North Pearl Street, Dallas, Texas 75201–2272:

1. FC Holdings, Inc., Houston, Texas, and First Community Holdings of Delaware, Inc., Wilmington, Delaware; to become bank holding companies by acquiring 100 percent of the voting shares of First Community Bank San Antonio, National Association, San Antonio, Texas.

E. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105–1579:

1. First National Bank Holding Company, Scottsdale, Arizona; to acquire 100 percent of the voting shares of First Heritage Bank, National Association, Newport Beach, California.

Board of Governors of the Federal Reserve System, December 22, 2004.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 04–28449 Filed 12–28–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 04-27829) published on page 76470 of the issue for Tuesday, December 21, 2004.

Under the Federal Reserve Bank of St. Louis heading, the entry for Liberty Bancshares, Inc. is revised to read as follows:

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. Liberty Bancshares, Inc., Jonesboro, Arkansas; to acquire 100 percent of the voting shares of TrustBanc Financial Group, Inc., Mountain Home, Arkansas, and thereby indirectly acquire TrustBanc, Mountain Home, Arkansas.

In addition, Arkansas Newco II, Inc., Jonesboro, Arkansas, a wholly owned subsidiary of Liberty Bancshares, Inc., also has applied to become a bank holding company by acquiring 100 percent of the voting shares of TrustBanc Financial Group, Inc., Mountain Home, Arkansas, and thereby indirectly acquire voting shares of TrustBanc, Mountain Home, Arkansas.

Comments on this application must be received by January 14, 2005.

Board of Governors of the Federal Reserve System,December 22, 2004.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 04–28450 Filed 12–28–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 26, 2005.

A. Federal Reserve Bank of Atlanta (Sue Costello, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309–4470:

1. American Enterprise Bankshares, Inc., Jacksonville, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of American Enterprise Bank of Florida, Jacksonville, Florida.

2. First Community Holding Company, Hammond, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of First Community Bank, Hammond, Louisiana.

B. Federal Reserve Bank of Chicago (Patrick Wilder, Managing Examiner) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Wintrust Financial Corporation, Lake Forest, Illinois; to merge with First Northwest Bancorp, Inc., and thereby indirectly acquire First Northwest Bank, both of Arlington Heights, Illinois.

Board of Governors of the Federal Reserve System, December 23, 2004.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 04–28508 Filed 12–28–04; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

[File No. 041–0083]

Genzyme Corporation, 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 January 18, 2005.

ADDRESSES: Comments should refer to ''Genzyme Corporation, *et al.*, File No. 041 0083,'' 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: Paul Frontczak, FTC, Bureau of Competition, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3002.

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 December 20, 2004), on the World Wide Web, at *''http://www.ftc.gov/os/2004/12/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 January 18, 2005. Comments should refer to ''Genzyme Corporation, *et al.*, File No. 041 0083,'' 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 *http://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 Agreement Containing Consent Orders to Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Orders (''Consent Agreement'') from Genzyme Corporation (''Genzyme'') and ILEX Oncology, Inc. (''Ilex''). The purpose of the proposed Consent Agreement is to remedy the anticompetitive effects resulting from Genzyme's acquisition of Ilex. Under the terms of the proposed Consent Agreement, Genzyme is required to divest all contractual rights to Ilex's monoclonal antibody, Campath®, for use in solid organ transplant, to Schering AG (''Schering'').

The proposed Consent Agreement has been placed on the public record for thirty days to solicit comments from interested persons. Comments received during this period will become part of the public record. After thirty days, the Commission will again review the proposed Consent Agreement and the comments received, and will decide whether it should withdraw from the proposed Consent Agreement or make it final.

Pursuant to an Agreement and Plan of Merger dated February 26, 2004, Genzyme proposes to acquire one hundred percent (100%) of the issued and outstanding shares of Ilex in a stock-for-stock transaction valued at approximately $1 billion. The Commission's complaint alleges that the proposed acquisition, if consummated, would violate section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, by lessening competition in the U.S. market for acute therapy drugs used in solid organ transplant (''SOT''). The proposed Consent Agreement would remedy the alleged violations by replacing the competition that would be lost as a result of the acquisition.

SOT acute therapy drugs are immunosuppressant drugs that are used in solid organ transplants to suppress the transplant recipient's immune system. SOT acute therapy drugs are prescribed for induction therapy and to treat acute rejection. Induction therapy refers to the use of an immunosuppressant drug for a short time before, during, and/or after a solid organ transplant procedure in order to suppress the immune system and decrease the likelihood of rejection of the transplanted organ. An acute rejection is a sudden attack on the transplanted organ by the transplant recipient's immune system. If an acute rejection occurs, SOT acute therapy drugs are used to provide a high dose of immunosuppression in order to stop the rejection.

The U.S. market for SOT acute therapy drugs is highly concentrated. Genzyme is the leading supplier in the market for SOT acute therapy drugs with its drug, Thymoglobulin®. Ilex's Campath®, the newest entrant into the market for SOT acute therapy drugs, currently accounts for a relatively small share of the SOT acute therapy drug market, but is quickly gaining market share and is expected to continue growing. Campath® is FDA-approved for the treatment of chronic lymphocytic leukemia, but is used off-label as an SOT acute therapy drug.

In addition to Thymoglobulin® and Campath®, there are four other SOT acute therapy drugs used in the United States. However, due to similar mechanisms of action, Campath® and Thymoglobulin® are especially close competitors. Both drugs accomplish immunosuppression by depleting T-cells, which are a type of white blood cell that attack transplanted organs and can result in rejection. Atgam® from Pfizer and OKT–3® from Ortho Biotech/Johnson & Johnson are also T-cell depleting SOT acute therapy drugs, but are diminished and aged competitors and account for a small share of the SOT acute therapy drug market. Novartis' Simulect® and Roche's Zenepax® operate by a different mechanism of action—one that prevents the body's immune system from responding to and rejecting a foreign antigen by blocking the receptor for Interluekin—and are known as Interleukin–2 receptor inhibitors. Although Simulect® and Zenepax® are significant competitors and properly included in the relevant market, they exert more competitive

[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).

pressure on each other than on Thymoglobulin® or Campath®.

Other immunosuppressant drugs used in connection with SOT, such as maintenance therapy drugs, are not substitutes for SOT acute therapy drugs. Maintenance therapy drugs refer to low doses of immunosuppressant drugs that are typically used for the duration of a patient's life to prevent rejection. Maintenance therapy drugs are designed to provide a low dose of immunosuppression over a long period of time. Transplant patients typically start on maintenance therapy drugs a short time after the transplant and continue taking maintenance drugs for the rest of their lives. In contrast, SOT acute therapy drugs are designed to deliver a potent dose of immunosuppression over a short period of time, ranging from one day to two weeks. Using maintenance therapy drugs in higher doses to administer the same level of immunosuppression over a short period of time may be toxic to the patient. Thus, doctors would not likely prescribe maintenance therapy drugs in place of SOT acute therapy drugs. Likewise, SOT acute therapy drugs likely would not be used for maintenance therapy because SOT acute therapy drugs may be too powerful to use on a long-term basis.

As with many pharmaceutical products, entry into the manufacture and sale of SOT acute therapy drugs is difficult, expensive, and time-consuming. Developing a drug for SOT acute therapy and conducting clinical trials necessary to gain FDA approval is expensive and takes a significant amount of time. After developing a drug and receiving FDA approval, a company must then convince doctors to prescribe the drug. In order to convince doctors to prescribe a new SOT acute therapy drug, the new drug would need to be more efficacious, safer, and/or significantly less expensive than currently available SOT acute therapy drugs. Off-label entry by a drug already approved for another indication is also expensive and time-consuming, because a drug company would still need to develop and implement costly clinical trials to demonstrate benefits over other SOT acute therapy drugs. A company may not actively market a drug for off-label use. There are no drugs that are being evaluated currently for off-label use in SOT acute therapy. Additionally, entry is unlikely because the market for SOT acute therapy drugs is relatively small, lessening the incentive to invest the time and money necessary to develop these drugs. It is therefore unlikely that entry into the market for SOT acute therapy drugs, either by a new drug approved by the FDA, or by off-label entry, will occur in a manner that is timely or sufficient to resolve the anticompetitive effects of the proposed acquisition.

The proposed acquisition would cause significant competitive harm in the U.S. market for SOT acute therapy drugs by eliminating the actual, direct, and substantial competition between Genzyme and Ilex. This loss of competition would likely result in higher prices and decreased development in the market for SOT acute therapy drugs.

The proposed Consent Agreement effectively remedies the acquisition's anticompetitive effects in the market for SOT acute therapy drugs by requiring Genzyme to divest to Schering all of its contractual and decisionmaking rights regarding Campath® for solid organ transplant, including its portion of the earnings from sales of Campath® in solid organ transplant. Through an existing distribution and development agreement with Ilex, Schering already distributes and markets Campath® in the United States, sharing costs and profits. Thus, Schering is already responsible for distributing and marketing Campath® in the United States, and already participates in development activities for the drug. Therefore, the company is well-positioned to acquire the divested assets, and to compete vigorously in the market for SOT acute therapy drugs. In addition, because Campath® is manufactured by a third-party, there is no need for an interim supply agreement as is required in many pharmaceutical merger settlements.

The parties, with the assistance of a Monitor and the approval of the Commission, will implement a formula to determine the portion of Campath® earnings attributable to solid organ transplant sales. The formula uses drug utilization data maintained by the United Network for Organ Sharing (''UNOS'') and its federally-mandated database to determine the portion of Campath® sales that are attributable to SOT. This unique database provides a reliable, independent source for information regarding the use of Campath® in SOT, because all hospitals performing SOT operations in the United States are required to submit data to UNOS on many aspects of SOT operations. Hospital compliance is high, due in part to the fact that hospitals not submitting the required data face losing Medicare reimbursement. The proposed Consent Agreement also allows for this formula to be reevaluated based on changes in the market or in the use of Campath®.

The Commission has appointed Trinity Partners, LLC (''Trinity'') as Monitor to oversee the divestiture of the Campath® earnings from solid organ transplant. The Monitor will work with the parties to develop and implement the formula to compute Campath® earnings attributable to use in solid organ transplant. John E. Corcoran, Trinity's Managing Partner, will oversee the monitoring team. Mr. Corcoran founded Trinity in 1996, and has over twenty years of experience servicing clients in the pharmaceutical, biotechnology, diagnostic, and medical device industries.

Genzyme and Schering will continue to have a relationship regarding uses of Campath® outside solid organ transplant. Virtually all Campath® sales are for oncology use and only a very small portion of sales are attributable to SOT use. The price of Campath®, therefore, is driven by the competitive dynamics in the oncology market. To provide further protection, the proposed Consent Agreement contains firewall provisions to ensure that Genzyme does not receive competitively sensitive information regarding Campath®'s use and development in solid organ transplant. Additional firewalls prohibit Genzyme from participating in pricing decisions should Campath® SOT sales surpass a set percentage of overall Campath® sales.

The purpose of this analysis is to facilitate public comment on the proposed Consent Agreement, and it is not intended to constitute an official interpretation of the proposed Decision and Order or the Agreement to Hold Separate, or to modify their terms in any way.

By direction of the Commission, Commissioner Harbour recused.

Donald S. Clark,

Secretary.

Concurring Statement of Commissioner Jon Leibowitz

I support the conclusion reached by my fellow Commissioners to approve the proposed consent order regarding Genzyme's acquisition of ILEX. Through this transaction, Genzyme intends to acquire ILEX's key oncology product Campath. However, because a small percentage of Campath sales are used off-label for acute therapy in solid organ transplants (''SOT''), a significant competitive problem arises concerning the overlap between ILEX's SOT use and Genzyme's Thymoglubin acute therapy SOT product. The proposed relief provides a solution designed to protect consumers against the likely harm otherwise caused by this

transaction, while allowing the parties to move forward, even though it creates entanglements that could raise serious concerns under a different set of facts. Thus, I write separately to clarify my support for the proposed relief here, and to express some general observations on merger policy, which I am sure will continue to develop during my tenure here at the Commission.

Merger enforcement is a vital component of the Commission's mission. We are charged under the Clayton Act with ensuring that competition and consumers do not suffer from transactions whose effects may be to ''substantially lessen competition.'' Of course, the Clayton Act provides no inalienable right to merge. It is important, then, for the Commission to rigorously scrutinize each transaction we review in fulfilling our mission. Where a transaction may substantially lessen competition, a high burden should be placed on the parties to show that harm is demonstrably outweighed by efficiencies or that potential relief restores competition. My fellow Commissioners and our attorneys, economists and staff take our responsibility very seriously.

At the same time, where transactions present potential economic benefit—through efficiencies or enhanced research and innovation—we should weigh those benefits relative to the likely harm, and not seek to impose unnecessary obstacles to the parties achieving those benefits. In particular, each merger should be reviewed carefully on its merits and its own facts, and we should remain flexible in considering remedies that restore competition.

My support of the proposed remedy regarding Genzyme's acquisition of ILEX is consistent with these principles. Absent the proposed relief, this transaction would have resulted in significant harm to consumers through increased prices and a possible reduction in research and innovation. And since the original transaction's purported efficiencies (assuming they were cognizable under the Merger Guidelines) were not sufficient to reverse the likely anticompetitive harm, it was incumbent that the parties demonstrate that the relief proposed effectively restores competition.

Here, the proposed remedy likely accomplishes that purpose. It is a creative solution—severing Genzyme from its rights and revenues relating to use of ILEX's Campath product in the SOT market (while allowing Genzyme to maintain its rights and revenues to the product in the oncology market) in a manner that substantially diminishes the likelihood of anticompetitive harm.

As a general matter, creative and flexible remedies should be encouraged where we are confident they will succeed in restoring competition. However, no matter how creative the parties are in devising relief, and no matter how flexible the Commission is willing to be, such an approach will not work in many situations. The specific facts concerning each transaction will drive the analysis.

The unique facts of this case add assurance that the proposed relief will work. For example, virtually all of Campath sales are derived from the competitive oncology market, and only a very small portion of its sales are attributable to SOT use. Thus, the price of Campath is constrained by the oncology market (not the SOT market), substantially diminishing the ability or incentive of Genzyme to attempt a price increase on Campath. Another key fact that allows the remedy to work here is the divestiture to Schering AG of the Campath SOT rights and revenues. Schering AG was already responsible (through a pre-merger relationship with ILEX) for distributing and marketing Campath in the United States, and thus is well-positioned to acquire the ILEX SOT rights and vigorously compete post-merger. These facts, along with other particulars of this transaction, allow for this well-tailored proposed order to fit the facts, and remedy the likely competitive harm.

One concern raised by this transaction is that the remedy creates entanglements between the merged firm and Schering AG: Genzyme will continue to receive revenues post-merger from oncology sales for Campath, while Schering will receive revenues for Campath's SOT sales. It is possible that this relationship could lead to collusion (via side payments or some other mechanism) between the companies that make it mutually profitable for them to increase price or reduce research and development to the detriment of consumers.

We should be concerned ordinarily about such entanglements. However, the possibility of collusion in this case is not a sufficient concern for us to challenge this transaction. First, the entanglements are minimized because Campath SOT earnings can easily be determined without requiring communication between the parties since a federally-mandated independent database on organ transplants will identify the number of SOT patients using Campath. Second, the proposed order makes use of several of the Commission's key tools to prevent this from happening (*e.g.*, employing a monitor, erecting firewalls, and the threat of civil penalties for violating the proposed order), and a violation of the proposed order through collusion could result in criminal sanctions for violating section 1 of the Sherman Act. In the past, the Commission has demonstrated its willingness to sue companies for illegal side payments in the pharmaceutical industry (*e.g.*, In the Matter of Schering-Plough Corp.), and the Commission, no doubt, will remain vigilant in ensuring that we continue to do so in the future.

For these reasons, I concur in the decision of the Commission, but will remain cautious about considering future consent orders that create entanglements which could foster collusion and potentially harm consumers.

[FR Doc. 04–28458 Filed 12–28–04; 8:45 am]
BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

Federal Travel Regulation (FTR)

Maximum Per Diem Rate for New York

AGENCY: Office of Governmentwide Policy, General Services Administration (GSA).

ACTION: Notice of Per Diem Bulletin 05–4, revised continental United States (CONUS) per diem rate.

SUMMARY: The General Services Administration (GSA) has reviewed the lodging rate of a certain location in the State of New York and determined that it is inadequate. The per diem rate prescribed in Bulletin 05–4 may be found at *http://www.gsa.gov/perdiem.*

DATES: This notice is effective December 29, 2004 and applies to travel performed on or after January 10, 2005.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact Lois Mandell, Office of Governmentwide Policy, Travel Management Policy, at (202) 501–2824. Please cite FTR Per Diem Bulletin 05–4.

SUPPLEMENTARY INFORMATION:

A. Background

After an analysis of the per diem rate established for FY 2005 (see the **Federal Register** notices at 69 FR 53071, August 31, 2004, and 69 FR 60152, October 7, 2004), the per diem rate is being changed in the following location:

State of New York

- Nassau County