ANALYSIS OF PROPOSED CONSENT ORDER
TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Indigo Investment Systems, Inc., a corporation, and Frank Alfonso, its CEO (together, "respondents") settling charges that they engaged in deceptive advertising campaign for Indigo, a stock trading program.

The proposed consent order has been placed on the public record for thirty (30) days for receipt 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 or make final the agreement's proposed order.

Respondents sold Indigo through ads in various media, including investment magazines, Internet banner ads, and three websites: www.microstar-research.com, www.msindigo.com, and www.indigoinvestor.com. According to the FTC complaint, respondents' advertising falsely represented that Indigo earnings data described in the ads represent trades that were actually made and that resulted in the profits stated in the advertisements; that the annual returns for the years 1990 through 1999 enumerated in the advertisements were actually achieved by users of respondents' Indigo trading program; and that users of respondents' Indigo investment trading program can reasonably expect to trade with little financial risk. According to the complaint, the Indigo earnings data described on the site do not represent trades that were actually made and that resulted in the profits stated in the advertisements; instead, the data represent results of hypothetical trading and are prepared with the benefit of hindsight using historical data. The annual returns for the years 1990 through 1999 enumerated in the advertisements were not actually achieved by users of respondents' Indigo trading program; instead, the annual returns are based upon hypothetical trades using historical data. Indeed, respondents' Indigo trading program did not exist until 1995. Additionally, the complaint alleges, users of respondents' Indigo trading program cannot reasonably expect to trade with little financial risk; indeed, consumers who trade in stocks risk a substantial loss of capital, and trading some Indigo models represents a high risk speculative investment.

The complaint further alleges that respondents' made several unsubstantiated claims. It alleges that respondents' advertising represented that most users of respondents' Indigo trading program who have invested in conservative portfolios have achieved an annual return of 40% over the past three years; that most users of respondents' Indigo trading program who have invested in aggressive portfolios with "hot" Internet stocks have achieved returns of several hundred percent; that testimonials appearing in the advertisements for respondents' Indigo trading program reflect the typical or ordinary experience of members of the public who use the program; and that users of respondents' Indigo trading program can reasonably expect to achieve substantial profits on a consistent basis, whether pursuing a conservative or aggressive trading strategy. Respondents, however, lacked a reasonable basis to substantiate these claims, according to the complaint.

The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future. Part I of the order would require, with regard to the sale of any trading program, that respondents possess a reasonable basis for future representations about the amount of earnings, income, or profit, or the rate of return, that a user of such trading program could reasonably expect to attain; the usual or typical earnings, income, profit, or rate of return, achieved by users of such trading program or any part thereof; or any financial benefit or other benefit of any kind from the purchase or use of such trading program.

Part II of the order prohibits respondents, in connection with sale of any trading program, from misrepresenting that hypothetical or simulated earnings data represent actual trading results; that users of such trading program can reasonably expect to trade with little risk; or the extent of risk to which users of the trading program are exposed.

Part III requires that future benefits claims be accompanied by the statement that **"STOCK [or CURRENCY, OPTIONS, ETC., as applicable] TRADING involves high risks and YOU can LOSE a significant amount of money."** Part IV prohibits respondents from representing that the experience represented by any user, testimonial or endorsement of the trading program represents the typical or ordinary experience of members of the public who use the trading program unless respondents can substantiate the typicality representation or they disclose either what the generally expected results would be for users of the trading program, or the limited applicability of the endorser's experience to what users may generally expect to achieve.

The remaining parts of the order contain standard record keeping, order distribution, reporting, compliance, and sunsetting provisions.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.