

record. After 30 days, the Commission will review the agreement and the comments received and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by any Respondent that said Respondent violated the law or that the facts alleged in the complaint (other than jurisdictional facts) are true.

The Complaint

The allegations of the complaint are summarized below.

In Clark County, Washington, criminal defense services for indigent defendants are provided by private attorneys working in individual practices or as members of small law firms, who work under contract with Clark County. Those attorneys were and are separate and independent competitors of one another in all material respects.

Near the end of 2001, Clark County started its biennial contract negotiations with the attorneys who had provided criminal indigent defense services during the preceding contract period. Early in these negotiations, the Respondents presented the County with a document titled "Indigent Defense Bar Consortium Contract" (hereinafter "Consortium Contract") signed by 43 of the attorneys who had previously signed felony contracts with the County. In that document, the Respondents and their colleagues purported to form a "Consortium" and stated their intention to authorize the Consortium, as represented by the Respondents, to be the sole negotiator on behalf of all signatories. The document further stated the signatories' collective demand to alter the payment methodology and substantially increase the payment for all homicide, attempted homicide, persistent offender and death penalty cases. The signatories also stated their intention to refuse to accept any further such cases unless the County acceded to their demands, and authorized the Consortium to take legal action against any signatory who agreed to provide criminal defense services on terms inconsistent with those demanded by the Consortium.

After receiving the document from the Respondents, Clark County agreed to a

new contract adopting the payment methodology demanded by the Consortium and substantially increasing reimbursement rates for all homicide, attempted homicide, persistent offender and death penalty cases. The Respondents, by orchestrating the formation of the Consortium and threatening the County with a refusal to deal, have violated Section 5 of the FTC Act.

The Proposed Consent Order

The proposed order is designed to remedy the illegal conduct charged in the complaint and prevent its recurrence. It is modeled after the remedy sought by the Commission and approved by the Supreme Court in *Federal Trade Commission v. Superior Court Trial Lawyers Association*, 493 U.S. 411 (1990), in which the Court held that a boycott among criminal indigent defense attorneys was a per se violation of the antitrust laws, despite the lawyers' claims that the boycott was a political act ostensibly designed to improve the quality of representation by increasing their reimbursement rates. The Court observed that "[n]o matter how altruistic the motives of respondents may have been, it is undisputed that their immediate objective was to increase the price that they would be paid for their services." 493 U.S. at 427.

The proposed order's specific provisions are as follows:

Paragraph II.A prohibits the Respondents from entering into or facilitating any agreement between or among any attorneys: (1) To negotiate with payors on any attorney's behalf; (2) to deal, to refuse to deal, or to threaten to refuse to deal with payors; (3) regarding the terms of dealing with any payor; or (4) not to deal individually with any payor.

Other parts of Paragraph II reinforce these general prohibitions. Paragraph II.B prohibits the Respondents from facilitating exchanges of information between attorneys concerning whether, or on what terms, to deal with a payor. Paragraph II.C bars attempts to engage in any action prohibited by Paragraph II.A or II.B; and Paragraph II.D proscribes inducing anyone to engage in any action prohibited by Paragraphs II.A through II.C.

Paragraph II contains a proviso clarifying that the order does not prohibit rights to petition government officials, as guaranteed by the First Amendment, nor does the order prohibit the Respondents from providing information or views to the County or its representatives.

Paragraphs III, IV and V impose various obligations on Respondents to report or provide access to information to the Commission to facilitate monitoring Respondents' compliance with the order.

The proposed order will expire in 20 years.

By direction of the Commission.

Donald S. Clark,
Secretary.

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FEDERAL TRADE COMMISSION

[File No. 032 3245]

Prince Lionheart, Inc., et al.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of Federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before July 21, 2004.

ADDRESSES: Comments should refer to "Prince Lionheart, Inc., et al., File No. 032 3245," to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-159, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material must be filed in paper form, as explained in the Supplementary Information section. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments filed in electronic form (except comments containing any confidential material) should be sent to the following e-mail box: consentagreement@ftc.gov.

FOR FURTHER INFORMATION CONTACT: Carol Jennings or Robert Frisby, FTC, Bureau of Consumer Protection, 600

Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-3010 or 326-2098.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and section 2.34 of the Commission's Rules of Practice, 16 CFR 2.34, notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of thirty (30) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for June 21, 2004), on the World Wide Web, at <http://www.ftc.gov/os/2004/06/index.htm>. A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. Written comments must be submitted on or before July 21, 2004. Comments should refer to "Prince Lionheart, Inc., *et al.*, File No. 032 3245," to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/Office of the Secretary, Room H-159, 600 Pennsylvania Avenue, NW., Washington, DC 20580. If the comment contains any material for which confidential treatment is requested, it must be filed in paper (rather than electronic) form, and the first page of the document must be clearly labeled "Confidential."¹ The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments filed in electronic form should be sent to the

following e-mail box: consentagreement@ftc.gov.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at www.ftc.gov. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order by respondents Prince Lionheart, Inc., and Thomas E. McConnell, individually and as President of the corporation.

The proposed consent order has been placed on the public record for thirty (30) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns practices related to the advertising, offering for sale, sale, and distribution of an electronic mosquito repellent device called the "Love Bug." The Commission's complaint charged that respondents violated the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, by making representations that were false and for which they lacked a reasonable basis of substantiation. These representations concerned the following: The ability of the "Love Bug" to repel mosquitoes from a baby; the effectiveness of the "Love Bug" as an alternative to the use of chemical products formulated to repel mosquitoes; and the ability of the "Love Bug" to protect babies against contracting the West Nile virus.

Part I of the proposed order prohibits any representation that the "Love Bug," or any substantially similar product, (A) repels mosquitoes from a baby or any person; (B) is an effective alternative to the use of chemical products formulated to repel mosquitoes; or (C) protects

babies or other persons against contracting the West Nile virus, unless the representation is true and respondents possess competent and reliable scientific evidence that substantiates the representation. For purposes of this part, a "substantially similar product" means any product that uses or purports to use sonic or ultrasonic technology to repel mosquitoes from the user.

Part II of the proposed order prohibits unsubstantiated representations about the benefits, performance, or efficacy of any consumer electronic product.

Part III of the proposed order requires the respondents to send a letter (Attachment A to the consent agreement), with a copy of the order, to any catalog company or other wholesale or retail seller to which respondents have sold the "Love Bug" since January 1, 2002.

Part IV of the proposed order is a record keeping provision that requires the respondents to maintain certain records for three (3) years after the last date of dissemination of any representation covered by the order. These records include: (1) All advertisements and promotional materials containing the representation; (2) all materials relied upon in disseminating the representation; and (3) all evidence in respondents' possession or control that contradicts, qualifies, or calls into question the representation or the basis for it.

Part V of the proposed order requires distribution of the order to principals, officers, directors, and managers, and to employees, agents, and representatives having responsibilities with respect to the subject matter of the order.

Part VI of the proposed order requires that the Commission be notified of any change in the corporation that might affect compliance obligations under the order. Part VII of the proposed order requires that for a period of five (5) years, the individual respondent notify the Commission of the discontinuance of his current business or employment or of his affiliation with any new business or employment.

Part VIII of the proposed order requires the respondents to file a compliance report with the Commission.

Part IX of the proposed order states that, absent certain circumstance, the order will terminate twenty (20) years from the date it is issued.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and

¹ Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

proposed order or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AoA-04-05]

Fiscal Year 2004 Program Announcement; Availability of Funds and Notice Regarding Applications

AGENCY: Administration on Aging, HHS.

ACTION: Announcement of availability of funds and request for applications to support Senior Medicare Patrol (SMP) project efforts for integration of Medicare and Medicaid fraud prevention, detection and reporting activities within states and communities.

SUMMARY: The Administration on Aging announces that under this program announcement it will hold a competition for grant awards for up to twenty (20) projects at a federal share of approximately \$50,000 to \$100,000 per year for a project period of up to three years. It is estimated that approximately \$1,278,000 will be available for this competition.

Legislative authority: The Older Americans Act, Public Law 106-501.

(Catalog of Federal Domestic Assistance 93.048, Title IV, and the Health Insurance Portability and Accountability Act (HIPAA) of 1996 (Pub. L. 104-191))

Purpose of grant awards: The purpose of these projects is to expand capacity of current SMP projects to better fulfill the SMP program mission of health care fraud prevention, identification and reporting, through increased awareness of older consumers.

Eligibility for grant awards and other requirements: Eligibility for grant awards is limited to existing SMP project grantees. This does not include SMP grantees operating on no-cost extensions into the current grant period. Two or three current SMP project grantees may submit a joint regional application; however, the benefits of a regional approach must be supported. Grantees are required to provide at least 25 percent of the total program costs from non-federal cash or in-kind resources in order to be considered for the award.

Executive Order 12372 is not applicable to these grant applications.

Screening criteria: All applications will be screened to assure a level playing field for all applicants. Applications that fail to meet the screening criteria described below will not be reviewed and will receive no further consideration:

1. **Postmark Requirements—** Applications must be postmarked by midnight of the deadline date indicated below, or hand-delivered by 5:30 p.m., Eastern Time, on that date, or submitted electronically by midnight on that date.
2. **Organizational Eligibility—** Only current SMP project grantees are eligible to apply under this program announcement. This does not include SMP grantees operating on no-cost extensions into the current grant period.
3. **Responsiveness to Priority Area Description—** Applications will be screened on whether the application is responsive to the priority area description.
4. **Project Narrative—** The Project Narrative section of the application must not exceed 20 pages.

Review of applications: Applications will be evaluated against the following criteria: Purpose and Need for Assistance (20 points); Approach, Work Plan and Activities (30 points); Project Outcomes, Evaluation and Dissemination (30 points); and Level of Effort (20 points).

DATES: The deadline date for the submission of applications is August 16, 2004.

ADDRESSES: Application kits are available by writing to the U.S. Department of Health and Human Services, Administration on Aging, Office of Consumer Choice and Protection, Washington, DC 20201, by calling (202) 357-0139, or online at <http://www.grants.gov>.

Applications may be mailed to the U.S. Department of Health and Human Services, Administration on Aging, Office of Grants Management, Washington, DC 20201, attn: Margaret Tolson (AoA-04-05).

Applications may be delivered to the U.S. Department of Health and Human Services, Administration on Aging, Office of Grants Management, One Massachusetts Avenue, NW., Room 4604, Washington, DC 20001, attn: Margaret Tolson (AoA-04-05).

If you elect to mail or hand deliver your application you must submit one original and two copies of the application; an acknowledgement card will be mailed to applicants. Instructions for electronic mailing of grant applications are available at <http://www.grants.gov/>.

SUPPLEMENTARY INFORMATION: All grant applicants must obtain a D-U-N-S number from Dun and Bradstreet. It is a nine-digit identification number, which provides unique identifiers of single business entities. The D-U-N-S number is free and easy to obtain from http://www.dnb.com/US/duns_update/.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Health and Human Services, Administration on Aging, Office of Grants Management, Washington, DC 20201, telephone: (202) 357-3440.

Dated: June 25, 2004.

Josefina G. Carbonell,

Assistant Secretary for Aging.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-55-04]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498-1210 or send an e-mail to omb@cdc.gov. Send written comments to CDC Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 or by fax to (202) 395-6974. Written comments should be received within 30 days of this notice.

Proposed Project

U.S.-Mexico Border Diabetes Prevention and Control Project—Phase 2 Community Intervention Pilot Project, OMB No. 0920-0489—Reinstatement with change—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC). The Pan American Health Organization (PAHO), El Paso Field Office, in collaboration with the CDC-funded United States/Mexico Border Diabetes Prevention and Control Programs, and the Mexico Secretariat of Health will conduct Phase 2 of the U.S.-Mexico Diabetes Prevention and Control Project. This phase 2 is the natural follow-up to the household survey to determine the