HIV ½ Whole Blood" and deceptively claiming that these tests accurately detected HIV infection in human blood. According to the FTC, in some instances defendants' HIV tests did not accurately detect the presence of HIV antibodies.

! The FTC obtained a stipulated final order from the defendants that prohibits them from making false or misleading representations in connection with the advertising or sale of any HIV test, or any other medical device not approved by the U.S. FDA. The order also requires the defendants to (1) inform all past purchasers of the FTC settlement; (2) notify the Commission of any complaints or refund requests in the future; and (3) permit the Commission, for a period of five years, to randomly select and test any HIV test or other unapproved device for accuracy.

! In approving this settlement, Commissioners Swindle and Leary issued separate concurring statements, noting with concern that Sovo Tec's rapid HIV tests could be exported even though they were not approved for sale in the U.S. Both called for closer scrutiny of this problem by Congress.

<http://www.ftc.gov/opa/2000/09/sovotec.htm> (press release - complaint and settlement)

Work at home wholesale purchasing business

149. United States of America v. Visions Group of America, et al, (WDNY filed October 18, 2000)

! Defendants: Visions Group of America, Inc., SOHO Technologies, Inc., and their principals, Mark Colosi, Rex Judd and Greg Kazimer o(504)

! The FTC alleged that defendants used high-pressure sales tactics to sell various home-based business opportunities based on false and unsubstantiated earnings claims and that defendants violated the FTC's Cooling-Off Rule, which gives consumers three days to cancel certain purchases of \$25 or more. The defendants sold various business opportunities including: "Inside Trader," a business that allegedly allowed purchasers to buy brand name merchandise at or below wholesale cost; "Net More Worth" and "Vision Net," businesses that allegedly allowed purchasers to sell classified ads on the Internet for a profit.

! The Commission vote to forward the complaint and consent order to the Department of Justice for filing was 4 to 1. They were filed by DOJ at the request of the FTC, in the U.S. District Court for the Western District of New York, on October 18.

! The settlement, which is subject to court approval, would prohibit the defendants from making deceptive income, profit, or sales volume claims in connection with the sale of any franchise, business opportunity, or investment. Also, it prohibits the defendants from violating the Cooling-Off Rule, which includes providing various cancellation notices to prospective purchasers, and would require them to pay a \$22,000 civil penalty.

<http://www.ftc.gov/opa/2000/10/visions.htm> (press release - complaint and consent order)

Advertising of Internet Access Services

150. In the Matter of WebTV Networks, Inc. (October 25, 2000)

! Respondent: WebTV Networks, Inc.

x(505)

! The FTC alleged that WNI, a subsidiary of Microsoft Corp. based in Mountain View, California, advertised its WebTV system in a manner that was deceptive, in violation of federal law. According to the FTC's complaint, advertisements for the WebTV system claimed that it provided access to all of the Internet's entertainment and information and that it was equivalent to a computer with respect to its ability to access Internet content. The company also advertised that it would provide upgrades to the WebTV system to keep users current with the latest Internet technology.

! The FTC complaint alleges that these advertising claims are deceptive because WebTV system users are unable to access all of the content on the Internet, including files created using popular data formats or programming languages, such as certain "streaming video" formats, and games or chat rooms created in the "Java" programming language. In certain cases, they also may not be able to display Web pages, open e-mail attachments, or play music files online. The FTC further alleges that WNI's upgrades to the WebTV system have not kept users current with the latest Internet technology, by failing to provide certain commonly used Internet technologies for audio, video, interactivity and multimedia. The FTC complaint also alleges that ads for the WebTV system deceived consumers by failing adequately disclose that a significant percentage of consumers would incur long distance telephone charges while they were connected to the Internet when using the WebTV system.

! The settlement will bar misrepresentations about the performance capability of Internet access devices and Internet services. Future claims about the cost of any Internet access product or service must be accompanied by a clear and conspicuous disclosure about possible long distance telephone toll charges. Similar disclosures must also be included on the log-on screen that appears before the product connects to a long distance number, as well as in materials provided to new subscribers. Certain consumers will be reimbursed by the company for the long distance charges they incurred. WNI will also initiate a two-part consumer education campaign that will include advertisements in various magazines and a consumer brochure that will be made available at retail locations that sell WebTV and on WNI's own Web site. The settlement also includes record keeping provisions to allow the agency to monitor compliance.

! Following a public comment period, the Commission has made final a consent agreement with the following: **WebTV Networks, Inc.** The Commission vote to finalize the consent order was 5-0.

<http://www.ftc.gov/opa/2000/10/webtv.htm> (press release - complaint, and consent)

<http://www.ftc.gov/opa/2000/12/fyi0063.htm> (press release)

FTC CASES FROM THE TOP-TEN.CON SWEEP Consumer Protection Cops From 9 Countries, 5 U.S. Agencies, And 23 States Tackle Internet Fraud . . .

Videotext scheme - a new twist on modem hijacking

151. FTC v. Verity International, Ltd., No. 00 Civ 7422 (LAK)(S.D.N.Y. filed October 2, 2000)

! Defendants: Verity International, Ltd., Integretel, Inc., Ebillit, Inc., Robert Green and Marilyn Sho(510)

! In a twist on a scheme first attacked by the FTC in the "Moldova modem hijacking cases," defendants allegedly used modem dialer programs to charge consumers for Internet "videotext" services and expensive international telephone calls without verifying that the user was the line subscriber or authorized

by the line subscriber to incur such charges. Once the dialer software was downloaded, it disconnected a consumer's computer modem from his usual Internet service provider, dialed an international phone number assigned to Madagascar and reconnected the consumer's modem to the Internet from an overseas location. Line subscribers -- the consumers responsible to pay for normal telephone calls -- then incurred charges of \$3.99 per minute.

! The FTC alleged that defendants violated the FTC Act by 1) misrepresenting that line subscribers legally had to pay for calls that they did not authorize, 2) billing and attempting to collect money from line subscribers who never used or authorized use of their telephone lines to access defendants' videotext services, and 3) "short-stopping" calls and charging consumers \$3.99/minute for calls to Madagascar when consumers' modem connections actually stopped in London - a \$.08/minute call from the U.S.

! In all, the FTC received nearly 600 consumer complaints about VIL in just a matter of days, beginning September 18, 2000, resulting in the staff's investigation. Through the complaint announced today, the Commission is seeking injunctive and other ancillary relief, including consumer redress, disgorgement and restitution to prevent and remedy the violations alleged. This may include refunding money that consumers paid to the company and its principals and disgorgement of ill-gotten gains, along with any additional relief a court deems proper.

! The FTC filed suit on October 2, 2000 under seal, and the Court granted the FTC's *ex parte* motion for a temporary restraining order, an asset freeze and repatriation of foreign assets. The FTC has asked the court to issue a permanent injunction, and to order the defendants to pay redress to consumers. A hearing on the FTC's request for a preliminary injunction was held on November 9, 2000.

! On December 14, 2000, the Court filed a memorandum opinion (2000 U.S. Dist. LEXIS 17946) finding that the FTC is likely to prevail on the merits in that: (1) defendants' bills are representations that the stated amounts are due; (2) telephone line subscribers are not obligated to pay for information services such as those sold by defendants, even if the services were accessed over their telephone lines, if they neither accessed nor approved access to such services; (3) the benefits of permitting defendants to bill solely on the basis of ANI identification are outweighed by the consumer injury of defendants' "capitalizing on the inattention and fear of consumers or on the disparity of power between them and the persons they bill to extract payments which, in many cases, probably are not rightfully theirs."

! The Commission authorized staff to file with the court to amend a previously issued complaint regarding the following: **Verity International Ltd., et al.** The FTC brought this complaint contending that Verity International was involved in illegally billing consumers in connection with the provision of adult "videotext" services. The amended complaint clarifies that it covers unfair and deceptive practices engaged in by the defendants prior to the direct billing that was the focus of the original complaint; adds Automatic Communications Limited, a Bahamian corporation, as a defendant; and charges that the defendants deceptively failed to disclose the cost of their "adult" entertainment services before providing access to, and billing for, such services. The Commission vote to approve the amended the complaint was 5-0. The court approved the amended complaint on February 27, 2001.

! On Nov. 26, 2002, the FTC announced a settlement with billing aggregator Integretel, Inc. and its subsidiary eBillit, Inc. The settlement requires that these companies investigate consumer complaints about unauthorized billing and release \$1.6 Million in previously collected funds. The Integretel

defendants are also barred from billing or collecting any charge that is based on ANI when they know or should have known that the line subscriber, or a person authorized by the line subscriber, did not authorize the charge. To accomplish this, the settlement requires that they obtain agreements from the vendors they bill specifying the minimum standards that must be applied in gaining the "express verifiable authorization" from line subscribers.

<http://www.ftc.gov/opa/2000/10/verity.htm> (press release - complaint)

<http://www.ftc.gov/opa/2001/03/fyi0112.htm>

<http://www.ftc.gov/opa/2002/11/integretel.htm> (Press release – stipulated final judgment)

More Modem Hijacking Cases

152. FTC v. RJB Telcom, Inc.; Robert J. Botto, Jr.; Suzette Botto (Relief Defendant); Richard D. Botto; and Anne Botto (Relief Defendant) (CIV No. 002017 PHX EHC; filed October 26, 2000 U.S. District Court, District of Arizona, Phoenix Division)

! Defendants: RJB Telcom, Inc., Robert Botto, Jr., Richard Botto x(513)

! The FTC alleged that defendants placed unauthorized charges on consumers credit and debit cards, and telephone bills for purported access to defendants' adult-oriented web sites. The FTC alleged that many consumers had never heard of defendants, did not own computers, or did not have access to the Internet. Moreover, the FTC alleged that consumers billed on their telephone bills were charged even when they were not the person that had accessed defendants' web sites.

! The FTC complaint charged defendants with unfair and deceptive practices for placing unauthorized charges on consumers' debit and credit cards for adult Internet entertainment services that they had never ordered. The complaint also alleged that by placing charges on consumers' telephone or billing statements, defendants misrepresented that consumers were legally obligated to pay charges for access to defendants' sexually-explicit web sites even though consumers did not authorize the charges. The complaint also alleged that the practices were "unfair" because defendants made no attempt to ascertain whether the person ordering their adult entertainment services was in fact the line subscriber who would then be billed for them.

! The FTC filed suit on October 26, 2000 under seal, and the Court granted the FTC's ex parte motion for a temporary restraining order, an asset freeze, and the appointment of a receiver. On December 1, 2000 the Court issued a stipulated preliminary injunction agreed to by the parties.

! The settlement announced on September 26, 2001 bars the deceptive billing practices in the future, and requires e-mail confirmation of membership requests and prompt refunds of improperly billed charges. It requires implementation of rigorous fraud detection and prevention mechanisms and requires establishment of a \$250,000 escrow fund, which will be forfeited if the defendants violate the terms of the settlement.

! The Commission vote to approve the settlement was 5-0.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release, complaint, memorandum, and TRO)

<http://www.ftc.gov/opa/2001/09/rjb1.htm> (press release)

153. FTC v. Ty Anderson; 583 665 B.C. Ltd.; Virtualynx Internet, Inc.; and Charlo Barbosa

(W.D. Wa., filed October 27, 2000).

! Defendants: Ty Anderson; 583 665 B.C. Ltd.; Virtualynx Internet, Inc.; & Charlo Barbosa x(517)

! The defendants operated several web sites that offered access to pornographic videotext services through a “dialer” software. This software caused a computer to disconnect from its usual Internet Service Provider and access defendants’ videotext services via an international telephone call to Madagascar from its computer modem. The cost of the call, which varied from \$3.99 to \$7.39, was billed to the subscriber of the modem telephone line.

! The complaint alleged that defendants violated sec. 5 of the FTC Act by: (1) unfairly billing and attempting to collect from telephone line subscribers who had not authorized calls to access defendants’ videotext; and (2) deceptively representing to line subscribers that, because their telephone lines may have been used to access defendants’ videotext, they were obligated to pay for such access whether or not they had authorized it. The FTC sought preliminary injunctive and ancillary relief, a permanent injunction against violations of the FTC Act, and consumer redress.

! This case is one of four targeting the practice of videotext/modem dialing announced as part of the FTC’s “Top Ten Dot Cons” sweep on October 31, 2000. The FTC’s Northwest Region filed the lawsuit on October 27, 2000 in the United States District Court for the Western District of Washington. On November 9, 2000, the parties filed a Stipulated Preliminary Injunction (“stipulated injunction”). On the same date, the Court entered an Order on Stipulated Preliminary Injunction adopting most of the stipulated injunction provisions, including those preliminarily enjoining defendants from violating sec. 5 through use of the dialer software.

! The Stipulated Final Judgment and Order announced on August 29, 2001 resolves the court action. The settlement bars the defendants from using any dialer program that does not require the telephone line subscriber's express, verifiable authorization for the product or service purchase. It also requires that the defendants pay \$26,686.07 in consumer redress - the full amount they say they realized from the dialer scheme. The settlement covers Charlo Barbosa, B.C. Ltd., and Virtualynx. Complaint allegations against another defendant, Ty Anderson, were dismissed earlier.

! The Commission vote to file the proposed settlement was 5-0. It was filed in U.S. District Court for the Western District of Washington at Seattle, and entered by the Court August 21, 2001.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release, complaint, and memorandum)

<http://www.ftc.gov/opa/2001/03/fyi0113.htm>

<http://www.ftc.gov/opa/2001/08/pornpics.htm> (press release, complaint, stipulated order)

Work at home Paralegal Training Scheme

154. FTC v. Para-Link International, Inc., et al. (MD FL, Tampa Division, filed October 16, 2000)

! Defendants: Para-Link International, Inc., AAA Family Centers, Inc., The Liberty Group of America, Inc., Deborah R. Dolen, Matthew See, and Judy Graves o(523)

! The FTC alleged that defendants used sites on the World Wide Web, unsolicited e-mail, and newspaper advertisements to promote and sell their paralegal training and employment opportunity kits.

Many of the ads and/or e-mails contained representations such as: "Make Over \$200 An Hour," and "You Can Process Simple Divorces and Bankruptcies From Home and Make Over \$200 An Hour in as little as 30 Days!!!". The ads also promised client referrals to purchasers who passed a qualifying test.

! The FTC's complaint charges that the earnings claims were unsubstantiated and that the promised referrals were not supplied. The complaint also charges that the material contained in the kits and the support promised by the defendants is inadequate to properly train consumers to become paralegals. In addition, the complaint charges that the defendants failed to disclose material information to kit purchasers, including the fact that under some circumstances, completing and filing legal forms on behalf of consumers could constitute the unauthorized practice of law under some state laws.

! The FTC filed suit on October 16, 2000 under seal, and the Court granted the FTC's *ex parte* motion for a temporary restraining order, an asset freeze and the appointment of a receiver to take charge of the companies. The FTC has asked the court to issue a permanent injunction, and to order the defendants to pay redress to consumers. A hearing on the FTC's request for a preliminary injunction has been scheduled for November 9, 2000.

<http://www.ftc.gov/opa/2000/10/paralink.htm> (press release - complaint/TRO)

Medical Billing Home Business Opportunity

155. FTC v. Western United Service Corporation d/b/a Titan Business Solutions and Scott Ford (CD Cal filed October 25, 2000).

! Defendants: Western United Service Corporation d/b/a Titan Business Solutions,
Scott Ford

o(525)

! The FTC alleged, in its complaint, that defendants, using a website and advertisements in local newspapers, to promote and sell a "complete package" of medical billing software and training to consumers which would enable consumers to establish an electronic medical billing business out of their homes. Defendants allegedly misrepresented that consumers would receive a list of pre-screened doctors waiting to hire consumers, that the package was complete and that other consumers were making substantial sums, from \$5 to \$7 per claim and up to \$40,000 per year, using Defendants' product.

! The FTC suit alleged that in reality there was no list of pre-screened doctors, the package was not complete as promised, and no consumers were making the amounts of money promised by the defendants.

! The FTC filed suit on October 25, 2000 under seal and the Court granted the FTC's *ex parte* motion for a temporary restraining order, an asset freeze and the appointment of a receiver to take charge of the companies. The FTC has asked the court to issue a permanent injunction, and to order the defendants to pay redress to consumers.

! On November 3, 2000, after a 2 ½ hour litigated hearing on the FTC's request for a preliminary injunction, the Court made the receivership over Western United Business Corporation d/b/a Titan Business Solutions permanent and granted the FTC's request for a preliminary injunction.

! On November 21, 2000, an asset deposition was taken of Scott Ford.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint, proposed TRO, Final *Ex Parte* TRO)

Direct billing and credit card cramming for adult internet services

156. FTC v. Automated Transaction Corp.; WWW Provider Co.; Edward S. Lipton; World Telnet, Inc.; and Donald Tetro (S.D. Fla. filed October 25, 2000) (Case No. 00-7599-CIV-HURLEY/LYNCH).

! Defendants: Automated Transaction Corp., World Telnet, Inc., WWW Provider Co., Edward S. Lipton and Donald Tetro. x(530)

! The FTC alleged that defendants engaged in unfair and deceptive acts and practices by billing consumers for purported adult-content Internet and audiotext services that the consumers never purchased, authorized or received. The complaint alleges that Defendants carried out their scheme in two ways: (1) by sending consumers bills by direct mail and, (2) by posting charges to consumers' credit card and debit accounts. According to the complaint, Defendants' direct mail bills allegedly featured consumers' Social Security numbers as their customer account numbers. Many consumers were so alarmed by defendants' unauthorized use of their Social Security numbers that they filed police reports, characterizing themselves as victims of identity theft.

! The FTC filed suit ex parte on October 25, 2000, seeking a TRO with asset freeze, immediate access and appointment of a temporary receiver over the corporate defendants. The Court issued the TRO on October 26, 2000. On November 8, 2000, the parties reached a stipulated preliminary injunction.

! On January 31, 2002, the FTC announced that defendants agreed to settle charges that their practices violated federal law. The settlement bars the defendants from engaging in deceptive billing practices in the future, and requires them to provide e-mail confirmation of Internet Web site membership requests and prompt refunds of improperly billed charges. It also requires implementation of rigorous fraud detection and prevention mechanisms and requires that the defendants obtain a \$100,000 bond before billing or collecting fees for audiotext or Internet services, which will be forfeited if they violate the terms of the settlement.

! The Commission vote to approve the settlement was 5-0. It was filed in the U.S. District Court for the Southern District of Florida and signed by the judge on January 24.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint, TRO)

<http://www.ftc.gov/opa/2002/01/atc.htm> (press release – stipulated judgment & order for permanent injunction)

Fake Rebate Checks for Internet Service

157. FTC v. Cyberspace.com, LLC; French Dreams; Coto Settlement; Electronic Publishing Ventures, LLC; Olympic Telecommunications, Inc.; Ian Eisenberg; and Chris Hebard (Western District of Washington October 2000).

! Defendants: Cyberspace.com, LLC; French Dreams; Coto Settlement; Electronic Publishing Ventures, LLC; Olympic Telecommunications, Inc.; Ian Eisenberg; and Chris Hebard o(537)

! The Commission filed a complaint against defendants in the Western District of Washington on October 20, 2000. The complaint includes 3 counts alleging Section 5 violations. The complaint alleges that defendants sent a mailing, with checks for \$3.50, to millions of consumers and businesses. FTC alleges

that the mailing caused consumers to believe that the check was a rebate, refund, accounts receivable, or some other payment based on a pre-existing relationship, when in fact it was not. The FTC further alleges that by depositing the check, consumers and businesses were agreeing to enter into a new business relationship wherein defendants placed charges for internet access on consumers' and business' telephone bills.

! The FTC settled with 5 defendants and filed two stipulated permanent injunctions at the same time we filed our complaint. The court signed the permanent injunction orders on October 23. One order is against Eisenberg, French Dreams, and Olympic Telcomm. The other is against Hebard and Coto Settlement.

! On July 12, 2002, the Judge ordered a halt to the deceptive practice and continued the case to determine the amount of monetary relief the defendants will pay and continued the case for further proceedings to determine the exact amount of monetary relief to be paid.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint, stipulated permanent injunctions)

<http://www.ftc.gov/opa/2002/08/cyberspace.htm> (press release, complaint, and order)

Internet Auction Scams

158. United States of America v. Computers By Us, Inc., also d/b/a Fenceway Computers and Tweekable Computers; Jeffrey M. Wesko; Wanda M. Wesko; and Richard A. Wesko, Jr.
(District of Maryland, Northern Division filed October 30, 2000)

! Defendants: Computers By Us, Inc., Fenceway Computers, Tweekable Computers; Jeffrey M. Wesko, Wanda M. Wesko, and Richard A. Wesko, Jr. x(543)

! The United States alleged that defendants offered computers for sale on any one of a number popular Internet auction web sites ("auction houses"), and accepted payment from consumers who "won" auctions. The United States also alleged that defendants referred their Internet auction consumers to the defendants' own web sites where they advertised computer parts to upgrade the computers offered in their auctions.

! The complaint charges that defendants almost never delivered the merchandise won by consumers via auction, failed to deliver it in a timely manner and/or delivered merchandise that was substantially less valuable than consumers expectations. The complaint also charges that defendants almost never delivered the merchandise to consumers who chose to upgrade their computers with parts offered on the defendants' web sites before delivery, or delivered merchandise that was substantially less valuable than consumers' expectations.

! The United States filed suit on October 30, 2000, asking the court to issue a permanent injunction and to order defendants to pay redress to consumers.

! The settlement announced on August 30, 2001 will require that each defendant post a \$200,000 performance bond prior to engaging in Internet marketing or assisting others marketing over the Internet in the future. It also bars misrepresentations that they possess the goods or services they are offering for sale and that delivery will be made on receipt of payment. In addition, it bars future violations of the FTC Act and the Mail Order Rule, and prohibits the defendants from selling or sharing their customer lists.

! The Commission vote to approve the settlement was 5-0. It was filed in U. S. District Court for the District of Maryland, Northern Division by the Department of Justice at the request of the FTC. It is subject to court approval.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint)

<http://www.ftc.gov/opa/2001/08/computerbyus.htm> (press release)

159. FTC v. Michael Dewhurst d/b/a Empire Designs, Case No. 00-CV-12219 RCL (District of Mass, Filed October 26, 2000)

! Defendant: Michael Dewhurst d/b/a Empire Designs o(544)

! The FTC Complaint alleges that Michael Dewhurst d/b/a Empire Designs placed advertisements offering computers and consumer electronics on the web sites of various Internet auction houses. Consumers placed bids for defendant Dewhurst's merchandise and Dewhurst accepted bids and payment for the computer and consumer goods he offered for sale on the Internet. However, Dewhurst failed to provide either the promised merchandise or a refund to those consumers whose bids he has accepted and from whom he received payment.

! The FTC Complaint charges that the defendant 's practices are in violation of Section 5(a) of the FTC Act.

! The Complaint also charges that the defendant is in violation the Mail or Telephone Order Merchandise Rule. Specifically, the defendant solicited orders for the sale of merchandise to be ordered by the buyer without a reasonable basis to expect that he will be able to ship any ordered merchandise to the buyer within the time stated in the solicitation, or if no time was clearly and conspicuously stated, within thirty days of receipt of a properly completed order. In addition, the defendant failed to offer buyers, clearly and conspicuously and without prior demand, an option either to consent to a delay in shipping or to cancel the order and receive a prompt refund. Finally, defendant failed to make a "prompt refund" to buyers when such refunds were required under the Mail or Telephone Order Merchandise Rule.

! The FTC filed a Complaint, a motion for a preliminary injunction and a request for a oral argument on October 26, 2000. The FTC is currently awaiting a hearing date.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint)

160. FTC v. Auctionsaver, LLC; Richard Phim; Carman Lee Caldwell; Shade Delmer, aka Shane Delmer; and Naomi Ruth Anderson (S.D. Cal., filed October 20, 2000)

Defendants: Auctionsaver, LLC; Richard Phim; Carman Lee Caldwell; Shade Delmer, aka Shane Delmer; and Naomi Ruth Anderson. o(549)

! The Complaint alleges the defendants violated Section 5 by failing to deliver to winning bidders computer-related products that the defendants offered on Internet auction sites, contrary to their representations that they would deliver such products.

! The Complaint also alleges the defendants violated the Mail or Telephone Order Merchandise Rule by-

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1. soliciting orders without a reasonable basis to expect they would be able to ship the merchandise in the required time period;
2. failing to offer buyers the option to cancel or to consent to a delay; and
3. failing to make prompt refunds when required.

! No preliminary relief was sought.

! A final judgment and order for permanent injunction was entered by default against defendants Auctionsaver, LLC; Shade Delmer, aka Shane Delmer; and Naomi Ruth Anderson on March 13, 2002.

! In May 2002, The FTC announced that defendants Richard Phim and Carman Lee Caldwell, defendants who owned and controlled the businesses, agreed to settle charges that their conduct violated federal laws. The settlement bars the defendants from violating the Mail and Telephone Order Merchandise Rule and from misrepresenting that goods or services will be delivered. Based on financial disclosure statements provided by the defendants, they will be required to pay \$10,000 in consumer redress. Should the financial statements be found to be inaccurate, the defendants will be required to provide \$90,000, the estimated total amount of consumer injury.

! The Commission vote to accept the settlement was 5-0. The settlement was approved by the court on April 22, 2002. It was filed in the U. S. District Court for the Southern District of California.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint)

<http://www.ftc.gov/opa/2002/05/internetauctionfraud.htm> (press release – final judgments and orders for permanent injunction)

Alleged Commodity Trading Scam

161. In the Matter of WFS Enterprises, Inc. d/b/a The Cash Nursery, and Rabb Sabin and Arthur Smith (File No. 002 3025) (October 2000)

! Respondents: WFS Enterprises, Inc.d/b/a The Cash Nursery, Rabb Sabin & Arthur Smith x(552)

! The Federal Trade Commission has accepted an agreement containing a consent order from defendants, who sell a training program on the Internet for the daily buying and selling of stock and commodity options (also known as "day trading"). They advertise on their Internet Web site, www.thecashnursery.com. This matter concerns allegedly deceptive representations of the earnings and profit potential, as well as the extent of risk involved in using respondents' trading methods.

! The Commission's complaint alleged that respondents made unsubstantiated claims that users of respondents' options trading program could reasonably expect to earn large profits, as much as seven figures annually (i.e., more than \$1,000,000); that users could reasonably expect consistent investment returns of 100% to 500% on their trades; and that testimonials appearing in the advertisements for respondents' options trading program reflected the typical or ordinary experience of members of the public who use the program. In addition, the complaint alleged that respondents misrepresented that users of their options trading program could reasonably expect to trade with little financial risk.

! The consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. The order requires respondents to have a reasonable basis substantiating any representation that users of respondents' currency trading program can reasonably expect to earn large

profits. The order also prohibits respondents from misrepresenting that users of any trading program can reasonably expect to trade with little or no financial risk and from misrepresenting the extent of risk to which users of any such program are exposed. The order also requires respondents to disclose, clearly and conspicuously, "Stock, commodity futures, and stock or commodity options trading involve HIGH RISKS and YOU can LOSE a lot of money." in close proximity to any representation they make about the financial benefits of any trading program. This disclosure is in addition to, and not instead of, any other disclosure that respondents may be required to make. The order also prohibits respondents from using testimonials or endorsements in a manner that is deceptive or misleading.

! The agreement will be subject to public comment for 30 days, after which the Commission will decide whether to make it final.

The agreement was subject to public comment for 30 days and was finalized on January 19, 2001.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint, agreement, analysis)

<http://www.ftc.gov/opa/2001/01/fyi0103.htm> (press release - complaint, decision and order)

Alleged Day Trading Scam

162. In the Matter of R.S. of Houston Workshop, Ronald J. Schoemmell, and Valdimar Thorkelsson (File No. 002 3024) (October 2000)

! Respondents: R.S. of Houston Workshop, Ronald J. Schoemmell & Valdimar Thorkelsson. x(555)

! The Federal Trade Commission has accepted an agreement containing a consent order from defendants, who well a training program for a trading method on the Internet for the daily buying and selling of stocks (also known as "day trading"). They advertise on their Internet Web site, www.rsfohouston.com. This matter concerns allegedly deceptive representations of the earnings and profit potential, as well as the extent of risk involved in using respondents' trading programs and trading methods.

! The Commission's complaint alleged that respondents made unsubstantiated claims that users of respondents' trading programs and trading methods could reasonably expect to earn large profits, as much as six figures annually (i.e., more than \$182,000); that users of respondents' trading programs and trading methods could reasonably expect consistent investment returns of \$2,500 to \$3,500 per week; that users of respondents' trading programs and trading methods could reasonably expect to succeed at day trading for a lifetime of profitable and enjoyable trading; and that testimonials appearing in the advertisements for respondents' trading programs and trading methods reflected the typical or ordinary experience of members of the public who use the program. In addition, the complaint alleged that respondents misrepresented that users of respondents' trading programs and trading methods could trade in volatile markets with LOW RISK.

! The consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. The order requires respondents to have a reasonable basis substantiating any representation that users of respondents' day trading program can reasonably expect to earn large profits. The order also prohibits respondents from misrepresenting that users of any trading program can reasonably expect to trade with little or no financial risk and from misrepresenting the extent of risk to which users of any such program are exposed. The order also requires respondents to disclose, clearly

and conspicuously, "DAYTRADING involves HIGH RISKS and YOU can LOSE a lot of money." in close proximity to any representation they make about the financial benefits of any trading program. This disclosure is in addition to, and not instead of, any other disclosure that respondents may be required to make. The order also prohibits respondents from using testimonials or endorsements in a manner that is deceptive or misleading.

! The agreement was subject to public comment for 30 days and was finalized on January 19, 2001.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release - complaint, agreement, analysis)

<http://www.ftc.gov/opa/2001/01/fyi0103.htm> (press release - complaint, decision and order)

Online "Yellow Page" Listings Allegedly Billed to Telephone Bills

163. FTC v. YP.Net, Inc.; Telco Billing, Inc., d/b/a Yellow-Page.Net; Publication Management, Inc.; Michael K. Bloomquist; Joseph T. Carlson; William D. O'Neal; Gregory B. Crane; and Rebecca L. Bloomquist, Karina Carlson, Elizabeth O'Neal, and Laura Crane (Relief Defendants) (CV- No. 00-1210 PHX SMM; filed June 26, 2000 - D Ariz, Phoenix Div).

! Defendants: YP.Net, Telco Billing, Inc., d/b/a Yellow-Page.Net, Publication Management, Inc., Gregory Crane, William O'Neal, Michael Bloomquist, and Joseph Carlson x(562)

! The FTC alleged that defendants solicited customers for their online yellow pages directory by mailing consumers a \$3.50 "rebate" check with the familiar walking fingers logo and "yellow-Page" name. The back of the check had a purported advertising contract in small print above the endorsement line. Most of the material terms of the purported contract were printed on the inside of the solicitation envelope and could only be read by ripping apart the envelope. By depositing the "rebate" check, consumers were unwittingly signed up for a year of defendants' Internet yellow page services charged to their telephone bills.

! The FTC's complaint charges that defendants made deceptive representations by failing to disclose to consumers, in a clear and conspicuous manner, the material conditions associated with depositing defendants' \$3.50 rebate check. The complaint also alleges that defendants misrepresented that they were affiliated with, or endorsed by, consumers' regular provider of yellow page directories. In addition, the complaint alleges that defendants misrepresent that consumers are legally obligated to pay charges for defendants' Internet-related services, even though the charges were not authorized.

! The FTC filed suit on June 26, 2000 under seal and the Court granted the FTC's *ex parte* motion for a temporary restraining order, an asset freeze, and the appointment of a receiver. On July 13, 2000 the Court signed a stipulated preliminary injunction order agreed to by the FTC and defendants. The order required defendants to refrain from certain conduct in their marketing and business practices, and required a bond to be posted by defendant Greg Crane for potential consumer redress.

! The settlements announced on June 22, 2001, ended the court action. The settlements will bar misrepresentations that consumers can obtain rebates without incurring any obligation and that defendants have an ongoing business relationship with consumers. The settlements also will bar the defendants from using the term "rebate" on solicitation checks. YP.Net, TBI, PMI, Gregory Crane and William O'Neal also are required by their settlements to clearly and conspicuously disclose the obligations consumers will

incur in cashing solicitation checks and will be required to send notices to consumers to confirm service and billing agreements and to give them the opportunity to cancel. In addition, they are required to give consumers who signed-up for their services between April 1, 2000 and July 14, 2000 the option of a two month refund. All the settlements contain record keeping provisions to allow the agency to monitor compliance.

! In the course of preparing for trial, the FTC identified a related company, Simple.Net, engaged in a similar marketing scheme. The company marketed Internet access services using "rebate" checks. A stipulated final judgment and order for permanent injunction filed with the court would bar their misrepresentations of rebates and require them to send customers who signed up for their service confirmation notices giving the consumers the opportunity to cancel and receive a refund. The companies covered by the order with Simple.Net include Simple Access, Inc., Dial Up Services, Inc., and ISP Marketing, Inc.

! The Commission votes to accept the settlements were 5-0.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release and complaint)

<http://www.ftc.gov/opa/2001/06/ypnet.htm> (press release and Stipulated Final Judgment And Order For Permanent Injunction)

More Alleged Cramming of Internet Service Charges on Telephone Bills.

164. FTC v. Mercury Marketing of Delaware, et al. (E.D. Pa., filed June 28, 2000)

! Defendants: Mercury Marketing of Delaware and Neal D. Saferstein. x(564)

! A complaint for a permanent injunction and equitable redress was filed in the U.S. District Court for the Eastern District of Pennsylvania. Defendants telemarket Internet web page advertisements to small businesses and nonprofit organizations nationwide.

! The Commission's complaint alleges that defendants place unauthorized charges for their Internet-related services on consumers' telephone bills, thereby misrepresenting that consumers are obligated to pay for such services.

! A stipulated final judgment and order required Mercury Internet Services, and its principal, Neal D. Saferstein, to offer consumers refunds for telephone bill charges they did not authorize. The settlement bars misrepresentations that consumers are obligated to pay for services they did not authorize; that consumers will not be charged before the end of the "free trial" period; and that consumers will not be charged if they cancel during the "free trial" period. It also bars misrepresentations that consumers' Web pages can be located using major Internet search engines. The settlement requires that the defendants obtain express, verifiable agreement to the terms of any sale they make and prohibits them from billing consumers during the "free trial" period. It also requires that they disclose all material terms and conditions in writing before billing consumers.

! The Commission vote to accept the Stipulated Final Judgment and Order was 5-0.

! On August 12, 2003, the FTC announced that it had filed suit in U.S. District Court charging Mercury Marketing of Delaware, now doing business as GoInternet.net, and its principal Neal D. Saferstein with contempt of court. The agency alleged that Saferstein and Mercury continue to bill consumers for

Internet-related services without consumers' authorization in violation of federal law and a previous FTC Order. The FTC asked the court for a hearing and for a temporary order to halt the illegal billing practices and to freeze the corporation's assets to preserve them for consumer redress, pending a ruling on the contempt charges.

<http://www.ftc.gov/opa/2000/10/topten.htm> (press release and complaint)

<http://www.ftc.gov/opa/2001/03/mercury2.htm>

<http://www.ftc.gov/opa/2003/08/mercury.htm> (release - contempt motion)

165. FTC v. Ali Hafiz (FTC File No. X010010;) x(565)

! Defendants: Ali Hafiz and Dhanmatie Kashem, aka Dhanmatie Nazar

! This auction fraud case was originally filed in October 2000 through the "Operation Safebid" law enforcement sweep.

! On January 10, 2002, upon motion by the Commission, the District Court for the Eastern District of New York entered a default judgment against Ali Hafiz, the primary defendant, in the sum of \$21,927.73.

! On October 25, 2002, the Commission authorized the staff to file a stipulation discontinuing its action against a relief defendant, Dhanmatie Kashem, also known as Dhanmatie Nazar, because she did not receive the proceeds of Hafiz's fraud. The Commission vote authorizing the staff action was 5-0.

<http://www.ftc.gov/opa/2002/10/fyi0256.htm>

More Videotext / Modem Hijacking Allegations

166. FTC v. Sheinkin (D.C. S.C.) filed 11/17/2000)

! Defendant: FTC v. Hillary Sheinkin, a/k/a Hillary Perse, a/k/a Honey Smith, d/b/a Witchy's Web, Inc., Honeybun, Inc., Free Sugar, Inc. x(566)

! Defendant Sheinkin operates several Web sites that offer "free" adult content by downloading a "free" program. A computer user that clicks on the free program in fact downloads a program that re-dials the computer's modem to an international destination in Guyana or Vanuatu where the computer is re-connected to an adult Web site. The line-subscriber for that modem line is then charged anywhere from \$2.53 to \$5.09 a minute for the duration of the connection. The charges then appear on the line-subscriber's regular phone bill as international telephone calls. Defendant also advertises a turnkey business opportunity for other Web site operators to use her dialer programs.

! The FTC alleged that defendant violated the FTC Act by: 1) unfairly causing line-subscribers that have not used, or authorized others to use, her dialer program; 2) misrepresenting that line subscribers legally had to pay for calls that they did not authorize; 3) deceptively advertising her services as "free"; and, 4) providing others with the means and instrumentalities to commit the same deceptive practices.

! The FTC, with the assistance of the United States Attorney's office for the District of South Carolina, filed a complaint and motion for a preliminary injunction on November 17, 2000.

! The settlement announced on August 29, 2001 bars the defendant from billing consumers without express, verifiable authorization; selling or providing dialer programs to others; making false or misleading

statements in advertising or during the sale of products or services on the Internet; and using aliases when registering Web sites. The settlement also requires that she give up \$10,000 in ill-gotten gains.

! The Commission vote to accept the proposed consent judgment was 5-0. It was filed by the Department of Justice at the request of the FTC and entered by the court August 15.

<http://www.ftc.gov/opa/2001/08/sheinkin.htm> (press release – stipulated final order)

FTC Follows up on "Project Toolate.com" With "Surf" of E-tailers, Educational Campaign On Holiday Shipping Promises - November 17, 2000. The staff of the Federal Trade Commission's Division of Enforcement and the Western and Northwestern Regional Offices announced that they conducted a "surf" of more than 200 Internet retailer sites searching for shipment promises made to entice consumers to their sites this holiday season. The FTC staff found that nearly 100 of these sites made "quick-ship claims." Staff is sending letters to over 100 e-tailers to help them understand their obligations under the Rule, based upon a review of the shipment claims on their Internet Web sites.

Fake I.D. Mill on The Internet

167. FTC v. Jeremy Martinez d/b/a Info World (C.D. Cal. filed December 5, 2000) (Civil Action No. 00-12701-CAS).

! Defendants: Jeremy Martinez d/b/a Info World x(567)

! The FTC complaint alleges that Jeremy Martinez of Tarzana, California, doing business as Info World, maintained Web sites, including one located at a site called "newid" that sold 45 days of access to fake ID templates for \$29.99. The site contained "high quality" templates for the creation of fake California, Georgia, Florida, Maine, Nevada, New Hampshire, New Jersey, Utah, Wisconsin and New York drivers licenses. It also contained a birth certificate template, programs to generate bar codes - required in some states to authenticate drivers licenses - and a program to confirm the validity of Social Security numbers.

! The FTC further alleges that Martinez was deliberately marketing his site to consumers who were surfing the net to find fake ID documents. Web sites use Meta-tags - hidden words that help search engines identify and index Web site content. Martinez's Meta-tags included "illegal id," "fake id fraud," and "forging documents" according to the FTC complaint.

! The FTC's complaint alleges that selling the fake ID templates violates the FTC Act and that by providing false identification templates to others, Martinez has provided the "means and instrumentalities" for others to break the law. The FTC has asked the court to permanently bar the deceptive practices and to recover the illegally earned money from the defendant.

! The complaint was filed in U. S. District Court for the Central District of California in Los Angeles on December 5, under seal. The FTC's Temporary Restraining Order was signed on December 5, which included injunctive relief, an asset freeze and requires the defendant to repatriate any assets or documents located in foreign countries. The seal was lifted December 8.

! A settlement was reached, which bars Martinez from any involvement with the sale of false identification

documents, identification templates, or related materials. It also bars him from providing others with the means and instrumentalities to commit deceptive acts, including concealing or altering their identity. In addition, the order requires \$20,000 of ill-gotten gains to be forfeited by Martinez. That amount is based on financial declarations made to the FTC and the court regarding his available assets. Should the court determine those financial declarations were false, that determination would trigger a judgment of \$105,279, representing the revenues he generated from selling the false identification documents. The settlement also contains record keeping provisions to allow the Commission to monitor compliance.

! The Commission vote to accept the settlement was 5-0.

! This case was filed with the invaluable assistance of the Florida Department of Business and Professional Regulation Division of Alcoholic Beverages and Tobacco Fraudulent Identification Program. The program identifies fraudulent Internet identification issues and has closed 33 Internet sites and recorded 310 arrests for possession of false identification.

www.ftc.gov/opa/2000/12/martinez.htm (press release – complaint, amended TRO, statement of Commissioner Swindle)

<http://www.ftc.gov/opa/2001/07/martinez3.htm> (press release)

168. In the Matter of Sharp Electronics Corp. (January 21, 2001)

! Respondent: Sharp Electronics Corp. x(563)

! The Commission alleged that Sharp Electronics Corp. ("Sharp"), one of the world's largest electronics manufacturers and sellers, misled consumers about the upgradability of its Mobilon Handheld Personal Computers ("HPCs"). The complaint contends that Sharp continued to advertise that the devices were upgradeable to a later version of the Microsoft Windows CE operating system for several months after the company had determined it would not make the systems upgradeable. Many HPCs currently on the market use this system, which also contains several applications, including a wordprocessor, spreadsheet and database. The upgradeability claims at issue were primarily made to consumers who were researching the devices on Sharp's Web site.

! Under the settlement, consumers who bought a Mobilon 4100, 4500 or 4600 during part of 1999 and 2000 will have to pay only a \$10 shipping and handling charge to have their systems upgraded. Consumers would either be able to submit an upgrade claim form that they received in the mail from the company, or request the upgrade over the Internet. A message alerting consumers to the upgrade opportunity would be posted on Sharp's Web site. Sharp would also be prohibited from making false upgradability claims in the future.

! The Commission vote to accept the consent agreement for public comment was 5-0.

<http://www.ftc.gov/opa/2001/01/sharp.htm> (press release – complaint, agreement, analysis).

FTC Kicks off "Operation Detect Pretext" Warns Firms to Comply with Federal Laws That Protect

Consumers' Personal Information, January 31, 2001.

<http://www.ftc.gov/opa/2001/01/pretexting.htm> (press release)

First "Safe Harbor" Approved for Children's Online Privacy Protection Act.

The Federal Trade Commission today announced that the Children's Advertising Review Unit of the Council of Better Business Bureaus (CARU), the children's arm of the advertising industry's self-regulatory program established in 1974, has been approved as the first "safe harbor" program under the terms of the Children's Online Privacy Protection Act. Safe harbor programs are industry self-regulatory guidelines that, if adhered to, are deemed to comply with the Act. This is the first COPPA safe harbor application approved by the Commission.

<http://www.ftc.gov/opa/2001/02/caru.htm>

Domain Name Registration Fraud

169. FTC v. Darren J. Morgenstern, 1268957 Ontario, Inc., and 1371772 Ontario Inc., doing business as National Domain Name Registry, Electronic Domain Name Monitoring, and Corporate Domain Name Monitoring. (N.D. GA. filed February 12, 2001) (Civil Action No. 01-CV-0423).

! Defendants: Darren J. Morgenstern, 1268957 Ontario, Inc., and 1371772 Ontario Inc., doing business as National Domain Name Registry, Electronic Domain Name Monitoring, and Corporate Domain Name Monitoring. x(571)

! The Federal Trade Commission has asked a U.S. District Court Judge to halt an Internet domain name scheme that dupes consumers into needlessly registering variations of their existing domain names by deceptively contending that a third party, acting in bad faith, is about to claim it. The agency estimates that, at a minimum, 27,000 consumers may have been victims of the scam. At the agency's request, the court has issued a Temporary Restraining Order, frozen the defendants' assets, and shut down their Web sites, pending trial. The FTC has asked the court to bar the scheme permanently and order consumer redress.

! According to the FTC, consumers - many of them operating small businesses on the 'Net - received unsolicited fax solicitations stating, "URGENT NOTICE OF IDENTICAL DOMAIN NAME APPLICATION BY A THIRD PARTY." The fax solicitation offers to block the application by obtaining the copy-cat domain name for the fax recipient for a fee of \$70. According to the FTC, no third party has applied for the name, and the information in the fax solicitations is false, in violation of the FTC Act.

! The FTC has asked the court to issue preliminary and permanent injunctions to bar the deceptive marketing practices, to freeze the defendants' assets to preserve them for consumer redress, and to shut down Web sites used to promote the domain name scheme.

! The Canadian company and its principal agreed to pay \$375,000 in consumer redress to settle Federal Trade Commission charges that their domain name sales scheme violated federal laws. The settlement bars the defendants from making false or misleading statements in the sale of goods or services related to domain names, e-mail or Web-hosting services; bars them from using unsolicited faxes for marketing; and bars them from violations of the Telemarketing Sales Rule (TSR).

! The Commission vote to accept the stipulated final judgment and order was 4-0, with Commissioner Sheila Anthony not participating. A stipulated final judgment and order was approved by the court on March 29, 2002.

<http://www.ftc.gov/opa/2001/02/morgenstern.htm> (press release – complaint, TRO)

<http://www.ftc.gov/opa/2002/04/morgenstern.htm> (press release –

Stipulated Final Order for Permanent Injunction and Consumer Redress)

Medical Billing Scam

170. FTC v. Medicor LLC and Andrew Rubin (C.D. CA filed February 28, 2001)

! Defendants: Medicor LLC, Andrew Rubin, Matthew Rubin, Maven Holdings, Inc.,

and S&M Trust

o(576)

! A federal district court has ordered a temporary halt to a California-based telemarketing scheme that purportedly sold work-at-home medical billing opportunities. Medicor LLC, and its manager, Andrew Rubin, promised consumers that they could earn up to \$1,500 per week using their home computers to process medical bills for physicians in the consumers' community.

! The Federal Trade Commission alleges that the defendants misrepresented their medical billing work-at-home opportunities by touting false earnings claims, misrepresenting the assistance that they would arrange for consumers to get medical billing work and that refunds were readily available. At the Commission's request, the court froze the defendants' assets, and appointed a temporary receiver pending a hearing on the Commission's motion for a preliminary injunction.

! The FTC filed its complaint in the U.S. District Court in the Central District of California against Medicor and Rubin as part of "Project Homework" - a law enforcement action targeting work-at-home scams that typically victimize stay-at-home parents, the physically disabled, non-English speakers, and people who cannot secure employment in traditional venues outside the home.

! The defendants promoted and sold medical billing work-at-home opportunities to consumers throughout the United States via newspaper ads and an Internet web site, www.medicorllc.com. According to the FTC, Medicor, based in Van Nuys, California, advertised in the "help wanted" section of various local newspapers touting the high earnings consumers could make using Medicor's medical billing software. To further induce consumers to purchase Medicor's billing software, the defendants' telemarketers would falsely represent that they would arrange for doctors whose claims the consumers would be processing. In an attempt to convince

consumers that Medicor was a legitimate company, the defendants would sometimes refer potential customers to their web site, which offered testimonials from purportedly successful Medicor billers. The defendants charged from \$325 to \$495 for their business opportunity.

! The Commission vote to authorize staff to file the complaint in district court was 4-0-1, with Commissioner Sheila Anthony not participating. The complaint was filed under seal in the U.S. District Court, Central District of California, Western Division, in Los Angeles, on February 28. The judge signed the TRO with Asset Freeze on March 1 and lifted the seal on March 7, 2001.

! On July 18, 2002, the Court granted the FTC's motion for summary judgment against the defendants, entered a judgment for the full amount of consumer redress (more than \$16.5 million), and issued a permanent injunction against all defendants.

<http://www.ftc.gov/opa/2001/03/medicor.htm> (press release)

<http://www.ftc.gov/opa/2002/07/medicor.htm> (Order Granting Summary Judgment, Order for Permanent Injunction)

FTC Sues Day Trading Seminar Promoter Over Deceptive Ad Claims

171. FTC v. Tim Cho Investment Corporation and Timothy Cho (C.D. California filed March 15, 2001) (CVSA 01-331)

! Defendants: Tim Cho Investment Corporation and Timothy Cho x578

! The Federal Trade Commission has filed suit in U.S. District Court to stop Timothy Cho and Tim Cho Investment Corporation (TCI) from making false and deceptive advertising claims for TCI's training seminar on day trading. TCI is located in Irvine, California, and has affiliate offices throughout the country.

! This lawsuit is the seventh in a series of FTC enforcement actions against these deceptive practices, which was announced in May 2000 in conjunction with the Commodity Futures Trading Commission, and Securities and Exchange Commission. This case was brought with the assistance of the Securities Division of the Office of the Secretary of the Commonwealth of Massachusetts.

! According to the complaint, Cho and TCI have used the Internet, newspapers and bulk e-mail to advertise a \$6,000 two-day training seminar on day trading. Through its advertising TCI has claimed, among other things, that investors can expect to have made \$305,000 in 393 winning trades in the first nine months of 2000; to earn a guaranteed 1000 percent return in trading S&P futures contracts within one year; that 12 out of every 13 trades will be profitable. The FTC alleges that the defendants lacked substantiation for these claims, and that they were deceptive.

! The ads also conveyed that investors can expect to trade profitably with little financial risk, the FTC alleged. In fact, the FTC complaint says, investors cannot reasonably expect to trade with little financial risk, and the claim is therefore false.

! The FTC has asked the court to issue a permanent injunction to bar the deceptive marketing practices and for an order providing consumer redress. The relief sought by the FTC includes an order halting the

false and unsubstantiated claims and providing for redress to consumers or disgorgement of ill-gotten gains.

! The Commission vote to file the complaint was 5-0. It was filed in the U. S. District Court for the Central District of California, Southern Division, in Santa Ana, March 15.

! In Sept. 2002, the FTC announced that Defendants agreed to a settlement that will bar unsubstantiated financial benefits claims, require that testimonials reflect the typical experience of investors, and require disclosure that there are risks of loss in securities trading. The Commission vote to accept the stipulated final judgment and order was 5-0. It was filed in the U. S. District Court for the Central District of California, Southern Division, in Santa Ana. The FTC staff received invaluable assistance on this case from the Massachusetts Securities Division and the Western Region of the Commodity Futures Trading Commission.

<http://www.ftc.gov/opa/2001/03/cho.htm> (press release – complaint)

<http://www.ftc.gov/opa/2002/09/timcho.htm>

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Public Workshop: Emerging Issues for Competition Policy in the World of E-Commerce , March 22, 2001 <http://www.ftc.gov/os/2001/03/ecommmfrn.htm> (news release – link to federal register notice)

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Another Internet Pyramid Scheme Dismantled

172. FTC v. Bigsmart.com (D. Ariz., filed March 12, 2001)

! Defendants: Bigsmart.com, Mark Tahiliani and Harry Tahiliani x581

! The FTC alleged that defendants promoted and operated an Internet-based pyramid scheme in which members purportedly earned commissions by encouraging others to buy goods and services from Bigsmart "shopping malls." According to the complaint, Bigsmart's compensation plan was structured in such a way that financial rewards depended on the continued, successive recruitment of other participants, not retail sales. The FTC's complaint further alleged that defendants represented, expressly and by implication, that many consumers who became Bigsmart members would make substantial amounts of money and that all consumers would make some money.

! The complaint charged that defendants' earnings claims were false and deceptive. The complaint further charged that defendants provided others with the means and instrumentalities to make similar earnings misrepresentations. In addition, the complaint charged that defendants failed to disclose that numerous consumers who participated in the Bigsmart program did not receive substantial income and that this omission is a deceptive act or practice because this information would be material to consumers in deciding whether to participate in Bigsmart. Finally, the FTC charged that Bigsmart is a pyramid scheme and therefore inherently deceptive.

! In March 2001, Bigsmart.Com L.L.C. and principals, Mark and Harry Tahiliani reached a settlement, which was filed with the complaint. Under the settlement, defendants must provide up to \$5 million in consumer redress and post a \$500,000 performance bond before engaging in any new multi-level marketing activity. The court entered an order approving the settlement on March 21, 2001.

<http://www.ftc.gov/opa/2001/03/bigsmart.htm> (press release, complaint and settlement)

FTC, Department of Commerce Host Public E-SIGN Workshop, April 3, 2001.

<http://www.ftc.gov/opa/2001/03/esignadvisory.htm> (press release).

FTC Halts Web Crammer – Web Hosting Service Billed Consumers Thousands In Bogus Bandwidth Charges

173. FTC v. Page Creators d/b/a Page Creators and Trinity Host LLC (D. Minn. filed March 26, 2001) (01-523 ADM/RLE)

! Defendants: Bryan J. Kruchten d/b/a Page Creators d/b/a pagecreators.net and Trinity Host LLC d/b/a trinityhost.com

o583

! The Federal Trade Commission has filed suit in U.S. District Court to stop Bryan Kruchten and Trinity Host LLC from, among other things, cramming unauthorized charges onto consumers' credit cards for supposed "excess bandwidth" use. On March 26, 2001, the Court granted an *ex parte* Temporary Restraining Order with an asset freeze and the appointment of a receiver.

! According to the FTC's Complaint, Defendants used the Internet to advertise "discount" Web hosting services – such as domain name registry, Web page design and technical support – for monthly service fees of \$10 to \$15. Consumers provided credit or debit card numbers so that they could be billed. Without consumers' knowledge or approval, Defendants allegedly later charged many of their customers huge additional fees, in amounts sometimes as large as \$20,000, for such things as "excess bandwidth" use.

! The FTC asked the Court to issue a permanent injunction to bar the deceptive and unfair business practices and for an order providing consumer redress and/or disgorgement of ill-gotten gains. The defendant has now agreed to settle the FTC charges. The settlement bars him and his companies from billing consumers without their authorization and from representing that consumers are obligated to pay for any Internet service they did not authorize. The settlement also bars Kruchten, for five years, from owning or controlling any business that handles consumer credit or debit card transactions, unless he first obtains a performance bond of \$100,000. Based on financial declarations of the defendant, the settlement requires consumer redress in the amount of \$6,000. Should the financial statements be found to be inaccurate, \$100,000 will be due.

! This case was brought with the assistance of the Minnesota Attorney General's Office and the Civil Division of the United States Attorney's Office for the District of Minnesota.

! The Commission vote to file the Complaint was 5-0. It was filed in the U.S. District Court for the District of Minnesota on March 26, 2001.

<http://www.ftc.gov/opa/2001/04/page.htm> (press release w/ copy of complaint & TRO)

Microsoft and Hewlett-Packard Settle FTC Charges of Making Misleading Pocket PC Claims

174. In the Matter of Microsoft Corporation and Hewlett-Packard Company. (April 3, 2001)

! Respondents: Microsoft Corporation and Hewlett-Packard Company x(585)

! The Commission alleged that Hewlett-Packard Company ("HP"), one of the nation's leading manufacturers of personal computer hardware, misrepresented that its Jornada Pocket PC handheld computers – personal digital assistants or "PDAs" – contained everything consumers needed to access the Internet and their e-mail accounts at anytime, from anywhere. The complaint contended that in order to remotely access the Internet or their e-mail accounts with the Jornada – i.e., when on the road – consumers must buy a modem or similar device. In fact, a separate landline modem costs approximately \$130, and wireless modems can cost \$350 or more.

! Under the settlement, HP may not misrepresent the ability of PDAs (and any other handheld Internet or e-mail access devices) that do not come with built-in wireless Internet and e-mail access to access the Internet or e-mail, nor could it misrepresent any performance characteristic of such products affecting access to the Internet or e-mail. Also, when making claims about the Internet or e-mail access of such devices, HP will need to disclose clearly and conspicuously the need for any additional products (such as a modem or mobile telephone, or adapter) or the need to subscribe to a special Internet or e-mail access service.

! Following a public comment period, the Commission has made final the consent agreement. The Commission vote to finalize the consent agreement was 5-0, with Commissioner Orson Swindle issuing a separate concurring statement. (FTC File No. 002-3220; staff contact is Michael Ostheimer, Bureau of Consumer Protection, 202-326-2699).

<http://www.ftc.gov/opa/2001/04/hpms4301.htm> (press release w/ complaint and proposed agreement)

<http://www.ftc.gov/opa/2001/05/fyi0132.htm> (press release - complaint, exhibits, decision & order, concurring statement of Commissioner Swindle).

Web Crammers Settle FTC Charges Of "Free Trial" Deception Allegations

175. In the Matter of Voice Media, Incorporated (April 17, 2001).

! Respondents: Voice Media Incorporated, a Corporation, and Ron Levi and Paul Lesser x(588)

! In the complaint detailing its charges, the FTC alleged that the VMI operates adult content Internet sites and sells memberships for \$19.95 to \$34.95 per month. The sites promote membership by periodically offering "free" 7-day trial memberships. VMI asked those signing up for the free trials to provide credit card numbers for age verification. The complaint alleged that VMI represented that it would not charge membership fees to consumers who affirmatively canceled their trial memberships within the trial period.

! Contrary to that representation, VMI sometimes allegedly charged monthly membership fees to consumers who canceled within the trial period. Additionally, the complaint alleged that VMI immediately billed the credit cards of those consumers who signed up for the free trial at the outset, treating the submissions of credit card information as authorization to bill the accounts. However, consumers did understand that they had to take affirmative steps if they did not want to become members and be regularly billed.

! The settlement bars the defendants from making false or misleading statements - including misrepresenting whether consumers will be charged for goods or services during a free-trial period - and bars billing before providing clear and conspicuous notice of all terms and conditions. The settlement also prohibits the defendants from changing the terms of their agreements, cancellation or refund policies without first giving consumers the opportunity to cancel the membership.

! Following a public comment period, the Commission has made final the consent agreement. The Commission vote to finalize the consent agreement was 5-0. (FTC File No. 002-3003; staff contact is C. Steven Baker, FTC Midwest Regional Office).

<http://www.ftc.gov/opa/2001/04/voicer1.htm> (press release – complaint, agreement, and analysis).

<http://www.ftc.gov/opa/2001/05/fyi0133.htm> (press release - complaint and decision & order)

As Part of "Operation Detect Pretext" FTC Sues to Halt "Pretexting"

176. FTC v. Victor L. Guzzetta, d/b/a Smart Data Systems, Civil Action No. CV 01 2335 (Eastern District of New York) (April 17, 2001).

177. FTC v. Information Search, Inc., and David Kacala, Civil Action No. AMD-01-1121 (District of Maryland, Northern Division) (April 17, 2001).

178. FTC v. Paula L. Garrett, d/b/a Discreet Data Systems, Civil Action No. H 01-1255 (Southern District of Texas, Houston Division) (April 17, 2001).

! Defendants: Victor L. Guzzetta, d/b/a Smart Data Systems, Information Search, Inc., and David Kacala, Paula L. Garrett, d/b/a Discreet Data Systems. o(592)

! The Federal Trade Commission has filed suit in three U. S. District Courts to halt the operations of information brokers who use false pretenses, fraudulent statements, or impersonation to illegally obtain consumers' confidential financial information - such as bank balances - and sell it. Obtaining consumers' private financial information under false pretenses - a practice known as "pretexting" - violates federal law. The FTC asked the courts to halt the illegal practices permanently, freeze the defendants' assets pending trial, and order them to give up their ill-gotten gains. In each of the three cases the courts temporarily enjoined the defendant from continuing the illegal practices and imposed a partial freeze of

assets pending a hearing.

! The Commission has been actively involved in the fight against pretexting since April 1999, when it filed suit against Touch Tone Information Systems, Inc., alleging that pretexting is deceptive and unfair in violation of the Federal Trade Commission Act. The three new suits filed this week represent the Commission's latest efforts under "Operation Detect Pretext" to stop pretexting allegedly in violation of the new anti-pretexting provisions of the Gramm-Leach-Bliley Act as well as the FTC Act.

! In documents filed with the courts, the FTC charged that the defendants maintained Web sites where they advertised that they could obtain non-public, confidential, financial information -- including such things as checking and savings account numbers and balances, stock, bond and mutual fund accounts and safe deposit box locations -- for fees ranging from \$100 to \$600, depending on the information sought. In sting operations set up by the FTC in cooperation with local banks, investigators set up dummy bank accounts in the names of cooperating witnesses and then called defendants posing as purchasers of defendants' pretexting services.

! The FTC charged that the defendants use false pretenses to steal consumers' private financial information and sell it. The FTC complaints allege that these practices violate the FTC Act and the Gramm-Leach-Bliley Act. The Commission alleged that the sale of financial information by pretexters is also likely to injure consumers by invading their financial privacy and exposing them to the risk of economic harm and financial fraud because their information could be disclosed to individuals who might use it to deplete a bank account or liquidate a stock portfolio, or to steal an identity.

! The cases were filed under seal in U. S. District Courts for the District of Maryland; the Eastern District of New York; and the Southern District of Texas. The Commission vote to authorize the filing of the complaints was 3-2, with Commissioner Orson Swindle dissenting and issuing a dissenting statement, and Commissioner Thomas B. Leary dissenting and issuing a statement concurring in part and dissenting in part.

! All four defendants entered voluntary stipulated preliminary injunctions. On March 8, 2002, the FTC announced settlements in all four matters. The settlements bar the operators from obtaining or hiring others to obtain consumers' financial information through illegal means or by hiring or contracting with others who use illegal methods to obtain consumers' financial information. The settlements also bar the defendants from violating the pretexting provisions of the Gramm-Leach-Bliley Act and require the defendants to give up their ill-gotten gains.

! The Commission vote to approve the Stipulated Final Judgments and Orders was 5-0.

<http://www.ftc.gov/opa/2001/04/pretext.htm> (press release w/ copy of complaint & TRO, dissenting statement of Commissioner Swindle and statement of Commissioner Leary)

<http://www.ftc.gov/opa/2002/03/pretextingsettlements.htm> (press release – Stipulated Final Judgment and Order for Permanent Injunction and Monetary Relief)

Entertainment Software Rating Board Awarded "Safe Harbor" Status:

Program Will Promote Compliance with Children's Online Privacy Protection Act .

The Federal Trade Commission today announced that the Entertainment Software Rating Board (ESRB) has been approved as a "safe harbor" program under the terms of the Children's Online Privacy

Protection Act (COPPA). Safe harbor programs are industry self-regulatory guidelines that, if adhered to, are deemed to comply with the Act. This is the second safe harbor application approved by the Commission. The Children's Advertising Review Unit of the Council of Better Business Bureaus (CARU) was the first COPPA safe harbor program approved.

<http://www.ftc.gov/opa/2001/04/esrb.htm>, April 19, 2001

First COPPA Civil Penalty Cases

Three Web Operators Agree to Pay Civil Penalties to Settle Violations of the Children's Online Privacy Protection Act

179. U.S. v. Bigmailbox.com Civil Action No. 01-605-A (ED VA) (April 18, 2001).

180. U.S. v. Looksmart Ltd. Civil Action No. 01-606-A (ED VA) (April 18, 2001).

181. U.S. v. Monarch Services and Girls Life, Inc. Civil Action No. AMD 01 CV 1165 (D MD) (April 18, 2001).

! Defendants: Monarch Services, Inc. and Girls Life, Inc., dba www.girlslife.com; Bigmailbox.com, Inc., and Nolan Quan, dba www.bigmailbox.com; and Looksmart Ltd., dba www.insidetheweb.com o596

! Marking the first anniversary of the effective date of the Children's Online Privacy Protection Act, the Federal Trade Commission announced settlements with three Web operators for violations of the Children's Online Privacy Protection Rule (COPPA Rule). The FTC charged Monarch Services, Inc. and Girls Life, Inc., operators of www.girlslife.com; Bigmailbox.com, Inc., and Nolan Quan, operators of www.bigmailbox.com; and Looksmart Ltd., operator of www.insidetheweb.com with illegally collecting personally identifying information from children under 13 years of age without parental consent, in violation of the COPPA Rule.

! To settle the FTC charges, the companies together will pay a total of \$100,000 in civil penalties for their COPPA violations. In addition to the requirement that these companies comply with COPPA in connection with any future online collection of personally identifying information from children under 13, the settlements require the operators to delete all personally identifying information collected from children online at any time since the Rule's effective date. These cases mark the first civil penalty cases the FTC has brought under the COPPA Rule.

! The Girlslife.com Web site targets girls aged 9 to 14, offering features such as online articles and advice columns, contests, and pen-pal opportunities. Partnering with BigMailbox.com and Looksmart Ltd., it also offered children free e-mail accounts and online message boards. The FTC alleged that each of the defendants collected personal information from children, including such things as full name and home address, e-mail addresses and telephone numbers. None of the Web sites posted privacy policies that complied with the Act or obtained the required consent from parents prior to the collection of their children's personally identifiable information, as required by COPPA. In addition, the BigMailbox privacy policy falsely claimed, among other things, that children under 13 years old could not open an e-mail account without prior parental consent.

! The Web sites collected children's personal information for their own internal uses, enabled children to publicly reveal their personal information online without first obtaining parental consent, and, in the case of

BigMailbox, provided children's personal information to third parties without prior parental consent. The FTC also charged that all three operators required children to disclose more personal information than was needed for participation in the activities involved, a practice that also violates COPPA.

! Settlement of the cases will require each of the sites to delete all personal information collected from children since COPPA became effective. The settlements will bar future violations of COPPA and require that, in addition to posting a privacy policy that complies with the law, the sites link to the FTC site at www.ftc.gov/kidzprivacy, where consumers can find helpful information about COPPA. The BigMailbox settlement also bars the company from making deceptive claims in its privacy policy. Finally, Girlslife will pay a civil penalty of \$30,000 and BigMailbox and Looksmart each will pay civil penalties in the amount of \$35,000.

! The Commission vote to accept the proposed Stipulated Final Judgments and Orders was 5-0. They were filed by the Department of Justice at the request of the FTC, April 18. All three cases have been signed and entered by the courts.

<http://www.ftc.gov/opa/2001/04/girlslife.htm> (press release w/ copy of complaints, consent decrees and exhibits)

FTC Releases Follow-Up Report on The Marketing of Violent Entertainment to Children

The study, which includes an evaluation of disclosures on Web sites, finds companies in the motion picture and electronic game industries have demonstrated some progress since the September 2000 report; recording industry has not visibly responded.

<http://www.ftc.gov/opa/2001/04/spam.htm>, April 23, 2001

United States and Twelve Countries Unveil e-consumer.gov

Internet-based Project to Gather and Share Cross-Border e-Commerce Complaints Announced at International Marketing Supervision Network ("IMSN") Conference in New York.

<http://www.ftc.gov/opa/2001/04/econsumer.htm>, April 24, 2001

FTC Warns Manufacturers and Retailers of Ultrasonic Pest-control Devices

Staff of the Federal Trade Commission's Division of Enforcement today announced that they have sent warning letters, based in part on a "surf" of Internet sites marketing such devices, to more than 60 manufacturers and retailers of ultrasonic pest-control devices, stating that efficacy claims about those products must be supported by scientific evidence.

<http://www.ftc.gov/opa/2001/05/fyi0128.htm> (press release), May 3, 2001.

FTC Seeks Civil Penalties, Consumer Redress from Aftermarket Brake Guard Products for FTC Order Violations;

182. United States of America v. Brake Guard Products, Inc., et al. (West. Dist. of Wash.) (May 11, 2001).

! Defendants: Ed F. Jones, Larry Jones, Brake Guard Products, Inc., Brake Guard Limited Liability

Company of Nevada, and Brake Guard Limited Liability Company of Washington.

o(601)

! The Federal Trade Commission has asked a U. S. District Court to permanently halt the deceptive claims of an aftermarket brake marketer, to award civil penalties for violations of an earlier FTC order barring the claims, and to order consumer redress.

! In the suit filed in U. S. District Court, the FTC alleges that since March 30, 1998 the defendants have been marketing Brake Guard products primarily to the recreational vehicle market through a network of distributors, in seminars and via the Internet. The complaint charges that advertising and promotional material, packaging, brochures, flyers, promotional videos and an Internet web site, contain claims that violate a FTC's 1998 order. That order, which upheld the 1997 decision Administrative Law Judge Lewis F. Parker, found that Brake Guard made false and unsubstantiated advertising claims in violation of federal law that Brake Guard Safety System (also known as Advanced Braking System or Brake Guard ABS) is an antilock braking system as effective as manufacturer-installed ABS brakes; complies with a performance standard established by the Society for Automotive Engineers; and will qualify a vehicle for automobile insurance discounts in a significant proportion of cases.

! The complaint was filed at the FTC's request by the Department of Justice in U.S. District Court for the Western District of Washington, in Seattle on May 11, 2001. The Commission vote to file the complaint was 5-0.

! On July 29, 2002, the U.S. District Court for the WD WA in Seattle has entered a default judgment and order in the court matter filed against Brake Guard Products, Inc.; Brake Guard Limited Liability Company; and Kimberly Bennett in her capacity as representative of the estate of Ed F. Jones. Through the default judgment, the defendants are permanently barred from: 1) advertising for, selling, or distributing the Brake Guard Safety System, Brake Guard ABS, or any substantially similar product; 2) making false representations regarding these products' attributes, efficacy, performance, safety, or benefits; and 3) violating any terms of the Commission's order in the future. Defendants must also shut down their website. The case against Lawrence H. Jones remains in litigation.

<http://www.ftc.gov/opa/2001/05/brakeguard.htm> (press release – complaint)

<http://www.ftc.gov/opa/2002/09/fyi0248.htm>

Online services with undisclosed costs

183. In the Matter of Gateway, Inc. (May 15, 2001)

! Respondents: Gateway, Inc.

x(602)

! The Commission alleged that Gateway, Inc., one of the largest domestic marketers of personal computers ("PCs"), misrepresented the cost of its "Gateway.net" Internet access service. According to the FTC, so-called "free" or flat-fee services offered by Gateway actually resulted in significant additional charges to many consumers - a fact the Commission alleges was inadequately disclosed by the company. According to the FTC's complaint against Gateway, the company advertised its Gateway.net Internet access plan as being provided for free for one year with the purchase of the Gateway Essential Line of PCs-- "An unbelievable computer that actually comes with a year of Internet access." However, at the bottom of the advertisement in approximately two point type, the following disclosure appeared: "Rural access \$3.95/hour. Local access \$1.50/hour over 150 hours per month." Similarly, one of the challenged ads offered "1-Year Gateway.net Internet Access," with the relevant

disclosure of additional possible fees appearing in a footnote, four pages later, at the bottom of the page, in the eighth line of eleven lines of fine print disclosures, in approximately four point type. Other ads promoted Gateway.net for a flat-fee of \$14.95 per month, with no disclosures of any possible additional fees.

! The settlement, will prohibit the company from misrepresenting the price or cost of any service to access the Internet or other electronic network, and requires Gateway to make clear and conspicuous disclosures of fees a consumer may incur to access such a service. Moreover, the order requires Gateway to pay redress to refund all charges for the so-called "toll free" numbers paid by customers who registered on the local access plan between January and April 1999, before consumers were adequately warned of the fee for "toll-free" calling.

! Following a public comment period, the Commission has made final the consent agreement regarding Gateway, Inc. The Commission vote to finalize the consent agreement was 4-0, with Chairman Timothy J. Muris not participating. (FTC File No. 992-3276; staff contact is Linda K. Badger, FTC Western Region-San Francisco)

<http://www.ftc.gov/opa/2001/05/gateway.htm> (press release w/ complaint, proposed agreement, analysis, & exhibits)

<http://www.ftc.gov/opa/2001/06/fyi0136.htm>

184. In the Matter of Juno Online Services, Inc. (May 15, 2001)

! Respondents: Juno Online Services, Inc.

x(603)

! The Federal Trade Commission has reached a consent agreement with Juno Online Services, Inc. ("Juno"), a national Internet Service Provider ("ISP"), over charges that advertising for its "free" and fee-based dial-up Internet access services was deceptive, in violation of Federal law. The challenged advertisements appeared in major newspapers, television commercials, radio, direct mailings, as well as online banner ads and on the company's Web site. According to the FTC complaint, Juno misrepresented that consumers who participated in its free trial offers for Premium Internet service would be able to cancel at any time before the free trial period ended and incur no charges if they were not satisfied. According to the FTC, Juno engaged in several deceptive practices that made it unreasonably difficult for some consumers to cancel its so-called "free" trial period for its Premium Internet service, causing these consumers to be billed for service they no longer wanted. The FTC charges that many consumers waited long periods to reach a Juno customer support representative and were forced to abandon their attempts to cancel - incurring charges for Internet service that they did not want to purchase. Other FTC allegations include the charge that Juno also failed to disclose adequately that some subscribers to its Internet services would incur long distance telephone charges while connecting to the Internet.

! Under the terms of the settlement, Juno has agreed to stop misrepresenting the cost of its Internet services, to clearly and conspicuously disclose the cancellation terms for these services, to provide adequate customer support to handle consumer requests to cancel, and make prominent disclosure of long distance telephone charges that some consumers may incur while using its Internet services. The settlement also calls for Juno to reimburse certain former subscribers for long distance telephone charges they incurred to use its services.

! Following a public comment period, the Commission has made final a consent agreement regarding the following: Juno Online Services, Inc. The Commission vote to finalize the consent agreement was 4-0, with Chairman Timothy J. Muris not participating. (FTC File No. 002-3061; staff contact is Laura M. Sullivan, Bureau of Consumer Protection, 202-326-3327; see press release dated May 15, 2001.)

<http://www.ftc.gov/opa/2001/05/juno.htm> (press release w/ complaint, proposed agreement, analysis, & exhibits)

<http://www.ftc.gov/opa/2001/06/fyi0137.htm> (press release re consent agreement being finalized).

Boom in E-Commerce Has Created Fertile Ground for Fraud: FTC

The Federal Trade Commission today told Congress that the boom in e-commerce has created a fertile ground for fraud. Testifying before the House Committee on Energy and Commerce, Subcommittee on Commerce, Trade and Consumer Protection, Eileen Harrington of the FTC's Bureau of Consumer Protection said, "Internet technology is the latest draw for opportunistic predators who specialize in fraud. The rapid rise in the number of consumer complaints related to online fraud and deception bears this outThe need - and challenge - is to act quickly to stem this trend while the online marketplace is still young The Commission has strived to keep pace with the unprecedented growth of the electronic marketplace by targeting our efforts, making innovative use of the technology, and leveraging our resources to combat fraud on the Internet." The Commission vote to approve the testimony was 5-0.

<http://www.ftc.gov/opa/2001/05/iftestimony.htm> (May 23, 2001)

TRUSTe Earns "Safe Harbor" Status:

Program Will Promote Compliance with Children's Online Privacy Protection Act .

The Federal Trade Commission today announced that TRUSTe, an Internet privacy seal program, has been approved as a "safe harbor" program under the terms of the Children's Online Privacy Protection Act (COPPA). Safe harbor programs are industry self-regulatory guidelines that, if adhered to, are deemed to implement the Act. This is the third safe harbor application approved by the Commission. Programs submitted by the Children's Advertising Review Unit of the Council of Better Business Bureaus (CARU), an arm of the advertising industry's self-regulatory program, and the Entertainment Software Rating Board (ESRB) were previously approved as COPPA safe harbors.

<http://www.ftc.gov/opa/2001/05/truste.htm> (May 23, 2001)

"Operation Cure.All" Wages New Battle in Ongoing War Against Internet Health Fraud

Joint FTC/FDA effort to stop Internet scams for supplements and other products that purport to cure cancer, HIV/AIDS and countless other life-threatening diseases.

- 185. In the Matter of Panda Herbal International, Inc., and Everett L. Farr III. (File No. 002 3229)**
- 186. In the Matter of ForMor, Inc., and Stan Goss (File No. 002 3226)**
- 187. In the Matter of MaxCell BioScience, Inc., and Stephen Cherniske. (File No. 002 3098)**
- 188. In the Matter of Michael Forrest, individually and doing business as Jaguar Enterprises of Santa Ana. (File No. 012 3091)**
- 189. In the Matter of, individually and doing business as Aaron Company, and Lisa M. Spencer,**

individually and doing business as Aaron Company. (File No. 002 3312)

190. FTC v. Western Dietary Products Co. (Skookum), a corporation, doing business as Western Herb & Dietary Products, Inc., and Marvin Beckwith, and Miguelina Beckwith (Western District of Washington at Seattle), Civil Action No. C01-0818R.

! Defendants: Panda Herbal International, Inc., Everett L. Farr III., ForMor, Inc., and Stan Goss, Michael Forrest, d/b/a Jaguar Enterprises, Robert C. Spencer, Lisa M. Spencer, d/b/a Aaron Company, Western Dietary Products Co. d/b/a Western Herb & Dietary Products, Inc., Marvin Beckwith, and Miguelina Beckwith (613)

! The FTC announced a fourth group of targeted enforcement actions to address marketing of unproven health products on the Internet. This is part of a coordinated four year long effort with the U.S. Food and Drug Administration (FDA), Health Canada, and various state Attorneys General. The cases in this phase of "Operation Cure.All," like earlier cases, often involve dramatic treatment and cure claims, often for a multitude of serious diseases. Some of the cases also raise serious safety implications. The six new FTC enforcement actions target companies marketing a variety of devices, herbal products, and other dietary supplements to treat or cure cancer, HIV/AIDS, arthritis, hepatitis, Alzheimer's, diabetes and many other diseases.

! Among the many products for which unfounded claims were being made were a DHEA hormonal supplement, St. John's Wort, various multi-herbal supplements, colloidal silver and a variety of electrical therapy devices. Among the many false and unsubstantiated claims challenged in today's cases were promises that: 1) People could cancel their surgery, radiation or chemotherapy in favor of herbal cures that cost hundreds of dollars; 2) A device that delivered mild electric current would kill the parasites that cause such serious diseases as cancer and Alzheimer's; and 3) Those with HIV or AIDS could use St. John's Wort as a safe treatment for the disease. In fact, the FTC alleged, there is inadequate evidence to support the use of the herb to treat AIDS. Indeed, St. John's Wort is known to interfere with proven HIV/AIDS medications.

! In the six new FTC cases, the companies were charged with making false and unsubstantiated health and safety claims for a variety of products advertised on the Internet.

! Five of the companies agreed to immediately settle the charges and the proposed settlement agreements were announced at time the filings were announced. Among other relief obtained, the FTC will require the two companies that had been promoting St. John's Wort as a safe treatment for HIV and other diseases to include a disclosure warning of drug interaction risks in certain future marketing of St. John's Wort products.

! The Commission has filed a complaint in federal district court against the sixth company, Western Dietary Products, based in Blaine, Washington, and Marvin and Miguelina Beckwith, the company's owners. The complaint charges the defendants with making unsubstantiated claims about their products' abilities to treat and cure cancer, Alzheimer's, diabetes, arthritis, and HIV/AIDS. The complaint was filed in the U.S. District Court for the Western District of Washington, in Seattle, on June 4, 2001. At a June 13th hearing, the defendants agreed to entry of a preliminary injunction. The Commission subsequently voted 5-0 to authorize the staff to file the proposed stipulated final judgment, which was filed in the U.S. on December 26, 2001. The proposed stipulated final judgment and order, which requires the court's approval, would prohibit the defendants from making any claims that their products are effective in treating or alleviating any disease or condition, unless they can substantiate the claims with competent and reliable scientific evidence. In addition, the proposed settlement would prohibit the defendants from misrepresenting that use of their products in the treatment of cancer makes surgery or chemotherapy unnecessary. The proposed order includes a suspended judgment in the amount of \$50,000,

which would become due if the court finds that the defendants made material misrepresentations or omissions in their financial statements.

! The FTC expresses its appreciation for the assistance of FDA, Health Canada, and the state Attorneys General who participated in this and earlier phases of "Operation Cure.All."

! The Commission vote to accept the five consent agreements for public comment and the Commission vote to authorize the filing of the federal court complaint was 5-0.

<http://www.ftc.gov/opa/2001/06/cureall.htm> (press release, complaints, agreements, exhibits, analysis).

<http://www.ftc.gov/opa/2001/12/westdiet.htm> (press release – stipulated final judgment)

FTC Sues to Halt Deceptive Internet Access Fee Scam -- Agency Seeks Return of Consumers' Membership Fees and Personal Information

191. FTC v. New Millennium Concepts (ND IL, June 2001) (FTC File No. X01 0045)

(Civil Action No. 01 C 3797).

! Defendants: New Millennium Concepts, Inc., dba Rhinopoint.com and Karl V. Kay. x(615)

! The Federal Trade Commission has filed suit in U.S. District Court against an Internet operation, www.rhinopoint.com, that allegedly conned consumers into paying membership fees and turning over sensitive personal and financial information by deceptively claiming it would pay their Internet access fees. The agency charges that more than 50,000 consumers were taken in by the scam and that the defendants actually paid the access fees for fewer than five percent of them. On June 1, 2001, the Court entered a stipulated preliminary injunction order that prohibits misrepresentations, freezes the defendants' assets, and bars the use of the consumer data, pending trial.

! According to the FTC's Complaint, starting in November 1999, the defendants operated the [rhinopoint.com](http://www.rhinopoint.com) Web site where they offered to pay Internet access fees to consumers who became part of their "network," and paid a one-time "set-up" fee ranging from \$10 to \$16. To join the network, consumers completed a questionnaire detailing personal information, including credit card numbers and income level, and agreed to complete monthly marketing surveys. The site's privacy policy stated, "We do not sell or provide individual names, addresses, phone numbers, credit information or other personal contact information data to outside parties under any circumstances." Court documents state that "Defendants rarely sent the promised surveys, even more rarely reimbursed consumers for their Internet access costs, but collected initial setup fees and personal information from tens of thousands of consumers anyway."

! On June 1, 2001, the Court entered a stipulated preliminary injunction order that prohibited misrepresentations, froze the defendants' assets, and barred the use of the consumer data, pending trial. The settlement announced today concludes that litigation.

! The settlement bars the defendants from making misrepresentations in the advertising, promotion, or sale of any products or services, bar them from collecting or disclosing personal information obtained by misrepresentations, and require that within 30 days, they delete or destroy the personal identifying information that they collected from consumers.

! The Commission vote to approve the stipulated final judgment and order for permanent injunction was 5-0.

The case was filed in U. S. District Court in the Northern District of Illinois in Chicago.

<http://www.ftc.gov/opa/2001/06/millennium.htm> (press release)

<http://www.ftc.gov/opa/2001/11/newmillennium.htm> (press release – complaint, stipulated final judgment)

International Pyramid Operation that Claims it is Operating in 200 Countries World Wide

192. FTC v. Skybiz.Com, Inc., et al. (Dist. Ct., N.D. Oklahoma), (May 30, 2001), (FTC File No. X01 0046 / Civil Action No. 01-CV-0396-EA (X))

! Defendants: SkyBiz.com, Inc, World Service Corporation, Nanci Corporation International, WorldWide Service Corporation, James S. Brown, Stephen D. McCullough, Elias F. Masso, Nanci H. Masso, Kier E. Masso, and Ronald E. Blanton. O(625)

! The Federal Trade Commission has filed suit in U.S. District Court to stop defendants from promoting a work-at-home business opportunity, which may have conned consumers around the world out of approximately \$175,000,000. In in-person sales presentations, seminars, teleconferences, Web site presentations and in other marketing material, the defendants touted the opportunity to earn thousands of dollars a week by recruiting new "Associates" into the program. They provided CD-Roms, computer disks, videos and books promoting the SkyBiz programs and they provide a PowerPoint presentation on their website that can be downloaded to aid in recruiting new members. The cost to join the SkyBiz Program is \$125, ostensibly used to buy an "e-Commerce Web Pak," but in reality was to purchase the right to receive compensation for recruiting additional participants. Participants were urged to invest in more than one "Web Pak," to maximize their earning potential.

! The FTC charged that the claims that consumers who invested in SkyBiz would make substantial income were false; that failure to disclose that most people in pyramid schemes lose money is deceptive; that defendant provided the means and instrumentalities for others to deceive consumers by providing speakers and promotional materials that made the false and misleading claims; and that SkyBiz was actually an illegal pyramid scheme. All four violate the FTC Act.

! At the request of the FTC, Chief Judge Terry C. Kern has temporarily halted all unlawful activities of the SkyBiz operation, frozen the defendants' assets to preserve them for consumer redress, and appointed a receiver, pending the preliminary injunction hearing scheduled for June 26, 2001.

! Although defendants argued that the assets of its offshore affiliate, Skybiz International, were not covered by the Temporary Restraining Order issued in June, or by the Preliminary Injunction extending its provisions, issued in August. U.S. District Judge Claire V. Eagan disagreed, and in January 2002 ordered Tulsa-based Skybiz to return the assets, including tens of millions in an account in Ireland, to the U.S., for possible use as consumer redress.

! The complaint was filed by the FTC in U.S. District Court for the Northern District of Oklahoma on May 30, 2001, under seal. The seal was lifted June 8, 2001. The Commission vote to issue the complaint was 5-0.

! On January 14, 2002, the FTC announced that one defendant in the alleged pyramid scheme agreed to settle FTC charges that the scheme violated federal law. The settlement bars Ronald E. Blanton, who was president of one of the affiliated corporations, from engaging in illegal marketing schemes in the future and requires that he pay \$15,000 in consumer redress. The settlement announced today resolves the charges against Blanton. The other defendants are awaiting trial.

! The Commission vote to file the Stipulated Final Judgment and Order was 5-0. It was filed in U.S. District Court for the Northern District of Oklahoma, in Tulsa.

! On March 24, 2003, the Commission announced a settlement with all of the remaining defendants, except Stephen D. McCullough, who's trial is scheduled to start on April 24, 2003. The settlement includes \$20 million dollars in consumer redress. The settlement also bars the defendants from participating in pyramid schemes in the future, and bars them from misrepresenting business ventures. It bars one defendant from engaging in any multilevel marketing programs for life and bars three others from engaging in multilevel marketing programs in the for periods ranging from seven to 22 years. The defendants agreed to a settlement, reached in principle January 4, and entered by the court on January 28th, to end the litigation as to nine of the defendants.

<http://www.ftc.gov/opa/2001/06/sky.htm> (press release – complaint and TRO).

<http://www.ftc.gov/opa/2002/01/sky2blanton1.htm> (press release)

<http://www.ftc.gov/opa/2003/03/skybiz.htm> (release – stipulated final order)

"Health-Care" Products Sold To Mask Pyramid Operation; Safety of Products Misrepresented

193. FTC v. Streamline International, Inc., et al. (Southern District of Florida, May 23, 2001) (FTC File No. 002 3320) (Civil Action No. 01-6885-CIV-Ferguson)

! Defendants: Streamline International, Inc., J. R. Jackson, dba Action Enterprises and Robert "Bob" Waitkus, dba WorldWide Opportunities Network. o(628)

! The Federal Trade Commission has brought suit against a fraudulent Internet operation posing as a legitimate multi-level marketing business. The FTC charges that the scheme is actually an illegal pyramid that uses phony promises of easy income to scam consumers from across the country.

! According to the FTC complaint, since 1996 the operators of the scam have used Web sites, radio, direct mail and print advertisements to promote "Streamline," a fraudulent business opportunity whose members purportedly distribute a line of dietary supplements and health-care products. Marketing materials contain claims such as: "YES, YOU CAN MAKE \$500 - \$2,000 PER MONTH FOREVER!!!," and "NO MORE WORKING FOR THE NEXT 10, 20, 30 OR 40 YEARS. WORK PART-TIME THIS YEAR AND RETIRE NEXT YEAR." But the FTC alleges that in reality, the vast majority of participants in the Streamline program achieve little or no financial success, or make very modest earnings. The defendants require participants to make minimum monthly purchases in order to be eligible to earn recruitment-related commissions from the purchases of their "downline," - individuals beneath them in the organization. The FTC charges that the resale of these products by participants, which is neither encouraged nor required by defendants, is incidental to making money through the recruitment of new participants.

! In addition to claims about earnings, the program promotes its health-care products with the claim, "Our products contain only those ingredients that appear on the [FDA's] list of generally recognized as safe." The FTC alleges that in reality, a number of dietary supplements sold by the defendants contain the herbal ingredient comfrey, which is known to pose a significant risk to humans, including liver damage, when used internally or externally on open wounds.

! The FTC charges that the Streamline operation and its deceptive claims violate federal law. It filed a motion

for a preliminary injunction and other equitable relief, including appointment of a receiver and an asset freeze. The FTC will seek to permanently bar the operation at trial.

! The complaint was filed in United States District Court for the Southern District of Florida. The Commission vote to file the complaint was 5-0.

! On January 31, 2002, the FTC announced that one defendant, Robert Waitkus, agreed to settle Federal Trade Commission charges that the scheme violated federal law. The settlement bars Robert Waitkus from engaging in illegal marketing schemes in the future and requires that he give up \$30,000 in ill-gotten gains. The settlement also will bar him from making false or unsubstantiated safety or efficacy claims for dietary supplements. The Commission vote to file the settlement was 5-0. It was filed in U.S. District Court for the Southern District of Florida.

<http://www.ftc.gov/opa/2001/06/streamline.htm> (press release – complaint)

<http://www.ftc.gov/opa/2002/01/waitkus.htm> (press release – stipulated final judgment and order for permanent injunction)

Joint FTC/Commerce Department Report Released on "Reasonable Demonstration" Requirement of E-SIGN

No Amendment of the Statute Recommended at this Time

The Federal Trade Commission and the U.S. Department of Commerce's (Commerce) National Telecommunications and Information Administration (NTIA) today released a report they prepared jointly at the request of Congress regarding the benefits and burdens of the "reasonable demonstration" requirement of the consumer consent provision contained in the recently enacted Electronic Signatures in Global and National Commerce Act (ESIGN). The report states that "it is reasonable to conclude that, thus far, the benefits of the consumer consent provision of E-SIGN outweigh the burdens of its implementation on electronic commerce." The report further concludes that E-SIGN's reasonable demonstration requirement "appears to be working satisfactorily at this stage of the Act's implementation," and recommends that Congress take no action at this time to amend the statute.

<http://www.ftc.gov/opa/2001/06/esign.htm>

Internet Device with Undisclosed Costs and Rule Violations

194. United States of America (for the Federal Trade Commission) v. Netpliance, Inc. (Western District of Texas, Austin Division), July 2, 2001.

! Defendant: Netpliance, Inc. x(629)

! Netpliance, Inc., the marketer of a device being advertised as a less expensive alternative to the PC for Internet access and e-mail has agreed to settle Federal Trade Commission charges that its sales and billing practices violated federal laws. The agency charged Netpliance, Inc., a Delaware corporation based in Austin, Texas, with deceptive advertising, unfair billing, misrepresenting federal laws and violating a series of other federal laws that the FTC enforces, including the Mail or Telephone Order Merchandise Rule, the Truth-In-Lending Act and Regulation Z. Netpliance offers an Internet access device, called the "i-opener," and Internet services to consumers.

! The FTC complaint challenges its advertisements as deceptive because Netpliance failed to disclose adequately all of the extra costs associated with using the i-opener, such as monthly Internet service fees and long distance telephone charges. In addition, the company failed to disclose to consumers that they must use Netpliance's Internet service to access the Internet. Consumers could not access the Internet with the i-opener through another Internet service provider, even if Netpliance ceases providing Internet service in the future. The FTC complaint also alleges that Netpliance deceptively represented that it provided access to all of the Internet's entertainment and information and that it was equivalent to a personal computer with respect to its ability to access Internet content. In fact, i-opener users are unable to access many types of multimedia content available on the Internet.

! The FTC also challenged some of the company's billing practices as deceptive and unfair, which allegedly included charges not authorized by consumers. As part of the settlement, the company agreed to refund those consumers for the amounts illegally charged to their accounts.

! The FTC also charged the company with violating the Mail or Telephone Order Merchandise Rule. The company agreed to change its procedures to ensure that such violations will not recur in the future, and to pay a civil penalty of \$100,000. In addition, the company failed to issue promised credits to consumers' credit card accounts within seven business days as required under the Truth-in-Lending Act.

! The settlement calls for the company to clearly and conspicuously disclose important terms and qualifications associated with using the i-opener or any other internet or online access product or service, reimburse consumers for improperly billed charges, requires the company to pay a \$100,000 civil penalty, and bars the company from engaging in these illegal acts in the future.

! The Commission vote to refer the complaint and proposed consent settlement to the Department of Justice for filing was 5-0. The complaint and consent settlement were filed in U.S. District Court for the Western District of Texas, in Austin, by the Department of Justice, on June 27, 2001. It is subject to court approval.

<http://www.ftc.gov/opa/2001/07/netpliance.htm> (press release – complaint and consent decree).

FTC Announces Two More "Operation Cure.All" Cases Re Safety Risks of Comfrey Products Promoted via Internet

195. Federal Trade Commission v. Christopher enterprises, Inc. (District of Utah, Central Division) (July 6, 2001)

196. FTC v. Western Botanicals, Inc.; Randy C. Giboney; and Kyle D. Christensen (Eastern District of California) (July 13, 2001).

! Defendants: Christopher Enterprises, Inc., a corporation, and Norman Bacalla and Ruth Christopher Bacalla, individually and as officers of the corporation. o(632)

! Western Botanicals, Inc., a corporation, and Randy C. Giboney and Kyle D. Christensen, individually and as officers of the corporation. x(635)

! As part of its latest efforts in its ongoing and comprehensive "Operation Cure.All" to combat Internet health fraud, the Federal Trade Commission announced two additional cases challenging the marketing of unproven and dangerous products via the Web. Both targets manufactured and marketed a variety of products

containing the herbal ingredient comfrey for both external and internal uses throughout the United States by mail and telephone orders, on the Internet and through distributors, retail stores, and health care practitioners.

! The FTC charges that both companies, Western Botanicals, Inc., a Fair Oaks, California company and Christopher Enterprises, Inc., based in Springville, Utah and their principals made unfounded claims that the products were beneficial in the treatment of a wide variety of serious diseases and health conditions, and that they were safe. In fact, comfrey contains toxic substances and, when taken internally, can lead to serious liver damage, according to the FTC.

! According to the FTC, the defendants claimed that their products treated and alleviated symptoms of various diseases and health conditions. In their advertising and promotional materials the defendants represented their comfrey products were safe for consumers, including nursing women, when taken internally or applied to open wounds. The defendants also claimed that their comfrey products, when taken internally would treat a wide range of chronic and or degenerative diseases, including multiple sclerosis, emphysema, tuberculosis, and spinal cancer.

! The FTC alleges that the defendants' representation that their comfrey products were safe is false, and that they did not have scientific evidence to substantiate their safety or efficacy claims. In fact, the FTC said, comfrey is not safe for internal use because it contains pyrrolizidine alkaloids which are known to be toxic to the liver, and taken internally such substances can lead to serious illness or death. The FTC further alleges that the defendants did not have adequate scientific evidence to substantiate the safety or efficacy claims they made for their comfrey products.

! The Christopher Enterprises defendants have agreed to a preliminary injunction order. The Western Botanicals defendants have agreed to a stipulated final order for permanent injunction to resolve the FTC allegations. Both orders would prohibit both companies from marketing any comfrey product for ingestion, for use as a suppository, or for external use on open wounds, unless they have evidence that the product is free of pyrrolizidine alkaloids and is safe. The orders require both defendants to stop marketing comfrey products for internal uses or on open wounds, and to include a warning on comfrey products marketed for external uses. The orders also state that the companies will stop making the challenged safety and health benefit claims. They would also be required to place strongly worded disclosure any advertisement, promotional material or product label for any comfrey products intended for topical use warning of the dangers of internal use.

! The orders further would require them to notify their distributors that unsubstantiated claims violate the law and that the defendants will terminate distributors who make false or unsubstantiated claims. Finally, the orders include various recordkeeping and reporting requirements designed to assist the FTC in monitoring the defendants' compliance.

! On Friday July 6, 2001, the Food and Drug Administration issued a letter to industry communicating concern about the safety of supplement products containing comfrey, which includes a recommendation that firms immediately stop marketing comfrey-containing supplements and alert consumers to stop using the products. The letter is also posted on FDA's website at www.cfsan.fda.gov. The Food and Drug Administration has been a close partner of the FTC and assisted the agency in today's enforcement action, as well as many other aspects of "Operation Cure.All." The FTC also thanks the Texas Department of Health for its participation in this phase of "Operation Cure.All."

! The Western Botanicals stipulated permanent order also includes a suspended judgment of \$50,800 and a right to reopen provision that would reinstate the judgment if the court finds that the defendants made material misrepresentations or omissions on their financial statements. The Commission vote authorizing staff to file the complaint and proposed stipulated judgment in the Western Botanicals case was 5-0. They were filed in the U.S. District Court, Eastern District of California, in Sacramento, on July 11, 2001. The proposed judgment is subject to court approval.

! The Christopher Enterprises order for preliminary relief will remain in effect until further order of the court. The Commission vote to authorize staff to file the Christopher Enterprises complaint and the preliminary injunction was 5-0. The case was filed in the U.S. District Court, District of Utah, Central Division, in Salt Lake City, on July 3, 2001, and the injunction is subject to court approval.

<http://www.ftc.gov/opa/2001/07/chrisenter.htm> (press release – complaint, stipulated preliminary order)

<http://www.ftc.gov/opa/2001/07/westbot.htm> (press release – complaint, stipulated permanent order)

Billing Aggregators Debited Phone Bills for Charges Consumers Didn't Authorize

197. United States of America (for the Federal Trade Commission) v. New Century Equity Holdings Corp., Inc., Enhanced Services Billing, Inc., and Billing Concepts, Inc. (U.S. District Court for the District of Columbia), August 1, 2001.

! Defendants: New Century Equity Holdings Corp., Inc., Enhanced Services Billing, Inc., and Billing Concepts, Inc. x(638)

! ESBI and BCI each served as "billing aggregators." Billing aggregators open the gate to the telephone billing and collection system for vendors, and act as intermediaries between the vendors and the local phone companies, contracting with the local phone companies to have charges on behalf of their client vendors placed on consumers' telephone bills and to have the local telephone companies collect those charges from consumers. Once the charges are collected by the phone companies, the billing aggregators, after taking their fee, pass the revenues back to their client vendors. Although billing aggregators' services allow consumers to use their phone services as a payment mechanism, they are also susceptible to abuse if the billing aggregators fail to adequately police the practices of vendors who may engage in fraudulent billing.

! The FTC complaint challenges that 1) ESBI falsely represented that consumers were legally obligated to pay charges on their telephone bills for websites and other items they had not ordered or authorized others to order for them; 2) ESBI unfairly attempted to collect - or arranged for local phone companies to collect - payment of charges from consumers for web sites and other items they had not ordered and that consumers were unable to prevent ESBI from causing such unauthorized charges to appear on their phone bills; 3) BCI falsely represented that consumers were legally obligated to pay charges on their telephone bills for a calling card, when the consumers had neither asked for the card nor authorized anyone else to ask for it on their behalf; and 4) BCI unfairly attempted to collect - or arranged for local phone companies to collect - payment of charges for calling card fees that consumers had not ordered and that the consumers were unable to prevent BCI from causing such unauthorized charges to appear on their phone bills. The complaint also alleged that, acting as a billing aggregator for vendors of 900-Number services, BCI violated the FTC's 900-Number Rule by failing to perform a reasonable investigation to determine whether the charges about which consumer complained were valid.

! As part of the settlement, the defendants will be barred from illegally billing consumers in the future, which will, among other things, stop the defendants from placing charges on a consumer's phone bill that they "know or should know" the consumer did not authorize. Defendant New Century Equity Holdings Corp., Inc. will give up \$350,000 in ill-gotten gains. The other defendants, Enhanced Services Billing, Inc. (ESBI), and Billing Concepts, Inc. (BCI), to provide notices to consumers that their bills may contain unauthorized charges for website design and other enhanced services, to inform consumers how to obtain a refund, and to provide refunds.

! The Commission vote to refer the complaint and settlements to the Department of Justice for filing was 4-0, with Chairman Timothy J. Muris not participating. The complaint and proposed consent judgments were filed in U.S. District Court for the District of Columbia on August 1, 2001 by the Department of Justice at the request of the FTC. The proposed settlements are subject to court approval.

<http://www.ftc.gov/opa/2001/08/billing3.htm> (press release – complaint and consent decree???)

More Bigsmart Pyramid Promoters Settle FTC Charges

Two Promoters Barred for Life from Future Multi-Level Marketing Plans

198. FTC v. Netforce Seminars (U.S. District Court Arizona), August 9, 2001.

! Defendants: Netforce Seminars, Richard Slaback, J.D. Noland, Darin Epps, and Edward Lamand

o(643)

! Three operators of the Bigsmart pyramid, Darin Epps and Edward Lamont and Richard Slaback an Internet-based business opportunity that promised easy income for investors in an Internet shopping mall network have agreed to settle Federal Trade Commission charges that their scheme was an illegal pyramid operation.

! Bigsmart is based in Mesa, Arizona. Darin Epps, and his company Netforce Seminars, recruited participants in the pyramid scheme from their offices in Austin and San Antonio, Texas. Edward Lamont recruited from offices in Pittsburgh, Pennsylvania. Epps and Lamont were also previously high-level distributors in Equinox International Corporation, another multi-level marketer sued by the Commission in August 1999. The third defendant, Richard Slaback, also recruited participants in the Bigsmart scheme and served as the figurehead "president" of the company for approximately eight months.

! According to the FTC complaint detailing the charges, Bigsmart marketed Internet theme "malls" that it claimed would enable investors to earn substantial income from commissions on products purchased through the Internet. The FTC charged that the claims that consumers who invested in Bigsmart would make substantial income were false; that promotional materials that made the false and misleading claims provided the means and instrumentalities for others to deceive consumers; and that Bigsmart was actually a pyramid scheme. Each of these practices were violations of the FTC Act.

! The settlement permanently bars two of the promoters, Darin Epps and Edward Lamont, from participating in multi-level marketing schemes. A third defendant, Richard Slaback, is barred from participation in multi-level marketing schemes for seven years. All of the defendants are barred from making false or misleading claims in selling any business venture or from assisting others to make false claims. Slaback will pay consumer redress in the amount of \$38,000.

! In July 2002, a second settlement ended the litigation with regard to the remaining defendant, J. D. Noland.

The settlement enjoins the Noland from engaging in further pyramid schemes, making false or misleading statements about multi-level marketing programs, and/or providing others with "means and instrumentalities" to do the same. Based on financial statements provided by the defendant, a judgment in the amount of \$104,748 will be suspended. Should the Commission have evidence that the defendant made misrepresentations in the financial statements, the entire amount of the judgment, which represents his income from Bigsmart, will become immediately due.

! The Commission votes to approve the settlements were 5-0. The orders were filed in U.S. District Court for the District of Arizona. This case was brought with the invaluable assistance of the Offices of the Attorney General of Texas and the Wisconsin Department of Agriculture, Trade, & Consumer Protection, Division of Trade & Consumer Protection.

<http://www.ftc.gov/opa/2001/08/bigsmart.htm> (press release – stipulated final order and judgment)

<http://www.ftc.gov/opa/2002/07/bigsmart4.htm> (press release – stipulated final order and judgment)

Marketer of Dietary Supplement Purporting to Treat Liver Diseases Agrees to Settle FTC Charges:

Must Have Adequate Scientific Evidence in the Future

199. FTC v. Liverite Products (U.S. District Court for the Central District of California, Southern Division), August 21, 2001.

! Defendants: Liverite Products, Inc., Corinne Jacobson, individually and as an officer, Steven Jacobson, individually and as an officer, Sheri Grant, individually and d/b/a Digipro and Healthy Life Marketing, and James Grant, individually and d/b/a Digipro, and Healthy Life Marketing

x648

! Liverite Products, Inc., based in Tustin, California, its two principals, and two other individuals agreed to settle Federal Trade Commission charges that they made numerous unsubstantiated claims in Internet, radio, and print ads about the ability of "Liverite" dietary supplement products to treat or prevent a wide range of liver diseases or disorders, including cirrhosis and hepatitis.

! The FTC's complaint names Liverite Products, Inc., Corinne and Steven Jacobson, and James and Sheri Grant. According to the complaint, defendants Corinne and Steven Jacobson direct and control Liverite Products, and defendants James and Sheri Grant developed the websites through which the Liverite products were advertised and sold. The Liverite products included: Liverite, the Ultimate Liver Aid; Liverite 3 in 1 for Men; Liverite 3 in 1 for Women; and Liverite Sports. The primary ingredient in each of these products was extract of beef liver. The products were sold at retail outlets, such as GNC and CVS, by telephone, and on the Internet at "liverite.com," "liveriteproducts.com," and "healthylifemarketing.com."

! According to the FTC's complaint, the defendants' advertisements represented that Liverite can prevent and treat hangovers; prevent and treat alcohol-induced liver disease, including cirrhosis; treat liver diseases, including cirrhosis and hepatitis; and alleviate the toxic side effects of various drugs. The FTC complaint alleges that these representations were not supported by competent and reliable scientific evidence. The complaint further alleges that the defendants falsely claimed that clinical tests proved that Liverite is effective for the treatment of liver problems.

! In addition to the defendants' advertisements that made unsubstantiated claims, the defendants also used "metatag" technology to deceive consumers. Metatags are key words embedded in the source code for a

webpage that are invisible to the average consumer, but are used by search engines to respond to consumers' search requests. The complaint also alleges that the defendants embedded in the metatags of the Liverite websites terms such as AIDS, hepatitis A, B & C, liver problems, liver disease, liver detoxification, alcohol, hangover, cirrhosis, anabolic steroids, interferon, and hepatotoxicity, thereby increasing the likelihood that consumers who researched these topics on the Internet would be directed to defendants' websites.

! The proposed stipulated final order also will require the defendants to possess scientific substantiation for claims that any food, drug or dietary supplement can treat, cure, alleviate the symptoms of, prevent, or reduce the risk of developing any disease or disorder. In addition, the defendants cannot claim that any Liverite product is "the ultimate liver aid," unless the claim is scientifically substantiated. The defendants also will be prohibited from misrepresenting the results of any test or study, and will be prohibited from misrepresenting that any testimonial or endorsement is the typical or ordinary experience of users of the advertised product, unless the claim is substantiated. Finally, the order requires Liverite Products, Inc. and the Jacobsons to pay \$60,000.

! The Commission vote to authorize staff to file the complaint and proposed stipulated final order was 5-0. They were filed in the U.S. District Court for the Central District of California, Southern Division, in Santa Ana, on August 20, 2001, and require the court's approval.

<http://www.ftc.gov/opa/2001/08/liverite.htm> (press release – complaint, stipulated final order)

Spammers Settle FTC Charges

200. FTC v. Get Out From Under.com, Inc. (Dist. Ct. N.J.), August 24, 2001.

! Defendants: Get Out From Under.Com, Robert Stout d/b/a Global Internet Federal Registry, and Donald J. Lytle, individually and as an officer and director. x651

! Spammers who collected consumers' personal identifying information, including credit card information, by telling them they had to supply the data or lose access to the Internet have agreed to settle Federal Trade Commission charges that their scheme violated the law.

! The Federal Trade Commission charged that in mid-October 1999, Robert Stout, doing business as Global Internet Federal Registry; Get Out From Under.com, Inc.; and Donald J. Lytle, an officer and director of Get Out From Under.com, sent unsolicited commercial e-mail (spam) to Internet news groups notifying members that because of the Children's Online Privacy Protection Act, consumers were required to certify their age to maintain access to the Internet. The messages directed consumers to defendants' Web sites. The sites advised consumers that, "all Internet users are required to register here for Internet licensing," and provided an application form that collected information ranging from consumers' names and addresses to credit card numbers and expiration dates.

! In December 1999, the FTC filed a complaint in the U.S. District Court for the District of New Jersey, charging that the defendants' representations were false and deceptive. Shortly thereafter, the FTC and the defendants agreed to a preliminary order that required destruction of all consumer information collected by defendants as a result of the representations alleged in the complaint. The Stipulated Judgment and Order for Permanent Injunction announced today resolves that court case.

! A preliminary order in the case required the defendants to destroy the collected information; this final settlement resolves the remaining issues involved, permanently barring the defendants from misrepresentations in the advertising, marketing, promotion, distribution or sale of any products or services via the Internet. In

addition, the settlement bars the defendants from collecting, using, selling or transmitting consumers' personal identifying information or credit card information obtained as a result of misleading representations.

! The Commission vote to approve the Stipulated Final Judgment and Order was 5-0.

<http://www.ftc.gov/opa/2001/08/stout.htm> (press release – stipulated final order)

Cyberscam Targeted by FTC

5,500 Copycat Web Addresses Capture Computers and Mousetrap Surfers

201. FTC v. John Zucharini (E.D. PA., October 1, 2001)

o652

! Defendants: John Zuccarini, individually and doing business as Cupcake Party, Cupcake-Party, Cupcake Parties, Cupcake-Parties, Cupcake City, Cupcake Patrol, Cupcake-Patrol, Cupcake First-Patrol, Cupcake Show, Cupcake-Show, Cupcake Shows, Cupcake-Shows, Cupcake Parade, Cupcake-Parade, Cupcakes, Cupcake Confidential, Cupcake-Movies, Cupcake Real Video, The Cupcake Incident, The Cupcake Secret, Cupcake Message, Cupcake Messenger, The Country Walk, JZ Design, and RaveClub Berlin.

! A cyberscammer who used more than 5,500 copycat Web addresses to divert surfers from their intended Internet destinations to one of his sites, and hold them captive while he pelted their screens with a barrage of ads, was charged by the Federal Trade Commission with violating federal laws. At the request of the FTC, a U.S. District Court enjoined his activities pending further order of the court. The FTC will seek a court order to force the defendant to give up his ill-gotten gains.

! According to the FTC, the scheme works like this: The defendant registers Internet domain names that are misspellings of legitimate domain names or that incorporate transposed or inverted words or phrases. For example, he registered 15 variations of the popular children's cartoon site, www.cartoonnetwork.com, and 41 variations on the name of teen pop star, Britney Spears. Surfers looking for a site who misspell its Web address or invert a term - using cartoonjoe.com, for example, rather than joecartoon.com - are taken to the defendant's sites. They then are bombarded with a rapid series of windows displaying ads for goods and services ranging from Internet gambling to pornography. An FTC investigator entered one of the defendant's copycat domain names, annakurnikova.com, and 29 browser windows opened automatically. In some cases, the legitimate site to which the consumer was attempting to go is also launched, so that consumers may think the hailstorm of ads to which they are being exposed is from a legitimate Web site.

! Once consumers are taken to one of the defendant's sites, it is very difficult for them to exit. In a move called "mousetrapping," special programming code at the sites obstructs surfers' ability to close their browser or go back to the previous page. Clicks on the "close" or "back" buttons cause new windows to open. "After one FTC staff member closed out of 32 separate windows, leaving just two windows on the task bar, he selected the "back" button, only to watch as the same seven windows that initiated the blitz erupted on his screen, and the cybertrap began anew," according to papers filed with the court.

! Finally, the defendant's sites contained a "stealth" feature that was hidden under the task bar, making it invisible to consumers. ". . . The stealth page contains no content. Instead, its sole function is to act as a timer, periodically launching additional pages of advertisements, without any action by consumers. Thus, even as consumers struggle to escape defendant's multi-window mousetrapping scheme, more windows launch automatically," FTC documents say.

! The FTC estimates that the defendant earns between \$800,000 and \$1 million annually from his scheme, charging advertisers whose banner ads and affiliate programs are included on his Web sites. According to documents filed by the FTC, "Defendant has been sued no fewer than 63 times in the last two years, including seven federal district court cases . . . and 56 arbitration proceedings. . . Despite losing 53 suits and having almost 200 of his domain names transferred to the rightful trademark owner, celebrity, or company, defendant continues his practice of diverting and trapping consumers for his personal profit."

! The Commission vote to file the complaint was 5-0. It was filed under seal in the United States District Court for the Eastern District of Pennsylvania, in Philadelphia, on September 25, 2001. The seal was lifted September 28.

! At the request of the Federal Trade Commission, the court permanently barred the defendant from diverting or obstructing consumers on the Internet and from launching Web sites or Web pages that belong to unrelated third parties. The court also has barred the defendant from participating in advertising affiliate programs on the Internet, and has ordered him to give up more than \$1.8 million in ill-gotten gains. The order was signed by Berle M. Schiller, U.S. District Judge for in the Eastern District of Pennsylvania in Philadelphia

www.ftc.gov/opa/2001/10/cupcake.htm (press release -- complaint)

www.ftc.gov/opa/2002/05/cupcake.htm (press release – judgement and permanent injunction)

Web Site Targeting Girls Settles FTC Privacy Charges

Company Disregarded Recommendations of Better Business Bureau Children's Unit

202. United States of America v. Lisa Frank, Inc. (E.D. VA, Oct. 2, 2001)

x653

! Defendant: Lisa Frank, Inc.

! Lisa Frank, Inc., manufacturer of popular girls' toys and school supplies, and operator of a Web site featuring those products has settled charges that it violated the Children's Online Privacy Protection Rule (COPPA Rule) and the FTC Act.

! This case was brought to the FTC's attention by the Children's Advertising Review Unit (CARU) of the Council of Better Business Bureaus, which concluded that Lisa Frank, Inc. committed serious violations of the COPPA Rule and, despite CARU's urging, failed to make the changes needed to bring the Lisa Frank Web site into compliance with the Rule.

! In its complaint, the FTC alleges that although the Lisa Frank Web site, www.lisafrank.com, is directed to children, as defined in the Rule, the site did not obtain the required consent from parents before collecting this information. The complaint further alleges that, in violation of the Rule, Lisa Frank did not provide direct notice to parents about the company's privacy practices and did not inform parents that the company wanted to collect information from their children and that prior parental consent was required. Additionally, according to the complaint, the company failed to include in its Web site privacy policy required notices that an operator is prohibited from conditioning a child's participation in an activity on the child's disclosing more personal information than is reasonably necessary to participate in such activity and that parents have the right to review and have deleted their child's personal information. Finally, the complaint alleges that the company

violated the FTC Act's prohibition on deceptive practices because lisafrank.com's privacy policy falsely claimed that the site required parental consent for children 13 and younger and that parents would be required to fill in a registration form agreeing to the collection practices.

! Under the terms of the settlement, Lisa Franks, Inc. will pay \$30,000 in civil penalties to settle FTC charges that it violated the COPPA Rule and the FTC Act. The settlement also bars the company from certain future violations of the law. This is the fourth law enforcement action the FTC has taken to enforce the COPPA Rule since it became effective in April, 2000.

! The Commission vote to approve the complaint and consent settlement was 5-0. The proposed consent decree was filed on October 1, 2001 by the Department of Justice at the request of the FTC. It is subject to court approval.

<http://www.ftc.gov/opa/2001/10/lisafrank.htm> (press release – complaint, consent decree)

FTC Chairman Announces Aggressive, Pro-Consumer Privacy Agenda

Privacy Protection Resources to Increase by 50 Percent; Enforcement to be Enhanced

Federal Trade Commission Chairman Timothy J. Muris delivered remarks today at the 2001 Privacy Conference in Cleveland, Ohio, outlining the FTC's new Privacy Agenda and announcing that the agency plans to increase resources dedicated to privacy protection by 50 percent. "We will enforce current laws vigorously, using more of the FTC's resources," the Chairman said in concluding his remarks. "We will stop those practices that harm consumers. We will use our full arsenal of tools ... to pursue our strong pro-privacy agenda addressing real privacy concerns." (Oct. 4, 2001)

<http://www.ftc.gov/opa/2001/10/privacy.htm>

FTC Consent Agreement Resolves Textile Rule Violation Complaint Against Online Seller of Sports Apparel

Action Follows Seven Cases Brought in 1999 Regarding Country-of-Origin Disclosure

203. In the Matter of FanBuzz, Inc. (FTC File No. 012-3151) (Oct. 11, 2001)

! Respondent: FanBuzz, Inc.

x(654)

! The Federal Trade Commission settled charges brought through an administrative complaint against FanBuzz, Inc. (FanBuzz), a corporation with headquarters in Minnetonka, Minnesota, alleging violations of the Textile Fiber Products Identification Act (15 U.S.C. Sec. 70b(i)) and the FTC's Textile Rules (16 C.F.R. Part 303). FanBuzz, which has been in business for four years and had revenues in 2000 of approximately \$10 million, operates online retail stores selling sports apparel on behalf of various clients that include university athletic departments and professional leagues and teams.

! In 1998, the Commission amended the definition of "mail order catalog" to include those disseminated electronically over the Internet. Therefore, according to the Commission complaint in this matter, FanBuzz violated the FTC's Textile Rules by failing to disclose in its Internet advertisements whether its products are made in the United States, are imported, or both.

! Under the consent agreement settling the charges, FanBuzz would be prohibited from violating either the Textile Act or the FTC Rules in the future, and would be required to comply with other provisions to ensure its compliance for the 20-year term of the order.

! This matter is similar to a set of cases from early 1999 in which the FTC brought and settled charges against seven major U.S. retailers, including Wal-Mart Stores, Inc; Burlington Coat Factory Warehouse Corporation; Bugle Boy Industries, Inc.; Woolrich, Inc.; and Abercrombie & Fitch, Inc.

! The Commission vote to file the administrative complaint and approve the consent agreement settling its allegations was 5-0. Following a public comment period, the Commission has finalized a consent order regarding FanBuzz, Inc. The vote to approve the final consent agreement was 5-0.

<http://www.ftc.gov/opa/2001/10/fanbuzz.htm> (press release - proposed consent, complaint and analysis)

<http://www.ftc.gov/opa/2001/11/fyi0159.htm>

Bargains & Deals Magazine Charged with Internet Fraud

Company Allegedly Misrepresented Products, Did Not Deliver Merchandise to Consumers

204. FTC v. Bargains & Deals Magazine, LLC, et al. (FTC File No. 012-3190) (Oct. 16, 2001, W.D. Wash.)

! Defendants: BARGAINS & DEALS MAGAZINE, LLC dba KEITH'S WHOLESALE and BARGAINS & DEALS WHOLESALE, and MICHAEL P. CASEY (indiv & as owner). o656

! The Federal Trade Commission today announced it has filed a complaint in federal district court and received a temporary restraining order and asset freeze against Bargains & Deals Magazine, LLC (B&D), doing business as Keith's Wholesale and Bargains & Deals Wholesale, and its principal, Michael P. Casey, alleging that the defendants made misrepresentations over the Internet to induce consumers to purchase merchandise and then either failed to deliver the merchandise promised or, in some cases, did not send any merchandise at all. The complaint charges that the defendants violated both the FTC Act and the Commission's Mail or Telephone Order Merchandise Rule (Mail Order Rule).

! According to the complaint, since at least 1999 B&D has purported to sell high-quality, famous-name new and used merchandise on the company's Web sites, first at www.bestdealsontheweb.com, and then at www.bargains-deals.com. The advertised merchandise included famous-maker and Mickey Mouse watches, designer-name sunglasses, famous-maker blue jeans, sweaters and winter jackets, and children's clothing.

! Besides selling such merchandise, according to the complaint, B&D offered consumers a subscription to the *Bargains & Deals* magazine, a free classified advertising section, and a "closeout source directory" that purported to include a complete list of sources in the United States for merchandise at below-wholesale prices. Both the advertisements and the merchandise were aimed at consumers who buy in bulk for resale at flea markets, through Internet auction sites, or by other means.

! The Commission's complaint alleges that B&D violated the FTC Act and the Mail Order Rule by deceiving customers and shipping merchandise that was either in unusable condition or did not contain the brand names advertised. In addition, according to the complaint, B&D accepted money from consumers for merchandise, and, in some cases, sent them nothing at all.

! The Commission filed its complaint on October 11, 2001 in the U.S. District Court for the Western District of Washington in Seattle, seeking to permanently enjoin B&D and Casey from violating the FTC Act and the Mail Order Rule and obtain redress for consumers for injury resulting from the companies' alleged violations including rescission of contracts, the refund of monies paid, and the disgorgement of ill-gotten gains. A preliminary injunction was entered on November 2, 2001.

! The Commission vote to file the complaint was 5-0.

! On June 21, 2002, the FTC announced that the defendant agreed to settle charges that his practices

violated federal laws. The settlement bars the defendant and his company from misrepresentations in the sale of any product or service and orders the defendants to provide \$15,000 for consumer redress. Should the defendants' financial disclosure forms be found to contain inaccurate data, \$68,000, the full amount of consumer injury, will become immediately due.

! The Commission vote to approve the settlement was 5-0, which was entered by the court on June 7, 2002.

<http://www.ftc.gov/opa/2001/10/bargains.htm> (press release – complaint and TRO)
<http://www.ftc.gov/opa/2002/06/bargains.htm> (press release – stipulated final judgment)

FTC Seeks Comment on Amending Children's Internet Privacy Rule

Proposal Would Extend Time Sites Can Use E-Mail to Verify Parental Consent to Data Collection

The Federal Trade Commission is seeking public comment on a proposal to extend for two years the period during which Web sites directed to children can use an e-mail message from the parent, coupled with additional steps, to obtain verifiable parental consent for the collection of personal information from children. In a Federal Register Notice to be published shortly, the Commission proposes to extend the time period from April 21, 2002 until April 21, 2004 and requests comments on this proposal. (Oct. 26, 2001)

<http://www.ftc.gov/opa/2001/10/slidingsscale.htm>

Agencies Offer Tips for Consumers Eyeing Online Anthrax Cures

FTC Says Fraudsters Prey on Consumers' Fears

Consumers who are visiting Web sites and receiving e-mail claiming to sell Ciprofloxacin (Cipro) and other antibiotics to treat anthrax should consult a new Consumer Alert before they buy products online, according to the Federal Trade Commission. The Alert, "Offers to Treat Biological Threats: What You Need to Know," produced in conjunction with the Centers for Disease Control and Prevention (CDC) and the Food and Drug Administration (FDA), warns that fraudsters often follow the headlines, tailoring their offers to prey on consumers' fears and vulnerabilities. (Nov. 1, 2001) <http://www.ftc.gov/opa/2001/11/alert.htm>

FTC Consumer Protection Director Howard Beales Testifies on Increased Efforts to Monitor September 11 Charity Fraud

Directly following the terrorist attacks on the World Trade Center and the Pentagon, the Federal Trade Commission stepped up its efforts to detect and deter fraudulent charitable fund-raising schemes related to the tragedy, according to Congressional testimony given today by FTC Bureau of Consumer Protection Director J. Howard Beales, III. Testifying before the Subcommittee on Oversight and Investigations of the House Committee on Energy and Commerce, Beales detailed the Commission's efforts - launched shortly after the September 11th events - to systematically review consumer complaints, tips from other law enforcers and watch-dog groups, and media reports about possible charity fraud related to the attacks. (November 6, 2001)

<http://www.ftc.gov/opa/2001/11/charityfraudtestimony.htm>

FTC Halts Bogus "Gold Card" Scheme

Consumers With Poor Credit Histories Thought They Would Get Visas, MasterCard

205. *FTC v. Salyon, Inc., et. al* (District Court for the Central District of California, Southern Division) (Nov. 6, 2001) (FTC File No. 01 23124)

! Defendants: FTC v. Salyon, Inc., a California corporation dba First Liberty Financial, Salyon National Credit, Shop Salyon, and Quicklinks.com; Mark Joseph Lyon; John Donald Lyon; and Kurt Charles Uhler

! According to the FTC, the defendants, based in Aliso Viejo, California and Lake Forest, California, enticed consumers who had negative credit histories to apply for its "gold card" with promises of high credit limits and zero percent interest rates. Instead, the "merchant card" they provided only allowed users to purchase items from the defendants' websites or catalogs. After paying defendants for the cards, consumers were also informed that they could only charge 50 percent of the purchase price. They had to pay the remainder using a check or money-order.

! The FTC's complaint alleges that defendants made misrepresentations that violate the FTC Act. The complaint alleges that the defendants' failure to disclose that the card can only be used to purchase items from their websites or catalogs, and the failure to disclose that the card cannot be used to pay the entire purchase price, also violate federal law.

! In November 2001, a U.S. District Court froze the assets of Salyon, Inc., and appointed a receiver for the company at the FTC's request.

! The Court orders stemming from the settlements bar the operators from marketing any credit or merchant cards and from falsely claiming they will assist consumers improve their credit by reporting credit histories to the credit reporting agencies. The orders also bar the defendants from misrepresenting any product or service they are selling and requires that they disclose all information material to a consumer's decision to buy a product or service prior to the sale. The defendants also are barred from deceptively charging for expedited delivery. The orders contain record keeping provisions to allow the Commission to monitor their compliance with the orders. Due to the financial condition of defendants Salyon, Inc., Mark Lyon, and John Lyon, as based on financial statements they provided to the Commission, their order does not require them to pay consumer redress. If it is discovered that any of these defendants materially misrepresented their financial situation, their order requires them to pay \$2.7 million, the total amount of sales from the scheme. The order against defendant Kurt Uhler does not require him to pay consumer redress.

<http://www.ftc.gov/opa/2001/11/salyon.htm> (press release - complaint)

<http://www.ftc.gov/opa/2002/11/salyonrev.htm>

Super FuelMAX Marketers Settle FTC Charges

Fuel Savings, Environmental Claims Were Unsubstantiated; Testing Claims Were False

206. *In the Matter of Etrim Ve Sheva Holding Corporation* (FTC File No. 012 3116) (Nov. 8, 2001).

! Respondents: Etrim Ve Sheva Holding Corporation a corporation, sometimes dba as Gadget Universe, and Alexander Elnekaveh, individually and as an officer of the corporation. x(662)

! According to the FTC complaint, Etrim Ve Sheva Holding Corp., doing business as Gadget Universe, and its CEO, Alexander Elnekaveh, advertised and sold Super FuelMAX, an automotive fuel-line magnet, through catalog sales and on their Internet site.

! The FTC alleges that the respondents did not possess or rely on reasonable substantiation for its advertised claims that Super FuelMAX provided dramatic fuel-saving and emissions-reducing benefits. The complaint

also alleges that the respondents falsely represented the results of tests performed at a certified EPA laboratory.

! A final settlement would bar the Gadget Universe catalog and its CEO from misrepresenting the actual benefits or efficacy of any supposedly fuel-saving or emissions-reducing products for motor vehicles. It would also prohibit misrepresentations about testimonials, endorsements, tests, or research.

! This case is the latest in a series of FTC law enforcement initiatives targeting unsubstantiated fuel economy and engine performance claims, which has included halting allegedly deceptive advertising by the marketers of Dura Lube, Motor Up, Prolong, Valvoline, Slick 50, and STP engine treatments.

! Following a public comment period, the Commission has approved the final consent order in this matter. The vote to approve the final order was 5-0. (FTC File No. 012-3116).

<http://www.ftc.gov/opa/2001/11/gadget.htm> (press release - proposed consent, complaint and analysis)

<http://www.ftc.gov/opa/2001/12/fyi0164.htm>

Marketer of Computer Systems Settles FTC Charges

Among Other Charges, Commission Alleged Seller Misrepresented the Availability of Rebates

207. FTC v. George L. Capell (Eastern District of Pennsylvania, (01-CV-5740) (Nov. 14, 2001) (FTC File No. 002-3050)

! Defendant: George L. Capell, the president and sole shareholder of Computer Personalities Systems, Inc., d/b/a Video Computer Store (CPSI). x663

! This Pennsylvania company marketed computer systems bundled with an array of software by means of infomercials and over the Internet.

! According to the FTC complaint, between 1997 and 2000 CPSI failed to send proper delay notices, failed to offer refunds, and lacked a reasonable basis for its delivery time claims in connection with the computer systems that it shipped. The complaint also alleges that CPSI promised to pay its customers rebates in connection with the computer systems they bought, but failed to deliver the rebates in a timely manner and often didn't even provide consumers with the forms needed to request those rebates.

! Under the terms of the consent decree, Capell or any company in which he is involved will be required to comply with the Mail Order Rule when conducting any business operations that involve the sale of a product or service. In addition, he is required to provide a \$400,000 bond before entering any business whose activities would be covered by the Rule. The order also bars Capell or any company in which he is involved from making misrepresentations in connection with any rebate program, and requires him or the company to provide rebate request forms in a timely manner. The consent decree applies only to Capell, and not to CPSI, which previously filed for bankruptcy protection.

! The Commission vote to authorize staff to file the complaint and consent decree was 5-0. The consent decree was filed in the U.S. District Court for the Eastern District of Pennsylvania on November 14, 2001. The consent decree was signed by the court on November 15, 2001, and entered on November 16, 2001. A signed acknowledgement from the defendant has been received.

<http://www.ftc.gov/opa/2001/11/cpsi.htm> (press release - complaint and consent decree)

FTC 'Surf' of 110 Internet Retailers Designed To Bolster Consumer Confidence During Holiday Season – Letters Sent to 72 E-tailers to Help them Better Comply with Commission Requirements

The Federal Trade Commission's Division of Enforcement announced today that it recently conducted a surf

of 110 Internet retailers offering top-selling holiday items. The purpose of the "HolidaySmarts.com" surf was to find out whether e-tailers were making "quick-ship" claims and certain other disclosures for popular holiday items. As a result of the surf, FTC staff sent letters to 72 e-tailers stating the need to be aware of and comply with applicable federal regulations. (Nov. 19, 2001) <http://www.ftc.gov/opa/2001/11/shopsurf.htm>

FTC Cracks down on Marketers of Bogus Bioterrorism Defense Products

Agency Tells Web Site Operators Get Off the Net or Face Prosecution

The Federal Trade Commission is warning Web site operators who suggest using such things as oregano oil or zinc mineral water to treat illnesses like anthrax that it is aware of no scientific proof for such claims and that the Web site operators must remove them from the Internet. After a coordinated Internet "surf" found sites touting products and therapies that claim to prevent, treat, or cure anthrax, smallpox, and other health hazards, the FTC has sent about 40 e-mail warnings telling operators of these sites to pull the information immediately. The FTC staff will follow up by revisiting the targeted sites to determine whether the changes have been made. Operators who continue to make deceptive or misleading claims face possible prosecution for violating the Federal Trade Commission Act (FTC Act). (Nov. 19, 2001)

<http://www.ftc.gov/opa/2001/11/webwarn.htm>

Pet Express Settles FTC Charges

Pet Food Marketer Delivered Orders Late, Or Not At All

208. United States of America v. Pet Express, Inc. et al. (ED of Virginia, Alexandria Division) (Press release, Dec. 10, 2001) (Civil Action No. 01-1844-A)

! Defendants: Pet Express, Inc. dba PetXpress.com and ePet.net, and Johathan Kroeger. x665

! The FTC's complaint alleged that, since 1997, defendants' website offered premium brands of pet food with the "guarantee" that the defendants would ship all shipments in time to reach consumers within two business days of the date chosen by the customer.

! According to the FTC complaint, throughout 1999 and thereafter, when merchandise was not shipped in time, defendants noted the delays only on the customers' order status pages of their Web site instead of contacting the customers directly and giving them the option to consent to a delay or cancel the order and receive a prompt refund. Some consumers paid for merchandise they never received, or paid for and received only the initial installments of merchandise they ordered for serial delivery. Many consumers never received refunds for the merchandise they didn't receive, the FTC complaint alleged.

! With respect to merchandise ordered for serial delivery (e.g., magazine subscriptions), the Mail or Telephone Order Merchandise Rule covers only the first installment, not subsequent installments. Thus, the FTC challenged defendants' failure to comply with the Rule for delayed shipment of the first installment, and its unsubstantiated shipment representations for the subsequent installments under its Section 5 authority.

! The FTC also challenged the company's practice of giving a Rule-required delay option notice just by posting it on the customer's order status page of the company website because it was unlikely to reach the consumer within the time required by the Rule.

! Under the terms of the settlement, defendants must comply with the Rule, including providing delay option notices within the time required by the Rule. With respect to subsequent shipments of merchandise ordered

for serial delivery, the settlement requires defendants to substantiate their shipment representations. They will also have to pay redress to consumers who paid for orders that were only partially filled or that were not filled at all. Based on the defendants' financial statements, a \$100,000 civil penalty has been suspended because of their inability to pay. If the court later determines that the defendants misrepresented their financial situation, the entire \$100,000 would become payable.

! The Commission vote to refer the complaint and consent decree to the Department of Justice for filing was 5-0. They were filed in the U.S. District Court for the District of Virginia, Alexandria Division, on December 6 by the Department of Justice. The consent decree is subject to court approval.

<http://www.ftc.gov/opa/2001/12/petxpress.htm> (press release - complaint)

FTC Commissioner Swindle Appointed Chair of U.S. Delegation to OECD Experts Group
Experts Group to Review the 1992 OECD Guidelines for the Security of Information Systems

Federal Trade Commissioner Orson Swindle's appointment as the head of the U.S. delegation to the OECD Experts Group for Review of the 1992 OECD Guidelines for the Security of Information Systems (the Security Guidelines) was announced yesterday at the Group's first meeting in Washington, D.C. The Experts Group is charged with the mission of reviewing the Security Guidelines and reporting their recommendations to the OECD Working Party on Information Security and Privacy. Delegates to the Experts Group include government representatives from OECD member countries and representatives of industry and consumer interests. The U.S. delegation is comprised of representatives from the FTC and the Departments of State, Commerce, Justice and Treasury. The original Security Guidelines, adopted in 1992, were issued prior to the explosive growth of the Internet and e-commerce. Their provisions have become particularly relevant since the tragedies of September 11.

(Dec. 14, 2001)

<http://www.ftc.gov/opa/2001/12/swindleoecd.htm>

FTC Halts Cross-Border Con Artists

Scheme Used Legitimate Web Site Payment Services to Illegally Bill Consumers

209. FTC v. 9094-5486 Quebec, Inc., doing business as Consumer Resource Services ("CRS") et al. (Northern District of New York, Albany Division) (Dec. 18, 2001)

! Defendants: 9094-5486 Quebec, Inc., doing business as Consumer Resource Services, Robin Gear, and Nando R. Caporicci, also known as Robert Caporicci. The defendants are located in Montreal, Quebec.0668
! The FTC alleges that the defendants obtained consumers' credit card information by running a telemarketing operation from Canada that supposedly offered free products or services such as a low interest rate credit card or access to unclaimed cash. The defendants told the consumers, many of them elderly, that their credit card numbers were required to receive free goods or services, but that their credit cards would not be charged.

! Defendants then allegedly used the credit card numbers obtained from consumers to fraudulently establish accounts with legitimate online payment services, which act intermediaries between consumers and businesses operating over the Internet. Using these accounts, defendants allegedly posed as consumers ordering merchandise from defendants' own website. Defendants then acting as the merchant instructed the payment services to charge the consumers' credit cards, generally in the amount of \$229, and transfer payment to them. The FTC alleges that many consumers who were charged had not agreed to purchase anything and had

never heard of the online payment service identified on their credit card billing statement. In fact, many of the consumers do not even have access to a computer or e-mail, although both are required to open an account with a payment service.

! The FTC charged that the defendants' practices are unfair and deceptive and violate the FTC Act and the Telemarketing Sales Rule (TSR). The FTC has asked the court to permanently bar the defendants from violating the FTC Act and the TSR, order the defendants to give up their ill-gotten gains, and provide consumer redress.

! The Commission vote to file the complaint was 5-0. It was filed in U.S. District Court for the Northern District of New York in Albany, under seal. The seal was lifted December 17, 2001.

<http://www.ftc.gov/opa/2001/12/crs.htm> (press release – complaint)

California Defendants to Provide Redress for Charging Consumers a "Cancellation" Fee for Delayed Shipments

Commission Also Alleged Other Violations of its Mail or Telephone Order Merchandise Rule

210. US (for the FTC) v. Charles Smith, Damien Smith, and Kymberli Smith, individually and dba Salesco (FTC File No. 002-3163; Civil Action No. 01-10962NM; C.D. Cal.) (Dec. 20 2001)

! Defendants: Charles Smith, Damian Smith, and Kymberli Smith, dba Salesco x671

! The Federal Trade Commission today announced a consent decree with a California-based aftermarket automobile accessories seller resolving charges of violating the FTC's Mail or Telephone Order Merchandise Rule.

! An unincorporated business based in San Dimas, California, since 1995, Salesco has sold automobile accessories including audio equipment, seat belt extensions, canopies, chrome plated wheels, dashboards, seats, carpet kits, and car covers to consumers throughout the United States via mail order, telephone, and the Internet. The FTC's Mail or Telephone Order Merchandise Rule covers - in addition to orders by mail - orders by any "direct or indirect" use of the telephone, including orders by Facsimile or the Internet.

! According to the complaint, the defendants said in their advertising that they reserved the "right" to substitute merchandise of "equal or greater value," and to charge a 20% "cancellation" fee, including cancellations because of delayed shipment. The FTC's complaint alleged that when consumers contacted the company in response to Salesco's Internet advertising, the defendants told them that the advertised merchandise was "in stock" and would ship within a certain time. In fact, the complaint alleged, the merchandise was often not in stock. The Commission alleges that the defendants violated the Mail or Telephone Order Merchandise Rule by making unsubstantiated shipment representations and failing to provide consumers with timely and compliant delay notices. Defendants also allegedly violated the Rule by substituting merchandise that was materially different from what the customer ordered without obtaining the customer's prior consent to the substitution, and by failing to provide full refunds to consumers who canceled because shipment was delayed.

! Under the terms of the consent decree, filed by the Department of Justice (DOJ) on the FTC's behalf, the defendants, Charles Smith, Damian Smith, and Kymberli Smith, doing business as Salesco, are liable for a \$200,000 civil penalty, all but \$15,000 of which will be suspended due to their financial situation. Defendants also must provide redress to consumers whose refunds were discounted in violation of the Mail or Telephone Order Merchandise Rule and will be required to comply with the Rule in the future.

! The Commission vote to forward the complaint and consent decree to the Department of Justice for filing was 5-0. It was filed in the Federal District Court for the Central District of California. FTC staff was assisted in its investigation by the Better Business Bureau of the Southland.

<http://www.ftc.gov/opa/2001/12/salesco.htm>

FTC Broadens Warnings to Marketers of Bioterrorism Defense Products
E-mails Focus on Questionable Claims for Bioterrorism Protection Devices

A month after sending out 50 warnings to promoters of purported medicinal cures or treatments for anthrax and other bioterrorism agents, the Federal Trade Commission staff has sent out 71 more e-mails, this time focusing on promoters of such dubious protection devices as air filters, gas masks, protective clothing, and ultraviolet light mechanisms. In its recent letters, the FTC warned marketers that stringent standards and rigorous tests are required before products can be touted as truly capable of deterring biological and chemical threats. Web sites that make these claims were warned that if their assertions cannot be supported by competent and reliable scientific evidence, they must be removed from the Web. (January 2, 2002)

<http://www.ftc.gov/opa/2002/01/round2web.htm>

Eli Lilly Settles FTC Charges Concerning Security Breach
Company Disclosed E-mail Addresses of 669 Subscribers to its Prozac Reminder Service

211. In the Matter of Eli Lilly and Company (File No. 012 3214), (Jan 18, 2002), (Matter No. 0123214; Program Code M03)

! Respondent: Eli Lilly and Company x672

! Lilly, a pharmaceutical company based in Indiana, manufactures, markets, and sells several drugs, including the anti-depressant medication Prozac. Lilly operates the Prozac.com Web site, which the company promotes as "Your Guide to Evaluating and Recovering from Depression." Several of Lilly's Web sites, including www.prozac.com and www.lilly.com, collect personal information from visitors. From March 15, 2000 until June 22, 2001, Lilly offered to consumers the "Medi-messenger" e-mail reminder service. Consumers who used Medi-messenger could design and receive personal e-mail messages to remind them to take or refill their medication. Once a consumer registered for Medi-messenger, the reminder messages were automatically e-mailed from Lilly to the subscriber at the e-mail address she or he had provided, and according to the subscriber's requested schedule. These reminders were individualized e-mails and did not identify any other subscribers to the service.

! On June 27, 2001, a Lilly employee created a new computer program to access Medi-messenger subscribers' e-mail addresses and sent them an e-mail message announcing the termination of the Medi-messenger service. The June 27th e-mail message included all of the recipients' e-mail addresses within the "To:" line of the message, thereby unintentionally disclosing to each individual subscriber the e-mail addresses of all 669 Medi-messenger subscribers.

! According to the FTC's complaint, Lilly claimed that it employs measures and takes steps appropriate under the circumstances to maintain and protect the privacy and confidentiality of personal information obtained from or about consumers through its Prozac.com and Lilly.com Web sites. The FTC complaint alleges that Lilly's claim of privacy and confidentiality was deceptive because Lilly failed to maintain or implement internal measures appropriate under the circumstances to protect sensitive consumer information,

which led to the company's unintentional June 27th disclosure of Medi-messenger subscribers' personal information (i.e., e-mail addresses).

! The settlement bars misrepresentations about the extent to which Lilly maintains and protects the privacy or confidentiality of any personal information collected from or about consumers. Additionally, Lilly must establish and maintain a four-stage information security program designed to establish and maintain reasonable and appropriate administrative, technical, and physical safeguards to protect consumers' personal information against any reasonably anticipated threats or hazards to its security, confidentiality, or integrity, and to protect such information against unauthorized access, use, or disclosure.

! The Commission vote to accept the settlement was 5-0. A concurring statement was filed by Commissioner Orson Swindle. Following a public comment period, the Commission has approved a final consent order in the matter concerning Eli Lilly and Company. The vote to approve the final order was 5-0.

<http://www.ftc.gov/opa/2002/01/elililly.htm>

<http://www.ftc.gov/opa/2002/05/fyi0225.htm>

FTC Launches Crackdown on Deceptive Junk E-mail

Scammers Claim The FTC Will Confirm Legality of Illegal Chain Letter Scheme (Feb. 12, 2002)

212. FTC v. Paul K. Boivin (File No. 022 3021); (M.D. Fla.)

! Defendant: Paul K. Boivin, also known as Paul Bowen, Paul Boevien, Paul Bowvien, and Paul Brown; doing business as (DBA) Destiny 1999, Destiny 2000, and Destiny 2001. Middle District of Florida, Tampa Division. (The defendant is based in Clearwater, Florida.) x673

213. FTC v. Chad Estenson and Megan Estenson (File No. 022 3020); (D. N.D.)

! Defendants: Chad Estenson and Megan Estenson, DBA CMJ Enterprises and Rockin' E Marketing. (The defendants are based in Warwick, North Dakota.) x675

214. FTC v. Fernando Pacheco (File No. 022 3025); (D. R.I.)

! Defendant: Fernando Pacheco, also known as Frank Pacheco, DBA E-Solutions and E-Solutions 101. (The defendant is based in North Providence, Rhode Island.) x676

215. FTC v. Arnold W. Larsen, (File No. 022 3023); (M.D. Fla.)

! Defendant: Arnold W. Larsen, also known as Arnold Larson. (The defendant is based in Sarasota, Florida.) x677

216. FTC v. John Lutheran, (File No. 022 3024); (S.D. Cal.)

! Defendant: John Lutheran. (The defendant is based in San Diego, California.) x678

217. FTC v. Dario Va, (File No. 022 3027); (S.D. Cal.)

! Defendant: Dario Va. (The defendant is based in Weston, Florida.) x679

! Seven defendants caught in an FTC sting operation have agreed to settle charges that they were spamming consumers with deceptive chain letters. The letters were slightly changed variations on the same message. They promised "\$46,000 or more in the next 90 days," or similar extravagant amounts to recipients who were to send \$5.00 in cash to each of four or five participants at the top of the list. The letters instructed

new recruits to place their own name and address at the top of the list and remove the name on the bottom. In return for the \$5.00 payment, recruits received "reports" providing instructions about how to start their own chain letter schemes and recruit tens of thousands of others via spam. Each of the seven had been previously warned for participating in this same chain letter scheme.

! The stipulated final judgments and orders for permanent injunction bar all the defendants from promoting, marketing, advertising, offering for sale, selling, or assisting others in any Ponzi scheme, chain marketing scheme, or other prohibited marketing schemes. They bar misrepresentations about the potential earnings, income, benefits, amount of sales, incentives, profits, or rewards derived from any marketing scheme. They also bar misrepresentations about the legality of any program. The settlements bar the defendants from providing others with the means and instrumentalities to make false or misleading statements and bar them from selling or sharing lists of their recruits. In addition, the defendants must return any money they receive in the future from this scheme.

! In addition to the settlements, the FTC announced that today it will mail warning letters to more than 2,000 individuals who are still running this chain letter scheme.

! The FTC vote to approve the complaints and stipulated final judgments and orders was 5-0.

<http://www.ftc.gov/opa/2002/02/eileenspam1.htm> (press release – complaints, stipulated final judgments & orders for permanent injunction).

FTC Charges "Miss Cleo" Promoters with Deceptive Advertising, Billing and Collection Practices "Free Readings" Result in Large Phone Bill Charges

218. FTC v. Access Resource Services, Inc. et al. (S.D. Fla.) (Feb. 13, 2002) (FTC File No. 012 3084) (Civil Action No.: 02-60226 CIV GOLD)

! Defendants: Access Resource Services, Inc., dba Aura Communications, Circle of Light, Mind and Spirit, and Psychic Readers Network, Psychic Readers Network, Inc., Steven L. Feder, and Peter Stoltz. x683

! "Miss Cleo," the purportedly "renowned psychic" whose ads promote "free" readings to callers seeking advice, is the subject of a federal district court complaint filed today by the Federal Trade Commission. The defendants purportedly are the largest providers of "psychic" audiotext services in the United States, and use a variety of marketing tools to attract consumers to their services, including TV, print media, the Internet, and direct mail. The complaint defendants with deceptive advertising, billing and collection practices. According to the complaint, the defendants misrepresent the cost of services both in advertising and during the provision of the services; bill for services that were never purchased; and engage in deceptive collection practices. The defendants also harass consumers with repeated, unwanted, and unavoidable telemarketing calls that consumers cannot stop. The FTC also alleges that the defendants often respond to consumers' inquiries with abusive, threatening, and vulgar language.

! In addition, the complaint alleges that the defendants violated the FTC's 900 Number Rule by: failing to make required cost disclosures in their advertisements, and diluting the disclosures that they do make with contradictory information; and threatening to report adverse information to credit reporting bureaus without first conducting an investigation of billing errors. Defendants agreed to a stipulated preliminary injunction, which provides for the appointment of a court appointed auditor, injunctive relief, and mandatory financial disclosures.

! The Commission vote to authorize staff to file the complaint was 5-0. The complaint was filed in U.S. District Court for the Southern District of Florida, in Fort Lauderdale, on February 13, 2002.

! On November 14, 2002, the FTC announced that defendants had agreed to a stipulated court order

stopping all collection efforts on accounts or claims from consumers who purchased or purportedly purchased their pay-per-call or audiotext services and forgiving an estimated \$500 million in outstanding consumer charges as part of a settlement with the Federal Trade Commission.

! The Commission vote authorizing staff to file a stipulated final judgment and order was 5-0. The Commission filed its action in the U.S. District Court for the Southern District of Florida, in Miami, on October 30, 2002. The Honorable Judge Alan Gold approved the order on November 4, 2002. The FTC brought this action with the valuable support of, and in coordination with, the offices of numerous State Attorneys General.

<http://www.ftc.gov/opa/2002/02/accessresource.htm> (press release – complaint)

<http://www.ftc.gov/opa/2002/02/ars.htm> (press release)

<http://www.ftc.gov/opa/2002/11/ars.htm> (press release and stipulated final judgment)

FTC Charges Sellers of Cell Phone Radiation Protection Patches with Making False Claims

219. FTC v. Stock Value 1 (Southern District of Florida) (S.D. Fla.) (Feb. 13, 2002) (FTC File No. 012-3098) (SV1 - Civil Action No. 02-CV-80131)

! Defendants: Stock Value 1 a/k/a SV1, Deborah Jenkins, and Meristar International, Inc. (On May 14, 2002, the Commission announced that it had approved the filing of an amended complaint in its case adding Meristar International, Inc. as a defendant. o686

220. FTC v. Comstar Communications, Inc. et. ano. (E.D. Cal.) (Feb. 13, 2002) (Comstar - Civil Action No. 02-CV-00348)

! Defendants: Comstar Communications, Inc., a/k/a Communications 2000, and Randall A. Carasco o688

! The Federal Trade Commission has charged two companies that sold devices that purportedly protect users from electromagnetic radiation emitted by cellular telephones with making false and unsubstantiated claims. In separate court actions, the FTC alleges that Stock Value 1, Inc. and Comstar Communications, Inc. (Comstar) falsely represented that their products block up to 97% or 99% of radiation and other electromagnetic energy emitted by cellular telephones, thereby reducing consumers' exposure to this radiation. According to the FTC, the defendants lacked a reasonable basis to substantiate their claims. The Commission is seeking permanent injunctions, consumer redress, and other equitable relief.

! Stock Value 1, Inc., based in Boca Raton, Florida, and also known as SV1, and its president, Deborah Jenkins, marketed and sold two products -- "SafeTShield™" and "NoDanger"-- that purportedly block electromagnetic energy emitted from cellular and cordless telephones to consumers throughout the United States. These products consist of metallic fiber patches that are placed over the earpieces of cellular and cordless telephones. The defendants advertised their products through TV, radio and print ads, and on the Internet.

! Comstar, based in West Sacramento, California, and its president, Randall Carasco, marketed and sold their products under the names "WaveShield," "WaveShield 1000," and "WaveShield 2000." They advertised their products to consumers nationwide through TV, radio and print ads, and on the Internet.

! The complaints allege that the defendants, in both cases, failed to disclose in their ads that the vast majority of electromagnetic energy emitted by cellular and cordless phones comes from the antenna and parts of the phone other than the earpiece. The defendants allegedly also failed to disclose that the products have no

effect on this other electromagnetic energy. These facts, the FTC said, would be material to consumers' decision to buy or use their products. Both complaints further allege that the defendants made false statements that their products had been scientifically "proven" and "tested," when in fact that was not the case. According to the FTC, there is no scientific proof that so-called shields significantly reduce exposure from electromagnetic emissions.

! These cases were referred to the Commission by the Good Housekeeping Institute, the consumer product evaluation laboratory of Good Housekeeping Magazine. Independent tests conducted by the Good Housekeeping Institute on SafeTShield™, WaveShield, and similar products found that the products did not reduce radiation exposure from cellular telephones.

! The Commission vote to authorize staff to file the complaints in the appropriate federal district courts was 5-0.

! On May 7, 2003, the FTC announced that a stipulated order, which has been approved by the court, settled the Comstar matter. The order prohibits the defendants from the future marketing or selling of any product that purports to reduce consumers' exposure to radiation and electromagnetic energy, unless the claims are true and can be substantiated by competent and reliable scientific evidence. The order also prohibits the defendants from making unsubstantiated representations about the benefits, performance, or efficacy of any product or service. The settlement requires the defendants to clearly disclose that most electromagnetic energy emitted by cell phones comes from parts of the phone other than the earpiece, where the WaveShield is placed, and that the WaveShield has no significant effect on this other radiation. Additionally, the settlement prohibits the defendants from misrepresenting the results of any test, study, or research.

! The Commission vote to approve the filing of the Comstar order was 5-0. The Comstar order was entered in the U.S. District Court for the ED CA, in Sacramento, on April 28, 2003.

<http://www.ftc.gov/opa/2002/02/svicomstar.htm> (press release – complaint)

<http://www.ftc.gov/opa/2002/05/fyi0226.htm>

<http://www.ftc.gov/opa/2003/05/comstar.htm> (release – stipulated final order)

Virginia Mail-order Retailer Settles FTC Charges for Misleading Ads and Deceptive 'Upselling' for Buying Club Service

221. In the Matter of TechnoBrands, Inc., and Charles J. Anton FTC v. TechnoBrands, Inc. (E.D. Va.)

(File No. 992 3034, Civil Action No.: 3:02-CV-86) (Feb. 19, 2002)

! Respondents: TechnoBrands, Inc. (also Defendant in separate action), and Charles J. Anton x690

! TBI, located in Colonial Heights, Virginia, is a mail-order retail seller of various gadgets, electronic items, and diet, health, and beauty products, including weight-loss products, pain-relief magnets, air cleaners, and hair-growth stimulants, manufactured by third parties. It markets these products through direct mail catalogs, on the Internet, and in magazine and newspaper ads.

! The Federal Trade Commission has settled charges with respondents for numerous allegations of false and unsubstantiated claims. The FTC alleged that TBI made unsubstantiated performance, efficacy and benefit claims; misrepresented the validity of tests or studies; and used deceptive testimonials or endorsements.

! Charges were separately settled regarding FTC allegations TBI deceptively engaged in "upselling" a buyer's

club service. According to the FTC, TBI's (then Comtrad) telemarketers promoted a so-called "no obligation free trial" in a buying club at the end of the call after a consumer had completed an order to buy TBI's product and provided credit card information. The telemarketer allegedly failed adequately to disclose, however, the following material facts: the consumer had to cancel the service before 30 days elapsed in order to avoid being charged for a year's membership; renewals each year were billed automatically to a credit card; and the credit card number provided by the consumer for the TBI product order would be turned over to Triad for the purpose of charging the membership.

! Under the terms of the proposed consent agreement, the respondents are required to pay \$200,000 in consumer redress, and would be required to have competent and reliable scientific evidence to support claims made for the specific products challenged, as well as for other products sold by TBI.

! In a separate action, filed in federal district court, TBI has agreed to pay more than \$200,000 in consumer redress for its role in the deceptive telemarketing of a buyer's club service after completing the sale of its own products. The Commission charged that the company did not clearly alert consumers that their credit cards would automatically be charged if they did not cancel the membership before the end of a "free" 30-day trial or that their credit card numbers were being turned over to a different company.

<http://www.ftc.gov/opa/2002/02/technobrands.htm> (press release – agreements, complaints, analysis)

FTC Announces First Two Enforcement Actions Against Purveyors of Bioterrorism Defense Products

Settlements Obtained in Both Actions

222. FTC v. Vital Living Products, Inc. et. ano. (W.D.N.C., Charlotte Div.) (Feb. 25, 2002) (FTC Matter No. 022 3060) (Civ. Action No. 3:02CV74-MU)

! Respondents: Vital Living Products, Inc., doing business as American Water Service; and Donald R. Podrebarac

x692

223. In the Matter of Kris A. Pletschke (File No. 022 3070) (Docket No. C-4040)

! Respondents: Kris A. Pletschke, individually and doing business as Raw Health.

x693

! The marketers of a home test kit for anthrax, and an on-line seller of a colloidal silver product purported to treat anthrax, have both settled Federal Trade Commission charges of false and unsubstantiated product advertising. The FTC's complaints name Vital Living Products, Inc. and its president, Donald R. Podrebarac, and the operator of "rawhealth.net," Kris Pletschke. These cases are the latest in a series of FTC efforts to combat bogus bioterrorism-related products.

! **Vital Living Products, Inc.** and its president have entered into an agreement with the FTC to settle charges that they deceptively advertised their "PurTest Anthrax Test" (PTAT) - a purported do-it-yourself test kit - as an effective and accurate means for detecting the presence of anthrax bacteria and spores. In a complaint filed in federal court along with the agreement, the FTC states that the defendants claimed that the PTAT was an accurate and effective test for detecting anthrax in air, water and on surfaces, and that an independent FDA-registered laboratory conducted tests, using anthrax, showing that PTAT was effective.

! The complaint alleges that these advertising claims were false and unsubstantiated. Among other things, the proposed settlement would prohibit sales and shipment of PTAT, unless evidence showed that the product

worked, and would prohibit false and unsubstantiated claims for other biohazard tests or devices. After the September 11, 2001 tragedy, the defendants began marketing PTAT to hardware stores and on the Internet, claiming, among other things, that their tests were 95 percent accurate in detecting anthrax. As a result of a Commission staff request, however, no kits were actually sold to consumers.

! The Commission vote to authorize staff to file the complaint and stipulated final order for permanent injunction was 5-0. The complaint and stipulated final order were filed in the U.S. District Court for the Western District of North Carolina, in Charlotte, on February 25, 2002, and the stipulated final order requires the court's approval.

! The operator of the Web site "rawhealth.net," **Kris Pletschke**, signed a final consent agreement with the FTC concerning the Web site's unsubstantiated claims that its colloidal silver product could treat or cure 650 different diseases; eliminate all pathogens in the human body in six minutes or less; and is medically proven to kill every destructive bacterial, viral, and fungal organism in the body, including anthrax, Ebola, Hanta, and flesh-eating bacteria.

! According to the terms of the FTC settlement, Pletschke is prohibited from making deceptive and misleading therapeutic claims for colloidal silver or any other health-related product, and is required to make refunds to consumers who purchased colloidal silver products from the Raw Health Web site. The order requires Pletschke to notify all consumers who purchased colloidal silver from him of the FTC's action, offer them full refunds, and make such refunds within 90 days of the request. Finally, he must provide the FTC with a list of all distributors who purchased colloidal silver from him, and notify his distributors of the FTC's action.

! This case was developed as part of a joint effort with the Oregon Attorney General's Office. Working in close coordination with FTC staff, the Oregon Attorney General brought its own action against rawhealth.net and Pletschke, who is located in Beaverton, Oregon.

! FTC administrative consent orders ordinarily become final only after a 30-day public comment period, but in exceptional instances, such as this one, where the Commission finds that the allegedly unlawful conduct to be prohibited threatens substantial and imminent public harm the orders will become immediately effective. At the same time, it has placed the consent agreement on the record for a period of thirty (30) days for public comment. As a result, the order is now effective and the respondent is subject to civil penalties if he fails to comply.

! The Commission vote to accept and make final a Part II consent agreement was 5-0.

! On September 2, 2003, the FTC announced that it has charged Kris Pletschke, doing business as Raw Health, with violating a 2002 FTC order against him by making unsubstantiated claims for two dietary supplements on his Web site, and by failing to provide a complete compliance report as required by that order. Pletschke's ongoing advertising has included unsubstantiated claims regarding the efficacy of "E3 Essential Algae" and "Parasine2," including statements that E3 Essential Algae treats or alleviates symptoms associated with a variety of diseases such as diabetes, AIDS, Chronic Fatigue Syndrome, and hepatitis, and that Parasine2 treats or alleviates conditions such as chronic fatigue. At the FTC's request, the Department of Justice (DOJ) filed a complaint against Pletschke seeking redress for consumers, a civil penalty, and an injunction against further order violations.

(<http://www.ftc.gov/opa/2002/02/vitalraw.htm> (press release – complaint, stipulated final order for Vital Living and Complaint, Agreement, Decision and Order for Raw Health)

<http://www.ftc.gov/opa/2003/09/rawhealth.htm> (Complaint for civil penalties, injunctive and other relief)

FTC Releases Wireless Workshop Summary

Staff of The Federal Trade Commission released a summary and update of the proceedings of its December 2000 workshop titled, "The Mobile Wireless Web, Data Services and Beyond: Emerging Technologies and Consumer Issues." A transcript of the entire two-day proceeding and a list of workshop participants is available at <http://www.ftc.gov/bcp/workshops/wireless/>.

The Workshop addressed five topics: (1) an overview of the technologies; (2) privacy issues raised by these technologies; (3) security issues; (4) advertising and disclosures in the wireless area; and (5) self-regulatory programs.

<http://www.ftc.gov/opa/2002/03/wireless.htm>

Palm, Inc. Settles FTC Charges That it Failed to Disclose Limitations of its PDAs *Action Requires Clear Disclosure of Need to Purchase Add-on Products or Services*

224. In the Matter of Palm, Inc. (FTC File No. 002-3332)

! Respondent: Palm, Inc.

x694

! The FTC announced a *proposed* settlement agreement with Palm, Inc. (Palm), the leading manufacturer of Personal Digital Assistants (PDAs). Respondent Palm, Inc. is a Delaware corporation with its principal office or place of business in Santa Clara, California.

! The settlement concerns Palm's claims that its PDAs come with built-in wireless access to the Internet and e-mail, as well as other common business functions - claims that the FTC alleged were not true for many models of the popular PDAs. In order to wirelessly access the Internet and their email accounts using most Palm PDAs, consumers must purchase and carry a separate wireless modem or a device to connect the PDA to certain mobile telephones, and in order to perform the claimed business functions using Palm PDAs, consumers must purchase and install additional software. In addition, the FTC alleged that the company's advertisements failed to disclose that purchasers of one model line that comes with built-in wireless Internet and e-mail access must subscribe to Palm's proprietary "Palm.Net" Internet service and pay significant monthly service fees for e-mail and Internet access.

! Under the terms of the settlement, Palm would be required to disclose, clearly and conspicuously, when consumers have to buy add-ons in order to perform advertised functions (such as the need for a modem to access e-mail or the Internet). In addition, Palm would be barred from misrepresenting any performance characteristic of any non-wireless PDA regarding its ability to access the Internet or e-mail. The agreement would also prohibit Palm from misrepresenting that its wireless Internet or e-mail service coverage is available everywhere or almost everywhere in the United States.

! The Commission vote to accept the *proposed* consent agreement for public comment was 5-0. A summary of the proposed consent agreement will be published in the Federal Register shortly. The agreement was subject to public comment for 30 days, until April 5, 2002, the Commission will now decide whether to make it final.

<http://www.ftc.gov/opa/2002/03/palm.htm> (press release – agreement, complaint, exhibits, analysis)

Court Shuts Down Website Selling Bogus Domain Names *".USA," ".BRIT," Deceptively Marketed as Useable According to FTC Allegations*

225. FTC v. TLD Network Ltd. et. al. (FTC File No. X020026, Civ. No. 020-1475); (Filed Feb. 28,

2002) (N.D. Ill., E. Div).

! Defendants: TLD Network Ltd., Quantum Management (GB) Ltd., TBS Industries Ltd., Thomas Goolnik, and Edward Harris Goolnik x699

! An operation that used deceptive spam messages and appeals to patriotism to sell Web addresses that don't work, including ".usa," has been shut down by a U. S. District Court at the request of the Federal Trade Commission. The court's action ensures that the defendants will not be able to reemerge by registering the same domain names offshore. The court also ordered an asset freeze to preserve money for consumer redress. Officials from the United Kingdom's Office of Fair Trading assisted the FTC on the issue of domain name sales and are investigating such activities in the U.K.

! According to the FTC, the bogus businesses sold domain names ending with suffixes such as ".brit," and ".bet ." After September 11, the companies launched an aggressive spam campaign in the United States to advertise domain names ending in ".usa." Subject lines in their e-mail read, "Be Patriotic! Register .USA Domains." The hyperlink connected consumers to a Web site where they were offered the advertised domain names for \$59 each.

! The FTC alleged that the companies are not accredited domain name registrars, that the ".usa" domain names are not usable on the Internet, and that they probably never will be useable. In papers filed with the court, the agency said that many consumers had purchased multiple bogus domain names, and the defendants likely pocketed more than \$1 million from their illegal scheme in less than a year.

! The FTC alleged that the companies violated federal law by failing to disclose on their Web sites that the domain names they were selling were not useable on the Internet, and by sending the deceptive spam. The FTC asked the court to permanently bar the operation from deceptively selling the domain names and to order consumer redress. The defendants' Web site domain names are registered with U.S. companies. The defendants will be prevented from reestablishing the same domain names in another country because the domain names have been suspended by court order.

! The complaint was filed in the U.S. Dist. Ct. for ND IL, Eastern Div., in Chicago, on Feb. 28. An amended complaint added TLD Networks, Ltd., a Channel Islands corporation, as a defendant in the case. The vote to approve both the initial and amended complaints were 5-0.

! A settlement was announced on Dec. 3, 2002, that bars defendants from misrepresenting the usability of domain names, requires the disclosure of limitations or conditions on the use or function of domain names, and bars the operators from selling their customer lists. The settlement also provides as much as \$300,000 for consumer redress.

<http://www.ftc.gov/opa/2002/03/tld.htm>(press release – complaint, memorandum, TRO)

<http://www.ftc.gov/opa/2002/04/fyi0220.htm>

<http://www.ftc.gov/opa/2002/12/tld3.htm> (press release – stipulated final judgment)

FTC to Host Public Workshop on Consumer Information Security

The Federal Trade Commission will host a two-day public workshop to explore issues related to the security of consumers' computers and the personal information stored in them or in company databases. A Federal Register Notice to be published shortly states that the workshop will take place in Washington May 20 and 21, 2002. www.ftc.gov/opa/2002/03/security.htm

**International Netforce Launches Law Enforcement Effort
Sweep Targets Deceptive Spam and Internet Fraud**

The Federal Trade Commission has joined eight state law enforcers in the United States and four Canadian agencies in an initiative targeting deceptive spam and Internet fraud. The agencies have brought 63 law enforcement actions against Web-based scams ranging from auction fraud to bogus cancer cure sites. In addition to the law enforcement actions, the FTC, six state agencies, and Canada's Competition Bureau sent warning letters to more than 500 spammers based in Alaska, Idaho, Montana, Oregon, Washington, Wyoming, and Canada who allegedly are running illegal chain letter schemes. The chain letter deceptively claimed the program is legal and urged recruits who question its legitimacy to contact the FTC. In another initiative, Netforce partners tested whether "remove me" or "unsubscribe" options in spam were being honored. Most of the "remove me" requests did not get through. Based on information gathered by the Netforce, the FTC has sent more than 75 letters warning spammers that deceptive "removal" claims in unsolicited e-mail are illegal.

The FTC targeted four operations using the Net to scam consumers:

226. FTC v. Linda Jean Lightfoot (S.D. Ohio, W. Div.) (FTC File No. 0023092) (Filed Mar. 29, 2002).

! Defendants: Linda Jean Lightfoot, individually, and doing business as Universal Direct, and Charles F. Childs, individually, and doing business as Universal Direct x702

! An FTC complaint named Universal Direct and its principals, Linda Jean Lightfoot and Charles F. Childs. Their spam promotes "a MLM (multi-level marketing) Gifting Program that CAN'T FAIL" and promises participants \$10,000 in cash gifts within a few months of joining. The FTC alleges the scheme is an illegal chain-letter in which most participants will fail to make any money.

! The FTC has asked the court to halt the illegal scheme and freeze the defendants' assets pending trial. The agency will seek a court order requiring the defendants to give up their ill-gotten gains.

! The Commission votes to file the complaint was 4-0, with Commissioner Sheila Anthony not participating.

! On September 26, 2003, the FTC announced a settlement in this matter. The settlement bars the defendants from promoting or selling pyramid or chain mail schemes, misrepresenting potential earnings claims, misrepresenting the legality of such schemes, failing to disclose the profits or earnings of other participants in any multilevel marketing program, and providing others with the means to make misrepresentations.

www.ftc.gov/opa/2002/04/spam.htm (press release – complaint)
<http://www.ftc.gov/opa/2003/09/universal.htm>

227. FTC v. David L. Walker (W.D. Wash. at Seattle) (FTC File No. 0023093) (Filed Mar. 29, 2002)

! Defendants: FTC v. David L. Walker, individually and doing business as DLW Consulting, Inc. o703

! The FTC alleges David L. Walker is using an Internet site to market products he claims cure cancer, including his "CWAT -Treatment: BioResonance Therapy and Molecular Enhancer." The site claims his treatments, for which he charges between \$2,400 and \$5,200, make surgery, chemotherapy, and other conventional cancer treatments unnecessary. The FTC alleges the claims are unsubstantiated and a declaration from a distinguished oncologist suggests the therapies are potentially harmful to cancer patients. The agency has asked the court to bar the unsubstantiated claims permanently, and order consumer redress.

! The Commission votes to file the complaint was 4-0, with Commissioner Sheila Anthony not participating.

! The court granted the Temporary Restraining Order on March 29, 2002, and a Preliminary Injunction was entered on April 12, 2002.

! On Oct. 28, 2002 the FTC announced a settlement that resolves the litigation. The settlement permanently bars the defendant from making unsubstantiated claims about the health benefits and efficacy of health-related products and services.

! The FTC filed this case in conjunction with the Office of the Attorney General of Washington and with its invaluable assistance. The Attorney General's Office obtained a judgment in its companion case barring the unsubstantiated claims in Washington state and requiring the defendant to pay \$229,000 in consumer restitution.

! The Commission vote to accept the stipulated final judgment and order was 5-0. The case was filed in U.S. District Court for the Western District of Washington at Tacoma.

www.ftc.gov/opa/2002/04/spam.htm (press release – complaint)

<http://www.ftc.gov/opa/2002/10/walker.htm>

228. United States of America (for the FTC) v. Sound City 2000, Inc. (D. OR.) (Filed Mar. 6, 2002) (FTC File No. 0023087).

! Defendants: FTC v. David L. Walker, individually and doing business as DLW Consulting, Inc. x704 In a third case, Sound City 2000, Inc. and Linda M. Simmons have agreed to settle charges that they violated the FTC's Mail Order Rule. The Sound City Web site advertised and sold compact discs. The FTC alleged that Sound City delivered discs late or not at all and failed to make prompt refunds. The settlement bars the defendants from violating the Rule and requires them to pay consumer redress. The complaint and proposed consent decree with Sound City 2000 and Linda M. Simmons was filed in U.S. District Court for the District of Oregon, by the Department of Justice on behalf of the FTC.

! The Commission vote to refer the matter to DOJ for filing was 5-0.

www.ftc.gov/opa/2002/04/spam.htm (press release – complaint, consent decree)

"You've Just Won a Playstation 2!" - or Maybe Not, Says FTC in Complaint Filed Against Internet Spammers. Spam Scam Targeted Kids and Their Parents

229. FTC v. BTV Industries et al. (D. Nev.) (Mar. 27, 2002) (FTC File No. 022-3064) (Civil Action No. CV-S-02-0437-LRH (PAL)).

! Defendants: BTV Industries, Rik Covell, Adam Lewis, National Communications Team, Inc., LO/AD Communications Corp., and Nicholas Loader

o710

! "Spam" e-mail messages claiming that consumers had won a free Sony PlayStation 2 or other prize through a promotion purportedly sponsored by Yahoo, Inc., instead routed consumers to an adult Internet site via a 900-number modem connection that charged them up to \$3.99 a minute, according to a complaint filed by the FTC.

! At the request of the FTC, a U.S. District Court has halted the scheme and frozen the corporations' assets pending a preliminary injunction hearing. The agency alleges that the scam has caused millions of dollars in consumer injury, and has asked the court to preserve the assets for consumer redress.

! The Commission charged the defendants with violating the FTC Act and the Pay-Per-Call Rule, which implements the requirements of the Telephone Disclosure and Dispute Resolution Act of 1992.

! In its complaint, the FTC is seeking a permanent injunction and other equitable relief, including consumer redress. The Commission vote authorizing staff to file the complaint was 4-0, with Commissioner Sheila Anthony not participating. The complaint was filed under seal in U.S. District Court for the District of Nevada

on March 27, 2002. The seal was lifted on April 22, 2002.

<http://www.ftc.gov/opa/2002/04/btv.htm> (press release – complaint, TRO)

FTC Protecting Children's Privacy Online

On the second anniversary of the Children's Online Privacy Protection Rule, the Federal Trade Commission announced its sixth COPPA enforcement case together with new initiatives designed to enhance compliance with the law. The package of initiatives includes:

A settlement with the operators of the Etch-A-Sketch Web site resolving alleged violations of COPPA and requiring a \$35,000 civil penalty; Release of an FTC COPPA compliance survey, and a business education initiative to help children's Web site operators draft COPPA-compliant privacy policies; Announcement of warning letters to more than 50 children's sites alerting them to the notice provisions of COPPA and the requirement that they comply with these provisions; and Extension of COPPA's sliding scale mechanism for obtaining verifiable parental consent for a three year period.

<http://www.ftc.gov/opa/2002/04/coppaanniv.htm>

230. United States (for the FTC) v. The Ohio Art Company (ND OH, W. Div.; FTC File No. 022-3028; Release: Apr. 22, 2002).

! Defendants: The Ohio Art Company

x711

! The Ohio Art Company, manufacturer of the Etch-A-Sketch drawing toy, will pay \$35,000 to settle Federal Trade Commission charges that it violated the Children's Online Privacy Protection Rule by collecting personal information from children on its [www.etch-a-sketch](http://www.etch-a-sketch.com) Web site without first obtaining parental consent.

! The FTC also alleged that the site collected more information than was reasonably necessary and failed to provide parents the opportunity to review the personal information collected from their children and to inform them of their ability to prevent the further collection and use of this information,

! The settlement also bars future violations of the COPPA Rule.

<http://www.ftc.gov/opa/2002/04/coppaanniv.htm>

FTC Charges Three Top-selling Electronic Abdominal Exercise Belts with Making False Claims *Alleges Electronic Abdominal Gadgets Won't Provide Six-Pack Abs*

231. FTC v. Electronic Products Distribution, L.L.C., et al. (SD Cal.; Filed: May 7, 2002; Released: May 8, 2002).

! Defendants: Electronic Products Distribution, L.L.C., Energizer Products, Inc., Abflex USA, Inc., AB Energizer, L.L.C., Thomas C. Nelson, Holly Hernandez, also known as Holly Bryan, and Martin van der Hoeven.

o721

232. FTC v. United Fitness of America, LLC., et al. (D. Nev.; Filed: May 7, 2002; Released: May 8, 2002).

! Defendants: United Fitness of America, LLC, George Sylva, Tristar Products, Inc., and Kishore Mirchandani, also known as "Keith" Mirchandani.

o725

! On July 23, 2003, the FTC announced that United Fitness of America, LLC; eBrands Commerce Group,

LLC; Tristar Products, Inc.; and their principals agreed to pay more than \$5 million to settle Federal Trade Commission charges that their Fast Abs belt did not produce "six pack" abs without exercise as they advertised. Under the settlements, the defendants are permanently banned from representing that Fast Abs or any substantially similar device causes users to lose inches or fat; gives users well-defined abdominal muscles; is equivalent to or superior to ordinary abdominal exercise; or helps produce any of those results.

! The Commission vote authorizing staff to file an amended complaint and two stipulated final judgments and orders was 5-0. The documents were filed in the U.S. District Court, District of Nevada, on July 21. The proposed settlements are subject to court approval.

233. FTC v. Hudson Berkley Corporation, et al. (D. Nev.; Filed: May 7, 2002; Released: May 8, 2002).

! Defendants: Hudson Berkley Corporation, doing business as Hudson Berkeley, Inc., Matthias Granic, Bismarck Labs Corporation, doing business as BLC Bismarck Labs Corporation, TMI Tricom Marketing, Inc., CCI CAD CAM Industries Ltd., Inc., and Bernd Ebert. o731

! The FTC's complaints allege that the advertisements for the three ab devices falsely represent that: 1) the ab devices cause fat loss and inch loss; 2) the ab devices will give users well-defined abdominal muscles (e.g., "rock hard," "six pack" or "washboard" abs); and 3) use of the ab devices is equivalent to (and, for AbTronic and Fast Abs, superior to) conventional abdominal exercises, such as sit-ups or crunches.

! The FTC complaints further allege that the advertising for all three devices falsely claimed that the devices are safe for all users and failed to disclose, or failed to disclose adequately, warnings about health hazards for some people.

! The defendants advertised the three devices through Internet Web sites and at national retail outlets. In addition, the defendants made claims on the packaging for the three products, which the FTC also allege were false and deceptive. The products sell for about \$40-\$120.

! The U.S. Food and Drug Administration and the Napa County, California District Attorney's Office provided assistance on these cases.

! The Commission vote to authorize staff to file the three complaints in the appropriate federal district courts was 5-0.

! On February 7, 2003, the FTC announced that it had approved the stipulated dismissal of a defendant in the matter currently pending against Electronic Products Distribution, LLC (EPD). The original complaint, filed along with two others against additional defendants and announced on May 8, 2002, alleged that EPD and its principles deceptively marketed electronic abdominal exercise belts. Through this action, the Commission has authorized staff to dismiss Holly Hernandez as a defendant in this matter. The Commission vote authorizing the staff to file the stipulated dismissal was 5-0.

www.ftc.gov/opa/2002/05/projectabsurd.htm (press release – complaints)

<http://www.ftc.gov/opa/2003/02/fyi0311.htm>

FTC Will Hosts Public Workshop on Consumer Information Security

On May 20-21, the FTC will host a 2 day public workshop to explore issues related to the security of consumers' computers and the personal information stored in them or in company databases. Topics for the session will include: The current state of consumer information security; Steps consumers can take to secure their information and what businesses are doing to educate consumers about these steps; Existing business

models that help consumers maintain security; Steps that businesses that maintain consumer information can take to improve their own security; The Organization for Economic Cooperation and Development (OECD) security review; Emerging standards for business security; and Approaches that bear promise for improving security in the long term.

<http://www.ftc.gov/opa/2002/05/cisma.htm>

**Accuracy of "WHOIS" Internet Database Essential to Law Enforcement, FTC Tells Congress
*Database Contains Registration Information About Web Site Operators***

The Federal Trade Commission today highlighted the importance of accurate information in the Whois database, saying that law enforcers fighting fraud on the Internet rely on the integrity and accuracy of the database's registration information about Web site operators. J. Howard Beales, III, Dir. of the FTC's Bureau of Consumer Protection, told the House Judiciary Committee's Subcommittee on Courts, the Internet, and Intellectual Property that when the information is accurate, it can "help law enforcers quickly identify wrongdoers and their location, halt their conduct and preserve money to return to defrauded consumers. Inaccurate Whois data, however, help Internet scam artists remain anonymous and stymie law enforcement efforts." The Commission vote to approve the testimony was 5-0.

<http://www.ftc.gov/opa/2002/05/whois.htm> (press release – testimony)

**Chairman Details Progress Made in Implementing FTC's New Privacy Agenda
*Remarks Presented Today at the Networked Economy Summit in Reston, Virginia***

Presenting remarks titled "Protecting Consumers' Privacy: Goals and Accomplishments" today at the Networked Economy Summit in Reston, Virginia, Federal Trade Commission Chairman Timothy J. Muris said that the FTC has made significant strides in implementing the Privacy Agenda announced last October, and pledged continued diligence to ensure that consumers are protected as the "information economy" grows more complex.

<http://www.ftc.gov/opa/2002/06/neteconspch.htm>

**State, Federal Law Enforcers Launch Sting on Business Opportunity, Work-at-Home Scams
*Two spam scam cases found in sweep of low-tech vending machine deceptive Biz-Ops***

! The FTC, the Department of Justice (DOJ) and 17 state law enforcement agencies have launched a law enforcement sting and consumer education campaign targeting hucksters who use deceptive earnings claims and paid "shills" to promote their scams or otherwise violate consumer protection laws. Seventy-seven operations have been caught in the sting.

! Using undercover investigators and special computer tools, the FTC allegedly identified business opportunity advertisements that made earnings claims without including cautionary language required by the FTC's Franchise Rule. In the course of their investigations, the FTC staff says it uncovered evidence that some of the "references" didn't own or operate a business, but were merely paid shills.

234. FTC v. Associated Record Distributors, Inc., et al. (SD Fla) (June 10, 2002)

! Defendants: Associated Record Distributors, Inc., Alfredo Susi, Russell MacArthur, David Siegel, Brian Morgenstern (indiv. & as officers/directors of the corporation).

! On June 24, 2003, the FTC announced a settlement in the ARD matter. The proposed settlement with defendant Russell MacArthur bans him from advertising, promoting, or selling any franchises or other business

opportunities, or from owning or working for any entity that engages in those activities. The settlement also prohibits MacArthur from making any material misrepresentations in connection with the sale of any goods or services and from violating the Commission's Franchise Rule.

! The settlement with the other defendants prohibits them from making deceptive claims, including earnings claims, in connection with the marketing or sale of any franchise or other business opportunity. The settlements also require the defendants to abide by the Franchise Rule and to pay substantially all their assets (approximately \$300,000), which the court previously froze, to the FTC for redress to victimized consumers.

! The Commission vote to authorize the staff to file the proposed stipulated final judgment and order was 5-0. The settlements were filed in U.S. District Court for the Southern District of Florida and entered by the court May 21, 2003.

o736

235. FTC v. Inspired Ventures, Inc., et al. (SD Fla, June 12, 2002; Release: June 20, 2002; FTC File No. X020067).

! Defendants: Inspired Ventures, Inc., Jesse Alper (indiv & as officer/director), and Victor Alper (indiv.)

o739

! The complaint in the Inspired Ventures Matter alleged that Inspired Ventures, Inc., Jesse Alper, and Victor Alper violated the FTC Act and the Franchise Rule in connection with their sale of business opportunity ventures.

! On December 10, 2002 the Commission announced that it authorized the FTC staff to amend a complaint in the matter currently pending against Inspired Ventures, Inc., et al. to approve the addition of two other corporations, I.V.I. Management Corp. and Source Systems, Inc., to the original complaint. The Commission vote authorizing staff to amend the complaint was 5-0.

236. FTC v. Leading Edge Processing, Inc. et al. (MD FL, Civil Action No. 6:02-CV-681-ORL-19DAB, Release June 2002; FTC Matter No. X020078)

! Defendants: Leading Edge Processing, Inc.; Quality Publishing, Inc.; Mega Processing Corp.; Creative Tech of America, Inc.; Digital Inputting Corp.; The Bair Group, Inc.; Michael J. Gardner, also known as Michael Gaidnei also known as Michael Gardenbair, individually, as an officer of the corporations, and doing business as Home Typist International, DataPros, Professional Data Services, New Age Information Specialists, and Work At Home Direct; and Rebecca A. Dahl, individually, as an officer or principal of the corporations, and doing business as Home Typist International, DataPros, Professional Data Services, New Age Information Specialists, and Work At Home Direct

x747

! The complaint in Leading Edge alleged that the defendants used false earnings claims in e-mails and online advertisements to deceptively market and sell work-at-home data entry job opportunities.

! To settle the FTC's case, the defendants in the **Leading Edge** matter are permanently banned from engaging in the sale of work-at-home business opportunities and from operating any chain marketing program. The settlement also prohibits the defendants from selling or disclosing their customer lists, and from using aliases, including in the text of any commercial e-mail. The settlement contains a \$200,000 suspended judgment, but the defendants would be liable for the entire amount if it is found that they made material misrepresentations or omissions in their financial disclosure forms or deposition testimony.

! The Commission vote to authorize staff to file the stipulated final judgment and order for permanent injunction was 5-0. It was entered by the District Court for the Middle District of Florida in Orlando, Florida on March 6, 2003.

<http://www.ftc.gov/opa/2002/06/bizopswe.htm> (press release – complaint, ex parte TRO)

<http://www.ftc.gov/opa/2002/12/fyi0264.htm>

<http://www.ftc.gov/opa/2003/04/leadingedge.htm>

<http://www.ftc.gov/opa/2003/06/ard.htm>

FTC Warns Consumers about Online Gambling and Children

Exposure to Ads and Easy Access to Age Restricted Sites Among Dangers Cited

Federal Trade Commission Chairman Timothy J. Muris today announced the results of an informal survey of websites to determine the access and exposure teens have to online gambling. The FTC visited over 100 popular gambling websites - and found that minors can, indeed, access these sites easily, and that minors are often exposed to ads for online gambling on non-gambling websites.

<http://www.ftc.gov/opa/2002/06/onlinegambling.htm>

FTC Issues Third Follow-Up Report on the Marketing of Violent Entertainment to Children

Report Shows Progress in Ad Disclosures by Marketers of Movies, Music, and Electronic Games; Compliance with Movie and Game Industry Restrictions on Ad Placements; but Continued Placement of Ads in Some Media with Large Teen Audiences. The Federal Trade Commission today issued the third follow-up review of its September 2000 Report to Congress, Marketing Violent Entertainment to Children: A Review of Self-Regulation and Industry Practices in the Motion Picture, Music Recording and Electronic Game Industries.

<http://www.ftc.gov/opa/2002/06/mvec0602rev.htm>

FTC to Host Public Workshop to Explore Possible

Anticompetitive Efforts to Restrict Competition on the Internet

On October 8-10, 2002, the Federal Trade Commission will host a three-day public workshop to explore how certain state regulations and private business practices may be having significantly anticompetitive effects on e-commerce. Federal Register Notice, to be published July 19, explains that many states have enacted regulations that may have the effect of protecting local bricks-and-mortar merchants from new Internet competitors. All of these restrictions may contribute to sound public policy, or they may constitute attempts by existing industries to forestall the entry of Internet competitors and impede new forms of competition.

<http://www.ftc.gov/opa/2002/07/ecom.htm>

Company Touting Unproven Cancer Treatment Agrees to Settle FTC Charges

FTC Warns Over 280 Web Sites Making Questionable Health Claims

237. FTC v. Biopulse International, Inc., (ND Cal., San Fran.; Filed: July 23, 2002; Released July 24, 2002; FTC File No. 012 3057; Civil Action No. C023511).

! Defendants: Biopulse International, Inc., Biopulse, Inc., Jonathan Neville, and Loran Swenson x751

! A Southern California-based company, BioPulse International, Inc., BioPulse, Inc., and their principals advertised in print and on the Internet that their therapies - "insulin-induced hypoglycemic sleep therapy"

(IHT) and "Acoustic Lightwave Therapy" (ALW) - could effectively treat a wide variety of cancers and other serious diseases. The U.S.-based company offered its purported treatments in a clinic in Tijuana, Mexico.

! The FTC alleges that the defendants did not have adequate substantiation for the safety and efficacy claims the defendants made for these treatments.

! As part of a proposed settlement with the Commission, the defendants are permanently barred from misrepresenting the safety of IHT or any similar treatment and from making any unsubstantiated safety or efficacy claims for IHT, ALW, or any dietary supplement, food, drug, device, or any health-related service.

! The Commission vote to authorize staff to file the complaint and proposed consent decrees in the BioPulse matter was 5-0.

<http://www.ftc.gov/opa/2002/07/biopulse2.htm> (press release – complaint, stipulated final judgment)

Federal, State, Local Netforce Targets Cyberscams ***Consumers Allegedly Fleeced Out of Millions of Dollars***

The FTC, FBI, U.S. Postal Inspection Service, SEC, and the CFTC have joined 10 state attorneys general and 11 other state and local law enforcement agencies to target cyberscams plaguing the Internet. Today they announced 19 civil and criminal law enforcement actions against scammers who have bilked tens of thousands of consumers out of millions of dollars. The FTC announced a settlement in its suit against Brian Kruchten, doing business as Page Creators as well as a new action against Stuffingforcash.com, et al.

238. FTC v. Stuffingforcash.com, et al., (ND IL, East. Div.; Civil Action No. 02 C 5022; Released: July 30, 2002; FTC File No. P024408).

! Defendants: Stuffingforcash.com Corp., American Publishing, Inc., Sound Publications, Inc., Nelson Barrero, Eduardo Gonzales, Ileana M. Morales (As individuals and officers of one or more corporations) x757

! According to the FTC, in exchange for \$40, the defendants promised to provide consumers with sales letters and pre-stamped, pre-addressed envelopes and consumers would earn two dollars for every envelope they stuffed. Consumers who sent their money didn't receive envelopes. If they received anything - and many didn't - they got materials urging them to solicit self-addressed envelopes from third parties and forward them to the defendants.

! The FTC told the court that the "Stuffing for Cash" defendants likely cheated tens of thousands of consumers out of more than \$2 million in the last year.

! At the request of the FTC, a U.S. district court judge prohibited the defendants from engaging in further deceptive practices and froze their assets, pending trial.

! The Commission votes to file the complaint was 5-0. The StuffingforCash complaint was filed with the invaluable assistance of the Chicago office of the U.S. Postal Inspection Service.

! On July 2, 2003, the FTC announced a settlement that bars Stuffingforcash.com Corp; American Publishing, Inc.; Sound Publications, Inc.; Mailmax, Inc.; and their principals, Nelson Barrero, Eduardo Gonzales, and Ileana M. Morales from engaging in any work-at-home venture or participating in a work-at-home venture offered by others. It bars them from disclosing any of the personal or financial information of any person who submitted information in conjunction with their business. It requires that they pay approximately \$221,600 in consumer redress, of which approximately \$40,000 has already been returned. It also contains record-keeping requirements to allow the agency to monitor compliance with the order. A stipulated final judgment and order is for settlement purposes only and does not constitute an admission of a law violation.

! As a follow-up to the FTC case, the United States Postal Inspection Service initiated a criminal investigation. In a criminal information filed by the United States Attorney for the Southern District of Illinois, defendant Nelson Barrero pled guilty to two counts of wire fraud. Under sentencing guidelines, he may go to prison for 46 to 57 months. Sentencing is scheduled for September 5, 2003 at the U.S. District Court in East St. Louis, Illinois.

<http://www.ftc.gov/opa/2002/07/mwnetforce.htm> (press release – complaint, memorandum, TRO)

<http://www.ftc.gov/opa/2003/07/spammers.htm> (press release – stipulated final order)

Microsoft Settles FTC Charges Alleging False Security and Privacy Promises

Passport Single Sign-In, Passport "Wallet," and Kids Passport Named in Complaint Allegations

239. In the Matter of Microsoft Corporation (File No. 012 3240) (August 8, 2002)

! Respondent: Microsoft Corporation

x758

! Microsoft Corporation has agreed to settle Federal Trade Commission charges regarding the privacy and security of personal information collected from consumers through its "Passport" web services. As part of the settlement, Microsoft will implement a comprehensive information security program for Passport and similar services.

! Microsoft, a provider of software, services, and Internet technologies for personal and business computing, operates three related "passport" Internet services. Microsoft's Passport privacy policies included statements such as, "Passport achieves a high level of Web Security by using technologies and systems designed to prevent unauthorized access to your personal information" and "Your Passport is protected by powerful online security and a strict privacy policy." The Kids Passport privacy policy included statements such as, "Microsoft Kids Passport allows parents to consent to the collection, use and sharing of their children's information with Passport participating sites. . . . You can choose to allow Passport to share all of the information in your child's Passport profile with a participating site or service, or you can limit the information shared to just a unique identifier or age range. . . ."

! The proposed consent order prohibits any misrepresentation of information practices in connection with Passport and other similar services. It also requires Microsoft to implement and maintain a comprehensive information security program. In addition, Microsoft must have its security program certified as meeting or exceeding the standards in the consent order by an independent professional every two years.

! The Commission vote to accept the proposed consent order and place a copy on the public record was 5-0. The FTC is accepting public comment on the proposed order for 30 days, until September 9, 2002, after which the Commission will determine whether to make it final. Comments should be sent to: FTC, Office of the Secretary, 600 Pennsylvania Ave., N.W., Washington, D.C. 20580.

<http://www.ftc.gov/opa/2002/08/microsoft.htm> (press release, agreement, and consent)

Alabama Company Settles Charges of Misrepresenting Availability of U.S. Postal Service Jobs

240. FTC v. American Career Services, Inc., (SD AL; Civil Action No.: 02-CV-593; FTC File No.:

002 3009; Release: August 21, 2002.)

! Defendants: American Career Services, Inc., and Douglas Holcomb

x760

! American Career Services, Inc. (ACS), a Mobile, Alabama-based corporation, and Douglas Holcomb, its president, have agreed to settle Federal Trade Commission charges that they made false and deceptive claims in connection with the Internet marketing and sale of postal employment materials.

! The FTC's complaint alleged that the defendants misrepresented that: the USPS was affiliated with or endorsed their employment services; consumers who purchased the defendants' materials were likely to obtain postal positions within a short period of time; consumers who purchased the defendants' materials were likely to receive scores of 95 percent or higher on the postal entrance exam; and the defendants paid refunds to each consumer who purchased their materials and did not receive at least 95 percent on the exam and a job within 30 days of his or her interview.

! The settlement requires Holcomb to pay \$10,000 as disgorgement and permanently prohibits misrepresentations in connection with the promotion or sale of any employment good or service.

! The Commission vote authorizing the staff to file the complaint and settlement was 5-0. The case was filed in the U.S. District Court for the Southern District of Alabama, in Mobile, Alabama on August 5, 2002. The judge signed the stipulated final order for permanent injunction on August 15, 2002.

<http://www.ftc.gov/opa/2002/08/americancareerserv.htm> (press release, complaint, and stipulated final order)

Settling FTC Complaint, PeoplePC to Pay \$100,000

Alleged Violations of Commission's Mail Order and Pre-Sale Warranty Availability Rules

241. United States of America v. PeoplePC, Inc. (ND CA; FTC File No. 012-3045; Release: August 23, 2002)

! Defendant: PeoplePC, Inc.

x761

! PeoplePC, Inc., a San Francisco, California-based seller of personal computers, computer peripherals, software, and Internet service, will pay a \$100,000 civil penalty to settle Federal Trade Commission charges that it failed to tell thousands of consumers in advance that their deliveries would be delayed, provide them with an opportunity to cancel or consent to the delay, or send them cancellation refunds within the time-frame required.

! In addition to these alleged violations of the Mail or Telephone Order Merchandise Rule, the FTC's complaint contended the company violated the Pre-Sale Availability of Written Warranty Terms Rule by not "clearly and conspicuously" providing consumers with the warranties covering the products or services they purchased, or information on how the warranties could be obtained, before the purchases were made.

! This action marks the second time the FTC has brought a Pre-Sale Availability Rule complaint against a company selling a product over the Internet.

<http://www.ftc.gov/opa/2002/08/peoplepc.htm> (press release, complaint, and consent decree and order).

On-Line Sellers of Inkjet Printer Cartridge Refills Agree to Pay \$40,000 Civil Penalty

Charged with Deceptive Advertising and Violating the Mail Order Rule

242. United States of America v. E-Babylon, Inc. (CD CA; FTC File No. 012 3209; Civil Action No.02-06561; Release: August 23, 2002)

! Defendants: E-Babylon, Inc.; Michael Zaya; and Aidan Yousif

x764

! The FTC alleges that defendants deceptively represented on their Web sites that their inkjet printer replacement cartridges were new, brand-name items, rather than remanufactured or generic items. The Commission also alleges that the defendants violated the Mail or Telephone Order Merchandise Rule (Mail Order Rule) by failing to advise consumers of their right to cancel and receive a refund if the defendants were unable to ship the products on time.

! The proposed consent decree to settle the charges requires the defendants to pay a \$40,000 civil penalty. The proposed decree also requires the defendants to provide redress to consumers who were entitled to, but did not receive, a refund pursuant to either the defendants' money-back guarantee or the Mail Order Rule. In addition, the proposed decree would prohibit the defendants from making future misrepresentations about their products, their refund policies and from violating the Mail Order Rule. Finally, the decree would require the defendants to respond promptly to future refund requests.

! The Commission vote to authorize staff to refer the complaint and proposed consent decree to the Department of Justice for filing was 5-0. The complaint and proposed consent decree were filed by the DOJ at the request of the FTC in the U.S. District Court for the Central District of California, in Los Angeles, on Thursday August 22, 2002. The proposed consent decree is subject to court approval.

<http://www.ftc.gov/opa/2002/08/ebabylon.htm> (press release, complaint, and consent)

OECD Issues Guidelines for the Security of Information Systems and Networks:

Towards a Culture of Security

The Organization for Economic Cooperation and Development (OECD) formally has released its Guidelines for the Security of Information Systems and Networks. The Guidelines consist of nine principles that aim to increase public awareness, education, information sharing, and training that can lead to a better understanding of online security and the adoption of best practices. (Release August 23, 2002).

<http://www.ftc.gov/opa/2002/08/oecdsecurity.htm> (press release and OECD Security Guidelines)

FTC Alleges Electronic Mosquito Repellent Claims Are False;

Sellers Also Lack Evidence For Ultrasonic Pest-Control and Air Cleaning Product Claims

243. In the Matter of Lentek Int'l, Inc. (FTC File No. 012-3117; Docket No. 9303; Release: Aug. 28, 2002)

! Defendants: Lentek Int'l, Inc., Joseph Durek, and Lou Lentine

o767

! Lentek International is a manufacturer and distributor of such items as air cleaners, pest-control devices, housewares, pet products, personal care products, and flashlights. These products are sold on the Internet, www.lentek.com, in retail stores and catalogs, and by individual home distributors.

! According to the FTC, Defendants have advertised that their MosquitoContro devices repel mosquitoes from the user and provide an effective alternative to using chemical pesticides in the prevention of the West Nile Virus; that their pest-control products drive away mice, rats, bats, cockroaches, and other household pests by means of ultrasound and electromagnetic technology; and that their air cleaning products remove various pollutants from indoor air through ozone and ionization.

! The FTC alleges in an administrative complaint that the respondents do not have competent and reliable evidence to support the claims made for these products, and that the claims for the MosquitoContro device are false.

! The Commission vote to issue the administrative complaint and notice order was 5-0.

! A proposed consent order was announced on Feb. 4, 2003, which provides that the respondents are prohibited from claiming that their MosquitoContro, PestContro, and Sila Air Cleaning products are effective unless they have competent and reliable scientific evidence to support the claims. The proposed order preserves the FTC's right to seek consumer redress. Following a public comment period, the Commission has approved the issuance of a final consent order in the matter concerning Lentek International, Inc. The Commission vote to approve the final consent order was 5-0.

<http://www.ftc.gov/opa/2002/08/lentek.htm> (press release and admin complaint)

<http://www.ftc.gov/opa/2003/02/lentek.htm>

<http://www.ftc.gov/opa/2003/03/fyi0320.htm>

FTC, States Give "No Credit" to Finance-Related Scams in Joint Law Enforcement Sweep

244. FTC v. Tyme Lock 2000, Inc., et al. (Civil Action No. CV-S-02-1078-JCM-RJJ; FTC File No. 022 3032; Release: September 5, 2002)

! Defendants: Tyme Lock 2000, Inc., of Nevada, dba United Family Services & USA Membership Services; Total Resources, Inc.; Ruth R. Adams, & Stella L. Aguilar.

o771

! The defendants make unsolicited phone calls to consumers in some instances, telling them that for a fee of approximately \$189, they will receive a major credit card, and either a personal computer, cell phone, or camera. Consumers paid by having the defendants debit their checking accounts. The FTC alleges that instead of receiving a credit card or other promised items, consumers received a packet of materials which included applications to banks for credit cards, and offers for computers or cell phones which required the consumers to contract with an internet service provider or a telephone company.

! The FTC alleges that the defendants engaged in deceptive practices in violation of the FTC Act and the Telemarketing Sales Rule (TSR). In each case, the FTC is seeking permanent orders prohibiting the defendants from engaging in similarly deceptive finance-related schemes, and is asking the courts to freeze the defendants' assets. Where appropriate, the FTC is also seeking the appointment a receiver.

! The Commission vote to authorize the staff to file the complaint was 5-0. The complaint was filed in the U.S. District Court, District of Nevada, on August 19, 2002.

FTC Files Amicus Brief Opposing Barriers to Internet Casket Sales

Brief Says FTC's Funeral Rule is Meant to Permit Competition from Independent Casket Sellers

The Federal Trade Commission's Funeral Rule protects consumers by promoting competition among providers of funeral goods – including independent casket retailers – according to the FTC in an amicus brief filed in federal district court in the matter of *Powers v. Harris*. (Release Sept. 9, 2002).

<http://www.ftc.gov/opa/2002/09/okcasketsales.htm>

FTC Charges Canadian-Based Company with Making False Weight-Loss and Cellulite-Treatment Claims

245. FTC v. No. 9068-8425 Quebec, Inc. (District Court, N.D. NY; FTC Matter No. 022 3167; Civil Action No. 1:02:CV-1128; Release Sept. 17, 2002)

! Defendants: No. 9068-8425 Quebec, Inc. d/b/a Bio Lab, Cellu-Fight, and Quick Slim, and Jean-Francois Brochu o773

! The FTC alleged that the defendants, using mainstream U.S. media (newspapers, magazines, free standing coupon inserts, and the Internet) targeted U.S. consumers by advertising and selling "Quick Slim" - a purported weight-loss product which they claim causes users to lose rapid and substantial weight without dieting or exercise; and "Cellu-Fight," a product which they claim completely eliminates cellulite without any effort by users. . In fact, the FTC alleged, Quick Slim does not cause rapid or significant weight loss without the need for diet and exercise, and does not cause permanent weight loss and that Cellu-Fight does not eliminate or substantially reduce cellulite.

! On September 6, 2002, U.S. District Court Judge David N. Hurd entered a temporary restraining order against defendants prohibiting dissemination of misleading advertising for Quick Slim and Cellu-Fight and freezing defendants' assets. A preliminary injunction hearing is scheduled for September 20th.

! The Commission vote to authorize the staff to file the complaint was 5-0.. The FTC filed the case in the United States District Court for the Northern District of New York on September 3, 2002. The FTC received valuable assistance from the Competition Bureau of Industry Canada in its investigation of Bio Lab.

<http://www.ftc.gov/opa/2002/09/biolab.htm> (press release and complaint)

FTC Reaches out to Spanish-Speaking Consumers; Spanish Language Complaint Form

The Federal Trade Commission today announced the availability of a Spanish version of its consumer complaint form. Spanish-speaking consumers can use the form to submit fraud complaints to the FTC by going to the Commission's web site at www.ftc.gov/spanish. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints it receives into Consumer Sentinel, a secure, online database used by hundreds of civil and criminal law enforcement agencies. (Release:: Sept. 18, 2002).

www.ftc.gov/opa/2002/09/hispanicpress.htm

FTC and DOD Launch "Military Sentinel"

Online Consumer Complaint Database Designed to Help Combat Fraud Targeting the Military Community

The Federal Trade Commission and the Department of Defense today announced the launch of Military Sentinel, the first online consumer complaint database specifically tailored to the unique needs of the military

community. Located at www.consumer.gov/military, this new system is designed to give military service members in all parts of the world a convenient way to report fraud directly to law enforcement officials. Military Sentinel will facilitate the prosecution of cases by providing detailed information on consumer fraud and ID theft to more than 550 members of the Consumer Sentinel system, including both military and non-military law enforcement agencies in the United States, Australia, and Canada. Sentinel also will assist policymakers at both the DOD and the FTC by providing the capability to collect and analyze specific service-related information. (Release: Sept. 24, 2002). www.ftc.gov/opa/2002/09/militarysentinel.htm

Consumer Protection Agencies Combat Cross-Border Fraud

At a three-day meeting being held in Sydney, Australia, the Federal Trade Commission and members of the International Marketing Supervision Network (IMSN) announced two initiatives to combat cross-border fraud: The network reported the results of a global law enforcement sweep involving Internet health scams, and it unveiled the newly designed Web site, www.econsumer.gov, where consumers can file cross-border e-commerce complaints that can be accessed by IMSN partners. The project to combat Internet health scams was initiated earlier this year when law enforcers in 19 countries, including the United States, surfed the Internet for misleading health claims. Participating law enforcers identified more than 1,400 global Web sites as making questionable claims for health-related products and services. Law enforcers sent e-mails to the sites making the questionable claims, warning that they might be violating the law, and stating that if the claims were not modified, law enforcement action may be initiated. IMSN members have announced settlements and enforcement action against at least 45 companies, and many members continue to investigate Web sites making the questionable claims. (Release: Sept. 24, 2002). www.ftc.gov/opa/2002/09/imsnsydney.htm

FTC Testifies on Internet Competition: *Upcoming FTC Workshop Will Examine Whether Certain State Regulations and Business Practices May Be Impeding E-Commerce*

The Federal Trade Commission today told the House Committee on Energy and Commerce that it will hold a public workshop on October 8-10 to examine whether certain state laws and business arrangements may be hampering commerce on the Internet. The purpose of the public workshop is to determine whether and to what extent pre-existing state regulations that have been extended to the Internet "are pro-competitive and pro-consumer, or whether they eliminate cost savings or convenience without sufficient benefits to justify those losses." (Release: Sept. 26, 2002). www.ftc.gov/opa/2002/09/ecomptest.htm

FTC Launches Internet Security Initiative

Commissioner Orson Swindle Calls for the Creation of a "Culture of Security"

Federal Trade Commissioner Orson Swindle today launched the FTC's new Internet security initiative at the Privacy2002 Conference in Cleveland, Ohio. The Commissioner detailed a "culture of security," in which consumers, educators, and businesses combine forces to change the way society thinks about privacy and security. With dependence on technology growing, Swindle emphasized that the benefits consumers and businesses enjoy may have potential security problems. "The idea is to have Internet security practices become second nature - just like looking both ways before crossing the street," Swindle said. (Release: Sept. 26, 2002). www.ftc.gov/opa/2002/09/security.htm

FTC Introduces Internet Safety Mascot, "Dewie the Turtle," at Privacy2002 Conference

Commissioner Orson Swindle of the Federal Trade Commission today unveiled an Internet safety and security initiative at the Privacy2002 Conference in Cleveland, Ohio, complete with a turtle mascot. Just as Smokey Bear helps prevent forest fires and Woodsy Owl teaches people not to litter, "Dewie the Turtle" will remind consumers to stay safe online and develop a "culture of security."

(Release: Sept. 26, 2002) www.ftc.gov/opa/2002/09/dewie.htm

California Defendants to Pay Redress for Charging Consumers "Restocking Fee" for Delayed or Unshipped Merchandise:

Dynamic Wheels and Tires, Inc. Allegedly Violated FTC's Mail or Telephone Order Rule

246. U.S. v. Dynamic Wheels & Tires, Inc., et al. (CD CA; FTC Matter No. 012-3061; Civ. No. 02-7603; Release: Oct. 2, 2002).

! Defendants: Dynamic Wheels and Tires, Inc. and tires, and Gary Jerjerian x775

! Dynamic advertised fancy automobile wheels, rims, and tires in magazines and on the Internet, providing a phone number consumers could call to place their orders. Although Dynamic's advertising stated, "Prices subject to change without notice," and "All returns or cancellations are subject to a 20 percent restocking fee," Dynamic's representatives told consumers responding to the ads that the merchandise was in stock at stated prices and that the company would ship the orders in time for delivery within seven to 10 business days.

! According to the complaint, Dynamic and Jerjerian violated the Mail Order Rule by making unsubstantiated shipment representations, failing to provide delay option notices in delayed shipment situations, and failing to make full refunds to consumers when the Rule so required.

! The consent settlement reached with the Commission and filed on its behalf by the DOJ today imposes a \$200,000 civil penalty judgment on the defendants, which will be suspended due to their financial situation. In addition, the defendants are required to compile (from their business records and other information) a list of consumers whose refunds were discounted and to provide them with full refunds. The defendants subsequently must report their redress activities to Commission staff. The settlement also permanently enjoins the defendants from failing to comply with the Rule in the future.

! The Commission vote to forward the complaint and consent decree to the Department of Justice for filing on its behalf was 5-0. They were filed in U.S. District Court in the Central District of California on September 30, 2002. The Better Business Bureau of the Southland assisted the FTC staff in its investigation.

<http://www.ftc.gov/opa/2002/10/dynamicwheels.htm> (press release, complaint, and consent)

Deceptive Spammers Settle FTC Charges (Release: Oct 23, 2002)

247. FTC v. Sonya Lockery (D. CT.; FTC File No. 022-3044)

! Defendant: Sonya Lockery, individually, and d/b/a Internet Specialist x776

248. FTC v. Richard Jon Scott (E.D. CA; FTC File No. 022-3031)

! Defendant: Richard Jon Scott, individually, and d/b/a Cyber Data x777

! The FTC charged that both Scott and Lockery made false earnings claims. Cyber Data's e-mail claimed that purchasers reasonably could expect to earn "over \$10,000,000" by selling a \$5 product via bulk e-mail. Internet Specialists made similar earnings claims, and its Web site and e-mail contained earnings claims that appeared to be endorsements from previous purchasers. The FTC also alleged that defendants falsely characterized the quality of their bulk e-mail lists. Cyber Data claimed that its e-mail address lists contained "no duplications," and included "almost every person on the Internet today." According to the FTC, Internet Specialists falsely claimed that its 11 million e-mail address list consisted of consumers who were "highly responsive" because they had "either requested to receive e-mail advertisements or have responded to our ads." It also claimed its lists contained no duplicates.

! The settlements permanently will bar the defendants from making any false, misleading, or deceptive claims about potential earnings from any bulk e-mail list, software, service, or marketing program, or any other business opportunity.

! Based on financial documents that the defendants provided, the order requires Cyber Data to pay \$20,000 in consumer redress and suspends payment by Internet Specialists. Should the court find that the financial statements are materially inaccurate, the order requires Cyber Data and Internet Specialists to pay the total amount of their profits from the schemes.

! The Commission vote to accept the stipulated final judgments and orders was 5-0. The settlement with Scott and Cyber Data was filed in U.S. District Court for the ED CA, Sacramento Division. The settlement with Lockery and Internet Specialists was filed in U.S. District Court for Connecticut.

<http://www.ftc.gov/opa/2002/10/spammers.htm> (press release and stipulated judgment)

Federal, State, and Local Law Enforcers Tackle Deceptive Spam and Internet Scams

"Spam Harvest" Results Reap Help for Consumers Trying To Avoid Spam

The Federal Trade Commission and 12 federal, state, and local law enforcement and consumer protection agencies today announced a four-part initiative launched to fight deceptive spam and Internet scams. The centerpiece of the initiative is a group of more than 30 law enforcement actions, including three FTC complaints and four settlements with spammers caught in an FTC sting. In addition, 10 of the law enforcers signed letters to approximately 100 spammers warning them that their spam appeared to be illegal and that law enforcers could take action against them if they continued their fraudulent scams. Ten agencies participated in the FTC's "Spam Harvest," an initiative designed to test which actions consumers take online that put them most at risk for receiving spam. The operation also developed consumer education material, including a publication, "E-mail Address Harvesting: How Spammers Reap What You Sow," that uses the lessons learned from the Spam Harvest to provide tips to consumers who want to minimize their risk of receiving spam.

<http://www.ftc.gov/opa/2002/11/netforce.htm> (press release – GM Funding complaint, TRO, Stipulated PI).

249. FTC v. Brian Silverman, d/b/a BES Systems, Electro Depot, Dallas Tech Surplus, and New York Tech Surplus (File No. 0223302; SDNY; Released: Nov. 13, 2002).

! Defendants: Brian Silverman d/b/a BES Systems, Electro Depot, Dallas Tech Surplus, and New York Tech Surplus.

o778

! The defendant allegedly operated a fraudulent business from his residence and from various commercial

mail drops. He has no formally incorporated business but used various business names in the course of conducting Internet auctions. According to the FTC, Silverman purported to sell laptop computers through online auctions. Silverman allegedly took full advantage of the relative lack of accountability offered by Internet-based business transactions by taking consumers' money and not providing consumers with the purchased goods.

! The FTC alleged in its complaint that the defendant falsely represented that consumers who offer the highest bids and send defendant the agreed-on payment for the computer, pursuant to those bids, will receive the promised consumer. The FTC also alleged that the defendant violated the Mail Order Rule by soliciting orders without a reasonable basis to expect shipment within 30 days, failing to give delay or cancellation notices, and failing to issue timely refunds. The FTC's complaint seeks a preliminary injunction.

! The Commission vote to issue the complaint was 5-0.

250. In Re: NetSource One, Inc. (File No. 0223077) (WD KY) (Released: Nov. 13, 2002).

! Defendants: Netsource One, Inc. dba Worldremove and James R. Haddaway. x780

! The FTC alleged that NetSource One and James R. Haddaway, operating as WorldRemove, used spam and the Internet to sell a service they claimed would reduce or eliminate spam from consumers' e-mail. According to the FTC, the claims were false. In fact, using an undercover account to test the claims, the FTC found it received more spam after signing up for the service.

! The agency charged that the defendants falsely represented that the WorldRemove service dramatically reduces or eliminates unsolicited email and that defendants' claim that the WorldRemove service dramatically reduces or eliminates unsolicited email is unsubstantiated.

! The matter was settled through a consent order, which included injunctive relief and provisions to allow reopening of the issue if defendants are found to have misrepresented their inability to pay. Defendants are also prohibited from selling any customer information obtained in connection with the sale of the WorldRemove service.

! The Commission vote to accept the stipulated final judgment and order was 5-0.

251. FTC v. GM Funding, Inc., et al. (C.D. Cal., S. Div.; Civ. Action No. SACV 02-1026; Released: Dec.10, 2002; FTC File No. 0223196).

! Defendants: GM Funding, Inc., Robert Kutzner, Global Mortgage Funding, Inc., Damian Kutzner, Universal IT Solutions, Inc., Anthony Tamraz, x786

! The FTC alleged that defendants used spam to deceptively obtained consumers' sensitive financial information. According to the FTC's complaint, since approximately December 2001, the defendants used spam that purports to be from various well-known financial institutions (e.g., Radian Bank, Prudential, and Fannie Mae). The spam contains a questionnaire seeking detailed personal financial information under the guise that providing such information would help consumers find a home mortgage. The defendants also allegedly forged e-mail headers - a technique known as "spoofing," - so that any undeliverable messages went to e-mail addresses unaffiliated with the defendants. One unaffiliated third party was swamped with more than 30,000 bounce-back and angry "do not spam me" e-mails intended for the defendants.

! The FTC's complaint alleged that the defendants deceptively represented that the sender of the spam is a

specific financial institution and that the email addresses of spam recipients will, upon request, be removed from any list of addresses to which future such solicitations will be sent. The FTC alleged that defendants violated the Gramm Leach Bliley Act by using false pretexts to obtain customer information of a financial institution, including mortgage amount, rate, and type. The FTC also alleged that the defendants' practice of "spoofing" causes consumers' email accounts to receive unwanted email messages, without consumers' consent or authorization was unfair.

! The FTC obtained an ex parte temporary restraining order and an asset freeze. A Stipulated Preliminary Injunction was filed with the Court and signed by the Judge on November 27, 2002.

! The Commission vote to issue the complaint was 5-0.

<http://www.ftc.gov/opa/2002/12/fyi0264.htm>

<http://www.ftc.gov/opa/2002/11/netforce.htm> (release – Complaint, TRO, Stipulated Final Judgment)

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|---|------|
| 252. FTC v. Jessica FarrahDrees (Matter No. 0223234; D NJ; Released: Nov. 13, 2002). | x787 |
| 253. FTC v. Heidi H. Freitas (Matter No. 0223235; D CT; Released: Nov. 13, 2002); | x788 |
| 254. FTC v. Rosalind Leahy (Matter No. 0223236; SDNY; Released: Nov. 13, 2002); | x789 |
| 255. FTC v. Nancy H. Merrill (Matter No. 0223237; D MA; Released; Nov. 13, 2002) | x790 |

! In its latest effort to combat chain letters on the Internet, the FTC caught four defendants caught in an FTC sting operation. Each of the defendants agreed to settle charges that they were spamming consumers with deceptive chain letters. The letters were slightly changed variations on the same message. They promised "\$46,000 or more in the next 90 days," or similar extravagant amounts to recipients who were to send \$5.00 in cash to each of four or five participants at the top of the list. The letters instructed new recruits to place their own name and address at the top of the list and remove the name on the bottom. In return for the \$5.00 payment, recruits received "reports" providing instructions about how to start their own chain letter schemes and recruit tens of thousands of others via spam.

! Each of the four had been previously warned for participating in this same chain letter scheme. The complaints and orders track the ones announced as part of a similar effort in February 2002. (See: <http://www.ftc.gov/opa/2002/02/eileenspam1.htm>). The only exception is that respondent Merrill was required to pay redress equal to the amount that she earned after receiving the FTC's initial warning letter.

! The complaints alleged that 1) defendants deceptively represent that consumers who participate in chain letter scheme are likely to receive substantial income; 2) defendants failed to disclose that the program's structure ensures that most participants in the program are not likely to receive substantial income; 3) defendants falsely represent that the program is legal; and 4) defendants provided means and instrumentalities for the commission of deceptive acts and practices by disseminating copies of the chain letter and in exchange for \$5 copies of "reports" on how to engage in the deceptive scheme.

! The settlements included injunctive relief, a prohibition on disseminating customer information collected in the course of the scheme.

! As noted above, the FTC also announced that it joined with its Netforce partners in issuing new warning letters to current participants in this chain distribution scheme.

! The FTC vote to approve the complaints and stipulated final judgments and orders was 5-0.

<http://www.ftc.gov/opa/2002/11/netforce.htm>

Blue Stuff to Pay FTC \$3 Million to Settle Charges That Its Infomercial Promises to Relieve Severe Pain Are Deceptive

256. Federal Trade Commission v. Blue Stuff, Inc. (FTC Matter No. 022 3016; Filed/Released: Nov. 18, 2002; WD OK)

! Defendants: Blue Stuff, Inc., Jack McClung, and McClung Advertising, Inc., Defendants, and Emma McClung, Relief Defendant x793

! The FTC alleges that the Oklahoma City-based defendants made unsubstantiated severe pain relief claims for the two products in television infomercials disseminated nationwide through most of the year 2001 and the first half of this year and on their Blue Stuff web site. According to the FTC's complaint, the defendants did not possess reliable scientific evidence showing that Super Blue Stuff and Blue Stuff, or the ingredients in these products, can relieve or eliminate severe pain. The complaint further alleges that the defendants used false claims to market and sell two other products, Essential Stuff and Her Stuff, which defendants purported would reduce cholesterol and bone loss, respectively.

! Defendants have agreed to pay \$3 million to settle Federal Trade Commission charges that they made unsubstantiated claims that Blue Stuff and Super Blue Stuff topical creams will relieve severe pain. The order also provides that if the defendants default in their payments, the judgment will increase to \$4 million and become immediately due and that the judgment will increase to \$15 million if defendants materially misrepresented their finances. Both the complaint and the order name Emma McClung, Mr. McClung's wife, as a relief defendant.

! In addition to requiring the defendants to pay redress, the proposed settlement requires the defendants to possess competent and reliable scientific evidence to support future claims about the health benefits, performance, safety, efficacy, or side effects of any dietary supplement, food, drug, cosmetic, or device.

! Blue Stuff, Inc. products also are the subject of a Food and Drug Administration action. The FDA today issued a warning letter to Blue Stuff, Inc. advising the company that its marketing of Blue Stuff and other products is in violation of the Federal, Food, Drug, and Cosmetic Act.

! The Commission vote to authorize the staff to file the complaint and proposed stipulated final order for permanent injunction was 5-0, with Commissioners Orson Swindle and Sheila F. Anthony issuing separate statements. The FTC filed the complaint and proposed final order in the U.S. District Court for the Western District of Oklahoma, in Oklahoma City, on November 18, 2002.

<http://www.ftc.gov/opa/2002/11/bluestuff.htm> (release – complaint, stipulated final order, statements of Commissioners Anthony and Swindle).

FTC 'Surf' of 63 Internet Retailers Designed to Bolster Consumer Confidence During the Holiday Season. Letters Sent to 51 E-tailers to Help Them Better Comply with FTC Requirements

The Federal Trade Commission's Division of Enforcement announced today that it recently conducted a surf of 63 Internet retailers offering top-selling holiday items. The purpose of the "HolidaySmarts2.com" surf was to find out whether e-tailers were making "quick ship" claims, rebate offers, and certain disclosures for popular holiday items. As a result of the surf, the FTC staff sent letters to 51 e-tailers stating, "We want to

make certain that you know that online sales are governed by many of the FTC-enforced statutes and regulations that apply to for other forms of marketing and advertising." (Release: Nov. 29, 2002)

www.ftc.gov/opa/2002/11/2002holidaysurf.htm

257. FTC v. Darrell Richmond, et al. (FTC File No. 022 3264; Filed: Nov. 26, 2002; Released: Dec. 9, 2002; Civil Action No. 3:02-3972-22) (D. S.C.).

! Defendants: Darrell Richmond, an individual, dba Bargain Shopper Network Direct!/BSN Direct!, Specialty Merchandise Wholesale Direct!/SMW Direct!, and Apex Direct Marketing Group/Apex Enterprises

o794

! The Federal Trade Commission charged a South Carolina resident using various company names with deceptively marketing his purported envelope stuffing employment opportunities to consumers over the Internet. On his Web sites, Darrell Richmond promoted his work-at-home business opportunities by stating that due to explosive growth he needed to expand his business throughout the United States and Canada. Richmond advertised that "home mailers" were needed to stuff envelopes with circulars which allegedly advertise a wholesale and retail line of approximately 3,500 giftware and collectible items. The defendant offered to pay consumers \$2 per envelope stuffed, stating that consumers could earn between \$100 to \$1,000 or more per week simply by stuffing envelopes at home. He promised that he would provide consumers with all the necessary materials at his expense. The FTC alleges that Richmond made numerous false claims in his advertisements.

! The FTC has asked the federal district court to temporarily halt Richmond's business practices and freeze his assets pending a trial.

! The FTC's Southeast Region - Atlanta handled the investigation of this matter and received tremendous assistance from the South Carolina U.S. Attorney's Office and the U.S. Postal Inspection Service, Mid-Atlantic Division. The Commission vote to authorize staff to file the complaint was 5-0. The complaint was filed in the U.S. District Court for the District of South Carolina on November 26, 2002.

258. FTC v. Vital Dynamics, Inc. d/b/a ISIS, et al. (FTC File No. 012-3249; Civ. Action No. 029816fmc(rnbx); CD Cal., W Div.)

! Defendants: Vital Dynamics, Inc. (VDI), a Conoga Park, California corporation dba ISIS, and its officers, Geoffrey V. Knight, Mark D. Berman, and Allen Smith.

x798

! The Federal Trade Commission today announced a settlement with a California-based company that marketed a so-called breast enhancement product, "The Isis System." According to the complaint, the defendants advertised Isis, a product consisting of a dietary supplement and topical cream, extensively through print, radio, TV, and the Internet. Consumers could order Isis only by calling a toll-free telephone number. The defendants' telemarketers explained how the system was supposed to work, and offered a complete 90-day risk-free guarantee. VDI charged from \$199 to \$599 for a six-month supply of Isis.

! According to the FTC complaint, the defendants deceptively represented that Isis would increase a woman's breast size safely and with no negative side effects. The complaint charges that the defendants lacked a reasonable basis for their numerous efficacy and safety claims for Isis. The complaint further alleges that the defendants' claims that Isis had no reported side effects was false, because, in fact, defendants had received hundreds of complaints about side effects including headache, nausea, and allergic reactions. In

addition, the complaint alleges that the defendants falsely claimed that dissatisfied consumers could easily obtain full refunds.

! The stipulated settlement requires the defendants to possess competent and reliable scientific evidence before making any claims in connection with any product containing one or more of the ingredients in Isis. The settlement further requires the defendants to possess competent and reliable scientific evidence before making any claims about the benefits, performance, efficacy, safety, or side effects of any service, therapy, dietary supplement, food, drug, cosmetic, or device. It also prevents the defendants from misrepresenting any refund policy in the future.

! In addition, the settlement orders the individual defendants, Knight, Berman, and Smith to pay approximately \$16,667 each, for a total of \$50,000 in redress, based upon the defendants' financial condition. The settlement requires the defendants to pay the full amount of consumer redress - \$22 million in the event the court finds that they misrepresented their finances.

! The Commission vote to authorize staff to file the FTC complaint and stipulated order was 5-0. The FTC complaint and stipulated final order was filed in the U.S. District Court for the Central District of California, Western Division, on December 26, 2002. The stipulated order is subject to court approval.

<http://www.ftc.gov/opa/2002/12/vitaldynamics.htm> (release – complaint, stipulated final order)

FTC Launches New Web Site on Cross-Border Fraud (Released: Jan. 8, 2003)

The Federal Trade Commission launched a new Web site, www.ftc.gov/crossborder, to help consumers spot, stop, and avoid cross-border fraud. It contains information on recent FTC law enforcement actions against cross-border scam artists, as well as FTC coordination with law enforcement agencies in other countries to combat this multi-billion dollar problem.

<http://www.ftc.gov/opa/2003/01/crossborder.htm>

FTC Targets Sellers Who Deceptively Marketed International Driver's Permits over the Internet and via Spam (Released: Jan. 16, 2003; FTC File No. P024203)

259. FTC v. Carlton Press, Inc. et al. (SDNY; Civ. No: PTRC; 03-CV-0226-RLC; Filed: Jan. 10, 2003).

! Defendants: Carlton Press, Inc., Carlton Press, Ltd. And Kim Fleming Bo Weiss o801

260. FTC v. One or More Unknown Parties (D DC; Civ. No.: 1:03-CV-00021-RMC; Filed: Jan 7, 2003)

! Defendants: One or More Unknown Parties dba the Institute For International Licensing, Aladdin Financial Management, University Systems, and Wheelie International Ltd. o802

261. FTC v. Jordan Maxwell et ano. (CD Cal., W. Div.; Civ. No: 03 CV 0128; Filed: Jan. 7, 2003)

! Defendants: Jordan Maxwell aka Russell Pine, individually and dba BBCOA aka BBC of America aka Better Books and Cassettes of America; and Vic Varjabedian aka Victor Varjabedian aka Varouj Varjabedian, individually. o804

262. FTC v. Yad Abraham et ano. (CD Cal.; Civ. No: EDCV 03-0030 VAP SGLX; Filed: January 8, 2003)

! Defendants: Yad Abraham, aka Tim Thorn and Timothy Thorn, indiv. and dba Sharpthorn Internet Solutions; and Internex, LLC

o806

263. FTC v. William Scott Dion et ano. (D MA; Civ. No.: 03-40005-NMG; Filed: January 8, 2003)

! Defendants: William Scott Dion et ano., indiv and dba PT Resource Center and PTRC, aka Don Glessner

264. FTC v. Jaguar Business Concepts, LP et al. (D. MD, N. Div.; Civ. No: MJGO 3 Cv 10; Filed: Jan. 13, 2003).

! Defendants: Jaguar Business Concepts, LP, dba Libertymall.com, Cheyenne Investment Alliance, LLC, and Jacqueline Demer, indiv. and as officer of Cheyenne Investment Alliance, LLC

x811

! The Federal Trade Commission announced six federal district court complaints as part of the "Operation License for Trouble" law enforcement sweep, targeted sellers who, under the guise of "international law," pitched their worthless documents to immigrants and other consumers who were seeking an alternative to a government-issued driver's license or identification document. According to the FTC, authentic IDPs, which are available in the U.S. from only two authorized agencies, American Automobile Association (AAA) and American Automobile Touring Alliance (AATA), have a very limited use and purpose.

! Legitimate IDPs, which are issued pursuant to the United Nations Road Traffic Convention of 1949, assist a person with a valid driver's license to drive in foreign countries that have also signed the Convention.

Notably, an IDP is not a substitute for a government-issued driver's license; rather it is simply a booklet that translates that government-issued driver's license into a number of different languages.

! In each complaint, the Commission alleges that, in violation of the FTC Act, the defendants falsely claim that their IDPs are a legitimate alternative to a state-issued driver's license, and misrepresent that: 1) their IDPs authorize consumers to drive legally in the United States; 2) their IDPs allow consumers to avoid points or traffic violations, as well as sanctions for driving with a suspended or revoked driver's license; and 3) their IDPs can be used in the United States as an identification document in the same ways that a person uses a government-issued photo identification document.

! In each matter, the Commission is seeking either temporary and permanent injunctive relief, as well as other relief as deemed appropriate by the court, to prevent current and future violations of the FTC Act.

! The Commission vote authorizing staff to file each of the six complaints was 5-0. The FTC would like to thank the Offices of the Attorney General of the states of Illinois and Missouri, the California Department of Motor Vehicles, the AAA, the AATA, the American Association of Motor Vehicle Administrators, the Northeast Region of the U.S. Postal Inspection Service, and the Office of the U.S. Attorney for the District of Massachusetts for their support and assistance in bringing these cases. The Office of Fair Trading in the United Kingdom and the Consumer Ombudsman's Office of Denmark also provided assistance.

! On Feb. 23, 2003, the Commission announced that it had approved the filing of amended complaints in two matters currently pending against the Institute for International Licensing (IIL) and PT Resource Center (PTRC). Both complaints name additional defendants with alleged connections to the original defendants. The new IIL defendants are: 1) Mountain View Systems, Ltd.; 2) Wheelie International Limited; 3) Aladdin Travel, Inc.; 4) S.C. Hyacinth S.R.L.; 5) Jason Abraham; 6) Caroline Shallon; and 7) Charles Fogel. The new PTRC defendants are Donald Lockwood, also known as Don Glessner, and Vivian Lockwood. The Commission's vote authorizing the staff to file the amended complaints was 5-0.

! On April 25, 2003, the Commission announced that it authorized the staff to file an amended complaint in the pending court matter regarding Yad Abraham, dba Sharpthorn Internet Solutions and Internex, LLC. The Commission brought this complaint, which concerns the alleged sale of fake international driving permits, in

January 2003, as part of its "Operation License for Trouble" law enforcement sweep. Through this action, the FTC has added Shaun Melville, member or manager of Internex, LLC, as an individual defendant in this matter. The Commission vote authorizing the staff to file the amended complaint was 5-0.

! On August 5, 2003, the Commission announced that it had reached a proposed settlement with the defendants in the Jaguar Business Concepts matter. The proposed settlement permanently bars Jaguar and Cheyenne from promoting or selling fraudulent IDPs or any type of bogus identification document, and from misrepresenting the uses and benefits of IDPs and other identification documents. The FTC has the right to reopen the case if the financial information Jaguar and Cheyenne submitted is found to be untruthful. Finally, the settlement contains recordkeeping provisions to assist the FTC in monitoring the defendants' compliance. The Commission vote to approve the settlement was 5-0. The settlement and order is subject to approval by the U.S. District Court for the District of Maryland, Northern Division. On July 18, 2003, the court entered a default judgment and an order for a permanent injunction as to defendant Jacqueline A. Demer.

! On August 19, 2003, the Commission announced that it had reached a proposed settlement with the defendants in the Abraham, Carlton Press, and Mountain View Systems matters. In each of the three cases, the proposed settlements permanently bar the defendants from: selling any IDP or other identification document; misrepresenting that any IDP authorizes consumers to drive legally in the U.S. or abroad; claiming that IDPs can protect consumers against points and traffic sanctions; misrepresenting that an IDP can be used in place of a government-issued identification document; and making false or misleading claims for any good or service. The settlements also bar the defendants from assisting others in these practices. In addition, the settlements contain various recordkeeping provisions to assist the FTC in monitoring defendants' compliance. The Commission vote to authorize the staff to file the complaints and stipulated final judgments with respect to Yad Abraham, Carlton Press, and Aladdin Travel was 4-0-1, with Commissioner Pamela Jones Harbour not participating. The settlements announced today are subject to the respective courts' approval.

<http://www.ftc.gov/opa/2003/01/idpfinal.htm> (release – complaints & ex parte TROs)

<http://www.ftc.gov/opa/2003/02/fyi0314.htm> (release – amended complaints)

<http://www.ftc.gov/opa/2003/04/fyi0329.htm> (release - amended complaint)

<http://www.ftc.gov/opa/2003/08/libertymall.htm> (release – final orders)

<http://www.ftc.gov/opa/2003/08/idpsettlement.htm> (release – final orders)

FTC Releases Top 10 Consumer Complaint Categories in 2002

As in 2000 and 2001, Identity Theft Tops the List

The Federal Trade Commission has released its annual report detailing consumer complaints about identity theft and listing the top 10 fraud complaint categories reported by consumers. As in 2000 and 2001, identity theft topped the list, accounting for 43 percent of the complaints lodged in the FTC's Consumer Sentinel database. The number of fraud complaints jumped from 220,000 in 2001 to 380,000 in 2002, and the dollar loss consumers attributed to the fraud they reported grew from \$160 million in 2001 to \$343 million in 2002. The top 10 categories of consumer fraud complaints in 2002 include: Internet Auctions - 13%; Internet Services and Computer Complaints - 6%; Advance Fee Loans and Credit Protection - 5%; Shop-at-Home/Catalog Sales - 5%; Foreign Money Offers - 4%; Prizes/Sweepstakes and Lotteries - 4%; Business Opportunity and Work-at-Home Plans - 3%; Telephone Services - 2%; Health Care - 2%; and Magazines and Buyers Clubs - 2%.

<http://www.ftc.gov/opa/2003/01/top10.htm>

265. Federal Trade Commission v. J. Michael Ernest (CD Cal; W. Div.; Filed Jan 16, 2003;

Released: Jan 22, 2003; FTC File No. 012-3249; Civ. Action No. 03-437RSWL (SHSx)).

! Defendant: J. Michael Ernest, Ph.D.

x812

! The developer of a so-called breast enhancement product marketed as "The Isis System," has agreed to settle Federal Trade Commission charges that he made deceptive statements in his endorsements of the product.

! On December 26, 2002, the FTC announced that it had filed in federal district court a complaint and stipulated order against Vital Dynamics, Inc., the vendor of The Isis System. The action announced today is a companion action to that case. Ernest developed Isis and was featured in ads for the product. The Isis product was advertised extensively through print, radio, TV, and on the Internet.

! The proposed stipulated final order requires Ernest to have competent and reliable scientific evidence before making any claims about the benefits, performance, efficacy, safety, or side effects about Isis or any dietary supplement, food, drug, cosmetic, or device. In the event he makes claims as an expert endorser, he must also rely on an actual exercise of his represented expertise, in the form of an examination or testing at least as extensive as an expert in the field would normally conduct, to support such conclusions. The settlement allows Ernest to make representations specifically permitted by the U.S. Food and Drug Administration.

! The Commission vote to authorize staff to file the FTC complaint and stipulated order was 5-0. The FTC complaint and stipulated final order were filed in the U.S. District Court for the Central District of California, Western Division on January 16, 2003, and the stipulated order was approved by the court on January 17, 2003.

<http://www.ftc.gov/opa/2003/01/evd.htm> (release – complaint, stipulated final order)

FTC Challenges Weight-loss Claims for Slim Down Solution Infomercials Ran Nationally

266. FTC v. Slim Down Solution, LLC et al. (FTC File No. 022 3163; Civil Action No. 03-80051-CIV-PAINE; S.D. Fla.; Filed Jan 22, 2003; Released: Jan 24, 2003)

! Defendants: Slim Down Solution, LLC, Slim Down Solution, Inc., S.S.T. Management, Inc., The Kara Group, LLC, Ronald Alarcon, Kathleen Alarcon, Maderia Management, Inc., Polyglucosamine, Ltd., and Stephen Pierce

o821

! The FTC alleges that the SDS defendants have advertised and sold Slim Down Solution through nationally-disseminated infomercials that aired on cable television channels such as Bravo, Comedy Central, and PAX Cable, and on the Internet at www.slimdownsolution.com. In addition, the SDS defendants sell their product through a continuity program, automatically shipping consumers Slim Down Solution and charging consumers' credit cards or debiting their bank accounts monthly. The Maderia defendants, based in Conroe, Texas, have manufactured and sold D-glucosamine products directly to consumers and other resellers through their Internet sites, including www.polyglucosamine.com. Resellers, in turn, promoted the products to consumers under private labels such as "Fight the Fat," "Everslim," "Mini Max," and "Slim Down Solution."

! The complaints contain allegations that defendants' claims were false or unsubstantiated including that they: falsely represented that their products isolate large amounts of dietary fat per dose and bind it to be carried out of the body as waste; falsely represented that studies prove that their products absorb dietary fat, thereby causing weight loss in humans; and represented without adequate substantiation that their products cause weight loss. In addition, the complaint alleges that the SDS defendants improperly charged consumers' credit cards or debited their bank accounts through the continuity program. The complaint alleges that the Maderia

defendants provided the means and instrumentalities for the SDS defendants to make their deceptive claims. ! The Commission vote to authorize staff to file the complaint was 5-0. The FTC is seeking permanent injunctive relief and consumer redress against all of the defendants. Concurrently with the filing of its complaint in this matter, the FTC filed a stipulated preliminary injunction against the SDS defendants that, when signed by the judge, will preliminarily enjoin use of the challenged claims in advertising.

<http://www.ftc.gov/opa/2003/01/slimdown.htm> (release – complaint, stipulated order w/ SDS)

Swiss Company Charged by FTC with Making Unsubstantiated Health Claims

267. FTC v. Dr. Clark Research Association et al., Northern District of Ohio, Eastern Division) (FTC File No. 022-3051; Civ. Action No. 1:03CV0054; Filed Jan 8; Released: Jan 27, 2003)

! Defendants: Dr. Clark Research Association, Dr. Clark Behandlungszentrum GmbH, d/b/a Dr. Clark Zentrum, and David P. Amrein

o824

! The Federal Trade Commission has charged a Switzerland-based company and its U.S. counterpart with making numerous unsubstantiated efficacy claims for a variety of dietary supplements and devices that they sell on the Internet. In its complaint filed in federal court, the Commission alleges that the defendants advertise that their products and programs can cure advanced and terminal cancers, AIDS, and other serious diseases. The FTC charges that the defendants did not have a reasonable basis to substantiate the claims made in their advertisements.

! The FTC's action is part of "Operation Cure.All," a coordinated, ongoing and comprehensive law enforcement and consumer education effort with the U.S. Food and Drug Administration (FDA), Health Canada, and various state Attorneys General that began in 1997 to crack down on unscrupulous marketers who use the Internet to prey on the sickest and most vulnerable consumers.

! The Commission vote to authorize staff to file the complaint was 5-0.

<http://www.ftc.gov/opa/2003/01/drclark.htm> (Press release – complaint)

National Consumer Protection Week - Dewie's "Hard Shell" on Information Security

Looking for a sign that winter may be coming to an end? February 2 is Groundhog Day, when all eyes are on Punxsutawney Phil, perhaps the world's most famous groundhog, as he looks for his shadow. February 2 is also the start of National Consumer Protection Week, when Dewie, the federal government's information security mascot, will help shed some light on information security practices online. As Phil pops out of his burrow to check the skies, Dewie will be helping consumers find out how to weather viruses and hackers -- or avoid them altogether. The FTC recommends that consumers take the following precautions when using the Internet: The Federal Trade Commission says NCPW is a great time for the "hard shell" on information security: 1) Use a strong password; 2) Use anti-virus software; 3) Install a firewall; 4) Back up important files; 5) If your computer is infected, take action immediately. For more information about online security, visit www.ftc.gov/infosecurity.

<http://www.ftc.gov/opa/2003/01/ncpwsamp.htm>

FTC to Hold Three Day Public Spam Workshop

The Federal Trade Commission will host a three-day "Spam Forum" Wednesday, April 30 through Friday, May 2, to address the proliferation of unsolicited commercial e-mail and to explore the technical, legal, and financial issues associated with it. The forum will be held at the Federal Trade Commission, 601 New Jersey

Avenue, N.W., Washington, D.C. It will be open to the public and preregistration is not required.

<http://www.ftc.gov/opa/2003/02/spamforum.htm>

Commission denial of petition for spam rulemaking:

(FTC File No. P024407; Released Feb. 3, 2003)

The Commission has denied a petition for rulemaking under Section 18 of the FTC Act from the Telecommunications Research and Action Center, the National Consumers League, and Consumer Action regarding certain deceptive aspects of spam. The Commission stated that the requested rule would offer no enhancement of the FTC's ability to identify and locate spammers. Therefore, in its letter to the petitioners, the Commission stated that "the possible benefits promised by such a rule do not justify the significant expenditure of time and resources a rulemaking would require," and that rather than engaging in a rulemaking, the FTC can, at this time, "more efficiently and effectively protect the interests of consumers by aggressively continuing to direct law enforcement activities already available under Section 5(a) [of the Act] against particular businesses or individuals that make false or misleading representations in spam e-mail." The Commission vote denying the petition for rulemaking and authorizing staff to notify the parties of this action was 5-0.

<http://www.ftc.gov/opa/2003/02/fyi0310.htm>

FTC Cross-Border Fraud Workshop to Address Trends, Partnerships

(Released: Feb. 19, 2003)

To discuss current trends and explore ways the public and private sectors can work together cooperatively to combat cross-border fraud, the Federal Trade Commission will bring together representatives from the U.S. and abroad for a workshop on February 19 and 20, 2003. The two-day workshop will emphasize the need for strong, ongoing partnerships between the public and private sectors to combat cross-border fraud effectively. The workshop will feature panels focusing on the role of a variety of private sector groups - including financial institutions, credit card companies, ACH processors, money transmitters, commercial mail receiving agencies, courier services, industry associations, Internet Service Providers, and domain registrars - in combating cross-border fraud.

<http://www.ftc.gov/opa/2003/02/crossborder.htm>

FTC, Canada, and Mexico Officials Crack Down on Foreign Companies That Offer Bogus Cancer Treatment

268. FTC v. CSCT, Inc., et al. (ND IL., E. Div.) (FTC File No. 012-3056; Civil Action No. 03 C 00880; Filed February 6, 2003; Released Feb. 20, 2003)

! Defendants: CSCT, Inc., a Canadian corporation; CSCT, Ltd., a British corporation; John Leslie Armstrong, and Michael John Reynolds

o828

! In coordination with officials in Canada and Mexico, the Federal Trade Commission has charged CSCT, Inc., based in British Columbia, with making false claims that it can treat cancer by using an electromagnetic device to kill cancer cells. The FTC alleges that the company uses its Internet Web site to advertise this treatment to consumers in the United States and elsewhere. According to the FTC, the defendants charge consumers \$15,000 up front for several weeks of "treatments" with the electromagnetic device. Consumers must travel at their own expense to Tijuana, Mexico for these treatments.

! The FTC complaint asserts that the treatments consists of exposing consumers to the "Zoetron machine," a

device which purportedly uses a pulsed magnetic field to heat and kill cancer cells. The FTC alleges that the device cannot kill cancer cells, and that the claims made for this therapy are false. The FTC asserts that, on some occasions, consumers have foregone more traditional cancer therapies such as chemotherapy or radiation and undertaken the CSCT therapy instead.

! A federal district court in Chicago has issued an injunction prohibiting these claims, freezing the defendants' assets, and ordering the Web site to be shut down. COFEPRIS (part of Secretaria de Salud) in Mexico inspected the clinic in Tijuana and discovered that the defendants were violating Mexican law by using an unapproved treatment. It shut down the office that was providing the treatment.

! The FTC developed today's law enforcement action in cooperation with Canada and Mexico as part of the Mexico-U.S.-Canada Health Fraud Work Group (MUCH). MUCH was established in 1994 to strengthen the three countries' ability to prevent cross-border health fraud. The participating agencies include the FTC, Mexico's Secretaria de Salud (Ministry of Health), and Profeco (Federal Agency for Consumer Protection), Canada's Health Canada and Competition Bureau, the U.S. Food and Drug Administration (FDA, the lead U.S. agency), the attorney general offices, and state health departments.

! The Commission vote to authorize the filing of the complaint was 5-0. It was filed in the U.S. District Court for the Northern District of Illinois in Chicago on February 6, 2003.

<http://www.ftc.gov/opa/2003/02/csct.htm> (release – complaint & TRO)

FTC to Host Workshops on Role of Technology in Helping Consumers And Businesses Protect Personal Information

(FTC File No. P03 4808; For Release: February 21, 2003)

The Federal Trade Commission will host two public one-day workshops to explore the role of technology in helping consumers and businesses protect the privacy of personal information, including the steps taken to keep their information secure. The first workshop, "The Consumer Experience," to be held Wednesday, May 14, will focus on the technological tools available to consumers to manage and secure their information and whether and how they are using them. The second workshop, "The Business Experience," will be held June 4, and will focus on how businesses use technology to manage their information practices and provide security. The events are open to the public.

<http://www.ftc.gov/opa/2003/02/techwrkshp.htm> (release – federal register notice)

FTC Receives Largest COPPA Civil Penalties to Date

268. United States of America (for the Federal Trade Commission) v. Hershey Foods Corp. (MD PA) (Filed Feb. 26, 2003; Released: February 27, 2003; Civil Action No. 4:CV03-350)

! Defendant: Hershey Foods Corp. o829

269. United States of America (for the FTC) v. Mrs. Fields Famous Brands, Inc., et al. (D UT, C. Div.) (Filed Feb. 26, 2003; Released: February 27, 2003; Civil Action No. 2:03 CV205 JTG)

! Defendants: Mrs. Fields Famous Brands, Inc., Mrs. Fields' Holding Company, Inc., and Mrs. Fields' Original Cookies, Inc. o832

! Mrs. Fields Cookies and Hershey Foods Corporation have each agreed to settle Federal Trade Commission charges that their Web sites violated the Children's Online Privacy Protection Act (COPPA) Rule. According to the FTC complaints, the Mrs. Fields and Hershey sites each violated the COPPA Rule when they failed to obtain verifiable parental consent before collecting personal information from children

under 13. In addition, the sites allegedly failed to post adequate privacy policies, to provide direct notice to parents about the information they were collecting and how it would be used, and to provide a reasonable means for parents to review the personal information collected from their children and to refuse to permit its further use.

! Mrs. Fields will pay civil penalties of \$100,000 and Hershey will pay civil penalties of \$85,000. The separate settlements bar the companies from violating the Rule in the future and represent the biggest COPPA penalties awarded to date. The settlements bar future COPPA violations, require that the companies delete any information collected in violation of COPPA, require civil penalty payments, and contain certain record-keeping requirements to allow the FTC to monitor the companies' compliance with the order.

! The Commission vote to approve the complaints and consent decrees was 5-0. The U.S. Department of Justice filed the Hershey Foods complaint and consent decree in the U.S. District Court for the Middle District of Pennsylvania in Harrisburg, and the Mrs. Fields complaint and consent decree were filed in the U.S. District Court for the District of Utah, Central Division on at the request of the FTC.

<http://www.ftc.gov/opa/2003/02/hersheyfield.htm>(release – complaints and consent decrees)

Rexall Sundown to Pay up to \$12 Million to Settle Charges Regarding Cellulite Treatment Product

270. FTC v. Rexall Sundown, Inc., Case No. 00-7016-CIV-MARTINEZ (Southern District of Florida)

! Defendant: Rexall Sundown, Inc.

x833

! Rexall is a Florida-based subsidiary of Royal Numico, N.V. that manufactures and markets a variety of nutritional supplements and consumer health products. In 1999, Rexall launched a national public relations campaign that heralded the introduction of Cellasene as a major news event, and hired an agency to distribute widely a "video news release" that described the Cellasene clinical studies as "impressive." News stories on Cellasene appeared throughout the country. Shortly thereafter, Rexall advertised Cellasene in major newspapers including The Washington Post and USA Today. The company also advertised Cellasene in magazines, on the Internet, on television and radio, and through free-standing inserts in newspapers. Sales of Cellasene exceeded \$40 million in the United States. The eight-week Cellasene regimen cost consumers almost \$200.

! In July 2000, the FTC sued Rexall in the U.S. District Court for the Southern District of Florida, alleging that the company violated the FTC Act by making unsubstantiated claims about the ability of Cellasene to eliminate or substantially reduce cellulite and false claims that it had clinical evidence establishing Cellasene's efficacy.

! The FTC announced a settlement with the defendant on March 11, 2003. Rexall Sundown, Inc. (Rexall) will pay up to \$12 million to resolve Federal Trade Commission charges regarding its marketing of the dietary supplement, "Cellasene," a purported cellulite treatment product. The settlement is contingent on approval by the federal district court in Miami and approval of related settlements in class action lawsuits currently pending against Rexall in California and Florida. If approved, the FTC and class action settlements together will provide up to \$12 million in redress for consumers throughout the United States who purchased Cellasene.

! In addition to its consumer redress provisions, the stipulated final order prohibits Rexall from making any unsubstantiated cellulite reduction or elimination claim for Cellasene. It also prohibits the defendant from making unsubstantiated claims regarding cellulite, body fat or weight loss for drugs or dietary supplements and from misrepresenting test or study results in connection with the sale of any dietary supplement or drug.

! The Commission vote authorizing staff to file the stipulated final order was 5-0. It was filed in the U.S. District Court, Southern District of Florida, in Miami, on March 11, 2003. The Commission vote authorizing staff to file the stipulated final order was 5-0. It was filed in the U.S. District Court, Southern District of Florida, in Miami, on March 11, 2003.

! The Commission vote authorizing staff to file the stipulated final order was 5-0. It was filed in the U.S. District Court, Southern District of Florida, in Miami, on March 11, 2003.

<http://www.ftc.gov/opa/2003/03/rexall.htm>

271. FTC v. 30 Minute Mortgage, Inc. et al. (Southern District of Florida, Fort Lauderdale Division), Case No. 03-60021

! Defendants: 30 Minute Mortgage, Inc, Gregory P. Roth, and Peter W. Stolz o836

! According to the FTC, 30 Minute Mortgage, Inc. sent spam and maintained Web sites where it advertised "3.95% 30 year mortgages" and until recently described itself as a "national mortgage lender." The company urged potential customers to complete detailed online loan applications. The applications required consumers to supply sensitive personal information, such as their names, addresses, phone numbers, social security numbers, employment information, income, first and second mortgage payments, and asset/account types and balances. The company assured consumers that when they submitted the loan applications, their sensitive information would be protected because it would be transmitted using Secure Sockets Layer (SSL) technology.

! The FTC alleges that 30 Minute Mortgage is not a "national mortgage lender" and does not offer 3.95% 30 year loans. Instead, the company and its principals sold or offered to sell thousands of completed applications to nonaffiliated third parties without consumers' consent, according to the FTC. The FTC also alleges that sensitive personal and financial information that consumers provided was not protected in transmission because the Web sites at times did not use SSL or other encryption technology.

! The FTC charges that the misrepresentations violate provisions of the FTC Act that bar deception. The complaint also alleges that defendants have violated provisions of the Gramm-Leach-Bliley Act that bar misrepresentations to obtain financial information -- a practice known as pretexting. In addition, the FTC alleges that defendants have violated or are about to violate the Gramm-Leach-Bliley Act and the FTC's Privacy of Consumer Financial Information Rule by sharing application information with nonaffiliated third parties when the defendants had not first given consumers notice and the right to "opt out." Finally, the FTC charges that offering loans without making certain, specified disclosures violates the Truth in Lending Act and its implementing Regulation Z.

! The defendants stipulated to a preliminary injunction that was filed in U.S. District Court for the Southern District of Florida in Fort Lauderdale. The order was entered by the court on March 14, 2003, and will remain in effect until the court issues a final ruling on the FTC's allegations.

! The Commission vote to file the complaint was 5-0.

<http://www.ftc.gov/opa/2003/03/thirty6.htm>

272. In the Matter of: The Ted Warren Corporation et al. (File No. 992 3298)

x840

! Respondents: The Ted Warren Corporation, The Ken Roberts Institute, Inc., The Ken Roberts Company, and Ken Roberts, as an officer of the corporations.

! The FTC charged Ken Roberts and his three companies - The Ted Warren Corporation, The Ken Roberts Institute, Inc., and the Ken Roberts Company - with violating the FTC Act by using their Web sites to claim deceptively that consumers who successfully "paper trade"- or practice trade without actually investing - are more likely to profit when they engage in actual trading. According to the FTC, they also failed to disclose the risks associated with the trading techniques recommended in their investment courses.

! On March 24, 2003, the FTC announced a proposed settlement with the respondents. On May 2, 2003, following a public comment period, the Commission has approved the issuance of a final consent order in the matter concerning the defendants in this matter.

! The proposed settlement would bar the defendant from misrepresenting the value of practice "paper trading" to purchasers of his investment courses and require him to disclose, clearly and conspicuously, the risks associated with investing.

! The Commission vote to approve the final consent order was 5-0.

<http://www.ftc.gov/opa/2003/03/tedwarren.htm>

<http://www.ftc.gov/opa/2003/05/fyi0331.htm>

FTC Testifies on the Internet Sale of Prescription Drugs From Domestic Web Sites

In testimony today before the United States House of Representatives Committee on Government Reform, Howard Beales, Director of the Federal Trade Commission's Bureau of Consumer Protection, detailed the Commission's consumer protection activities relating to the online marketing of health products, and specifically prescription drugs, and explained that the Commission brings enforcement actions where an online pharmacy makes false or misleading claims about the product or service it provides. Director Beales explained that the states and the U.S. Food and Drug Administration (FDA) can address online prescribing and dispensing of prescription drugs.

<http://www.ftc.gov/opa/2003/03/onlinepharm.htm> (March 27, 2003)

273. FTC v. Brian D. Westby (FTC File No. 032 3030; Case No. 03 C 2540; ND IL; Filed Apr. 15, 2003; Released Apr. 17, 2003)

! Defendants: Brian D. Westby

o841

! The Federal Trade Commission has asked a U.S. District court judge to block an allegedly illegal spam operation that uses deceptively bland subject lines, false return addresses, and empty "reply-to" links to expose unsuspecting consumers, including children, to sexually explicit material. The agency alleges that Brian Westby used the spam in an attempt to drive business to an adult Web site, "Married But Lonely." The FTC has asked the court to order a halt to the deceptive spam, pending trial. It will seek a permanent injunction at trial.

! According to the FTC complaint, the defendant sent spam with subject lines that would disguise the contents of the e-mail. For example, subject lines have included "Did you hear the news?" and "New movie info." When consumers opened the e-mail messages, they were immediately subjected to sexually explicit solicitations to visit the defendant's adult-oriented Web sites. Because of the deceptive subject lines, consumers had no reason to expect to see such material, the FTC alleges. In some cases, consumers may have opened the e-mails in their offices, in violation of company policies. In other cases, children may have been exposed to inappropriate adult-oriented material, the FTC complaint notes.

! The defendant's spam provides a hyperlink or an e-mail address for consumers who wish to "unsubscribe" or stop receiving e-mail in the future. According to the FTC, when consumers used the hyperlink or e-mail address in an attempt to get off the mailing list, they received an error message - they could not unsubscribe.

! The FTC also alleges that the defendant used false "reply to" or "from" information in the e-mail, making it appear that some innocent third party was the sender. This practice is known as "spoofing." As a result, thousands of undeliverable e-mails flooded back to the computer systems of these third parties, deluging their computer systems with an influx of spam that couldn't be delivered to the addressee.

! The FTC vote to file the complaint was 5-0. It was filed in U. S. District Court for the Northern District of Illinois, Eastern Division.

! A stipulated preliminary injunction was signed by the Judge on Apr. 22, 2003.

! On September 19, 2003, the FTC announced that it had approved the filing of an amended complaint in this matter. The amended complaint adds as defendants a Dutch citizen, Martijn P. Bevelander, and two Dutch companies, Maps Holding B.V. and PB Planning & Services B.V. The Commission vote authorizing the staff to file the amended complaint was 4-0-1, with Commissioner Pamela Jones Harbour not participating.

<http://www.ftc.gov/opa/2003/04/westby.htm> (release – complaint, stipulated PI)

<http://www.ftc.gov/opa/2003/09/fyi0357.htm> (release – amended complaint)

274. FTC v. Greeting Cards of America, Inc. et al.; (SD FL, Filed Ap. 21, 2003; Released: April 25, 2003; FTC File No. 022-3300; Civil Action No. 03-60746-CIV-Gold)

! Defendants: Greeting Cards of America, Inc.; Gerald Towbin, also known as Alex Carr and John Grant; Susan Towbin, also known as Mary Grant and Sandy Grant; American Eagle Placements; and Forrest Adams (Southern District of Florida).

o846

! Greeting Cards of America (GCA), and its officers, and American Eagle Placements, and its owner, have been charged by the Federal Trade Commission with using deceptive tactics in selling their greeting card business opportunity.

! According to the FTC, since at least early 2001, the defendants were engaged in the marketing and sale of a greeting card business opportunity that defrauded consumers out of at least \$3 million. According to the FTC, the defendants advertised on the Internet, on the radio, and in newspapers. In their advertisements, the GCA defendants allegedly made earnings and success claims that vastly overstated the amount consumers could expect to make from a GCA business opportunity. GCA allegedly also used "shills" – phony references – to deceive consumers.

! According to the FTC, American Eagle defendants operated a locator service which consumers paid for

separately to place the greeting card racks sold to them by GCA. American Eagle defendants allegedly made false claims about the quality of the locations the placement service obtained and the sales support that they provided. The owner of the company also allegedly reiterated to consumers GCA's false earnings claims in advance of the sale of the racks. The FTC alleges that these practices violate the FTC Act and the FTC's Franchise Rule.

! The FTC is asking the court to prohibit misrepresentations, appoint a receiver, freeze the defendants' assets, and obtain consumer redress.

! The Commission vote to authorize staff to file a complaint in federal district court was 5-0. The complaint was filed in the U.S. District Court, Southern District of Florida, Ft. Lauderdale Division, on April 21, 2003 under seal. The seal was lifted on April 24, 2003.

<http://www.ftc.gov/opa/2003/04/greetingcards.htm> (release – complaint)

FTC Hosts Forum to Explore Potential Solutions to Spam

The Federal Trade Commission will host a public forum to explore issues relating to the proliferation of and potential solutions to unsolicited commercial e-mail. The spam forum, beginning Wednesday, April 30, 2003 and continuing through Friday, May 2, 2003, also will look at how the unique qualities of spam both contribute to and hinder fraud and its prosecution.

<http://www.ftc.gov/opa/2003/04/spamforum.htm> (April 25, 2003)

FTC Measures False Claims Inherent in Random Spam

At Least One Form of Deception Found in Sixty-Six Percent of Random Sample

In a random sample of 1,000 pieces of unsolicited commercial e-mail (UCE) from three Federal Trade Commission (FTC) data sets, 66 percent contained false "From" lines, "Subject" lines, or message text. The study, which was conducted by the Division of Marketing Practices, is the first extensive review of the likely truth or falsity of claims appearing in UCE.

<http://www.ftc.gov/opa/2003/04/spamrpt.htm> (April 29, 2003)

Internet Auction Fraud Targeted by Law Enforcers

Thousands of Consumers Fleeced by Auction Scams (Released: April 30, 2003)

! The Federal Trade Commission and 29 state Attorneys General have launched a law enforcement crackdown targeting Internet auction scams that bilked thousands of consumers out of their money and merchandise. The crackdown, "Operation Bidder Beware," coordinated by the FTC in conjunction with the National Association of Attorneys General, resulted in 57 criminal and civil law enforcement actions and a related consumer education campaign. Auction fraud is the single largest category of Internet related complaints in the FTC's Consumer Sentinel database, which logged more than 51,000 auction complaints in 2002.

! Many of the cases involve straightforward scams where consumers allegedly "won" the bid for merchandise through an Internet auction Web site, sent in their money, but never received the merchandise.

275. FTC v. James D. Thompson and Susan B. Germek (ND IL; Case No. 0C3 2541; FTC File No. 032 3096)

! Defendants: James D. Thompson and Susan B. Germek o848

! The FTC alleged that the defendants combined auction fraud with serial identity theft to conceal their identities and divert the blame to the identity theft victim. The FTC charged that, since early 1999, one operator constantly changed his Internet auction account name to conceal the fact that although he accepted payment, he did not deliver the promised merchandise. According to the FTC, in 2001, he added a new wrinkle.

! While he allegedly continued to advertise and accept payment for merchandise he never delivered, he embarked on serial identity theft. The FTC alleges that he set up bank accounts and post office boxes in other people's names, and directed that payment be sent to them. Consumers and law enforcers believed the identity theft victims were the ones who had bilked the consumers out of their money. According to the FTC, his identity theft victims were people with whom he had feuded, people whose identity information he and an accomplice had taken from the records of a suburban Chicago hotel, and even a dead man.

! A U.S. district court in Chicago has ordered a halt to the scam and frozen the defendant's assets to preserve them for consumer redress.

276. FTC v. Morgan Engle (ND GA; Case No. 1:03-CV-1072; FTC File No. 032 3072)

! Defendant: Morgan Engle o849

277. FTC v. Eric Stetzel (D NV; Case No. CV-S-03-0396-KJD-LRL; FTC File No. 032 3090)

! Defendant: Eric Stetzel o850

278. FTC v. One or More Unknown Parties Deceiving Consumers While Doing Business as or Using Premier-escrow.com (ND GA; Case No. 1:03-CV-1072; FTC File No. 032 3069)

! Defendant: PremiereEscrow.com and one or more unknown parties o851

! The FTC alleges that the defendants set up a fraudulent online escrow service. Escrow services are used in Internet auction transactions to prevent fraud by acting as independent third party after a transaction has taken place, receiving buyers' money, assuring sellers that they can safely ship the goods, and holding the payment until the consumers have had the opportunity to receive and inspect the merchandise. Once the consumers are satisfied with their purchases, the escrow service funds are then turned over to the seller. In this FTC case, the scammers allegedly acted as both buyers and sellers of merchandise. Whether they "bought" or "sold," they allegedly insisted the transaction be processed by their own bogus firm, premier-escrow.com.

! Consumers who were scammed had no reason to suspect that premier-escrow.com was just a shell. According to the FTC, when consumers sold merchandise - such as computers or cameras - premier-escrow.com assured the sellers that the money was in hand and the sellers should ship the merchandise. These sellers allegedly shipped their merchandise to the scammers and never heard from them or premier-escrow.com again.

! The FTC alleges that when consumers bought merchandise - in one instance an automobile - premier-escrow.com collected the funds from the purchasers but those purchasers never received their merchandise.

! A U.S. district Court in Virginia has ordered a halt to the scam, dismantled the scammers' Web site, and frozen the defendants' assets, pending trial.

<http://www.ftc.gov/opa/2003/04/bidderbeware.htm> (release – complaints, TROs)

FTC Cracks Down on "Pre-Registration" Scams for the National "Do Not Call" List

279. FTC v. Ken Chase (ND CA.; Civ. No. C-03-2139-MEJ; FTC File No. 032-3134; Filed, May 6, 2003; Released, May 8, 2003)

! Defendants: Ken Chase d/b/a Free Do Not Call List.org National Do Not Call List.US o853

! The Commission filed the complaint announced today against Ken Chase, doing business as Free Do Not Call List.org and National Do Not Call List.US. According to the Commission's complaint, consumers who respond to Chase's claims and attempt to pre-register for the FTC's "Do Not Call" Registry receive an e-mail stating that their pre-registration has been received and that their information will be transmitted to the FTC as soon as the list becomes available. The Free Do No Call List Web site also allegedly directs consumers who want to stop receiving telemarketing calls to what it describes as "the Active list" at National Do Not Call List.US.

! Once there, the complaint alleges that consumers are told that by subscribing to the service they can stop receiving such calls, as well as unsolicited faxes and junk mail. The cost for the service is between \$9.99 and \$17.99 per year. This site allegedly also falsely claims that it can place consumers on the FTC's "Do Not Call" registry.

! The complaint charges Chase with deceptively representing to consumers that the FDNCL.org and NDNCL.US Web sites can arrange for consumers' telephone numbers to be placed on the Commission's "Do Not Call" Registry, in violation of Section 5 of the FTC Act.

! In addition, the Commission states that the defendants' claims that the Web sites can be used to sign up for the registry are likely to cause consumers to provide their personal identifying information, and in the case of NDNCL.US, to subscribe to its service. Finally, it is possible that consumers who sign up via one of the two Web sites would reasonably think their names would be included in the national registry and that they would not need to sign up on their own, according to the FTC.

! In addition to filing the complaint, the FTC has sought a temporary restraining order to halt the defendant's allegedly deceptive misrepresentations of his ability to place consumers' phone numbers on the Commission's registry.

<http://www.ftc.gov/opa/2003/05/kenchase.htm> (release – complaint)

FTC and FDA Crack Down on Internet Marketers of Bogus SARS Prevention

Products Deceptive and Misleading Claims Must be Removed Immediately

The Federal Trade Commission and the Food and Drug Administration (FDA) are warning Web site operators who suggest that their products will protect against, treat, or even cure Severe Acute Respiratory Syndrome (SARS) that they are aware of no scientific proof for such claims and that the Web site operators must remove any misleading or deceptive claims from the Internet. A coordinated Internet "surf" found 48 sites touting a wide variety of SARS treatment or prevention products. The FTC also retrieved seven promotions for SARS products from its spam database. The two agencies sent warnings to Web site operators and e-mail solicitors, cautioning that it is against the law to make claims about SARS protection or treatment, or any other health benefit, without rigorous scientific support. The FTC and FDA staff will follow up by revisiting the targeted sites to determine whether the Web site operators have deleted or revised unproven claims. (May 9, 2003)

Law Enforcement Posse Tackles Internet Scammers, Deceptive Spammers

Initiative Launched to Prevent Spammers From Concealing Identity and Evading Detection

In the latest in a series of law enforcement initiatives targeting Internet fraud, the Federal Trade Commission, Securities and Exchange Commission, United States Postal Inspection Service, three United States Attorneys, four state attorneys general, and two state regulatory agencies today announced they have filed 45 criminal and civil law enforcement actions against Internet scammers and deceptive spammers. In addition to the law enforcement actions, the FTC and 21 U.S. and international agencies have launched an initiative to get organizations in 59 countries to close the open relays that allow spammers to avoid detection by spam filters and law enforcers.

280. Click for Mail (FTC File No 032-3112)

! Defendants: Clickformail.com, Inc. and Harvey B. Vaughn III o855

! The FTC alleges that defendants said that consumers who paid a one-time fee of \$49.95 were guaranteed to receive a "100% unsecured" VISA or MasterCard credit card with a credit limit up to \$5,000.00. Consumers who clicked on the "Claim your card NOW," icon on the Web site and entered their checking account information received a confirmation page or e-mail that typically stated, "Approved! Congratulations! Your membership has been approved."

! In fact, according to the FTC, what consumers received was access to a Web page containing hyperlinks to various companies that purportedly issue credit cards -- a list of hyperlinks that would have been available free to consumers who used a search engine.

281. Instant Internet Empires (FTC File No. 032-3047)

! Defendants: K4 Global Publishing, Inc, Kern Family Enterprises, LLC, and Irwin F. Kern o858

! Defendants allegedly touted the money making potential of five pre-packaged Internet businesses, promising that buyers could make more than \$115,000 a year using the product. The defendants told consumers that the product would enable them to make money while they sleep. What consumers received for their \$47.77 investment was the right to reproduce the defendants' advertising Web site and try to resell its contents to other consumers. To achieve the promised \$115,000 in earnings, consumers each would have to sell the product to 2,400 additional consumers, who would each need to sell to 2,400 additional consumers to achieve the same earnings, and so on. According to the FTC, by the third generation of the scheme, participants would need to make a total of 13,829,760,000 sales, more than twice the earth's population, for each of them to achieve the advertised earnings. In fact, many purchasers failed to make even

one sale after months of trying.

282. EZ Money - Patrick Cella et al. (FTC File No 032-3012)

! Defendants: Patrick Cella, Irene Herrera, James Zezula, and Vincent Zezula o862

! A scheme used spam and Web sites to market a "100% Legal and Legitimate" work-at-home envelope stuffing opportunity. Using deceptive information in the "from" line of their e-mail, the defendants represented that they were affiliated with well-known entities, such as Hotmail and MSN. Marketing materials promised consumers that they would earn \$1 for each envelope they stuffed, and could earn as much as \$1,500 a week stuffing envelopes supplied by the defendants. What consumers received for their \$50 fee was a set of instructions to market a deceptive credit-repair manual.

283. Jeffrey Stone Evans (FTC File No. 032-3108)

! Defendant: Jeffrey Stone Evans x863

284. Joel Kent Benson (FTC File No 032 3107)

! Defendant: Joel Kent Benson x864

! Two different cases against participants in an e-mail chain letter scheme that promised participants significant earnings, pledged that the scam was legitimate, and urged recipients to contact the FTC's Associate Director for Marketing Practices, who they claimed would vouch for the legality of the illegal schemes. The FTC stopped the illegal schemes, and settlements with the defendants bar them from participating in illegal chain e-mail schemes in the future.

285. FTC v. Alyon Technologies, Inc. (Northern Dist. Georgia) (FTC File No 022-3305)

! Defendant: Alyon Technologies, Inc. o865

! In a case that generated more than 1,200 consumer complaints to the FTC's Consumer Sentinel database, the FTC asked a district court to halt the defendants' unauthorized billing and collection for videotext services purportedly accessed on the Internet.

! According to the FTC, the defendants use a modem dialing program to disconnect consumers from their own Internet service providers and reconnect them to the scammers' network without the consumers' authorization or approval. Using the dialing program, the defendants then capture the telephone number used by the modem, and match it against several databases of line subscriber information, which frequently contain errors. The line subscribers identified as responsible for the captured telephone number later receive bills charging them \$4.99 a minute for each minute the defendants claim videotext services were purchased, regardless of whether the line subscribers authorized the purchase.

! The FTC alleges that many consumers never visited the defendants' sites at all, and were charged due to billing service errors of which the defendants were aware. Furthermore, according to the FTC, the defendants' dialing program downloads onto consumers' computers without their authorization.

! The FTC coordinated the investigation of this case with the offices of numerous state attorneys general, and with the invaluable assistance of the New Jersey Attorney General; the Georgia Attorney General; the Georgia Governor's Office of Consumer Affairs; the Wisconsin Department of Agriculture, Trade and Consumer Protection; the Illinois Attorney General; and the Idaho Attorney General.

! On July 10, 2003, a federal district court order barred defendants from seeking payment from thousands of consumers who the defendants billed for Internet videotext services the consumers did not agree to purchase. Under an Order issued by U.S. District Court Judge R. W. Story in the Northern District of Georgia, defendants Alyon Technologies, Inc., Telcollect, Inc., and Stephane Touboul are prohibited from billing,

collecting, or attempting to collect payment from consumers without first fully disclosing the material terms of the sale to the consumer, or someone authorized to act to incur the charges, and also verifying that the person receiving the services was authorized to incur the charges. The order also requires Alyon to pay restitution to consumers who have already filed written complaints with Alyon and the Federal Trade Commission protesting the bills, and those who do so in the next 90 days.

<http://www.ftc.gov/opa/2003/07/alyon1.htm>

286. FTC v. The College Advantage, Inc. (East. Dist. of Tex.) (FTC File No 032-3081)

! Defendant: The College Advantage, Inc.

o866

! A Web-based scam targeted college-bound students and their parents. For a fee of \$895, the defendants pledged to procure 100 percent of the funding students would need to attend college. In fact, they procured no money for the students. Instead, they provided consumers with readily available scholarship information that consumers could have obtained free.

! The Commission authorized the staff to file an amended complaint in the case currently pending against The College Advantage, Inc. et al. Through this action, the FTC has added Claudia L. Jacobs and Donna S. Baron, the wives of the individual defendants named in the complaint, as relief defendants and sought to freeze the assets held solely in their names. The Commission vote authorizing the staff to file the amended complaint was 5-0.

<http://www.ftc.gov/opa/2003/07/fyi0341.htm> (Release – amended complaint)

Bogus Business Opportunity Claims Halted

287. FTC v. END70 Corp., et al (ND TX; Filed May 2003; Released July 2, 2003)

! Defendants: End70 Corporation and its principal, Damien Zamora dba Internet Treasure Chest

x868

! In May 2003, the FTC charged that End70 Corporation and its principal, Damien Zamora, used a Web site and infomercials to claim that their Internet Treasure Chest (ITC) business opportunity was very profitable and very inexpensive. The Web site and infomercials made earnings and income claims and testimonials such as: "You don't need a lot of money to start an Internet Business. In fact, we started out of our home and now we're on track to do \$1 million in sales this year."

! The FTC charged the defendants with deceptive and misleading advertising and violations of the Telemarketing Sales Rule.

! At the request of the Federal Trade Commission, the judge also has ordered an asset freeze, pending a preliminary injunction hearing, to provide for consumer redress.

! The case was part of the SW Netforce, but was under seal at the time of the Sweep announcement. The seal was lifted and the case was announced on July 2, 2003.

<http://www.ftc.gov/opa/2003/07/itc.htm> (Release – complaint and TRO)

<http://www.ftc.gov/opa/2003/05/swnetforce.htm>

No "Silver Bullet" to Limit Spam, FTC Tells Congress

The Federal Trade Commission today told Congress that there is no "silver bullet" to solve the problems of increasing volume, increasing costs, and increasing international effects of spam. In testimony before the Senate Committee on Commerce, Science and Transportation, Commissioners Mozelle W. Thompson and

Orson Swindle told the panel "Solving the problem of bulk unsolicited commercial e-mail will likely necessitate an integrated effort involving a variety of technological, legal, and consumer action, rather than one single solution." The Commission testimony outlines initiatives the FTC has taken to combat spam, including law enforcement actions targeting deceptive spam, consumer education efforts, studies and analyses of spam, and a recent, three-day "spam forum," to address the cost and technology burden imposed by the increasing amount of spam.

<http://www.ftc.gov/opa/2003/05/spamtestimony.htm> (May 21, 2003)

Staples, Inc. to Pay \$850,000 Penalty For Alleged Mail Order Rule Violations

FTC Complaint Charges Office Supply Company Misled Consumers and Businesses About "Real Time" Inventory Availability, Misrepresented Delivery Times on its Web Site

288. United States of America v. Staples, Inc. (District of Massachusetts; FTC File No. 012-3192; Civ. No. 03-10958 GAO; Filed May 22, 2003; Released May 22, 2003)

! Defendant: Staples, Inc.

x869

! According to the Commission, before Staples corrected its Web site in response to the FTC's investigation, the site contained misleading information regarding the availability of its office supply products, as well as the company's ability to ship ordered products to its customers in the time promised. The alleged misrepresentations, the Commission's complaint stated, were made in violation of the FTC Act and the Mail Order Rule.

! Further, according to the complaint, Staples also violated the Mail Order Rule by failing to send adequate delay option notices to customers who purchased products from Staples via its Web site and catalog. Staples allegedly did not always notify customers that their orders were delayed. In addition, even when Staples did notify customers of delays, the company allegedly did not offer customers the right to cancel their orders rather than accept the delay.

! Under the terms of a consent order reached with the FTC settling the charges, Staples will pay \$850,000 and is prohibited from: 1) making "real time" inventory claims that are not accurate; and 2) promising customers they will receive their shipments in one day, or any other specified amount of time, if it does not have a reasonable basis to expect it can meet these deadlines. The consent order also requires Staples to tell customers if their orders will be late and offer them the chance to cancel the order if they do not agree to the delay.

! The Commission vote to refer the complaint and proposed consent decree to the DOJ for filing was 5-0. The complaint and consent were filed on behalf of the FTC in the U.S. District Court for the District of Massachusetts on May 22, 2003. This case was brought with the invaluable assistance of the U.S. Attorney's Office in Boston, Massachusetts.

<http://www.ftc.gov/opa/2003/05/staples.htm> (Release – complaint and consent decree)

289. FTC v. Leasecomm Corporation, et al (Dist. Court, District of Massachusetts; Civil Action No. 0311034- REK; Filed May 22, 2003; Released May 29, 2003)

! Defendants: Leasecomm Corp. and Microfinancial Incorporated,

x871

! Leasecomm, and its parent corporation, Microfinancial, Inc., have agreed to settle the FTC charges and similar suits filed by members of the State Task Force, comprised of the attorneys general of Massachusetts, Florida, Illinois, Kansas, North Carolina, North Dakota and Texas, and by the District Attorney's Office for Ventura County, California.

! According to the FTC, Leasecomm Corporation financed business opportunities, including Internet web malls, multilevel marketing programs, medical billing software, coupon clipping programs and similar, often worthless, get-rich-quick schemes sold by third-party vendors. Consumers typically made little or no up-front payments, but signed a contract, which Leasecomm called a lease, requiring payments ranging from \$3,000 - \$4,000 over a three or four year period. While consumers thought the contracts covered many items included as part of a business venture -- training, Web site design, and consumer leads, for example -- they didn't. They covered only one small part of the venture -- a "virtual terminal," for example.

! Leasecomm drafted its contracts to ensure that customers paid even when the vendors used misrepresentations or fraud, or when the products or services failed to perform as represented, according to the FTC complaint. According to the FTC, when consumers failed to pay, Leasecomm sued them. The FTC alleges that Leasecomm has sued over 27,000 consumers in the past three years in Massachusetts courts, and, as of January, had 2,200 suits pending. Few of the customers could afford the expense of litigation in a distant city and most suffered default judgments the FTC alleges. Although Leasecomm files its suits in Massachusetts, it aggressively enforces its judgments in the consumer's local forum.

! The settlement announced on May 29, 2003, will 1) bar misrepresentations about the terms of any contract -- including misrepresenting that consumers cannot raise defenses against Leasecomm; require disclosure of material facts about a contract, including disclosure that Leasecomm, not the vendor, is financing the transaction; 2) require that if Leasecomm sues consumers, it does so "where the customer resides or signed the contract; 3) require Leasecomm to vacate pending lawsuits filed in the wrong forum and correct any damage to the consumer's credit record; 4) require that Leasecomm invalidate illegal provisions of existing contracts, including waivers of defenses; 5) require that Leasecomm cancel and cease collections on approximately \$24 million in final court judgments; require that Leasecomm give consumers who are the target of more than 2,000 pending Leasecomm lawsuits currently filed in Massachusetts the option of having the suit conducted locally; 6) require that consumers who were unlawfully required to agree to electronic funds transfers be given the option to switch to another payment method.

! The FTC vote to accept the settlement was 5-0.

<http://www.ftc.gov/opa/2003/05/leasecomm.htm> (complaint stipulated final judgment)

290. Federal Trade Commission v. QT, Inc. et al.; (ND IL; Case No. 03C 3578; FTC File No. 032 3011; Filed May 27, 2003; Released June 2, 2003)

! Defendant QT, Inc.; Q-Ray, Company; Bio-Metal, Inc.; Que Te Park, also known as Andrew Q. Park; and Jung Joo Park x875

! The Q-Ray Bracelet is a C-shaped metal bracelet that the defendants claim is "ionized" through a secret process that gives it pain-relieving abilities. The defendants promote their product through a nationally televised 30-minute infomercial and on the Internet at www.qray.com, www.q-ray.com, and www.bio-ray.com. The defendants allege in their ads that their product works by supposedly altering the body's positive and negative energy to naturally relieve pain from a variety of ailments, including musculoskeletal pain, sciatica, headaches, tendinitis, and injuries. The Q-Ray Bracelet ranges in price from \$49.95 to \$249.95.

! FTC alleges that defendants violated the FTC Act by deceptively claiming that the Q-Ray Bracelet is a fast-acting effective treatment for various types of pain and that tests prove that the Q-Ray Bracelet relieves pain. In fact, according to the FTC, a recent study conducted by the Mayo Clinic in Jacksonville, Florida, shows that the Q-Ray Bracelet is no more effective than a placebo bracelet at relieving muscular and joint pain.

! The defendants' infomercial advertises a risk-free money back guarantee that allows consumers to return the Q-Ray Bracelet for a full refund within 30 days if they are not satisfied. The FTC's complaint alleges, however, that consumers were not able to readily obtain a full refund of the purchase price if they returned the product within 30 days, as promised in the defendants' infomercials

! The FTC vote to authorize the staff to file the complaint was 5-0. It was filed in the U.S. District Court for the Northern District of Illinois, Eastern Division, on May 27, 2003.

! A federal district court has issued a temporary restraining order (TRO) against the defendants. The TRO prohibits defendants from making any misleading or deceptive claims about the Q-Ray Bracelet and freezes defendants' assets. The FTC is seeking preliminary and permanent injunctive relief, including redress, to consumers who purchased the Q-Ray Bracelet.

<http://www.ftc.gov/opa/2003/06/qtinc.htm> (Release – complaint & ex parte TRO)

“Technologies for Protecting Personal Information” Focus of FTC Workshop

The role of technology in helping consumers and businesses to protect consumer information is the focus of a Federal Trade Commission workshop titled “Technologies for Protecting Personal Information.” The workshop will feature the strategies and technological tools businesses can use to manage and protect consumer information and explore how they are currently using them.

<http://www.ftc.gov/opa/2003/06/persinfoadvisory.htm> (June 2, 2003)

FTC Debunks Credit File Privacy E-mail

Bogus July 1 E-mail Exposed: The Real Deal on Your Credit File Privacy

The Federal Trade Commission is warning consumers about an anonymous e-mail that’s full of false and misleading information about the use of their personal information. The e-mail has been widely distributed for the past three years, around this time each year.

The bogus e-mail reads: “Just wanted to let everyone know who hasn’t already heard, the four major credit bureaus in the U.S. will be allowed, starting July 1, to release your credit info, mailing addresses, phone

numbers... to anyone who requests it. If you would like to "opt out" of this release of info., you can call 1-888-567-8688. It only takes a couple of minutes to do."

<http://www.ftc.gov/opa/2003/06/bogus.htm> (June 2, 2003)

FTC Alleges Maryland Companies Lack Support for Claims That Heartbar Is Effective Against Cardiovascular Diseases

291. In the Matter of Unither Pharma, Inc. et ano. (File No. 022 3036; Released June 12, 2003)

! Respondents: Unither Pharma, Inc. , and United Therapeutics Corporation x877

! The respondents represented that HeartBar – a chewy food bar and powder containing the amino acid L-Arginine – reduces the risk of developing heart disease, reverses damage to the heart, reduces or eliminates heart disease patients' need for surgery and medications, and substantially decreases leg pain in people with cardiovascular disease. The FTC alleges that these claims were deceptive, in violation of Section 5 of the FTC Act, because they are not supported by scientific evidence.

! The respondents' products are HeartBar, HeartBar Plus, and HeartBar Sport. Since at least 1999, the respondents have advertised on "cookepharma.com" and "unither.com" Web sites, and in print media.

! The proposed settlement announced today prohibits the respondents from repeating these type of claims for HeartBar and other L-Arginine products unless they have adequate scientific support. It also bars them from making any unsubstantiated claims about the health benefits, performance, or efficacy of any food, medical food, or dietary supplement used in or marketed for the treatment, cure, or prevention of cardiovascular disease.

! The Commission vote to accept the proposed consent agreement was 5-0. An announcement regarding the proposed consent agreement will be published in the Federal Register shortly. It will be subject to public comment for 30 days, until July 14, 2003, after which the Commission will decide whether to make it final. Comments should be addressed to the FTC, Office of the Secretary, 600 Pennsylvania Avenue, N.W., Washington, D.C., 20580.

<http://www3.ftc.gov/opa/2003/06/unither.htm> (Release – agreement, complaint, & analysis)

Guess Settles FTC Security Charges;

Agency Alleges Security Flaws Placed Consumers' Credit Card Numbers at Risk to Hackers

292. In the Matter of Guess?, Inc. et ano. (FTC File No. 022-3260; Released June 18, 2003)

! Respondents: Matter of Guess?, Inc., and Guess.com, Inc. x878

! In the FTC's third case targeting companies that misrepresent the security of consumers' personal information, designer clothing and accessory marketer Guess, Incorporated has agreed to settle Federal Trade Commission charges that it exposed consumers' personal information, including credit card numbers, to commonly known attacks by hackers, contrary to the company's claims.

! Guess has sold Guess-brand clothing and accessories online at www.guess.com since 1998. According to the FTC complaint, since at least October 2000, Guess' Web site has been vulnerable to commonly known attacks such as "Structured Query Language (SQL) injection attacks" and other web-based application attacks. Guess' online statements reassured consumers that their personal information would be secure and protected. The company's claims included "This site has security measures in place to protect the loss, misuse, and alteration of information under our control" and "All of your personal information, including your credit card information and sign-in password, are stored in an unreadable, encrypted format at all times." In fact, according to the FTC, the personal information was not stored in an unreadable, encrypted format at all

times and Guess' security measures failed to protect against SQL and other commonly known attacks. In February 2002, a visitor to the Web site, using an SQL injection attack, was able to read in clear text credit card numbers stored in Guess' databases, according to the FTC.

! The agency alleges that Guess didn't use reasonable or appropriate measures to prevent consumer information from being accessed at its Web site, Guess.com.

! The Guess settlement prohibits the company from misrepresenting the extent to which it maintains and protects the security of personal information collected from or about consumers. It also requires that Guess establish and maintain a comprehensive information security program. In addition, Guess must have its security program certified as meeting or exceeding the standards in the consent order by an independent professional within a year, and every other year thereafter.

! Following a public comment period, the Commission approved the issuance of a final consent order in the matter concerning GUESS?, Inc. and GUESS.COM, Inc. The Commission vote to approve the final consent order was 5-0. (FTC File No. 022-3260; staff contact is Jessica Rich, 202-326-2148; see press release dated June 18, 2003.)

<http://www3.ftc.gov/opa/2003/06/guess.htm> (Release – agreement, complaint, & analysis)

<http://www.ftc.gov/opa/2003/08/fyi0348.htm>

**No Silver Lining for Marketers of Bogus Supplement; Agencies Crack Down on Health Fraud
*FTC Charges Marketers of Seasilver with Making False and Deceptive Claims;
FDA Seizes Seasilver Inventories***

293. FTC v. Seasilver USA, Inc. et al. D.C., CV-S-03-0676-RLH(LRL) (District of Nevada).

! Defendants: Seasilver USA, Inc.; Americaloe, Inc.; Bela Berkes; Jason Berkes;

Brett Rademacher, individually and doing business as Netmark International and NetmarkPro; and David R. Friedman

o885

! The Federal Trade Commission (FTC) and the Food and Drug Administration (FDA) announced coordinated actions against two companies - both charged with promoting the dietary supplement "Seasilver" with unsubstantiated medical claims. The agencies' actions against Seasilver USA, Inc. and Americaloe, Inc. are designed to halt the fraudulent marketing of Seasilver and to seize the available inventory of the product. Today's actions are the latest part of Operation Cure.All, an on-going coordinated effort among the FTC, the FDA, Health Canada, Canada's Competition Bureau, and state Attorneys General to crack down on unscrupulous marketers who prey on consumers with serious illnesses.

! According to the FTC, the defendants promote Seasilver through national television and radio infomercials, Web sites at www.seasilver.com and www.myseasilver.com/main, spam emails, and a glossy 28-page consumer brochure. The defendants publicly claimed that Seasilver USA earns \$180 million annually from selling Seasilver. The FTC alleges that the defendants' ads and promotional materials represented that Seasilver: (1) treats or cures cancer; (2) enables nine out of ten diabetes patients to stop their insulin medication; and (3) causes rapid, substantial, and permanent weight loss without dieting. The FTC charges that these and other claims go beyond existing scientific evidence on any of the ingredients contained in the product, and therefore, are false and unsubstantiated.

<http://www.ftc.gov/opa/2003/06/seasilver.htm>

Fraudulent Email Seeks to Capture Consumer Information

Thousands of consumers apparently received an unauthorized and deceptive e-mail from Best Buy, entitled "Fraud Alert," on June 18, 2003. Using concern about a purchase from Best Buy and possible credit card misuse as bait, the fraudulent e-mail message urged recipients to go to a special Web site and correct the problem by entering their Social Security and credit card numbers. Best Buy officials say the company did not send the message. The company is working with appropriate law enforcement authorities, including the Federal Trade Commission, the nation's consumer protection agency, to resolve the situation. In addition, the company is reporting that none of their systems have been compromised, and their online business is secure.

<http://www.ftc.gov/opa/2003/06/bestbuyscam.htm> (June 24, 2003)

'Q-Bate' and Switch: Court Order Closes Case on N.Y. Web Retailer That Kept Consumers Waiting for Cash Back

Defendants to Pay \$600,000 for Allegedly Failing to Deliver Rebates as Promised

294. FTC and The People of the State of New York v. UrbanQ, et al. (E.D. N.Y.; FTC File No. 022-3138; Civ. No: CV-0333147; Released June 26, 2003)

! Defendants: UrbanQ, et al. a LLC, and Daniel Greenberg, Michael Konig, and Steven Krausman, individually and as members of URBANQ LLC. x889

! The Federal Trade Commission today announced it has settled an action against a New York-based Internet retailer that allegedly left over a thousand consumers in the lurch after failing to provide hundreds-of-thousands of dollars worth of promised cash rebates. According to the FTC, UrbanQ and its principals told consumers who bought items from their Web site that they would receive the rebates – which they called 'Q-bates' – within 12 weeks of their purchase. However, many of the Q-bates, which often ranged from 70 to 100 percent of the original purchase price, failed to arrive within the time promised, and many never showed up at all.

! Under the terms of the court settlement reached with the Commission, the company and individual defendants will be prohibited from engaging in similar behavior and will pay \$600,000 in consumer refunds.

! The Commission vote to accept the proposed consent order and place a copy on the public record was 5-0. It was filed in U.S. District Court for the Eastern District of New York on June 26, 2003. The proposed consent order will become final after being signed by the judge. The New York State Office of the Attorney General, which is a co-plaintiff with the Commission, assisted the FTC is bringing this action.

<http://www.ftc.gov/opa/2003/06/urbanq.htm> (Release – complaint & stipulated final order)

295. United States v. Merchant Payment Solutions et ano. (FTC Matter No. X020087; Civil Action No. 4:02-cv-93-3 (CDL))

! Defendants: Merchant Payment Solutions and its principal, Steven Todd Knight x891

! In June 2002, as part of its "Project Busted Opportunity" sweep, the Department of Justice (DOJ), at the request of the Federal Trade Commission, filed a complaint against the defendants alleging they violated the FTC Act and the Franchise Rule in the sale and marketing of mini-ATM machine business opportunities.

! The complaint stated that the defendants promoted their business opportunity through a Web site and a toll-free number, claiming that consumers could earn up to \$450 a month by placing a mini-ATM in a location that 500 visitors per month would visit. The FTC alleged that the defendants did not substantiate their earnings claims, and that consumers actually lost significant sums of money in this venture.

! In July 2003, the FTC announced that the defendatns agreed to settle charges that they violated federal

laws by operating and promoting a fraudulent business opportunity. Under the terms of the proposed settlement, the defendants are required to pay a civil penalty and are prohibited from making any future material misrepresentations in connection with the sale of any business opportunity or any income-generating good or service.

! The proposed settlement further requires the defendants to pay over \$22,000 in consumer redress. Finally, the settlement contains various recordkeeping provisions to assist the FTC in monitoring the defendants' compliance.

! The Commission vote to authorize staff to file the proposed stipulated final judgment and order was 5-0. It was entered by the U.S. District Court, Middle District of Georgia, Columbus Division on June 16, 2003.

<http://www.ftc.gov/opa/2003/07/merchant.htm>

FTC Charges Internet Mall Is a Pyramid Scam

296. FTC v. NEXGEN3000.COM, Inc., et al. (FTC File No. 012-3153; Released July 2, 2003)

! Defendants: Nexgen3000.com, Inc., Globion, Inc., Infinity2, Inc., David A. Charette, Jennifer K. Charette, Robert J. Charette, Jr., Marta N. Charette, Stephen M. Diamond, Christine A. Wasser, and Edward G. Hoyt

x901

! In a complaint filed in U.S. District Court, the FTC alleges that since 2000, Tucson, Arizona-based NexGen3000.com (NexGen) and its principals marketed Internet "shopping malls" that they claimed would enable investors to earn substantial income and commissions on products purchased through the Internet. The malls contained a collection of links to retail Web sites maintained by merchants. The defendants allegedly advertised their business opportunity through the NexGen Web site, live presentations, and telemarketing calls, and maintained a network of affiliates to help promote and sell the malls.

! Consumers paid a registration fee to join the NexGen program, and most also purchased a "WebSuite" including the Internet mall and related goods and services. A "Basic WebSuite" cost \$185, including the registration fee, and a "Power Pack WebSuite" cost \$555. The FTC's complaint states that NexGen assured consumers that buying the "WebSuite" qualified them to earn significant commissions for every "WebSuite" sold. NexGen allegedly claimed that "each activated business center has the potential to earn up to \$60,000 per week."

! The FTC alleges that the defendants deceptively represented that consumers who participated in their scheme would earn substantial income, when in fact most consumers lost money in the operation. The complaint also states that the defendants provided deceptive marketing material to affiliates - providing them with the means to deceive others. The agency alleged that the defendants failed to disclose that a substantial percentage of participants would lose money, and that the scheme was actually an illegal pyramid. The FTC alleges that the practices violated the FTC Act.

! The FTC has asked the court to bar permanently the corporate and individual defendants from engaging in the violations of the FTC Act alleged in the complaint. The FTC is seeking a permanent ban on the deceptive acts, and consumer redress for victims of the scam

! The FTC vote to authorize the filing of the case was 5-0. The FTC complaint named NexGen 3000.Com Inc; Globion, Inc.; Infinity2, Inc.; David A. Charette; Jennifer K. Charette; Robert J. Charette, Jr.; Marta H. Charette; Stephen M. Diamond; Christine A. Wasser; and Edward G. Hoyt. The case was filed in the U.S. District Court for the District of Arizona.

<http://www.ftc.gov/opa/2003/07/nexgen.htm> (Release – complaint)

No Simple Solution to The Spam Problem, FTC Tells Congress

Solutions Will Depend on Cooperative Efforts Between Government and Private Sector

The Federal Trade Commission told Congress today that there is no simple solution to solve the problem of spam. Speaking before the House Energy and Commerce Committee's Subcommittees on Commerce, Trade and Consumer Protection and Telecommunications and the Internet, Howard Beales, Director of the FTC's Bureau of Consumer Protection told the members that a solution would require a balanced combination of technology fixes, law enforcement, consumer and business education, and legislation.

<http://www.ftc.gov/opa/2003/07/spamtest.htm> (Released July 9, 2003)

297. Federal Trade Commission, Plaintiff, v. _____, a minor, also known as _____, by his parent _____, Defendant (Central District of California; Filed July 24, 2003; FTC File Nos. 032-3101 and 022-3209)

! Defendant: _____, a minor x902

! The FTC alleged that the scam, called "phishing," worked like this: posing as America Online, the con artist sent consumers e-mail messages claiming that there had been a problem with the billing of their AOL account. The e-mail warned consumers that if they didn't update their billing information, they risked losing their AOL accounts and Internet access. The message directed consumers to click on a hyperlink in the body of the e-mail to connect to the "AOL Billing Center." When consumers clicked on the link they landed on a site that contained AOL's logo, AOL's type style, AOL's colors, and links to real AOL Web pages. It appeared to be AOL's Billing Center. But it wasn't. The defendant had hijacked AOL's identity and was going to use it to steal consumers' identities, as well, the FTC alleged.

! The defendant's AOL look-alike Web page directed consumers to enter the numbers from the credit card they had used to charge their AOL account. It then asked consumers to enter numbers from a new card to correct the problem. It also asked for consumers' names, mothers' maiden names, billing addresses, social security numbers, bank routing numbers, credit limits, personal identification numbers, and AOL screen names and passwords - the kind of data that would help the defendant plunder consumers' credit and debit card accounts and assume their identity online.

! According to the FTC, the defendant used the information to charge online purchases and open accounts with PayPal. In addition, he used consumers' names and passwords to log on to AOL in their names and send more spam. Finally, he recruited others to participate in the scheme by convincing them to receive fraudulently obtained merchandise he had ordered for himself.

! The agency charged the defendant's practices were deceptive and unfair, in violation of the FTC Act. In addition, the FTC alleged that the defendant's practices violated provisions of the Gramm-Leach-Bliley Act designed to protect the privacy of consumers' sensitive financial information.

! The FTC announced that the defendant had agreed to settle the matter on July 21, 2003. The settlement was accepted by the Court on July 25, 2003. According to the terms of the settlement, the defendant, a minor, will be barred for life from sending spam and will give up his ill-gotten gains. The settlement bars the defendant from future violations of the FTC Act and the Gramm-Leach-Bliley Act. It also bars the defendant from sending spam in the future. In addition, the order requires the defendant to give up \$3,500 in ill-gotten gains.

! The Commission vote to authorize staff to file the complaint and stipulated final judgment and order was 5-0. It will be filed in the U.S. District Court for the Central District of California in Los Angeles and is subject to court approval. This case was brought with the invaluable assistance of the Department of Justice Criminal Division's Computer Crimes and Intellectual Property Section, Federal Bureau of Investigation's Washington Field Office, and United States Attorney for the Eastern District of Virginia's Computer Hacking and Intellectual Property Squad, the United States Postal Inspectors and the Los Angeles District Attorney's

High Technology Crimes Unit.

<http://www.ftc.gov/opa/2003/07/phishing.htm> (Release – complaint & stipulated order)

Risks of Online File Sharing Topic of FTC Consumer Alert

The Federal Trade Commission has issued a Consumer Alert, “File-Sharing: A Fair Share? Maybe Not,” that warns consumers about a number of risks associated with file-sharing. Computer users who share files online have access to a wealth of information including music, games, and software.

<http://www.ftc.gov/opa/2003/08/filessharing.htm> (Released August 1, 2003).

Radiation Protection Patch Marketers “Cell” Consumers Short

298. FTC v. Rhino International, Inc., et al. (E.D.N.Y.; Civil Action No. CV 03-3850; FTC File No. 012 3079; Filed and released, August 6, 2003)

! Defendants: Rhino International, Inc., Nigel Harrison, and Sherry Molina, individually and as Officers of Rhino International, Inc., x905

299. FTC v. Safety Cell, Inc., et al. (E.D.N.Y.; Civil Action No. CV 03-3851; FTC File No. 012 3077; Filed and released, August 6, 2003)

! Defendants: Safety Cell, Inc., & Jerry Berger, individually & as an officer of Safety Cell, Inc. x907

! Two companies who marketed and sold bogus cell phone radiation protection patches have settled Federal Trade Commission charges that they violated federal laws by making false and misleading claims about their products. Using television and Internet advertising, Safety Cell, Inc. and Rhino International, Inc. deceptively indicated that their patches, designed to fit over the earpiece of any cell phone, could block a substantial amount of radiation and other electromagnetic energy emitted by cellular telephones, thereby reducing consumers’ exposure to this radiation.

! According to the FTC, Rhino International marketed and sold the “WaveScrambler” patch, claiming that their product could block 99 percent of electromagnetic waves emitted by cellular phones and cordless phones.

! According to the FTC, Safety Cell marketed the “WaveGuard” cell phone shield. The FTC alleged that the defendants claimed that their WaveGuard patch blocked most of the electromagnetic energy emitted from cell phones.

! Under separate settlements, both sets of defendants are required to have adequate scientific evidence to substantiate claims about the performance, efficacy, or benefit of any good or service. The settlement in Rhino requires them to pay \$342,665 in redress to consumers who purchased Rhino’s “WaveScrambler” patch.

! The Commission vote to approve the filing of the two complaints and stipulated final orders for permanent injunctions were 5-0. The documents were filed in the U.S. District Court for the Eastern District of New York on August 6, 2003.

<http://www.ftc.gov/opa/2003/08/rhino.htm> (releases - complaints, stipulated final orders)

Marketers of Copa Hair System Agree to Settle FTC Charges

GoodTimes Entertainment to Pay \$100,000 in Civil Penalties and \$200,000 in Consumer Redress

300. United States of America v. Goodtimes Entertainment Ltd., et al. (S.D.N.Y.; Civil Action No. 03 CV 6037; FTC File Nos. 012-3032; Filed, August 11, 2003, Released, August 18, 2003)

! Defendants: GoodTimes Entertainment Limited (GoodTimes) and GT Merchandising & Licensing Corporation (GTM&L)

x909

! Copa is a popular hair-straightening product targeted primarily to African-American women and sold mainly through infomercials hosted by dancer Debbie Allen. It is also sold through the defendants' Web site at www.copahair.com. The FTC alleged that defendants GoodTimes and GTM&L marketed Copa as having unique hair-strengthening properties. The FTC alleged that defendants deceptively marketed its product. In addition, the FTC alleges that the defendants did not ship the product within the promised time frames, and enrolled consumers in continuity programs without their consent. The defendants also marketed Richard Simmons' "Blast Off The Pounds" weight-loss program consisting of videotapes and "Blast & Go Vitamins," sold via television and Internet advertising. According to the FTC, the defendants on occasion charged consumers for additional products without their consent.

! The Department of Justice filed this action at the FTC's request. In addition to requiring payment of \$100,000 in civil penalties and \$200,000 in consumer redress, the settlement prohibits GoodTimes and GTM&L from making the challenged claims for the products without adequate substantiation, and from violating the Mail Order Rule.

! The Commission vote to file the complaint and consent decree was 5-0. The documents were filed in the United States District Court for the Southern District of New York on August 11, 2003, and the consent decree requires the judge's approval.

<http://www.ftc.gov/opa/2003/08/goodtimes.htm> (release – complaint, consent order)

FTC Chairman Calls Spam "One of the Most Daunting Consumer Protection Problems FTC Has Ever Faced"

Addressing business executives and government officials at the Aspen Summit in Aspen, Colorado, Federal Trade Commission Chairman Timothy J. Muris today explained how competition, consumer protection, and the FTC fit into the American economy. Specifically, Muris focused on the challenges posed by spam and the roles of the government, marketers, and Internet Service Providers (ISPs) in combating this "daunting" consumer protection problem.

<http://www.ftc.gov/opa/2003/08/aspenspeech.htm>, released August 19, 2003

Risks of Credit Report Scams Topic of FTC Consumer Alert

The Federal Trade Commission has issued a Consumer Alert, "Fake Credit Report Sites: Cashing in on Your Personal Information," that warns consumers about the dangers of a high-tech scam known as "phishing." Some Web sites or unsolicited emails offering credit reports may be using these sites as a way to capture consumers' personal information. After stealing this information, they may sell it to others who may use it to commit fraud, including identity theft. The alert points out the following precautions consumers should take when visiting sites or responding to email that offer credit reports.

<http://www.ftc.gov/opa/2003/09/creditrptalert.htm>, released September 18, 2003

Network Solutions Settles FTC Charges

False Solicitations Allegedly Duped Consumers to Transfer Domain Name Registrations

301. FTC v. Network Solutions, Inc., dba VeriSign Registrar (D.D.C.; Civil Action No.: 031907; FTC File No. 0223231; Filed, September 11, 2003, Released, September 24, 2003).

! Defendant: Network Solutions, Inc., dba VeriSign Registrar

x910

! Network Solutions, Inc. has settled Federal Trade Commission charges that its deceptive marketing practices unlawfully tricked consumers into transferring their Internet domain name registrations to the company.

! The FTC's complaint alleges that, as part of its marketing campaign, Network Solutions mailed solicitation notices to consumers that appeared to be expiration notices from the consumers' current registrars. The notices allegedly stated that consumers' domain names were about to expire, and that Network Solutions was offering to "renew" their domain names for a fee. The FTC alleges that these notices were deceptive for two reasons. First, the notices claimed that the consumers' domain names would soon expire, but failed to disclose the actual expiration dates of the consumers' domain names – which were, in some cases, months or years in the future. Second, the notices offered to "renew" the consumers' domain names without disclosing either the identity of the consumers' then-current registrars or that accepting the offer would cause the domain name to be transferred to Network Solutions. The FTC charges that the notices tricked some consumers into transferring their domain name registrations to Network Solutions – often at a significantly higher price.

! The terms of the settlement permanently bar Network Solutions from misrepresenting that a consumer's domain name is about to expire or that the transfer of a domain name is actually a renewal. The order also requires the defendant to pay consumer redress pursuant to the terms of a previously settled class action lawsuit.

! The Commission vote authorizing staff to file the stipulated final order was 4-0-1, with Commissioner Pamela Jones Harbour not participating. The order was filed in the U.S. District Court for the District of Columbia on September 11, 2003, and was entered by Judge Ricardo M. Urbino on September 12.

<http://www.ftc.gov/opa/2003/09/networksolutions.htm> (release – stipulated final order)