

holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://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 August 25, 2006.

**A. Federal Reserve Bank of Chicago** (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *Capitol Bancorp Ltd., and Capital Development Bancorp Limited V*, both of Lansing, Michigan; to acquire 51 percent of the voting shares of Ohio Commerce Bank, Beachwood, Ohio (in organization).

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

1. *Bank of Whitman Employee Stock Ownership Plan*, Colfax, Washington; to acquire 52 percent of the voting shares of Whitman Bancorporation, Colfax, Washington, and thereby indirectly acquire additional voting shares of Bank of Whitman, Colfax, Washington.

Board of Governors of the Federal Reserve System, July 26, 2006.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E6-12187 Filed 7-28-06; 8:45 am]

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## FEDERAL TRADE COMMISSION

[File No. 051 0170]

### In the Matter of Puerto Rico Association of Endodontists, Corp.; Analysis of Agreement Containing Consent Order 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 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 August 18, 2006.

**ADDRESSES:** Interested parties are invited to submit written comments. Comments should refer to “Puerto Rico Association of Endodontists, Corp., File

No. 051 0170,” 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 135-H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material must be filed in paper form, must be clearly labeled “Confidential,” and must comply with Commission Rule 4.9(c), 16 CFR 4.9(c) (2006).<sup>1</sup> 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 that do not contain any nonpublic information may instead be filed in electronic form as part of or as an attachment to email messages directed to the following e-mail box: [consentagreement@ftc.gov](mailto: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>.

**FOR FURTHER INFORMATION CONTACT:**

Barbara Anthony, Director, and Leonard L. Gordon and Theodore Zang, Jr., Attorneys, FTC Northeast Region, New York (212) 607-2801, or (212) 607-2816.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission 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

<sup>1</sup> 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).

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 July 20, 2006), on the World Wide Web, at <http://www.ftc.gov/os/2006/07/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. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before the date specified in the **DATES** section.

### Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed consent order with Puerto Rico Association of Endodontists Corp. (“PRAE”). The agreement settles charges that PRAE violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, by orchestrating and implementing agreements among endodontist members of PRAE on price and other competitively significant terms; refusing or threatening to refuse to deal with payors except on collectively agreed-upon terms; and negotiating fees and other competitively significant terms with payors in contracts for PRAE’s member endodontists. Comments received during this period will become part of the public 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 PRAE that it 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.

PRAE is a nonprofit corporation, organized, existing, and doing business under and by virtue of the laws of the Commonwealth of Puerto Rico ("Commonwealth" or "Puerto Rico"), with its office and principal place of business in San Juan, Puerto Rico.

PRAE has approximately 30 member endodontists, who are engaged in the business of providing professional services to patients throughout Puerto Rico. PRAE membership includes all or almost all of those professionals who are licensed practicing endodontists in the Commonwealth. Except to the extent that competition has been restrained, member endodontists of PRAE have been, and are now, in competition with each other for the provision of endodontic services.

In January 2003, PRAE formed a Pre-Payments Committee, which then began negotiating with payors on behalf of PRAE members in order to secure higher reimbursement rates for PRAE members. By March 2003, the PRAE Pre-Payments Committee had met with representatives of two payors and convinced those payors to increase the rates paid to PRAE members.

Also in March 2003, PRAE sent a letter to at least four insurance companies requesting a meeting "with the intention of revising the fees paid to Endodontists" that participate in the insurer's dental plan. Thereafter, the Pre-Payments Committee contacted these payors to urge them to raise their rates. In one such discussion, the payor representative informed the Committee member that the Committee's negotiation on behalf of PRAE members was illegal under the antitrust laws. In response, the PRAE representative informed the payor that other payors had been disinclined to accede to the rate increases proposed by the PRAE, and that those payors now were facing potential problems with their networks.

PRAE's efforts to negotiate higher rates from payors for its members succeeded. In response to the various efforts of PRAE's Pre-Payment Committee, in 2003 at least five payors raised the rates that they paid PRAE members.

In early 2004, PRAE's Pre-Payment Committee began a campaign to raise rates again, this time by seeking to end the payors' ban on balance billing.<sup>2</sup>

PRAE sought this change in contract terms to permit its members to raise the prices directly paid by patients and to avoid the cost-containment function of a ban on balance billing.

In furtherance of this plan, in early 2004, the PRAE Pre-Payments Committee contacted several payors to request that the payors waive their ban on balance billing. The Committee followed those discussions with a letter in June 2004, which the Committee sent to at least seven payors. The letter urges each payor to eliminate their ban on balance billing so that the payor did not have to absorb the price increase that the PRAE members desired. The letter states that waiver of the ban "could result in all Endodontists in Puerto Rico becoming dental participants of your Dental Plan since there would be no financial discrepancies. This could be of great usefulness in your marketing strategy." To emphasize the collective nature of the demand being made by the PRAE, and the potential risk to payors of failing to acquiesce to that demand, twenty-three members of PRAE co-signed the letter. The Pre-Payments Committee followed the letter with repeated phone calls to the payors urging an end to ban on balance billing. Thus far, the payors pressured by PRAE to end the ban on balance billing have resisted the coordinated action of PRAE.

PRAE engaged in no efficiency-enhancing integration sufficient to justify joint negotiation of fees or other terms. By the acts set forth in the Complaint, PRAE 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. The proposed order is similar to recent consent orders that the Commission has issued to settle charges that physician groups engaged in unlawful agreements to raise fees they receive from health plans.

The proposed order's specific provisions are as follows:

Paragraph II.A prohibits PRAE from entering into or facilitating agreements among endodontists: (1) To negotiate on behalf of any endodontist with any payor; (2) to deal, refuse to deal, or threaten to refuse to deal with any payor; (3) regarding any term upon which any endodontist deals, or is willing to deal, with any payor; and (4) not to deal individually with any payor

or through any arrangement other than PRAE.

Other parts of Paragraph II reinforce these general prohibitions. Paragraph II.B prohibits PRAE from exchanging or facilitating the transfer of information among endodontists concerning any endodontist's willingness to deal with a payor, or the terms or conditions, including price terms, on which the endodontist is willing to deal. Paragraph II.C prohibits PRAE from attempting to engage in any action prohibited by Paragraphs II.A or II.B. Paragraph II.D prohibits PRAE from encouraging, pressuring or attempting to induce any person to engage in any action that would be prohibited by Paragraphs II.A through II.C.

Paragraphs III.A and B require PRAE to distribute the complaint and order to its members, payors with which it has been in contact since the beginning of 2001, and specified others.

Paragraphs IV, V, and VI of the proposed order impose various obligations on PRAE to report or provide access to information to the Commission to facilitate monitoring PRAE's 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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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[30Day-06-0513]

### Agency Forms Undergoing Paperwork Reduction Act Review

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) 639-5960 or send an e-mail to [omb@cdc.gov](mailto:omb@cdc.gov). Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395-6974. Written comments should be received within 30 days of this notice.

### Proposed Project

The second Injury Control and Risk Survey (ICARIS-2)—Phase 2—

<sup>2</sup> Endodontists entering into contracts with payors often agree to accept, as payment in full for services rendered, an agreed upon fee from the payor and co-payment from the subscriber. Where such a term is included in the payor-endodontist contract, the

endodontist agrees not to "balance bill" the patient for any balance or difference between the agreed upon payments and the endodontist's desired rate. Agreements not to balance bill reduce the cost of endodontic care to patients.