

## IN THE MATTER OF

## JAMS FINANCIAL, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
THE TRUTH IN LENDING ACT AND SEC. 5 OF THE  
FEDERAL TRADE COMMISSION ACT

*Docket C-3607. Complaint, Aug. 11, 1995--Decision, Aug. 11, 1995*

This consent order requires, among other things, a video dating service franchise to properly and accurately disclose the annual percentage rate ("APR") and other credit terms of financed memberships, as required by the federal Truth in Lending Act, and requires the franchise to establish adjustment refund programs to compensate its past and current members who overpaid finance charges.

*Appearances*

For the Commission: *Stephen Cohen, Judy Nixon and David Medine.*

For the respondent: *Alan Korpady, Murphy & Desmond, Madison, WI.*

## COMPLAINT

The Federal Trade Commission, having reason to believe that Great Expectations Creative Management, Inc. has violated the Federal Trade Commission Act ("FTC Act"), and that Great Expectations, Inc., GEC Illinois, Inc., GEC Tennessee, Inc., GEC Alabama, Inc., Great Southern Video, Inc., New West Video Enterprises, Inc., San Antonio Singles of Texas, Inc., Austin Singles of Texas, Inc., Great Expectations of Baltimore, Inc., Great Expectations of Washington, D.C., Inc., Great Expectations of Washington, Inc., Sterling Connections, Inc., Private Eye Productions, Inc., Great Expectations - Columbus, Inc., JAMS Financial, Inc., V.L.P. Enterprises, Inc., APM Enterprises - Minn Inc., KGE, Inc., G.E.C.H., Inc., MWVE, Inc., GREATEX Denver, Inc., Sun West Video, Inc., and TRIAAC Enterprises, Inc. (hereinafter sometimes referred to collectively as "Great Expectations") have violated the Truth in Lending Act ("TILA"), its implementing Regulation Z, and the FTC Act, and it appearing to the

Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint, and alleges as follows:

PARAGRAPH 1. Great Expectations Creative Management, Inc. ("GECM") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its office and principal place of business located at 16830 Ventura Blvd., Suite P, Encino, CA.

PAR. 2. Great Expectations, Inc. ("GEI") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its corporate office at 16830 Ventura Blvd., Suite P, Encino, CA, and its principal places of business located at 1640 S. Sepulveda Blvd., Suite 100, Los Angeles, CA, 17207 Ventura Blvd., Encino, CA, and 450 N. Mountain, Suite B, Upland, CA.

PAR. 3. GEC Illinois, Inc. ("GE Illinois") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Illinois, with its office and principal place of business located at 1701 E. Woodfield Dr., Suite 400, Schaumburg, IL.

PAR. 4. GEC Tennessee, Inc. ("GE Tennessee") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its office and principal place of business located at 5552 Franklin Rd., Suite 200, Nashville, TN.

PAR. 5. GEC Alabama, Inc. ("GE Alabama") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Alabama, with its office and principal place of business located at 7529 S. Memorial Pkwy., Suite C & D, Huntsville, AL.

PAR. 6. Great Southern Video, Inc., doing business as Great Expectations of Dallas ("GE Dallas"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Texas, with its office and principal place of business located at 14180 Dallas Pkwy., Suite 100, Dallas, TX.

PAR. 7. New West Video Enterprises, Inc., doing business as Great Expectations of Houston ("GE Houston"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Texas, with its office and principal place of business located at 50 Briarhollow, Suite 100, Houston, TX.

PAR. 8. San Antonio Singles of Texas, Inc., doing business as Great Expectations of San Antonio ("GE San Antonio"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Texas, with its corporate office at 10497 Town & Country Way, Suite 214, Houston, TX, and its principal place of business located at 8131 I.H. 10 West, Suite 225, San Antonio, TX.

PAR. 9. Austin Singles of Texas, Inc., doing business as Great Expectations of Austin ("GE Austin"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Texas, with its corporate office at 10497 Town & Country Way, Suite 214, Houston, TX, and its principal place of business located at 9037 Research Blvd., Suite 130 Austin, TX.

PAR. 10. Great Expectations of Baltimore, Inc. ("GE Baltimore") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Virginia, with its office and principal place of business located at 40 York Rd., Suite 500, Towson, MD.

PAR. 11. Great Expectations of Washington, D.C., Inc. ("GE DC") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Maryland, with its office and principal place of business located at 8601 Westwood Center Dr., Vienna, VA.

PAR. 12. Great Expectations of Washington, Inc., doing business as Great Expectations of Raleigh/Durham ("GE Raleigh"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Maryland, with its office and principal place of business located at 3714 Benson Dr., Suite 200, Raleigh, NC.

PAR. 13. Sterling Connections, Inc., doing business as Great Expectations of Seattle ("GE Seattle"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Oregon, with its office and principal place of business located at 305 108th Ave., N.E., Suite 205, Bellevue, WA.

PAR. 14. Private Eye Productions, Inc., doing business as Great Expectations of Portland ("GE Portland"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Oregon, with its office and principal place of business located at 5531 S.W. Macadam Ave., Suite 225, Portland, OR.

PAR. 15. Great Expectations - Columbus, Inc. ("GE Columbus") is a corporation organized, existing, and doing business under and by

virtue of the laws of the state of Ohio, with its corporate office at 11835 W. Olympic Blvd., Suite 490, Los Angeles, CA, and its principal place of business located at 1103 Schrock Rd., Suite 101, Columbus, OH.

PAR. 16. JAMS Financial, Inc., doing business as Great Expectations of Milwaukee ("GE Milwaukee"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Wisconsin, with its corporate office at 11835 W. Olympic Blvd., Suite 490, Los Angeles, CA, and its principal place of business located at 16650 W. Bluemound, Suite 100, Brookfield, WI.

PAR. 17. V.L.P. Enterprises, Inc., doing business as Great Expectations of San Diego ("GE San Diego"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its office and principal place of business located at 3465 Camino Del Rio South, Suite 300, San Diego, CA.

PAR. 18. APM Enterprises – Minn Inc., doing business as Great Expectations of Minneapolis ("GE Minneapolis"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Illinois, with its office and principal place of business located at 3300 Edinborough Way, Suite 300, Edina, MN.

PAR. 19. KGE, Inc., doing business as Great Expectations of Sausalito, Great Expectations of Mountain View, and Great Expectations of Walnut Creek (collectively referred to as "GE-SFA"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its corporate office at 1943 Landings Dr., Mountain View, CA, and its principal places of business located at 2401 Marinship Way, Suite 100, Sausalito, CA, 2085 Landings Dr., Mountain View, CA, and 1280 Civic Dr., Suite 300, Walnut Creek, CA.

PAR. 20. G.E.C.H., Inc., doing business as Great Expectations of Cherry Hill ("GE Cherry Hill"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of New Jersey with its office and principal places of business located at One Cherry Hill, Suite 600, Cherry Hill, NJ.

PAR. 21. MWVE, Inc., doing business as Great Expectations of Cleveland ("GE Cleveland"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Ohio,

with its office and principal place of business located at 6300 Rockside Rd., Suite 200, Cleveland, OH.

PAR. 22. GREATEX Denver, Inc., doing business as Great Expectations Video Dating, Ltd. ("GE-Denver"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Washington, with its office and principal place of business located at 3773 Cherry Creek North Dr., Suite 140, Denver, CO.

PAR. 23. Sun West Video, Inc., doing business as Great Expectations for Singles ("GE Phoenix"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Arizona, with its office and principal place of business located at 5635 N. Scottsdale Rd., Suite 190, Scottsdale, AZ.

PAR. 24. TRIAAC Enterprises, Inc., doing business as Great Expectations of Sacramento ("GE Sacramento"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its office and principal place of business located at 2277 Fair Oaks Blvd., Suite 195, Sacramento, CA.

#### RESPONDENTS' COURSE OF BUSINESS

PAR. 25. GECM is a video dating franchisor. It sells and services franchise operations throughout the United States. As part of its regular course of business, GECM has created and disseminated retail installment contracts (Exhibits 1 and 2) to the franchises described in paragraphs two through twenty-four. The GECM retail installment contracts purport to incorporate the disclosures required by the TILA.

PAR. 26. Respondents Great Expectations are video dating franchises. Respondents have provided financing to their members using retail installment contracts such as Exhibits 1 and 2 to disclose the terms of the financing.

PAR. 27. GECM's TILA disclosure (Exhibit 1) contains erroneous instructions for calculating and disclosing the finance charge and contains a pre-printed annual percentage rate ("APR") of 18%. In addition, Exhibit 1 fails to make the TILA disclosures in the format required by the TILA and fails to identify the creditor as required by the TILA.

PAR. 28. In 1988, GECM learned from its auditor that the calculations and disclosures contained in Exhibit 1 did not comply with the TILA. Nevertheless, it continued to disseminate Exhibit 1

to its franchisees and failed to notify them of the erroneous calculations and disclosures.

PAR. 29. In late 1990, GECM created a new retail installment contract, which also purported to incorporate the disclosures required by the TILA and which contained a preprinted APR of 19.6% (Exhibit 2). Exhibit 2 fails to identify the creditor as required by the TILA and fails to provide the information required by the TILA in the itemization of the amount financed. Furthermore, GECM has disseminated Exhibit 2 to its franchisees but has failed to inform them to discontinue using the erroneous calculation and disclosure instructions that it had previously supplied in Exhibit 1.

PAR. 30. Respondents Great Expectations are creditors as that term is defined in the TILA and Regulation Z.

PAR. 31. The acts and practices of respondents Great Expectations and GECM alleged in this complaint have been and are in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act.

#### COUNT I

PAR. 32. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 33. Respondent GECM has furnished its franchises with TILA disclosures (Exhibits 1 and 2) that, on their face, violated the TILA. When used by respondents Great Expectations, Exhibits 1 and 2 have resulted in false and misleading disclosures of APRs and finance charges to consumers in violation of Section 5 of the FTC Act.

PAR. 34. In the course and practice of its business as described in paragraphs twenty-five through twenty-nine, and paragraph thirty-three, respondent GECM has provided respondents Great Expectations with the means and instrumentalities to violate the Section 5 of the FTC Act.

PAR. 35. The practices described in paragraph thirty-four constitute unfair or deceptive acts or practices in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45(a).

## COUNT II

PAR. 36. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 37. Respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE Milwaukee, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to accurately calculate and disclose the APR.

PAR. 38. The practice described in paragraph thirty-seven by respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE Milwaukee, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Sections 107(a) and (c) of the TILA, 15 U.S.C. 1606(a) and (c), and Sections 226.18(e) and 226.22 of Regulation Z, 12 CFR 226.18(e) and 226.22.

## COUNT III

PAR. 39. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 40. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Columbus, GE Milwaukee, GE-SFA, GE Cleveland, GE Phoenix, GE Sacramento, and GE San Diego have furnished their members with TILA disclosures that have failed to accurately calculate and disclose the finance charge.

PAR. 41. The practice described in paragraph forty by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Columbus, GE Milwaukee, GE-SFA, GE Cleveland, GE Phoenix, GE Sacramento, and GE San Diego violates Section 106 of the TILA, 15 U.S.C. 1605, and Sections 226.4 and 226.18(d) of Regulation Z, 12 CFR 226.4 and 226.18(d).

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## COUNT IV

PAR. 42. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 43. Respondents GE Dallas, GE Houston, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, and GE Phoenix have furnished their members with TILA disclosures that have failed to disclose the finance charge more conspicuously than any other disclosure except the APR and the creditor's identity.

PAR. 44. The practice described in paragraph forty-three by respondents GE Dallas, GE Houston, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, and GE Phoenix violates Section 122(a) of the TILA, 15 U.S.C. 1632(a), and Section 226.17(a)(2) of Regulation Z, 12 CFR 226.17(a)(2).

## COUNT V

PAR. 45. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 46. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to segregate the disclosures required by the TILA from all other information provided in connection with the transaction, including the itemization of the amount financed.

PAR. 47. The practice described in paragraph forty-six by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(b)(1) of the TILA, 15 U.S.C. 1638(b)(1), and Section 226.17(a)(1) of Regulation Z, 12 CFR 226.17(a)(1).

## COUNT VI

PAR. 48. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 49. Respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE



Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have failed to accurately disclose the itemization of the amount financed.

PAR. 50. The practice described in paragraph forty-nine by respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a) of the TILA, 15 U.S.C. 1638(a), and Section 226.18(c) of Regulation Z, 12 CFR 226.18(c).

#### COUNT VII

PAR. 51. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 52. Respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE Milwaukee, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have failed to disclose the identity of the creditor.

PAR. 53. The practice described in paragraph fifty-two by respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE Milwaukee, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(1) of the TILA, 15 U.S.C. 1638(a)(1), and Section 226.18(a) of Regulation Z, 12 CFR 226.18(a).

#### COUNT VIII

PAR. 54. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 55. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix,

and GE Sacramento have furnished their members with TILA disclosures that have failed to provide a description of the amount financed.

PAR. 56. The practice described in paragraph fifty-five by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(8) of the TILA, 15 U.S.C. 1638(a)(8), and Section 226.18(b) of Regulation Z, 12 CFR 226.18(b).

PAR. 57. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to provide a description of the finance charge.

PAR. 58. The practice described in paragraph fifty-seven by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(8) of the TILA, 15 U.S.C. 1638(a)(8), and Section 226.18(d) of Regulation Z, 12 CFR 226.18(d).

PAR. 59. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to provide a description of the APR.

PAR. 60. The practice described in paragraph fifty-nine by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(8) of the TILA, 15 U.S.C. 1638(a)(8), and Section 226.18(e) of Regulation Z, 12 CFR 226.18(e).

PAR. 61. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their

members with TILA disclosures that have failed to provide the total of payments and/or a description of the total of payments.

PAR. 62. The practice described in paragraph sixty-one by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(5) and/or (8) of the TILA, 15 U.S.C. 1638(a)(5) and/or (8), and Section 226.18(h) of Regulation Z, 12 CFR 226.18(h).

PAR. 63. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to provide the total sale price and/or a description of the total sale price.

PAR. 64. The practice described in paragraph sixty-three by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(7) and/or (8) of the TILA, 15 U.S.C. 1638(a)(7) and/or (8), and Section 226.18(j) of Regulation Z, 12 CFR 226.18(j).

#### COUNT IX

PAR. 65. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 66. Respondents GE Dallas, GE Houston, GE Phoenix, GE San Antonio, GE Austin, GE Baltimore, GE DC, and GE Raleigh have failed to include set-up or other fees that are charged only to consumers who finance the costs of their memberships in the finance charge and the annual percentage rate disclosed to the consumer. They have also failed to exclude these finance charges from the amount financed that is disclosed to consumers.

PAR. 67. The practices described in paragraph sixty-six by respondents GE Dallas, GE Houston, GE Phoenix, GE San Antonio, GE Austin, GE Baltimore, GE DC, and GE Raleigh violate Sections 106, 107, and 128(a) of the TILA, 15 U.S.C. 1605, 1606, and 1638(a), and Sections 226.4(b), 226.22, and 226.18(b), (d), and (e) of Regulation Z, 12 CFR 226.4(b), 226.22, and 226.18(b), (d), and (e).

Complaint

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## COUNT X

PAR. 68. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 69. Respondent GE San Diego has furnished its members with TILA disclosures that have failed to disclose the APR, the finance charge, the amount financed, the total of payments, and the total sales price.

PAR. 70. The practices described in paragraph sixty-nine by respondent GE San Diego violate Section 128(a) of the TILA, 15 U.S.C. 1638(a), and Section 226.18 of Regulation Z, 12 CFR 226.18.

## COUNT XI

PAR. 71. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 72. Respondent GE Houston has furnished its members with TILA disclosures that have failed to disclose the amount financed.

PAR. 73. The practice described in paragraph seventy-two by respondent GE Houston violates Section 128(a) of the TILA, 15 U.S.C. 1638(a), and Section 226.18(b) of Regulation Z, 12 CFR 226.18(b).

## COUNT XII

PAR. 74. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 75. Respondents GEI, GE Alabama, GE Illinois, GE Portland, GE Dallas, GE Houston, GE Cleveland, GE Phoenix, GE San Antonio, GE Austin, GE Seattle, GE Denver, GE Columbus, GE Milwaukee, GE San Diego, GE Minneapolis, GE SFA, GE Cherry Hill, GE Sacramento, GE DC, GE Baltimore, and GE Raleigh have disclosed understated APRs and finance charges to consumers that have resulted in consumers paying more in financing costs than the amount to which they originally agreed.

PAR. 76. The practices described in paragraph seventy-five are unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. 45(a).

Complaint

EXHIBIT 1

Expectations

RETAIL INSTALLMENT CONTRACT

Name - Last	First	Middle	Age
[Redacted]	[Redacted]	[Redacted]	36
Present Address	City	State	Zip
[Redacted]	[Redacted]	CO	80010
Social Security #	Home Phone	How Long At This Address	How Long in Area
[Redacted]	[Redacted]	25 YRS	26 YRS
Employed By	Work Phone	Present Position	
[Redacted]	[Redacted]	[Redacted]	
Income As Services Month	Annual	Driver's License #	
[Redacted]	[Redacted]	[Redacted]	
Primary Bank Accounts Savings	Balance	Checking	Balance
[Redacted]	[Redacted]	[Redacted]	[Redacted]
Credit Reference - Banks, Finance Co., Credit Unions	Open	Closed	Limit
USA			
1. FIRST INTERSTATE Bank	Open	Closed	Limit

The undersigned Great Expectations (Seller) hereby sells, and the undersigned Buyer, hereinafter referred to as "Member" purchases subject to the provisions of this contract, a MEMBERSHIP in Great Expectations and promises to pay to Great Expectations its share of the TOTAL PAYMENTS (Box B) in accordance with the Payment Schedule hereinafter set forth.

DESCRIPTION OF GOODS AND SERVICES SOLD:

Interviewing, Testing & Evaluating, Processing & Coding, Background check (if necessary), for the purpose of bringing in contact with the purchaser (client) suitable individuals with similar likes and dislikes, this description intended to be partial only, the purchaser acknowledges receipt of application form, which is made a part hereof as though set out at length.

READ CAREFULLY AND SIGN ONLY WHEN COMPLETELY UNDERSTOOD

Buyer has considered and evaluated the terms of membership as set forth in Great Expectations Membership Agreement dated 10/31/91 and requests financing of the balance due. Acceptance of the terms of both agreements renders null and void any Buyer's right to cancel previously provided.

I understand that my failure to participate in Great Expectations does not relieve me of my obligation to pay this contract in full regardless of the circumstances. I understand that by signing this Agreement I am a Member of Great Expectations.

MEMBER SIGNATURE X [Redacted]

NOTICE TO MEMBER: Upon request, Great Expectations must provide or make available for your examination a statement or table showing how the partial refund of the time price charge is to be computed if any balance of the contract should be prepaid. Member (Buyer) and Great Expectations (Seller) agree that the terms and conditions on the Member's Contract for Membership constitute a part of this contract and are incorporated herein by reference. If due to delinquency, it is necessary to refer this account for collection, then the balance due shall include actual attorney's fee and court costs. In the event Member fails to pay any installment payment when due, the entire balance then owing shall immediately become due and payable, without notice, at the option of Great Expectations or assignee, and Great Expectations shall not be required to provide any services to Member until Member's payment account is made current. If more than one person signs this contract then their obligation shall be joint and several.

ITEMIZATION OF THE AMOUNT FINANCED

1. Cash Price	1595	BALANCE	10. ANNUAL PERCENTAGE RATE	18%
2. Other	0	1595	11. PAYMENT SCHEDULE:	5
3. Down Payment	300	1295	Successive monthly installments of \$ 235.	
4. Paid (11/4/91) Second Interview	100	1195	each, commencing 12/15/91, and on the same day of each month thereafter, until fully paid. NO BALLOON PAYMENT.	
5. Other Payments Due (11/30/91)	100	1095	DELINQUENCY AND COLLECTION CHARGES: Buyer shall pay or request to pay and installment payment when the same shall become due and such failure to request shall constitute for a period of more than ten (10) days, upon in addition to the amount of such delinquent installment payment the Buyer shall pay to Seller, as a consequence and collection charge, an amount equal to 5% of such payment, except that such charge shall not exceed \$3.00 or be less than \$1.00.	
6. Amt. Financed (Unpaid Bal. at Cash Price #3)	1095	1095	PREPAYMENT REFUND: Buyer may prepay any portion of the unpaid balance without penalty and upon payment in full Buyer shall be entitled to a refund equal to the unearned portion of the Finance Charge computed under the simple interest basis, however, there shall be a minimum Finance Charge of \$10.00 and no refund if the unearned charge is less than \$1.00.	
7. Finance Charge @ 18% Bal. x 12% x 5 (no. of payments)	82.13	1177.13		
8. Total Payments (Bal. # 7)				
9. Deferred Payment Price (Bal. # 7)	1477.13			

DIVIDE by number of payments to calculate each installment and summarize on #11

"Notice to Buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a complete filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you desire to pay off in advance the full amount due, the amount which is outstanding will be furnished upon request."

SELLER Great Expectations

Signature of Member X [Redacted]

Business Address: 3773 Cherry Creek N. Dr. #400  
 City & State: Denver, CO 80007

Member (Buyer) acknowledges receipt of an exact copy of the instrument at the time of its execution. Member (Buyer) further acknowledges that the blanks in this contract were completed as filled-in and that he has read the disclosures contained hereon prior to signing the contract.

Authorized Signature: [Redacted]  
 Title: [Redacted]

Exhibit 1

EXHIBIT 2



RETAIL INSTALLMENT CONTRACT

DATE \_\_\_\_\_

Name: Last \_\_\_\_\_ First \_\_\_\_\_ Middle \_\_\_\_\_ Age \_\_\_\_\_

Present Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Social Security # \_\_\_\_\_ Home Phone \_\_\_\_\_ How Long At This Address \_\_\_\_\_ Date of Birth \_\_\_\_\_

Employed By: Name and Address \_\_\_\_\_ Work Phone \_\_\_\_\_ Present Position \_\_\_\_\_

Income All Sources \_\_\_\_\_ Annual \_\_\_\_\_ Driver's License # \_\_\_\_\_

Primary Bank Accounts \_\_\_\_\_ Checking  Name \_\_\_\_\_ Savings  Name \_\_\_\_\_

The undersigned Great Expectations (Seller) hereby sells, and the undersigned buyer (Member) purchases, subject to the provisions of this CONTRACT, the undersigned Great Expectations and promises to pay to Great Expectations or its assigns the TOTAL PAYMENTS in accordance with the Schedule hereafter set forth.

DESCRIPTION OF GOODS AND SERVICES SOLD: Interviewing, Evaluating, Processing & Coding, Background Check (if necessary) and Visa Video Library for the purpose of giving Member access to a Video Library of presently available individuals with under files and details. This is intended to be a one-time only.

READ CAREFULLY AND SIGN ONLY WHEN COMPLETELY UNDERSTOOD

I have considered and evaluated the terms of membership as set forth in the Great Expectations Membership Agreement dated \_\_\_\_\_ and hereby financing of the balance due. I understand that my failure to participate in Great Expectations does not release me of my obligation to pay in full. I understand that by signing this Contract, and the Membership Agreement, I am a Member of Great Expectations.

MEMBER SIGNATURE: \_\_\_\_\_

NOTICE TO MEMBER: Upon request, Great Expectations must provide or make available for your examination a statement or statements showing how and when the sales price change is to be determined if any balance of the Contract should be prepaid. Member (Buyer) and Great Expectations (Seller) agree that the terms and conditions of the Great Expectations Membership Agreement constitute a part of this Contract and are incorporated herein by reference. In the event Member fails to pay any installment payment when due, the entire balance (less any unearned Finance Charge) then owing shall be deemed due and payable, without demand or notice, at the option of Great Expectations or its assigns, and Great Expectations shall not be required to any services to Member until Member's payments amount to make current.

PURCHASE PRICE: \$ \_\_\_\_\_ payable in accordance with the Statement of Disclosure below.

PAYMENT SCHEDULE: Member's payments hereunder shall be in equal consecutive monthly installments commencing on the \_\_\_\_\_ day of \_\_\_\_\_ month after execution of this Contract and continuing on the same day of each month thereafter until paid in full. Interest on the unpaid balance shall be both prior and after maturity.

FEDERAL TRUTH IN LENDING DISCLOSURES (Statement of Disclosure)

APRIL FINANCIAL RATE	FINANCED AMOUNT (Line 4)	ANNUITY FINANCED (Line 5)	TOTAL OF MONTHLY PAYMENTS (Line 6)	TOTAL SALES PRICE (Line 1-4)
19.6%	\$	\$	\$	\$

You the buyer have the right to rescind at this time an admission of the amount financed. ( ) I sign on disbursement. ( ) I do not want an installment. Your payment schedule will be:

Payments Schedule	Monthly Payment
_____	_____

DELINQUENCY AND COLLECTION CHARGES: If Buyer shall fail or neglect to pay any installment payment when the same shall become due and such failure or neglect shall continue for a period of more than ten (10) days, then in addition to the amount of such delinquent installment payments the Buyer shall pay to Seller, as a delinquency and collection charge, an amount equal to 5% of such delinquent amount that such charge shall not exceed \$5.00 or be less than \$1.00.

PREPAYMENT: If you pay off early, you will not have to pay a penalty and you may be entitled to a refund of part of the finance charge. See your Great Expectations Membership Agreement for any additional information about non-payment, default, any required repayment in full before the schedule date and prepayment, refund and penalties.

"ITEMIZATION OF AMOUNT FINANCED"

	Proposed Reason
1. Total Cash Price \$ _____	Buyer may prepay or all of the unpaid balance without penalty and payment in full. Buyer is entitled to a refund of the unearned portion of the Finance Charge computed under the interest table. No there will be a Finance Charge of and no refund of unearned finance charge to \$1.00.
2. Less Downpayment - \$ _____	
3. Amount Financed \$ _____	
4. Finance Charge \$ _____	
5. Total of Payments \$ _____	

Whichever of any default by the Seller shall not operate as a waiver of either.

Should the buyer default in the payment of any installment hereunder shall pay to Seller all actual and reasonable costs of collection or including reasonable Attorney fees and disbursements. Buyer will pay to the Seller a \$10.00 charge for every delinquent or late installment.

Should any term hereof be invalid or unenforceable, the remaining to be unaffected by such finding.

NOTICE TO BUYER:

1. Do not sign this agreement before you read it or if it is any blank spaces to be filled in.
2. You are entitled to a completely filled in copy agreement.
3. You can prepay the full amount due under this agreement at any time.
4. If you desire to pay off in advance the full amount of amount which is outstanding will be furnished on request.

Seller: GREAT EXPECTATIONS

Business Address: \_\_\_\_\_

City & State: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Member (Buyer) acknowledges receipt of an exact copy of this contract and its contents. Member (Buyer) further acknowledges that in this Contract were completed and that in and that the full disclosure contained herein prior to signing the Contract.

Signature of Member: \_\_\_\_\_

## DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of respondent JAMS Financial, Inc., a corporation, and respondent having been furnished thereafter with a copy of the draft of complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violations of Section 5(a) of the Federal Trade Commission Act and the Truth in Lending Act; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that respondent has violated the said Acts, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. JAMS Financial, Inc., doing business as Great Expectations of Milwaukee ("GE Milwaukee"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Wisconsin, with its corporate office at 11835 W. Olympic Blvd., Suite 490, Los Angeles, CA, and its principal place of business located at 16650 W. Bluemound, Suite 100, Brookfield, WI.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

## ORDER

## I.

*It is ordered, That:*

A. Respondent GE Milwaukee, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to accurately calculate and disclose the annual percentage rate, as required by Sections 107(a) and (c) of the TILA, 15 U.S.C. 1606(a) and (c), and Sections 226.18(e) and 226.22 of Regulation Z, 12 CFR 226.18(e) and 226.22;

B. Respondent GE Milwaukee, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to accurately calculate and disclose the finance charge, as required by Section 106 of the TILA, 15 U.S.C. 1605, and Sections 226.4 and 226.18(d) of Regulation Z, 12 CFR 226.4 and 226.18(d);

C. Respondent GE Milwaukee, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to make all disclosures in the manner, form, and amount required by Sections 122 and 128(a) of the TILA, 15 U.S.C. 1632 and 1638(a), and Sections 226.17 and 226.18 of Regulation Z, 12 CFR 226.17 and 226.18;

D. Respondent GE Milwaukee, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to comply with the TILA, 15 U.S.C. 1601 *et seq.*, and Regulation Z, 12 CFR 226.



## II.

## REFUND PROGRAM

*It is further ordered, That:*

A. Within thirty (30) days following the date of service of this order, respondent shall:

1. Determine to whom respondent disclosed on the original TILA disclosure an annual percentage rate that was miscalculated by more than one quarter of one percentage point below the annual percentage rate determined in accordance with Section 226.22 of Regulation Z, 12 CFR 226.22, or that disclosed a finance charge that was miscalculated by more than one dollar below the finance charge determined in accordance with Section 226.4 of Regulation Z, 12 CFR 226.4, so that each such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower, plus a tolerance of one quarter of one percentage point;

2. Calculate a lump sum refund and a monthly payment adjustment, if applicable, in accordance with Section 108(e) of the TILA, 15 U.S.C. 1607(e);

3. Mail a refund check to each eligible consumer in the amount determined above, along with Attachment 1; and

4. Provide the Federal Trade Commission with a list of each such consumer, the amount of the refund, the number of payments refunded, the amount of adjustment for future payments and the number of future payments to be adjusted.

B. No later than fifteen (15) days following the date of service of this order, respondent shall provide the Federal Trade Commission with the name and address of three independent accounting firms, with which it, its officers, employees, attorneys, agents, and franchisees have no business relationship. Staff for the Division of Credit Practices of the FTC shall then have the sole discretion to choose one of the firms ("independent agent") and so advise respondent;

C. Within thirty (30) days following the date of adjustments made pursuant to this section, respondent shall direct the independent agent to review a statistically-valid sample of refunds. Respondent shall provide the Federal Trade Commission with a certified letter from the independent agent confirming that respondent has complied with Part II.A. of this order;

D. All costs associated with the administration of the refund program and payment of refunds shall be borne by the respondent.

### III.

*It is further ordered,* That respondent, its successors and assigns, shall maintain for at least five (5) years from the date of service of this order and, upon thirty (30) days advance written request, make available to the Federal Trade Commission for inspection and copying all documents and other records necessary to demonstrate fully its compliance with this order.

### IV.

*It is further ordered,* That respondent, its successors and assigns, shall distribute a copy of this order to any present or future officers and managerial employees having responsibility with respect to the subject matter of this order and that respondent, its successors and assigns, shall secure from each such person a signed statement acknowledging receipt of said order.

### V.

*It is further ordered,* That respondent, for a period of five (5) years following the date of service of this order, shall promptly notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, or any other change in the corporation that may affect compliance obligations arising out of the order.

## VI.

*It is further ordered,* That respondent shall within one hundred and eighty (180) days of the date of service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which its has complied with this order.

## ATTACHMENT 1

Dear Great Expectations Customer:

As part of our settlement with the Federal Trade Commission for alleged violations of the Truth in Lending Act, we are sending you the enclosed refund check in the amount of \$\*\*\*\*\*. The refund represents the amount you were overcharged as a result of errors made by Great Expectations in calculating or disclosing the annual percentage rate or finance charge.

[In addition, your future monthly payments have been reduced. Starting immediately, your monthly payments will be \$\*\*\*\*\*.]

We regret any inconvenience this may have caused you.

Great Expectations

Complaint

120 F.T.C.

IN THE MATTER OF

SAN ANTONIO SINGLES OF TEXAS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
THE TRUTH IN LENDING ACT AND SEC. 5 OF THE  
FEDERAL TRADE COMMISSION ACT*Docket C-3608. Complaint, Aug. 11, 1995--Decision, Aug. 11, 1995*

This consent order requires, among other things, the video dating service franchises to properly and accurately disclose the annual percentage rate ("APR") and other credit terms of financed memberships, as required by the federal Truth in Lending Act, and requires the franchises to establish adjustment refund programs to compensate its past and current members who overpaid finance charges.

*Appearances*

For the Commission: *Stephen Cohen, Judy Nixon and David Medine.*

For the respondents: *Darryl Burman, Brill & Byrom, Houston, TX.*

## COMPLAINT

The Federal Trade Commission, having reason to believe that Great Expectations Creative Management, Inc. has violated the Federal Trade Commission Act ("FTC Act"), and that Great Expectations, Inc., GEC Illinois, Inc., GEC Tennessee, Inc., GEC Alabama, Inc., Great Southern Video, Inc., New West Video Enterprises, Inc., San Antonio Singles of Texas, Inc., Austin Singles of Texas, Inc., Great Expectations of Baltimore, Inc., Great Expectations of Washington, D.C., Inc., Great Expectations of Washington, Inc., Sterling Connections, Inc., Private Eye Productions, Inc., Great Expectations - Columbus, Inc., JAMS Financial, Inc., V.L.P. Enterprises, Inc., APM Enterprises - Minn Inc., KGE, Inc., G.E.C.H., Inc., MWVE, Inc., GREATEX Denver, Inc., Sun West Video, Inc., and TRIAAC Enterprises, Inc. (hereinafter sometimes referred to collectively as "Great Expectations") have violated the Truth in Lending Act ("TILA"), its implementing Regulation Z, and the FTC Act, and it appearing to the

Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint, and alleges as follows:

PARAGRAPH 1. Great Expectations Creative Management, Inc. ("GECM") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its office and principal place of business located at 16830 Ventura Blvd., Suite P, Encino, CA.

PAR. 2. Great Expectations, Inc. ("GEI") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its corporate office at 16830 Ventura Blvd., Suite P, Encino, CA, and its principal places of business located at 1640 S. Sepulveda Blvd., Suite 100, Los Angeles, CA, 17207 Ventura Blvd., Encino, CA, and 450 N. Mountain, Suite B, Upland, CA.

PAR. 3. GEC Illinois, Inc. ("GE Illinois") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Illinois, with its office and principal place of business located at 1701 E. Woodfield Dr., Suite 400, Schaumburg, IL.

PAR. 4. GEC Tennessee, Inc. ("GE Tennessee") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its office and principal place of business located at 5552 Franklin Rd., Suite 200, Nashville, TN.

PAR. 5. GEC Alabama, Inc. ("GE Alabama") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Alabama, with its office and principal place of business located at 7529 S. Memorial Pkwy., Suite C & D, Huntsville, AL.

PAR. 6. Great Southern Video, Inc., doing business as Great Expectations of Dallas ("GE Dallas"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Texas, with its office and principal place of business located at 14180 Dallas Pkwy., Suite 100, Dallas, TX.

PAR. 7. New West Video Enterprises, Inc., doing business as Great Expectations of Houston ("GE Houston"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Texas, with its office and principal place of business located at 50 Briarhollow, Suite 100, Houston, TX.

PAR. 8. San Antonio Singles of Texas, Inc., doing business as Great Expectations of San Antonio ("GE San Antonio"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Texas, with its corporate office at 10497 Town & Country Way, Suite 214, Houston, TX, and its principal place of business located at 8131 I.H. 10 West, Suite 225, San Antonio, TX.

PAR. 9. Austin Singles of Texas, Inc., doing business as Great Expectations of Austin ("GE Austin"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Texas, with its corporate office at 10497 Town & Country Way, Suite 214, Houston, TX, and its principal place of business located at 9037 Research Blvd., Suite 130, Austin, TX.

PAR. 10. Great Expectations of Baltimore, Inc. ("GE Baltimore") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Virginia, with its office and principal place of business located at 40 York Rd., Suite 500, Towson, MD.

PAR. 11. Great Expectations of Washington, D.C., Inc. ("GE DC") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Maryland, with its office and principal place of business located at 8601 Westwood Center Dr., Vienna, VA.

PAR. 12. Great Expectations of Washington, Inc., doing business as Great Expectations of Raleigh/Durham ("GE Raleigh"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Maryland, with its office and principal place of business located at 3714 Benson Dr., Suite 200, Raleigh, NC.

PAR. 13. Sterling Connections, Inc., doing business as Great Expectations of Seattle ("GE Seattle"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Oregon, with its office and principal place of business located at 305 108th Ave., N.E., Suite 205, Bellevue, WA.

PAR. 14. Private Eye Productions, Inc., doing business as Great Expectations of Portland ("GE Portland"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Oregon, with its office and principal place of business located at 5531 S.W. Macadam Ave., Suite 225, Portland, OR.

PAR. 15. Great Expectations - Columbus, Inc. ("GE Columbus") is a corporation organized, existing, and doing business under and by

virtue of the laws of the state of Ohio, with its corporate office at 11835 W. Olympic Blvd., Suite 490, Los Angeles, CA, and its principal place of business located at 1103 Schrock Rd., Suite 101, Columbus, OH.

PAR. 16. JAMS Financial, Inc., doing business as Great Expectations of Milwaukee ("GE Milwaukee"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Wisconsin, with its corporate office at 11835 W. Olympic Blvd., Suite 490, Los Angeles, CA, and its principal place of business located at 16650 W. Bluemound, Suite 100, Brookfield, WI.

PAR. 17. V.L.P. Enterprises, Inc., doing business as Great Expectations of San Diego ("GE San Diego"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its office and principal place of business located at 3465 Camino Del Rio South, Suite 300, San Diego, CA.

PAR. 18. APM Enterprises - Minn Inc., doing business as Great Expectations of Minneapolis ("GE Minneapolis"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Illinois, with its office and principal place of business located at 3300 Edinborough Way, Suite 300, Edina, MN.

PAR. 19. KGE, Inc., doing business as Great Expectations of Sausalito, Great Expectations of Mountain View, and Great Expectations of Walnut Creek (collectively referred to as "GE-SFA"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its corporate office at 1943 Landings Dr., Mountain View, CA, and its principal places of business located at 2401 Marinship Way, Suite 100, Sausalito, CA, 2085 Landings Dr., Mountain View, CA, and 1280 Civic Dr., Suite 300, Walnut Creek, CA.

PAR. 20. G.E.C.H., Inc., doing business as Great Expectations of Cherry Hill ("GE Cherry Hill"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of New Jersey with its office and principal places of business located at One Cherry Hill, Suite 600, Cherry Hill, NJ.

PAR. 21. MWVE, Inc., doing business as Great Expectations of Cleveland ("GE Cleveland"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Ohio,

with its office and principal place of business located at 6300 Rockside Rd., Suite 200, Cleveland, OH.

PAR. 22. GREATEX Denver, Inc., doing business as Great Expectations Video Dating, Ltd. ("GE-Denver"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Washington, with its office and principal place of business located at 3773 Cherry Creek North Dr., Suite 140, Denver, CO.

PAR. 23. Sun West Video, Inc., doing business as Great Expectations for Singles ("GE Phoenix"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Arizona, with its office and principal place of business located at 5635 N. Scottsdale Rd., Suite 190, Scottsdale, AZ.

PAR. 24. TRIAAC Enterprises, Inc., doing business as Great Expectations of Sacramento ("GE Sacramento"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its office and principal place of business located at 2277 Fair Oaks Blvd., Suite 195, Sacramento, CA.

#### RESPONDENTS' COURSE OF BUSINESS

PAR. 25. GECM is a video dating franchisor. It sells and services franchise operations throughout the United States. As part of its regular course of business, GECM has created and disseminated retail installment contracts (Exhibits 1 and 2) to the franchises described in paragraphs two through twenty-four. The GECM retail installment contracts purport to incorporate the disclosures required by the TILA.

PAR. 26. Respondents Great Expectations are video dating franchises. Respondents have provided financing to their members using retail installment contracts such as Exhibits 1 and 2 to disclose the terms of the financing.

PAR. 27. GECM's TILA disclosure (Exhibit 1) contains erroneous instructions for calculating and disclosing the finance charge and contains a pre-printed annual percentage rate ("APR") of 18%. In addition, Exhibit 1 fails to make the TILA disclosures in the format required by the TILA and fails to identify the creditor as required by the TILA.

PAR. 28. In 1988, GECM learned from its auditor that the calculations and disclosures contained in Exhibit 1 did not comply with the TILA. Nevertheless, it continued to disseminate Exhibit 1



to its franchisees and failed to notify them of the erroneous calculations and disclosures.

PAR. 29. In late 1990, GECM created a new retail installment contract, which also purported to incorporate the disclosures required by the TILA and which contained a pre-printed APR of 19.6% (Exhibit 2). Exhibit 2 fails to identify the creditor as required by the TILA and fails to provide the information required by the TILA in the itemization of the amount financed. Furthermore, GECM has disseminated Exhibit 2 to its franchisees but has failed to inform them to discontinue using the erroneous calculation and disclosure instructions that it had previously supplied in Exhibit 1.

PAR. 30. Respondents Great Expectations are creditors as that term is defined in the TILA and Regulation Z.

PAR. 31. The acts and practices of respondents Great Expectations and GECM alleged in this complaint have been and are in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act.

#### COUNT I

PAR. 32. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 33. Respondent GECM has furnished its franchises with TILA disclosures (Exhibits 1 and 2) that, on their face, violated the TILA. When used by respondents Great Expectations, Exhibits 1 and 2 have resulted in false and misleading disclosures of APRs and finance charges to consumers in violation of Section 5 of the FTC Act.

PAR. 34. In the course and practice of its business as described in paragraphs twenty-five through twenty-nine, and paragraph thirty-three, respondent GECM has provided respondents Great Expectations with the means and instrumentalities to violate the Section 5 of the FTC Act.

PAR. 35. The practices described in paragraph thirty-four constitute unfair or deceptive acts or practices in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45(a).

#### COUNT II

PAR. 36. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 37. Respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE Milwaukee, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to accurately calculate and disclose the APR.

PAR. 38. The practice described in paragraph thirty-seven by respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE Milwaukee, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Sections 107(a) and (c) of the TILA, 15 U.S.C. 1606(a) and (c), and Sections 226.18(e) and 226.22 of Regulation Z, 12 CFR 226.18(e) and 226.22.

#### COUNT III

PAR. 39. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 40. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Columbus, GE Milwaukee, GE-SFA, GE Cleveland, GE Phoenix, GE Sacramento, and GE San Diego have furnished their members with TILA disclosures that have failed to accurately calculate and disclose the finance charge.

PAR. 41. The practice described in paragraph forty by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Columbus, GE Milwaukee, GE-SFA, GE Cleveland, GE Phoenix, GE Sacramento, and GE San Diego violates Section 106 of the TILA, 15 U.S.C. 1605, and Sections 226.4 and 226.18(d) of Regulation Z, 12 CFR 226.4 and 226.18(d).

#### COUNT IV

PAR. 42. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 43. Respondents GE Dallas, GE Houston, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, and GE Phoenix have furnished their members with TILA disclosures that have failed to disclose the finance charge more conspicuously than any other disclosure except the APR and the creditor's identity.

PAR. 44. The practice described in paragraph forty-three by respondents GE Dallas, GE Houston, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, and GE Phoenix violates Section 122(a) of the TILA, 15 U.S.C. 1632(a), and Section 226.17(a)(2) of Regulation Z, 12 CFR 226.17(a)(2).

#### COUNT V

PAR. 45. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 46. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to segregate the disclosures required by the TILA from all other information provided in connection with the transaction, including the itemization of the amount financed.

PAR. 47. The practice described in paragraph forty-six by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(b)(1) of the TILA, 15 U.S.C. 1638(b)(1), and Section 226.17(a)(1) of Regulation Z, 12 CFR 226.17(a)(1).

#### COUNT VI

PAR. 48. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 49. Respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento

have failed to accurately disclose the itemization of the amount financed.

PAR. 50. The practice described in paragraph forty-nine by respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a) of the TILA, 15 U.S.C. 1638(a), and Section 226.18(c) of Regulation Z, 12 CFR 226.18(c).

#### COUNT VII

PAR. 51. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 52. Respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE Milwaukee, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have failed to disclose the identity of the creditor.

PAR. 53. The practice described in paragraph fifty-two by respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE Milwaukee, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(1) of the TILA, 15 U.S.C. 1638(a)(1), and Section 226.18(a) of Regulation Z, 12 CFR 226.18(a).

#### COUNT VIII

PAR. 54. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 55. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to provide a description of the amount financed.

PAR. 56. The practice described in paragraph fifty-five by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(8) of the TILA, 15 U.S.C. 1638(a)(8), and Section 226.18(b) of Regulation Z, 12 CFR 226.18(b).

PAR. 57. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to provide a description of the finance charge.

PAR. 58. The practice described in paragraph fifty-seven by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(8) of the TILA, 15 U.S.C. 1638(a)(8), and Section 226.18(d) of Regulation Z, 12 CFR 226.18(d).

PAR. 59. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to provide a description of the APR.

PAR. 60. The practice described in paragraph fifty-nine by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(8) of the TILA, 15 U.S.C. 1638(a)(8), and Section 226.18(e) of Regulation Z, 12 CFR 226.18(e).

PAR. 61. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to provide the total of payments and/or a description of the total of payments.

PAR. 62. The practice described in paragraph sixty-one by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin,

GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(5) and/or (8) of the TILA, 15 U.S.C. 1638(a)(5) and/or (8), and Section 226.18(h) of Regulation Z, 12 CFR 226.18(h).

PAR. 63. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to provide the total sale price and/or a description of the total sale price.

PAR. 64. The practice described in paragraph sixty-three by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(7) and/or (8) of the TILA, 15 U.S.C. 1638(a)(7) and/or (8), and Section 226.18(j) of Regulation Z, 12 CFR 226.18(j).

#### COUNT IX

PAR. 65. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 66. Respondents GE Dallas, GE Houston, GE Phoenix, GE San Antonio, GE Austin, GE Baltimore, GE DC, and GE Raleigh have failed to include set-up or other fees that are charged only to consumers who finance the costs of their memberships in the finance charge and the annual percentage rate disclosed to the consumer. They have also failed to exclude these finance charges from the amount financed that is disclosed to consumers.

PAR. 67. The practices described in paragraph sixty-six by respondents GE Dallas, GE Houston, GE Phoenix, GE San Antonio, GE Austin, GE Baltimore, GE DC, and GE Raleigh violate Sections 106, 107, and 128(a) of the TILA, 15 U.S.C. 1605, 1606, and 1638(a), and Sections 226.4(b), 226.22, and 226.18(b), (d), and (e) of Regulation Z, 12 CFR 226.4(b), 226.22, and 226.18(b), (d), and (e).

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Complaint

## COUNT X

PAR. 68. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 69. Respondent GE San Diego has furnished its members with TILA disclosures that have failed to disclose the APR, the finance charge, the amount financed, the total of payments, and the total sales price.

PAR. 70. The practices described in paragraph sixty-nine by respondent GE San Diego violate Section 128(a) of the TILA, 15 U.S.C. 1638(a), and Section 226.18 of Regulation Z, 12 CFR 226.18.

## COUNT XI

PAR. 71. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 72. Respondent GE Houston has furnished its members with TILA disclosures that have failed to disclose the amount financed.

PAR. 73. The practice described in paragraph seventy-two by respondent GE Houston violates Section 128(a) of the TILA, 15 U.S.C. 1638(a), and Section 226.18(b) of Regulation Z, 12 CFR 226.18(b).

## COUNT XII

PAR. 74. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 75. Respondents GEI, GE Alabama, GE Illinois, GE Portland, GE Dallas, GE Houston, GE Cleveland, GE Phoenix, GE San Antonio, GE Austin, GE Seattle, GE Denver, GE Columbus, GE Milwaukee, GE San Diego, GE Minneapolis, GE SFA, GE Cherry Hill, GE Sacramento, GE DC, GE Baltimore, and GE Raleigh have disclosed understated APRs and finance charges to consumers that have resulted in consumers paying more in financing costs than the amount to which they originally agreed.

PAR. 76. The practices described in paragraph seventy-five are unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. 45(a).

Complaint

120 F.T.C.

EXHIBIT 1

Expectations

RETAIL INSTALLMENT CONTRACT

Name - Last		First	Middle	Age
[Redacted]		[Redacted]	[Redacted]	76
Present Address			City	State   Zip
[Redacted]			[Redacted]	CO   80010
Social Security #	Home Phone	How Long at this Address	How Long in Area	
[Redacted]	[Redacted]	5 YRS	76 YRS	
Employed By	Work Phone	Present Position		
[Redacted]	[Redacted]	[Redacted]		
Income as Source	Annual	Driver's License #		
[Redacted]	[Redacted]	[Redacted]		
Primary Bank Accounts		Checking <input checked="" type="checkbox"/> Balance		
Savings <input checked="" type="checkbox"/> Balance	[Redacted]	[Redacted]		
Credit Reference - Banks, Finance Co., Credit Unions				
USA				
FIRST INTERSTATE Bank				
Open <input type="checkbox"/> Closed <input type="checkbox"/> Limit				

The undersigned Great Expectations (Seller) hereby sells, and the undersigned Buyer, hereinafter referred to as "Member" purchases (subject to the provisions of this contract, a MEMBERSHIP in Great Expectations and promises to pay to Great Expectations its share of the TOTAL PAYMENTS (Box 8) in accordance with the Payment Schedule hereinafter set forth.

DESCRIPTION OF GOODS AND SERVICES SOLD:

Interviewing, Testing & Evaluating, Processing & Coding, Background check (if necessary), for the purpose of bringing in contact with the purchaser (clients) suitable individuals with similar likes and dislikes, this description intended to be partial only, the purchaser acknowledges receipt of application form, which it made a part hereto as though set out at length.

READ CAREFULLY AND SIGN ONLY WHEN COMPLETELY UNDERSTOOD

Buyer has considered and evaluated the terms of membership as set forth in Great Expectations Membership Agreement dated 10/31/91 and requests financing of the balance due. Acceptance of the terms of both agreements renders null and void any buyer's right to cancel previously provided.

I understand that my failure to participate in Great Expectations does not release me of my obligation to pay this contract in full regardless of the circumstances. I understand that by signing this Agreement I am a Member of Great Expectations.

MEMBER SIGNATURE X [Redacted]

NOTICE TO MEMBER: Upon request, Great Expectations must provide or make available for your examination a statement of fact showing how the partial refund of the time price charge is to be computed if any balance of the contract should be prepaid. Member (Buyer) and Great Expectations (Seller) agree that the terms and conditions on the Member's Contract for Membership constitute part of this contract and are incorporated herein by reference. If due to delinquency, it is necessary to refer this account to collection, then the balance due shall include actual attorney's fee and court costs. In the event Member fails to pay any installment payment when due, the entire balance then owing shall immediately become due and payable, without notice, at the option of Great Expectations or assignee, and Great Expectations shall not be required to provide any services to Member until Member's payment account is made current. If more than one person signs this contract then their obligation shall be joint and several.

ITEMIZATION OF THE AMOUNT FINANCED

1. Cash Price	1595	BALANCE	10.	ANNUAL PERCENTAGE RATE	18%
2. Other	0		11.	PAYMENT SCHEDULE:	
3. Down Payment	-300	1295	5	Successive monthly installments of \$	235
4. Paid (11/14/91) Second Installment	-100	1195		begin commencing	12/15/91
5. Other Payments Due (11/30/91)	100	1095		same day at each month thereafter, until fully paid. A	BALLOON PAYMENT
6. Amt. Financed (Unpaid Bal. at Cash Price #3)	1095	1095		DELINQUENCY AND COLLECTION CHARGES:	
7. Finance Charge @ 18% Bal. x 18% x 5 (no. of payments)	82.13			Buyer shall pay or request to pay any installment payment when the same shall become due and such "short" payment shall continue for a period of more than ten (10) days, then in addition to the amount of such delinquent installment payment the Buyer shall pay to Seller, as delinquency and collection charge, an amount equal to 1% of such payment, except that such charge shall not exceed \$5.00 or be less than \$1.00.	
8. Total Payments (Bal. #6 + 7)	1177.13			PREPAYMENT REFUSE: Buyer may prepay any part of the unpaid balance without penalty and all payments in full. Buyer shall be entitled to a refund of all of the unpaid portion of the Finance Charge computed under the simple interest plan, however, there shall be a minimum Finance Charge of \$10.00 and no refund if the unearned charge is less than \$1.00.	
9. Deferred Payment Price (Bal. #8 + #1)	1477.13				

DIVIDE by number of payments to calculate each installment and summarize on #11

Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you desire to pay off in advance the full amount due, the amount which is outstanding will be furnished upon request.

SELLER Great Expectations Signature of Member X [Redacted]

Business Address: 3773 Cherry Creek N. Dr. #410 Member: Buyer acknowledges receipt of an exact copy of this instrument at the time of its execution. Member (Buyer) further acknowledges that the terms in this contract were completely filled-in and that he has read the disclosures contained here prior to signing the contract.

City & State: Danver, CO 80017

Authorized Signature of Member X [Redacted]

Exhibit 1





## DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of San Antonio Singles of Texas, Inc., and Austin Singles of Texas, Inc., corporations, and respondents having been furnished thereafter with a copy of the draft of complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violations of Section 5(a) of the Federal Trade Commission Act and the Truth in Lending Act; and

The respondents, their attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that respondents have violated the said Acts, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. San Antonio Singles of Texas, Inc., doing business as Great Expectations of San Antonio ("GE San Antonio"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Texas, with its corporate office at 10497 Town & Country Way, Suite 214, Houston, TX, and its principal place of business located at 8131 I.H. 10 West, Suite 225, San Antonio, TX.

2. Austin Singles of Texas, Inc., doing business as Great Expectations of Austin ("GE Austin"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Texas, with its corporate office at 10497 Town & Country

Way, Suite 214, Houston, TX, and its principal place of business located at 9037 Research Blvd., Suite 130, Austin, TX.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

#### ORDER

##### I.

*It is ordered, That:*

A. Respondents GE San Antonio, and GE Austin, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to accurately calculate and disclose the annual percentage rate, as required by Sections 107(a) and (c) of the Truth in Lending Act ("TILA"), 15 U.S.C. 1606(a) and (c), and Sections 226.18(e) and 226.22 of Regulation Z, 12 CFR 226.18(e) and 226.22;

B. Respondents GE San Antonio, and GE Austin, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to accurately calculate and disclose the finance charge, as required by Section 106 of the TILA, 15 U.S.C. 1605, and Sections 226.4 and 226.18(d) of Regulation Z, 12 CFR 226.4 and 226.18(d);

C. Respondents GE San Antonio, and GE Austin, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to segregate the disclosures required by the TILA from all other information provided in connection with the transaction, including from the itemization of the amount financed, as required by Section 128(b)(1) of the TILA, 15 U.S.C. 1638(b)(1), and Section 226.17(a) of Regulation Z, 12 CFR 226.17(a);

D. Respondents GE San Antonio, and GE Austin, their successors and assigns, and their officers, agents, representatives, and

employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to make all disclosures in the manner, form, and amount required by Sections 122 and 128(a) of the TILA, 15 U.S.C. 1632 and 1638(a), and Sections 226.17 and 226.18 of Regulation Z, 12 CFR 226.17 and 226.18;

E. Respondents GE San Antonio, and GE Austin, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from:

1. Failing to include, in the finance charge and the annual percentage rate disclosed to the consumer, set-up or other fees that are charged only to consumers who finance the costs of their memberships, as required by Sections 106, 107, and 128 of the TILA, 15 U.S.C. 1605, 1606, and 1638, and Sections 226.4(b), 226.22, and 226.18(d) and (e) of Regulation Z, 12 CFR 226.4(b), 226.22, and 226.18(d) and (e); and

2. Failing to exclude, from the amount financed disclosed to the consumer, set-up or other fees that are charged only to consumers who finance the costs of their memberships, as required by Section 128 of the Truth in Lending Act, 15 U.S.C. 1638(a) and Section 226.18(b) of Regulation Z, 12 CFR 226.18(b); and

F. Respondents GE San Antonio, and GE Austin, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to comply with the TILA, 15 U.S.C. 1601 *et seq.*, and Regulation Z, 12 CFR 226.

## II.

### REFUND PROGRAM

*It is further ordered, That:*

- A. Within thirty (30) days following the date of service of this order, respondents shall:

1. Determine to whom respondents, disclosed on the original TILA disclosure an annual percentage rate that was miscalculated by more than one quarter of one percentage point below the annual percentage rate determined in accordance with Section 226.22 of Regulation Z, 12 CFR 226.22, or that disclosed a finance charge that was miscalculated by more than one dollar below the finance charge determined in accordance with Section 226.4 of Regulation Z, 12 CFR 226.4, so that each such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower, plus a tolerance of one quarter of one percentage point;

2. Calculate a lump sum refund and a monthly payment adjustment, if applicable, in accordance with Section 108(e) of the TILA, 15 U.S.C. 1607(e);

3. Mail a refund check to each eligible consumer in the amount determined above, along with Attachment 1; and

4. Provide the Federal Trade Commission with a list of each such consumer, the amount of the refund, the number of payments refunded, the amount of adjustment for future payments and the number of future payments to be adjusted;

B. No later than fifteen (15) days following the date of service of this order, respondents shall provide the Federal Trade Commission with the name and address of three independent accounting firms, with which they, their officers, employees, attorneys, and agents, have no business relationship. Staff for the Division of Credit Practices of the FTC shall then have the sole discretion to choose one of the firms ("independent agent") and so advise respondents;

C. Within thirty (30) days following the date of adjustments made pursuant to this section, respondents shall direct the independent agent to review a statistically-valid sample of refunds. Respondents shall provide the Federal Trade Commission with a certified letter from the independent agent confirming that respondents have complied with Part II. A. of this order;

D. All costs associated with the administration of the refund program and payment of refunds shall be borne by the respondents.

## III.

*It is further ordered,* That respondents, their successors and assigns, shall maintain for at least five (5) years from the date of service of this order and, upon thirty (30) days advance written request, make available to the Federal Trade Commission for inspection and copying all documents and other records necessary to demonstrate fully their compliance with this order.

## IV.

*It is further ordered,* That respondents, their successors and assigns, shall distribute a copy of this order to any present or future officers and managerial employees having responsibility with respect to the subject matter of this order and that respondents, their successors and assigns, shall secure from each such person a signed statement acknowledging receipt of said order.

## V.

*It is further ordered,* That respondents, for a period of five (5) years following the date of service of this order, shall promptly notify the Commission at least thirty (30) days prior to any proposed change in their corporate structure such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, or any other change in the corporation that may affect compliance obligations arising out of the order.

## VI.

*It is further ordered,* That respondents shall, within one hundred and eighty (180) days of the date of service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

## ATTACHMENT 1

Dear Great Expectations Member:

We were recently notified by the Federal Trade Commission staff ("FTC") that we may have inadvertently miscalculated and/or improperly disclosed information in your Retail Installment Contract which the FTC believes is inconsistent with certain provisions of the Truth in Lending Act. After extensive investigation by us, along with conversations with the FTC, we have decided that it would be in the best interest of all parties to [refund] [credit to your account] the amount of \$\_\_\_\_\_ which would cover any incorrect calculations. [Additionally, please be advised that your future monthly payments have been reduced to \$\_\_\_\_\_ starting \_\_\_\_\_.]

We at Great Expectations are always interested in providing our members prompt professional services and are here to answer any questions you may have regarding this or any other matter.

Sincerely,

GREAT EXPECTATIONS

Complaint

120 F.T.C.

IN THE MATTER OF

STERLING CONNECTIONS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
THE TRUTH IN LENDING ACT AND SEC. 5 OF THE  
FEDERAL TRADE COMMISSION ACT

*Docket C-3609. Complaint, Aug. 11, 1995--Decision, Aug. 11, 1995*

This consent order requires, among other things, the video dating service franchises to properly and accurately disclose the annual percentage rate ("APR") and other credit terms of financed memberships, as required by the federal Truth in Lending Act, and requires the franchises to establish adjustment refund programs to compensate its past and current members who overpaid finance charges.

#### *Appearances*

For the Commission: *Stephen Cohen, Judy Nixon and David Medine.*

For the respondents: *Thomas J. Greenan, Schwabe, Williamson, Ferguson & Burdell, Seattle, WA.*

#### COMPLAINT

The Federal Trade Commission, having reason to believe that Great Expectations Creative Management, Inc. has violated the Federal Trade Commission Act ("FTC Act"), and that Great Expectations, Inc., GEC Illinois, Inc., GEC Tennessee, Inc., GEC Alabama, Inc., Great Southern Video, Inc., New West Video Enterprises, Inc., San Antonio Singles of Texas, Inc., Austin Singles of Texas, Inc., Great Expectations of Baltimore, Inc., Great Expectations of Washington, D.C., Inc., Great Expectations of Washington, Inc., Sterling Connections, Inc., Private Eye Productions, Inc., Great Expectations - Columbus, Inc., JAMS Financial, Inc., V.L.P. Enterprises, Inc., APM Enterprises - Minn Inc., KGE, Inc., G.E.C.H., Inc., MWVE, Inc., GREATEX Denver, Inc., Sun West Video, Inc., and TRIAAC Enterprises, Inc. (hereinafter sometimes referred to collectively as "Great Expectations") have violated the Truth in Lending Act ("TILA"), its implementing Regulation Z, and the FTC Act, and it appearing to the



Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint, and alleges as follows:

PARAGRAPH 1. Great Expectations Creative Management, Inc. ("GECM") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its office and principal place of business located at 16830 Ventura Blvd., Suite P, Encino, CA.

PAR. 2. Great Expectations, Inc. ("GEI") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its corporate office at 16830 Ventura Blvd., Suite P, Encino, CA, and its principal places of business located at 1640 S. Sepulveda Blvd., Suite 100, Los Angeles, CA, 17207 Ventura Blvd., Encino, CA, and 450 N. Mountain, Suite B, Upland, CA.

PAR. 3. GEC Illinois, Inc. ("GE Illinois") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Illinois, with its office and principal place of business located at 1701 E. Woodfield Dr., Suite 400, Schaumburg, IL.

PAR. 4. GEC Tennessee, Inc. ("GE Tennessee") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its office and principal place of business located at 5552 Franklin Rd., Suite 200, Nashville, TN.

PAR. 5. GEC Alabama, Inc. ("GE Alabama") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Alabama, with its office and principal place of business located at 7529 S. Memorial Pkwy., Suite C & D, Huntsville, AL.

PAR. 6. Great Southern Video, Inc., doing business as Great Expectations of Dallas ("GE Dallas"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Texas, with its office and principal place of business located at 14180 Dallas Pkwy., Suite 100, Dallas, TX.

PAR. 7. New West Video Enterprises, Inc., doing business as Great Expectations of Houston ("GE Houston"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Texas, with its office and principal place of business located at 50 Briarhollow, Suite 100, Houston, TX.

PAR. 8. San Antonio Singles of Texas, Inc., doing business as Great Expectations of San Antonio ("GE San Antonio"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Texas, with its corporate office at 10497 Town & Country Way, Suite 214, Houston, TX, and its principal place of business located at 8131 I.H. 10 West, Suite 225, San Antonio, TX.

PAR. 9. Austin Singles of Texas, Inc., doing business as Great Expectations of Austin ("GE Austin"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Texas, with its corporate office at 10497 Town & Country Way, Suite 214, Houston, TX, and its principal place of business located at 9037 Research Blvd., Suite 130, Austin, TX.

PAR. 10. Great Expectations of Baltimore, Inc. ("GE Baltimore") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Virginia, with its office and principal place of business located at 40 York Rd., Suite 500, Towson, MD.

PAR. 11. Great Expectations of Washington, D.C., Inc. ("GE DC") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Maryland, with its office and principal place of business located at 8601 Westwood Center Dr., Vienna, VA.

PAR. 12. Great Expectations of Washington, Inc., doing business as Great Expectations of Raleigh/Durham ("GE Raleigh"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Maryland, with its office and principal place of business located at 3714 Benson Dr., Suite 200, Raleigh, NC.

PAR. 13. Sterling Connections, Inc., doing business as Great Expectations of Seattle ("GE Seattle"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Oregon, with its office and principal place of business located at 305 108th Ave., N.E., Suite 205, Bellevue, WA.

PAR. 14. Private Eye Productions, Inc., doing business as Great Expectations of Portland ("GE Portland"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Oregon, with its office and principal place of business located at 5531 S.W. Macadam Ave., Suite 225, Portland, OR.

PAR. 15. Great Expectations - Columbus, Inc. ("GE Columbus") is a corporation organized, existing, and doing business under and by

virtue of the laws of the state of Ohio, with its corporate office at 11835 W. Olympic Blvd., Suite 490, Los Angeles, CA, and its principal place of business located at 1103 Schrock Rd., Suite 101, Columbus, OH.

PAR. 16. JAMS Financial, Inc., doing business as Great Expectations of Milwaukee ("GE Milwaukee"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Wisconsin, with its corporate office at 11835 W. Olympic Blvd., Suite 490, Los Angeles, CA, and its principal place of business located at 16650 W. Bluemound, Suite 100, Brookfield, WI.

PAR. 17. V.L.P. Enterprises, Inc., doing business as Great Expectations of San Diego ("GE San Diego"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its office and principal place of business located at 3465 Camino Del Rio South, Suite 300, San Diego, CA.

PAR. 18. APM Enterprises - Minn Inc., doing business as Great Expectations of Minneapolis ("GE Minneapolis"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Illinois, with its office and principal place of business located at 3300 Edinborough Way, Suite 300, Edina, MN.

PAR. 19. KGE, Inc., doing business as Great Expectations of Sausalito, Great Expectations of Mountain View, and Great Expectations of Walnut Creek (collectively referred to as "GE-SFA"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its corporate office at 1943 Landings Dr., Mountain View, CA, and its principal places of business located at 2401 Marinship Way, Suite 100 Sausalito, CA, 2085 Landings Dr., Mountain View, CA, and 1280 Civic Dr., Suite 300, Walnut Creek, CA.

PAR. 20. G.E.C.H., Inc., doing business as Great Expectations of Cherry Hill ("GE Cherry Hill"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of New Jersey with its office and principal places of business located at One Cherry Hill, Suite 600, Cherry Hill, NJ.

PAR. 21. MWVE, Inc., doing business as Great Expectations of Cleveland ("GE Cleveland"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Ohio,

with its office and principal place of business located at 6300 Rockside Rd., Suite 200, Cleveland, OH.

PAR. 22. GREATEX Denver, Inc., doing business as Great Expectations Video Dating, Ltd. ("GE-Denver"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Washington, with its office and principal place of business located at 3773 Cherry Creek North Dr., Suite 140, Denver, CO.

PAR. 23. Sun West Video, Inc., doing business as Great Expectations for Singles ("GE Phoenix"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Arizona, with its office and principal place of business located at 5635 N. Scottsdale Rd., Suite 190, Scottsdale, AZ.

PAR. 24. TRIAAC Enterprises, Inc., doing business as Great Expectations of Sacramento ("GE Sacramento"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its office and principal place of business located at 2277 Fair Oaks Blvd., Suite 195, Sacramento, CA.

#### RESPONDENTS' COURSE OF BUSINESS

PAR. 25. GECM is a video dating franchisor. It sells and services franchise operations throughout the United States. As part of its regular course of business, GECM has created and disseminated retail installment contracts (Exhibits 1 and 2) to the franchises described in paragraphs two through twenty-four. The GECM retail installment contracts purport to incorporate the disclosures required by the TILA.

PAR. 26. Respondents Great Expectations are video dating franchises. Respondents have provided financing to their members using retail installment contracts such as Exhibits 1 and 2 to disclose the terms of the financing.

PAR. 27. GECM's TILA disclosure (Exhibit 1) contains erroneous instructions for calculating and disclosing the finance charge and contains a pre-printed annual percentage rate ("APR") of 18%. In addition, Exhibit 1 fails to make the TILA disclosures in the format required by the TILA and fails to identify the creditor as required by the TILA.

PAR. 28. In 1988, GECM learned from its auditor that the calculations and disclosures contained in Exhibit 1 did not comply with the TILA. Nevertheless, it continued to disseminate Exhibit 1

to its franchisees and failed to notify them of the erroneous calculations and disclosures.

PAR. 29. In late 1990, GECM created a new retail installment contract, which also purported to incorporate the disclosures required by the TILA and which contained a preprinted APR of 19.6%. (Exhibit 2). Exhibit 2 fails to identify the creditor as required by the TILA and fails to provide the information required by the TILA in the itemization of the amount financed. Furthermore, GECM has disseminated Exhibit 2 to its franchisees but has failed to inform them to discontinue using the erroneous calculation and disclosure instructions that it had previously supplied in Exhibit 1.

PAR. 30. Respondents Great Expectations are creditors as that term is defined in the TILA and Regulation Z.

PAR. 31. The acts and practices of respondents Great Expectations and GECM alleged in this complaint have been and are in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act.

#### COUNT I

PAR. 32. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 33. Respondent GECM has furnished its franchises with TILA disclosures (Exhibits 1 and 2) that, on their face, violated the TILA. When used by respondents Great Expectations, Exhibits 1 and 2 have resulted in false and misleading disclosures of APRs and finance charges to consumers in violation of Section 5 of the FTC Act.

PAR. 34. In the course and practice of its business as described in paragraphs twenty-five through twenty-nine, and paragraph thirty-three, respondent GECM has provided respondents Great Expectations with the means and instrumentalities to violate the Section 5 of the FTC Act.

PAR. 35. The practices described in paragraph thirty-four constitute unfair or deceptive acts or practices in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45(a).

Complaint

120 F.T.C.

## COUNT II

PAR. 36. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 37. Respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE Milwaukee, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to accurately calculate and disclose the APR.

PAR. 38. The practice described in paragraph thirty-seven by respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE Milwaukee, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Sections 107(a) and (c) of the TILA, 15 U.S.C. 1606(a) and (c), and Sections 226.18(e) and 226.22 of Regulation Z, 12 CFR 226.18(e) and 226.22.

## COUNT III

PAR. 39. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 40. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Columbus, GE Milwaukee, GE-SFA, GE Cleveland, GE Phoenix, GE Sacramento, and GE San Diego have furnished their members with TILA disclosures that have failed to accurately calculate and disclose the finance charge.

PAR. 41. The practice described in paragraph forty by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Columbus, GE Milwaukee, GE-SFA, GE Cleveland, GE Phoenix, GE Sacramento, and GE San Diego violates Section 106 of the TILA, 15 U.S.C. 1605, and Sections 226.4 and 226.18(d) of Regulation Z, 12 CFR 226.4 and 226.18(d).

## COUNT IV

PAR. 42. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 43. Respondents GE Dallas, GE Houston, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, and GE Phoenix have furnished their members with TILA disclosures that have failed to disclose the finance charge more conspicuously than any other disclosure except the APR and the creditor's identity.

PAR. 44. The practice described in paragraph forty-three by respondents GE Dallas, GE Houston, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, and GE Phoenix violates Section 122(a) of the TILA, 15 U.S.C. 1632(a), and Section 226.17(a)(2) of Regulation Z, 12 CFR 226.17(a)(2).

## COUNT V

PAR. 45. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 46. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to segregate the disclosures required by the TILA from all other information provided in connection with the transaction, including the itemization of the amount financed.

PAR. 47. The practice described in paragraph forty-six by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(b)(1) of the TILA, 15 U.S.C. 1638(b)(1), and Section 226.17(a)(1) of Regulation Z, 12 CFR 226.17(a)(1).

## COUNT VI

PAR. 48. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 49. Respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE

Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have failed to accurately disclose the itemization of the amount financed.

PAR. 50. The practice described in paragraph forty-nine by respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a) of the TILA, 15 U.S.C. 1638(a), and Section 226.18(c) of Regulation Z, 12 CFR 226.18(c).

#### COUNT VII

PAR. 51. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 52. Respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE Milwaukee, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have failed to disclose the identity of the creditor.

PAR. 53. The practice described in paragraph fifty-two by respondents GEI, GE Illinois, GE Tennessee, GE Alabama, GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Columbus, GE Milwaukee, GE San Diego, GE Minneapolis, GE-SFA, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(1) of the TILA, 15 U.S.C. 1638(a)(1), and Section 226.18(a) of Regulation Z, 12 CFR 226.18(a).

#### COUNT VIII

PAR. 54. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 55. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix,



and GE Sacramento have furnished their members with TILA disclosures that have failed to provide a description of the amount financed.

PAR. 56. The practice described in paragraph fifty-five by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(8) of the TILA, 15 U.S.C. 1638(a)(8), and Section 226.18(b) of Regulation Z, 12 CFR 226.18(b).

PAR. 57. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to provide a description of the finance charge.

PAR. 58. The practice described in paragraph fifty-seven by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(8) of the TILA, 15 U.S.C. 1638(a)(8), and Section 226.18(d) of Regulation Z, 12 CFR 226.18(d).

PAR. 59. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to provide a description of the APR.

PAR. 60. The practice described in paragraph fifty-nine by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(8) of the TILA, 15 U.S.C. 1638(a)(8), and Section 226.18(e) of Regulation Z, 12 CFR 226.18(e).

PAR. 61. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their

members with TILA disclosures that have failed to provide the total of payments and/or a description of the total of payments.

PAR. 62. The practice described in paragraph sixty-one by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(5) and/or (8) of the TILA, 15 U.S.C. 1638(a)(5) and/or (8), and Section 226.18(h) of Regulation Z, 12 CFR 226.18(h).

PAR. 63. Respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore, GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento have furnished their members with TILA disclosures that have failed to provide the total sale price and/or a description of the total sale price.

PAR. 64. The practice described in paragraph sixty-three by respondents GE Dallas, GE Houston, GE San Antonio, GE Austin, GE Baltimore/ GE DC, GE Raleigh, GE Seattle, GE Portland, GE Minneapolis, GE Cherry Hill, GE Cleveland, GE Denver, GE Phoenix, and GE Sacramento violates Section 128(a)(7) and/or (8) of the TILA, 15 U. S. C. 1638 (a) (7) and/or (8) , and Section 226.18(j) of Regulation Z, 12 CFR 226.18(j).

#### COUNT IX

PAR. 65. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 66. Respondents GE Dallas, GE Houston, GE Phoenix, GE San Antonio, GE Austin, GE Baltimore, GE DC, and GE Raleigh have failed to include set-up or other fees that are charged only to consumers who finance the costs of their memberships in the finance charge and the annual percentage rate disclosed to the consumer. They have also failed to exclude these finance charges from the amount financed that is disclosed to consumers.

PAR. 67. The practices described in paragraph sixty-six by respondents GE Dallas, GE Houston, GE Phoenix, GE San Antonio, GE Austin, GE Baltimore, GE DC, and GE Raleigh violate Sections 106, 107, and 128(a) of the TILA, 15 U.S.C. 1605, 1606, and 1638(a), and Sections 226.4(b), 226.22, and 226.18(b), (d), and (e) of Regulation Z, 12 CFR 226.4(b), 226.22, and 226.18(b), (d), and (e).

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## COUNT X

PAR. 68. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 69. Respondent GE San Diego has furnished its members with TILA disclosures that have failed to disclose the APR, the finance charge, the amount financed, the total of payments, and the total sales price.

PAR. 70. The practices described in paragraph sixty-nine by respondent GE San Diego violate Section 128(a) of the TILA, 15 U.S.C. 1638(a), and Section 226.18 of Regulation Z, 12 CFR 226.18.

## COUNT XI

PAR. 71. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 72. Respondent GE Houston has furnished its members with TILA disclosures that have failed to disclose the amount financed.

PAR. 73. The practice described in paragraph seventy-two by respondent GE Houston violates Section 128(a) of the TILA, 15 U.S.C. 1638(a), and Section 226.18(b) of Regulation Z, 12 CFR 226.18(b).

## COUNT XII

PAR. 74. Paragraphs one through thirty-one are incorporated herein by reference.

PAR. 75. Respondents GEI, GE Alabama, GE Illinois, GE Portland, GE Dallas, GE Houston, GE Cleveland, GE Phoenix, GE San Antonio, GE Austin, GE Seattle, GE Denver, GE Columbus, GE Milwaukee, GE San Diego, GE Minneapolis, GE SFA, GE Cherry Hill, GE Sacramento, GE DC, GE Baltimore, and GE Raleigh have disclosed understated APRs and finance charges to consumers that have resulted in consumers paying more in financing costs than the amount to which they originally agreed.

PAR. 76. The practices described in paragraph seventy-five are unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. 45(a).

EXHIBIT 1

Expectations

RETAIL INSTALLMENT CONTRACT

Name - Last First Middle Age  
 26  
 Present Address City State Zip  
 CO 80010  
 Social Security # Home Phone How Long At This Address How Long in Area  
 5 YRS 26 YRS  
 Employed By Works Phone Present Position  
 Income All Sources Annual Diner's License #  
 Primary Bank Accounts Savings  Balance Checking  Balance  
 Credit Reference - Banks, Finance Co., Credit Unions  
 USA Open  Closed  LHM  
 FIRST INTERSTATE Bank Open  Closed  LHM

The undersigned Great Expectations (Seller) hereby sells, and the undersigned Buyer, hereinafter referred to as "Member" purchases subject to the provisions of this contract, a MEMBERSHIP in Great Expectations and promises to pay to Great Expectations its share of the TOTAL PAYMENTS (Box B) in accordance with the Payment Schedule hereinafter set forth.

DESCRIPTION OF GOODS AND SERVICES SOLD:

Interviewing, Testing & Evaluating, Processing & Coding, Background check (if necessary), for the purpose of bringing in contact with the purchaser (client) suitable individuals with similar likes and dislikes, this description intended to be partial only, the purchase acknowledges receipt of application form, which is made a part hereof as though set out at length.

READ CAREFULLY AND SIGN ONLY WHEN COMPLETELY UNDERSTOOD

Buyer has considered and evaluated the terms of membership as set forth in Great Expectations Membership Agreement dated 10/31/91 and requests financing of the balance due. Acceptance of the terms of both agreements renders null and void any Buyer's right to cancel previously provided.

I understand that my failure to participate in Great Expectations does not release me of my obligation to pay this contract in full regardless of the circumstances. I understand that by signing this Agreement I am a Member of Great Expectations.

MEMBER SIGNATURE X

NOTICE TO MEMBER: Upon request, Great Expectations must provide or make available for your examination a statement of fact showing how the partial refund of the time price charge is to be computed if any balance of the contract should be prepaid. Member (Buyer) and Great Expectations (Seller) agree that the terms and conditions on the Member's Contract for Membership constitute part of this contract and are incorporated herein by reference. If due to delinquency, it is necessary to refer this account for collection, then the balance due shall include actual attorney's fee and court costs. In the event Member fails to pay any installment payment when due, the entire balance then owing shall immediately become due and payable, without notice, at the option of Great Expectations or assignee, and Great Expectations shall not be required to provide any services to Member until Member's payment account is made current. If more than one person signs this contract then their obligation shall be joint and several.

ITEMIZATION OF THE AMOUNT FINANCED

	1. Cash Price	2. Other	3. Down Payment	4. Paid (11/4/91) Second Interview	5. Other Payments Due (11/30/91)	6. Amt. Financed (Unpaid Bal. in Cash Price #5)	7. Finance Charge (6% Bal. x 14% x 15) no. of payments	8. Total Payments (Bal. # 7)	9. Deferred Payment Price (Bal. # 8 + # 7)
	1595	0	300	100	100	1095	82.13	1177.13	1477.13

10. ANNUAL PERCENTAGE RATE 18%  
 11. PAYMENT SCHEDULE:  
 5 SUCCESSIVE MONTHLY INSTALLMENTS OF \$ 235  
 EACH COMMENCING 12/15/91, AND ON IN  
 SAME DAY AT EACH MONTH THEREAFTER, UNTIL PAID IN FULL.  
 12. BALLOON PAYMENT DELINQUENCY AND COLLECTION CHARGES:  
 Buyer shall pay or deposit to pay any installment payment when the same shall become due and such failure to deposit shall constitute for a period of more than ten (10) days, then in addition to the amount of such delinquent installment payment the Buyer shall pay to Seller, as delinquency and collection charge, an amount equal to 1% of such payment, except that such charge shall not exceed \$5.00 or be less than \$1.00.  
 13. PREPAYMENT DEBIT: Buyer may prepay any part or all of the unpaid balance without penalty and the payment in full Buyer shall be entitled to a refund of the unearned portion of the Finance Charge computed under the simple interest debt method, there will be maximum Finance Charge of \$10.00 and no refund if the unearned charge is less than \$1.00.

DIVIDE by number of payments to calculate each installment and summarize on #11.

Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in (2) You are entitled to a completely filled-in copy of this agreement (3) You can prepay the full amount due under this agreement at any time (4) If you desire to pay off in advance the full amount due, the amount which is outstanding will be furnished upon request.

SELLER Great Expectations Signature of Member X  
 Business Address: 3773 Cherry Creek N. Dr. #400 City & State: Denver CO 8007  
 Authorized Signature: [Signature] Title: [Title] Member X  
 Exhibit 1

Complaint

EXHIBIT 2



RETAIL INSTALLMENT CONTRACT

Form with fields for Name, Address, Social Security #, Home Phone, How Long At This Address, Date of Birth, Driver's License #, and Primary Bank Accounts.

The undersigned Great Expectations (Seller) hereby sells, and the undersigned buyer (Member) purchases, subject to the provisions of this C... CONTRACT in full. I understand that by signing this Contract, and the Membership Agreement, I am a Member of Great Expectations.

READ CAREFULLY AND SIGN ONLY WHEN COMPLETELY UNDERSTOOD

I have considered and evaluated the terms of membership as set forth in the Great Expectations Membership Agreement dated... I understand that my failure to participate in Great Expectations does not relieve me of my obligation to pay to Great Expectations or its assignee the TOTAL PAYMENTS in accordance with the Schedule hereinafter set forth.

NOTICE TO MEMBER: Upon request, Great Expectations must provide or make available for your examination a statement or table showing how I... NOTICE TO MEMBER: Upon request, Great Expectations must provide or make available for your examination a statement or table showing how I...

PAYMENT SCHEDULE: Member's payments hereunder shall be in equal consecutive monthly installments commencing on the... day of... month after execution of this Contract and continuing on the same day of each month thereafter until paid in full. Interest on the unpaid balance shall be both prior and after maturity.

FEDERAL TRUTH IN LENDING DISCLOSURES (Statement of Disclosure) table with columns for Annual Percentage Rate, Finance Charge, and Total of Payments.

ITEMIZATION OF AMOUNT FINANCED table with rows for Total Cash Price, Less Downpayment, Amount Financed, Finance Charge, and Total of Payments.

DELINQUENCY AND COLLECTION CHARGES: If Buyer shall fail or neglect to pay any installment payment on the same day as it becomes due and such failure or neglect shall continue for a period of more than ten (10) days, then in addition to the amount of such delinquent installment payment the Buyer shall pay to Seller, as a delinquency and collection charge, an amount equal to 5% of such installment unless such charge shall not exceed \$5.00 or be less than \$1.00.

Should the buyer default in the payment of any installment hereunder shall pay to Seller all costs and reasonable costs of collection or including reasonable Attorney fees and disbursements. Buyer will pay to the Seller a \$10.00 charge for every delinquent other installment.

NOTICE TO BUYER: 1. Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. 2. You are entitled to a completely filled in copy agreement. 3. You can prepay the full amount due under this agreement at any time. 4. If you desire to pay off in advance the full amount of amount which is outstanding will be furnished on request.

Seller: GREAT EXPECTATIONS, Business Address, City & State, Authorized Signature fields.

Member (Buyer) acknowledgment receipt of an exact copy of this contract, Member (Buyer) further acknowledges terms in this Contract were completely read and that she has read and understands contained herein prior to signing this Contract.

## DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of Sterling Connections, Inc., Private Eye Productions, Inc., and GREATEX Denver, Inc., corporations, and respondents having been furnished thereafter with a copy of the draft of complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violations of Section 5(a) of the Federal Trade Commission Act and the Truth in Lending Act; and

The respondents, their attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that respondents have violated the said Acts, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Sterling Connections, Inc., doing business as Great Expectations of Seattle ("GE Seattle"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Oregon, with its office and principal place of business located at 305 108th Ave., N.E., Suite 205, Bellevue, WA.

2. Private Eye Productions, Inc., doing business as Great Expectations of Portland ("GE Portland"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Oregon, with its office and principal place of business located at 5531 S.W. Macadam Ave., Suite 225, Portland, OR.

3. GREATEX Denver, Inc., doing business as Great Expectations of Denver ("GE-Denver"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Washington with its office and principal place of business located at 3773 Cherry Creek North Dr., Suite 140, Denver, CO.

4. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

## ORDER

### I.

*It is ordered, That:*

A. Respondents GE Seattle, GE Portland, and GE Denver, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to accurately calculate and disclose the annual percentage rate, as required by Sections 107(a) and (c) of the Truth in Lending Act ("TILA"), 15 U.S.C. 1606(a) and (c), and Sections 226.18.(e) and 226.22 of Regulation Z, 12 CFR 226.18(e) and 226.22;

B. Respondents GE Seattle, GE Portland, and GE Denver, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to segregate the disclosures required by the TILA from all other information provided in connection with the transaction, including from the itemization of the amount financed, as required by Section 128(b)(1) of the TILA, 15 U.S.C. 1638(b)(1), and Section 226.17(a) of Regulation Z, 12 CFR 226.17(a);

C. Respondents GE Seattle, GE Portland, and GE Denver, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to make all disclosures in the manner, form, and amount required by Sections 122 and 128(a) of the TILA,

15 U.S.C. 1632 and 1638(a), and Sections 226.17 and 226.18 of Regulation Z, 12 CFR 226.17 and 226.18;

D. Respondents GE Seattle, GE Portland, and GE Denver, their successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to comply with the TILA, 15 U.S.C. 1601 *et seq.*, and Regulation Z, 12 CFR 226.

## II.

### REFUND PROGRAM

*It is further ordered, That:*

A. Within thirty (30) days following the date of service of this order, respondents shall:

1. For each TILA disclosure relating to any executory contract or any contract consummated within two years prior to August 2, 1994, determine to whom respondents disclosed on the original TILA disclosure an annual percentage rate that was miscalculated by more than one eighth of one percentage point below the annual percentage rate determined in accordance with Section 226.22 of Regulation Z, 12 CFR 226.22, or that disclosed a finance charge that was miscalculated by more than one dollar below the finance charge determined in accordance with Section 226.4 of Regulation Z, 12 CFR 226.4, so that each such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower, plus a tolerance of one eighth of one percentage point;

2. Calculate a lump sum refund and a monthly payment adjustment, if applicable, in accordance with Section 108(e) of the TILA, 15 U.S.C. 1607(e);

3. Mail a refund check to each eligible consumer in the amount determined above, along with Attachment 1; and

4. Provide the Federal Trade Commission with a list of each such consumer, the amount of the refund, the number of payments



refunded, the amount of adjustment for future payments and the number of future payments to be adjusted;

B. No later than fifteen (15) days following the date of service of this order, respondents shall provide the Federal Trade Commission with the name and address of three independent accounting firms, with which they, their officers, employees, attorneys, and agents, have no business relationship. Staff for the Division of Credit Practices of the FTC shall then have the sole discretion to choose one of the firms ("independent agent") and so advise respondents;

C. Within thirty (30) days following the date of adjustments made pursuant to this section, respondents shall direct the independent agent to review a statistically-valid sample of refunds. Respondents shall provide the Federal Trade Commission with a certified letter from the independent agent confirming that respondents have complied with Part II A of this order;

D. All costs associated with the administration of the refund program and payment of refunds shall be borne by the respondents.

### III.

*It is further ordered,* That respondents, their successors and assigns, shall maintain for at least five (5) years from the date of service of this order and, upon thirty (30) days advance written request, make available to the Federal Trade Commission for inspection and copying all documents and other records necessary to demonstrate fully their compliance with this order.

### IV.

*It is further ordered,* That respondents, their successors and assigns, shall distribute a copy of this order to any present or future officers and managerial employees having responsibility with respect to the subject matter of this order and that respondents, their successors and assigns, shall secure from each such person a signed statement acknowledging receipt of said order.

## V.

*It is further ordered,* That respondents, for a period of five (5) years following the date of service of this order, shall promptly notify the Commission at least thirty (30) days prior to any proposed change in their corporate structure such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, or any other change in the corporation that may affect compliance obligations arising out of the order.

## VI.

*It is further ordered,* That respondents shall, within one hundred and eighty (180) days of the date of service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

## ATTACHMENT 1

Dear Great Expectations Customer:

As part of our settlement with the Federal Trade Commission for alleged violations of the Truth in Lending Act, we are sending you the enclosed refund check in the amount of \$\*\*\*\*\*. The refund represents the amount you were overcharged as a result of errors made by Great Expectations in calculating or disclosing the annual percentage rate or finance charge.

(In addition, your future monthly payments have been reduced. Starting immediately, your monthly payments will be \$\*\*\*\*\*.)

We regret any inconvenience this may have caused you.

Great Expectations

## IN THE MATTER OF

## PHYSICIANS GROUP, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket C-3610. Complaint, Aug. 11, 1995--Decision, Aug. 11, 1995*

This consent order prohibits, among other things, a Virginia physicians' group, and its seven board members from attempting to engage in an agreement or agreeing with other physicians to negotiate or refuse to negotiate with a third party payor. In addition, it requires dissolution of the group within 120 days.

*Appearances*

For the Commission: *Mark J. Horoschak, Rendell A. Davis and William Baer.*

For the respondents: *Heman A. Marshall, Francis Casola and Michael Urbanski, Woods, Rogers & Hazelgrove, Roanoke, VA.*

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the respondents named in the caption hereof have violated and are violating the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Physicians Group, Inc. ("respondent PGI") is a non-stock corporation organized, existing, and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its principal place of business in Danville, Virginia. For purposes of this proceeding, its address is c/o Dr. Edwin Harvie, Jr., 101 Holbrook Street, Danville, Virginia.

PAR. 2. The individual respondents named in the caption above (hereinafter "physician respondents") are the members of the Board of Directors of respondent PGI, are physicians licensed to practice

medicine in the Commonwealth of Virginia, and are engaged in the business of providing physician services to patients for a fee in Pittsylvania County and Danville, Virginia. Their respective business addresses are as follows:

Edwin J. Harvie, Jr., M.D., Internal Medicine Associates, Ltd.,  
101 Holbrook Street, Danville, Virginia;

Eric N. Davidson, M.D., Piedmont Internal Medicine, Inc., 125  
Executive Drive, Suite H, Danville, Virginia;

Milton Greenberg, M.D., 171 South Main Street, Danville,  
Virginia;

Noah F. Gibson, IV, M.D., 181 North Main Street, Danville,  
Virginia;

William W. Henderson, IV, M.D., Danville Pulmonary Clinic,  
Inc., 110 Exchange Street, Suite G, Danville, Virginia;

Douglas W. Shiflett, M.D., Internal Medicine Associates, Ltd.,  
101 Holbrook Street, Danville, Virginia; and

Lawrence G. Fehrenbaker, M.D., Danville Urologic Clinic, P.O.  
Box 1360, Danville, Virginia.

PAR. 3. The acts and practices of respondent PGI and the physician respondents, including those herein alleged, are in or affect commerce within the meaning of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45.

PAR. 4. Except to the extent that competition has been restrained as alleged herein, and except to the extent that physician respondents Edwin J. Harvie, Jr. and Douglas W. Shiflett practice together in Internal Medicine Associates, Ltd., the physician respondents have been, and are now, in competition among themselves and with other providers of physician services in Pittsylvania County and Danville, Virginia.

PAR. 5. Physicians often contract with health insurance firms and other third-party payors. Such contracts typically establish the terms and conditions under which the physicians will render services to the subscribers of the third-party payors, including terms and conditions of physician reimbursement and of cost containment. Among such terms and conditions of cost containment are procedures for reviewing the utilization of medical resources by participating physicians and for dealing with physicians who have over utilized. By employing such methods of cost containment, third-party payors

are often able to reduce the cost of medical care for their subscribers. The aggressive use of such cost containment methods can be described as "managed care."

PAR. 6. Absent agreements among competing physicians on the terms upon which they will deal with third-party payors, competing physicians each decide individually whether to enter into contracts with third-party payors and on the terms and conditions under which they are willing to enter into such contracts.

PAR. 7. All members of respondent PGI are physicians practicing in Pittsylvania County and Danville, Virginia. Respondent PGI was formed in February 1986 as a vehicle for its members to deal concertedly with the entry into Pittsylvania County and Danville, Virginia, of managed care. The physician respondents and other PGI members agreed that respondent PGI would represent them in negotiations with third-party payors. Respondent PGI exists in substantial part for the pecuniary benefit of its members.

PAR. 8. The members of PGI have not integrated their medical practices in any economically significant way, nor have they created any efficiencies that might justify their agreement to act collectively with respect to third-party payors.

PAR. 9. In engaging in the conduct described in paragraphs ten through fourteen below, respondent PGI has acted as a combination of its members and has conspired with at least some of its members.

PAR. 10. Beginning in 1986, and continuing to the present, respondent PGI and the physician respondents have conspired to prevent or delay the entry into Pittsylvania County and Danville, Virginia, of third-party payors, to deal concertedly with third-party payors, and to resist the cost containment measures of third-party payors.

PAR. 11. In 1988 and 1989, respondent PGI and the physician respondents conspired to fix the rate of reimbursement they were willing to accept from the Virginia Health Network, a managed care organization. As a result, the Virginia Health Network was not able to establish a network of health care providers in Pittsylvania County and Danville, Virginia.

PAR. 12. In 1992 and 1993, respondent PGI and the physician respondents conspired to fix the terms and conditions of cost containment they were willing to accept from the Key Advantage Plan, a managed care insurance plan for employees of the Commonwealth of Virginia. As a result, the Commonwealth of

Virginia was not able until 1994 to fully implement the Key Advantage Plan in Pittsylvania County and Danville, Virginia.

PAR. 13. Beginning in 1986 and continuing to the present, respondent PGI and the physician respondents have conspired to refuse to deal with, and to fix the terms and conditions of dealing with, other third-party payors attempting to do business in Pittsylvania County and Danville, Virginia.

PAR. 14. The acts and practices of respondent PGI and the physician respondents, as herein alleged, have had the purpose, tendency, and capacity to result in the following effects:

A. Restraining competition among physicians in Pittsylvania County and Danville, Virginia;

B. Depriving consumers in Pittsylvania County and Danville, Virginia, of the benefits of competition among physicians;

C. Fixing or increasing the prices that are paid for physician services in Pittsylvania County and Danville, Virginia;

D. Fixing the terms and conditions upon which physicians in Pittsylvania County and Danville, Virginia, would deal with third-party payors, including, but not limited to, terms and conditions of cost containment, and thereby raising the price to consumers of insurance coverage issued by third-party payors; and

E. Depriving consumers in Pittsylvania County and Danville, Virginia, of the benefits of managed care.

PAR. 15. The combination or conspiracy and the acts and practices of respondent PGI and the physician respondents, as herein alleged, constitute unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45. The violation or the effects thereof, as herein alleged, are continuing and will continue or recur in the absence of the relief herein requested.

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Competition proposed to present to the Commission for its consideration and

which, if issued by the Commission would charge respondents with violation of the Federal Trade Commission Act; and

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comment filed thereafter by an interested person pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Physicians Group, Inc. is a non-stock corporation organized, existing, and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its principal place of business in Danville, Virginia. For purposes of this order, its address is Physicians Group, Inc., c/o Dr. Edwin J. Harvie, Jr., 101 Holbrook Street, Danville, Virginia.

The individual respondents named in the caption above are the members of the board of directors of respondent Physicians Group, Inc. Their respective business addresses are as follows:

Edwin J. Harvie, Jr., M.D., Internal Medicine Associates, Ltd.,  
101 Holbrook Street, Danville, Virginia;

Eric N. Davidson, M.D., Piedmont Internal Medicine, Inc., 125  
Executive Drive, Suite H, Danville, Virginia;

Milton Greenberg, M.D., 171 South Main Street, Danville,  
Virginia;

Noah F. Gibson, IV, M.D., 181 North Main Street, Danville, Virginia;

William W. Henderson, IV, M.D., Danville Pulmonary Clinic, Inc., 110 Exchange Street, Suite G, Danville, Virginia;

Douglas W. Shiflett, M.D., Internal Medicine Associates, Ltd., 101 Holbrook Street, Danville, Virginia; and

Lawrence G. Fehrenbaker, M.D., Danville Urologic Clinic, P.O. Box 1360, Danville, Virginia.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

#### ORDER

##### I.

*It is ordered*, That, for purposes of this order, the following definitions shall apply:

A. "*PGI*" means Physicians Group, Inc., its subsidiaries, divisions, committees, and groups and affiliates controlled by PGI; their directors, officers, representatives, agents, and employees; and their successors and assigns.

B. "*Physician respondents*" means Edwin J. Harvie, Jr., M.D., Eric N. Davidson, M.D., Milton Greenberg, M.D., Noah F. Gibson, IV, M.D., William W. Henderson, IV, M.D., Douglas W. Shiflett, M.D., and Lawrence G. Fehrenbaker, M.D.

C. "*Person*" refers to both natural persons and artificial persons, including, but not limited to, corporations, unincorporated entities, and governments.

D. "*Payor*" means any person that purchases, reimburses for, or otherwise pays for all or part of the health care services for itself or for any other person -- including, but not limited to, health insurance companies; preferred provider organizations; prepaid hospital, medical, or other health service plans; health maintenance organizations; government health benefits programs; employers or other persons providing or administering self-insured health benefits programs; and patients who purchase health care for themselves.



E. "*Reimbursement*" means any and all cash or non-cash compensation or other benefits received for the rendering of physician services.

F. "*Cost containment*" means methods used by payors to lower health care costs, including, but not limited to, procedures under which payors review utilization by participating physicians to determine whether a physician service is covered by insurance and whether such service is appropriate, and procedures under which payors deal with physicians who provide services that are determined not to be appropriate.

G. "*Integrated joint venture*" means a joint arrangement to provide health care services in which all physicians participating in the venture who would otherwise be competitors (1) pool their capital to finance the venture, by themselves or together with others, and (2) share a substantial risk of loss from their participation in the venture.

H. "*Professional business entity*" means professional corporation, professional partnership, and professional limited liability company.

## II.

*It is further ordered*, That PGI and each physician respondent, directly or indirectly, or through any corporate or other device, in connection with the provision of physician services in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith shall cease and desist from:

A. Entering into, attempting to enter into, organizing, attempting to organize, implementing, attempting to implement, continuing, attempting to continue, facilitating, attempting to facilitate, ratifying, or attempting to ratify any combination, conspiracy, agreement, or understanding, with or among any physician(s) to:

1. Negotiate, deal, or refuse to deal with a payor, or
2. Determine any terms, conditions, or requirements upon which physicians deal with a payor, including, but not limited to, terms of reimbursement or of cost containment; and

B. Encouraging, advising, pressuring, inducing, or attempting to induce any physician to:

1. Refuse to deal with a payor, or
2. Deal with a payor on terms collectively determined by physicians, including such terms as terms of reimbursement or terms of cost containment.

Provided that, nothing in this order shall prevent physicians who practice together as partners or employees in the same professional business entity from collectively determining the fees to be charged for services rendered by that professional business entity or from collectively determining other terms on which that professional business entity deals with payors.

Further provided that, nothing in this order shall prevent physicians who participate in the same integrated joint venture from collectively determining the fees to be charged for services rendered by that integrated joint venture or from collectively determining other terms on which that integrated joint venture deals with payors.

Further provided that, nothing in this order shall prevent the exercise of rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency or legislative body concerning legislation, rules, or procedures, or to participate in any federal or state administrative or judicial proceeding.

Further provided that, nothing in this order shall prevent physicians from participating at the request of a payor in utilization review activities organized and controlled by the payor insofar as such participation continues only at the sufferance of the payor.

### III.

*It is further ordered,* That PGI shall:

A. Within ten (10) days after the date on which this order becomes final, cease and desist all business and all other activities of any nature whatsoever, except those activities that are required in order to comply with the terms of this order or that are necessary to effect a winding up of PGI's affairs and its dissolution;

B. Within sixty (60) days after the date on which this order becomes final, and prior to the dissolution provided for in paragraph III.C. below, distribute by first-class mail a copy of this order and the accompanying complaint to each past and present member of PGI and

to each payor who, at any time since February 18, 1986, has communicated any desire, willingness, or interest in contracting for physician services with PGI or with any of the physician respondents; and

C. Dissolve itself within one hundred twenty (120) days after the date on which this order becomes final.

#### IV.

*It is further ordered,* That each physician respondent shall:

A. Within thirty (30) days after the date this order becomes final, prepare a list of the names, addresses, and telephone numbers of all payors who, at any time since February 18, 1986, have communicated any desire, willingness, or interest in contracting with him for physician services, and deliver a copy of that list to PGI; and

B. Take all actions necessary to effect dissolution of PGI as required by this order.

#### V.

*It is further ordered,* That PGI shall:

A. Within ninety (90) days after the date on which this order becomes final, and prior to the dissolution provided for in paragraph III.C. above, file with the Commission a verified written report demonstrating how it has complied and is complying with this order; and

B. Notify the Commission at least thirty (30) days prior to any proposed change in PGI, such as change of address, assignment, sale resulting in the emergence of a successor, or any other change in PGI that may affect compliance obligations arising out of this order.

#### VI.

*It is further ordered,* That each physician respondent shall:

A. Within sixty (60) days after the date this order becomes final, every sixty (60) days thereafter in which PGI is not dissolved, and within the thirty (30) days following dissolution of PGI, file with the

Commission a verified written report setting forth in detail the manner and form in which he intends to comply, is complying, and has complied with this order, including, but not limited to, a full description of his efforts to comply with paragraph IV.B. above;

B. Beginning on January 15, 1996, and continuing annually for three (3) years, on each succeeding January 15, through and including January 15, 1999, and at such other times as the Commission or its staff may by written notice require, file with the Commission a verified written report setting forth in detail the manner and form in which he has complied with the order; and

C. For ten (10) years, notify the Commission at least thirty (30) days prior to any proposed change in his address or in his medical practice, such as dissolution, assignment, sale resulting in the emergence of a successor, or any other change in his medical practice that may affect compliance obligations arising out of this order.

## VII.

*It is further ordered,* That, for the purpose of determining or securing compliance with this order and subject to any recognizable privilege, PGI and each physician respondent shall permit any duly authorized representative of the Commission:

A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, calendars, and other records and documents in the possession or under the control of PGI or a physician respondent relating to any matters contained in this order;

B. Upon five business days' notice to PGI and without restraint or interference from it, to interview the officers, directors, or employees of PGI; and

C. Upon five business days' notice to a physician respondent and with out restraint or interference from him, to interview the physician respondent or the employees of the physician respondent.

## VIII.

*It is further ordered,* That this order shall terminate twenty (20) years from the date of issuance.

577 Complaint

IN THE MATTER OF

EQUIFAX CREDIT INFORMATION SERVICES, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF  
THE FAIR CREDIT REPORTING ACT AND SEC. 5 OF THE  
FEDERAL TRADE COMMISSION ACT

*Docket C-3611. Complaint, Aug. 14, 1995--Decision, Aug. 14, 1995*

This consent order requires, among other things, a Georgia-based corporation to follow reasonable procedures to assure maximum possible accuracy when preparing consumer reports as required by the Fair Credit Reporting Act and to also maintain reasonable procedures to limit the furnishing of consumer reports to the purposes listed under Section 604 of the Fair Credit Reporting Act.

#### *Appearances*

For the Commission: *Christopher W. Keller, Donald D'Entremont and David Medine.*

For the respondent: *Kent Mast, Kilpatrick & Cody, Atlanta, GA.*

#### COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*, and the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.*, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Equifax Credit Information Services, Inc. ("Equifax"), a corporation, hereinafter sometimes referred to as respondent, has violated the provisions of said Acts, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

#### DEFINITIONS

For the purpose of this complaint, the following definitions apply:

The terms "*person*," "*consumer*," "*consumer report*," "*consumer reporting agency*," and "*file*" are defined as set forth in Sections

603(b), (c), (d), (f), and (g), respectively, of the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. 1681a(b), 1681a(c), 1681a(d), 1681a(f), and 1681a(g).

*"Permissible purpose"* means any of the purposes listed in Section 604 of the FCRA, 15 U.S.C. 1681b, for which a consumer reporting agency may lawfully furnish a consumer report.

*"Subscriber"* means any person who, pursuant to an agreement with Equifax, furnishes credit information to Equifax or who requests or obtains a consumer report from Equifax, excluding consumers, public record sources, and independent contractors who provide public record information.

*"Credit information"* means information described by Section 603(d) of the FCRA, which Equifax maintains with respect to any consumer, that Equifax obtains from subscribers, public records or any other sources and from which Equifax creates consumer reports.

*"Mixed file"* means a consumer report in which some or all of the information pertains to consumers other than the consumer who is the subject of that consumer report.

*"Consumer DTEC report"* means a type of consumer report, by whatever name, containing only consumer identifying information such as name, telephone number, mother's maiden name, address, zip code, year of birth, age, any generational designation, Social Security number or substantially similar identifiers, or any combination thereof, together with information showing employment or employment status.

PARAGRAPH 1. Respondent Equifax Credit Information Services, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 1600 Peachtree Street N.W., Atlanta, Georgia.

PAR. 2. Respondent is now and has been regularly engaged in the practice of assembling or evaluating information on consumers for the purpose of furnishing, for monetary fees, consumer reports to third parties. Respondent furnishes these consumer reports to third parties through the means or facilities of interstate commerce. Hence, respondent is a consumer reporting agency, as defined in Section 603(f) of the Fair Credit Reporting Act.

PAR. 3. Respondent has furnished consumer DTEC reports on consumers to subscribers who did not have a permissible purpose to obtain such reports.

PAR. 4. Respondent, by creating or maintaining mixed files as alleged below in paragraphs nine, ten, and eleven, and subsequently making disclosure of the information in mixed files to consumers who request file disclosure pursuant to Section 609 of the Fair Credit Reporting Act, furnishes information pertaining to consumers other than the consumer who is requesting file disclosure. Respondent, by creating or maintaining mixed files as alleged below in paragraphs nine, ten, and eleven, and subsequently displaying the information in mixed files to subscribers, furnishes information to subscribers pertaining to consumers for whom the subscriber does not have a permissible purpose to receive a consumer report.

PAR. 5. Respondent from time to time furnishes to subscribers, in response to subscribers' inquiry requests for consumer reports, consumer reports for which subscribers have no permissible purpose.

PAR. 6. By and through the acts and practices alleged in paragraphs three, four, and five, respondent has violated Section 607(a) of the Fair Credit Reporting Act by failing to maintain reasonable procedures designed to limit the furnishing of consumer reports to the purposes listed under Section 604.

PAR. 7. Respondent includes in consumer reports, other than consumer reports described in Section 605(b) of the Fair Credit Reporting Act, accounts placed for collection or charged to profit and loss that antedate the report by more than seven years, and other adverse items of information, including that accounts have been delinquent, that antedate the report by more than seven years.

PAR. 8. By and through the acts and practices alleged in paragraph seven, respondent has violated Section 605(a) of the Fair Credit Reporting Act by furnishing consumer reports containing derogatory information beyond the statutorily limited period for reporting such information.

PAR. 9. Respondent fails to maintain reasonable procedures, including adequately monitoring, measuring, or testing its information gathering, storing, and assembling systems, to assure maximum possible accuracy of the consumer reports it furnishes. Respondent has, for example, failed adequately to correct its computer system or implement procedures to reduce sufficiently the occurrence or reoccurrence of inaccuracies in consumer reports,

including mixed files and logical errors (such as multiple listings of the same credit account and items that are not likely to pertain to the report subject such as credit accounts opened when the consumer was a minor).

PAR. 10. Respondent fails to follow reasonable procedures to avoid inclusion in a consumer report of public record information that pertains to consumers other than the consumer who is the subject of that consumer report or is otherwise inaccurate, including procedures to sample, verify and otherwise corroborate public record information furnished in consumer reports by respondent.

PAR. 11. By and through respondent's failures as alleged in paragraph nine and ten, respondent fails to take reasonable steps to reduce the incidence of inaccuracies in consumer reports, including mixed files and inaccurate public record information. As a result, information contained in some of the consumer reports that respondent furnishes does not pertain to the consumer who is the subject of the consumer report or is otherwise inaccurate.

PAR. 12. By and through the acts and practices alleged in paragraphs nine, ten, and eleven, respondent has violated Section 607(b) of the Fair Credit Reporting Act by failing to maintain and follow reasonable procedures to assure maximum possible accuracy of the information contained in its consumer reports.

PAR. 13. Respondent fails adequately to prevent the reappearance in consumer reports of either inaccurate or unverified information that has been previously deleted.

PAR. 14. By and through the practices alleged in paragraph thirteen above, respondent has violated Section 607(b) of the Fair Credit Reporting Act by failing to follow reasonable procedures to assure maximum possible accuracy of the information concerning the individual about whom the consumer report relates, and Section 611 of the Fair Credit Reporting Act by failing promptly to delete inaccurate or unverified information from its consumer reports.

PAR. 15. Respondent fails adequately to give disclosures required by Section 609 of the Act to each consumer who has requested disclosure, has provided proper identification as required under Section 610 of the Act and has paid or accepted any charges which may be imposed under Section 612 of the Act.

PAR. 16. By and through the acts and practices alleged in paragraph fifteen, respondent has violated Section 609 of the Fair Credit Reporting Act.



PAR. 17. Respondent fails properly to reinvestigate disputes conveyed by consumers concerning their files, including but not limited to failing to reinvestigate disputes as requested by consumers within a reasonable period of time, and failing to follow reasonable procedures designed specifically to resolve (i) disputes by consumers that are due to mixed files and (ii) the specific issue raised in consumer disputes relating to inaccuracy or incompleteness, including the repeated inclusion in consumer reports of previously disputed inaccurate or incomplete items.

PAR. 18. By and through its acts and practices as alleged in paragraph seventeen above, respondent has violated Section 611 of the Fair Credit Reporting Act by failing, within a reasonable period of time, to reinvestigate and record the current status of disputed information.

PAR. 19. Respondent in some instances fails to reinvestigate consumer disputes unless the consumer complies with requirements beyond those in Section 611 of the Fair Credit Reporting Act, including but not limited to:

- a. Requiring the consumer to pay a fee for updating and recording the current status of disputed items;
- b. Requiring the consumer to provide copies of identifying documentation including but not limited to: driver's license, Social Security card, and utility bills; and
- c. Requiring written authorization from the consumer to reinvestigate an item the consumer has disputed.

PAR. 20. By and through the acts and practices alleged in paragraph nineteen, respondent has violated Section 611 of the Fair Credit Reporting Act by refusing to reinvestigate consumer's disputes.

PAR. 21. The acts and practices set forth in this complaint as violations of the Fair Credit Reporting Act constitute unfair or deceptive acts or practices in commerce in violation of Section 5(a) of the Federal Trade Commission Act, pursuant to Section 621(a) of the Fair Credit Reporting Act.

Chairman Pitofsky not participating.

## DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration, and which, if issued by the Commission, would charge respondent with violations of the Fair Credit Reporting Act and Section 5(a) of the Federal Trade Commission Act; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Acts, and that a complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments received, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Proposed respondent Equifax Credit Information Services, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Georgia, with its office and principal place of business located at 1600 Peachtree Street, N.W., Atlanta, Georgia.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

## ORDER

For the purpose of this order, the following definitions apply:

*"Commission"* means the Federal Trade Commission.

*"Equifax"* means Equifax Credit Information Services, Inc., its successors and assigns, and its officers, agents, and employees acting in such capacity on its behalf, directly or through any corporation, subsidiary, division or other device.

*"FCRA"* means the Fair Credit Reporting Act, 15 U.S.C. 1681 *et seq.*, as the same from time to time may be amended or modified by statute or by regulations having the effect of statutory provisions.

The terms *"person," "consumer," "consumer report," "consumer reporting agency," "file,"* and *"employment purposes"* are defined as set forth in Sections 603(b), (c), (d), (f), (g), and (h), respectively, of the FCRA, 15 U.S.C. 1681a(b), 1681a(c), 1681a(d), 1681a(f), 1681a(g), and 1681a(h).

*"Permissible purpose"* means any of the purposes listed in Section 604 of the FCRA, 15 U.S.C. 1681b, for which a consumer reporting agency may lawfully furnish a consumer report.

*"Subscriber"* means any person who, pursuant to an agreement with Equifax, furnishes credit information to Equifax or who requests or obtains a consumer report from Equifax, excluding consumers, public record sources, and independent contractors who provide public record information.

*"Prescreening"* means the process whereby Equifax, utilizing credit information, compiles or edits for a subscriber a list of consumers who meet specific criteria and provides this list to the subscriber or a third party (such as a mailing service) on behalf of the subscriber for use in soliciting those consumers for an offer of credit.

*"Credit information"* means information described by Section 603(d) of the FCRA, which Equifax maintains with respect to any consumer, that Equifax obtains from subscribers, public records or any other sources and from which Equifax creates consumer reports.

*"Mixed file"* means a consumer report in which some or all of the information pertains to consumers other than the consumer who is the subject of that consumer report.

*"Consumer DTEC report"* means a type of consumer report, by whatever name, containing only consumer identifying information such as name, telephone number, mother's maiden name, address, zip

code, year of birth, age, any generational designation, Social Security number or substantially similar identifiers, or any combination thereof, together with information showing employment or employment status.

*"Mixed-use subscriber of consumer DTEC reports"* means the following subscribers who obtain consumer DTEC reports: attorneys, law firms, detective agencies, private investigators, and protective services firms.

*"Joint user"* means a user of a consumer report jointly involved with a subscriber in a decision for which there is a permissible purpose to obtain the consumer report and for which the consumer report was initially obtained.

*"Approval date"* means the date on which the Associate Director for Enforcement of the Bureau of Consumer Protection of the Commission notifies respondent that the methodologies required by paragraph II.1. of this order have received final approval.

## I.

*It is ordered,* That Equifax, in connection with the collection, preparation, assembly, maintenance and furnishing of consumer reports and files, forthwith cease and desist from failing to:

1. Maintain reasonable procedures designed to limit the furnishing of consumer reports to subscribers that have permissible purposes to receive them under Section 604 of the FCRA, as required by Section 607(a) of the FCRA. Such procedures shall include but are not limited to:

a. Continuing to require in Equifax's contracts that those who obtain consumer reports from Equifax in the form of lists developed through prescreening make a firm offer of credit to each consumer on the lists and take reasonable steps to enforce those contracts; and

b. Reasonable procedures to avoid (i) including in a consumer report information identifiable as pertaining to a consumer other than the consumer for whom a permissible purpose exists as to such report; and (ii) displaying files identifiable as pertaining to more than one consumer in response to a subscriber request on one consumer.

2. Maintain reasonable procedures designed to limit the furnishing of consumer DTEC reports to subscribers under the circumstances described by Section 604 of the FCRA, as required by Section 607(a) of the FCRA. Such procedures shall include, with respect to prospective subscribers of consumer DTEC reports, before furnishing any consumer DTEC report to such subscribers, and with respect to current consumer DTEC subscribers, within six months after the effective date of this order:

a. Adoption of procedures requiring all consumer DTEC subscribers to provide written certification that subscribers will not share or provide consumer DTEC reports to anyone else, other than the subject of the report or to a joint user;

b. Continuation of procedures requiring all consumer DTEC subscribers to provide written identification of themselves; written certification of the permissible purpose(s) for which the consumer DTEC reports are sought; and written certification that the consumer DTEC reports will be used for no other purpose(s) than the purpose(s) certified;

c. With respect to each entity that becomes a consumer DTEC report subscriber on or after the effective date of this order, visitation to its place of business to confirm the certifications made pursuant to paragraphs I.2.a. and I.2.b. of this order;

d. Refusing to furnish consumer DTEC reports to subscribers who fail or refuse to provide the certifications required in paragraphs I.2.a. and I.2.b. of this order;

e. Requiring each mixed-use subscriber of consumer DTEC reports to provide a separate certification as to the permissible purpose for each consumer DTEC report it requests before the consumer DTEC report is furnished to it; and

f. Terminating access to consumer DTEC reports by any subscriber who Equifax knows or has reason to know has obtained, after the effective date of this order, a consumer DTEC report for any purpose other than a permissible purpose, unless that subscriber obtained such report through inadvertent error -- *i.e.*, a mechanical, electronic, or clerical error that the subscriber demonstrates was unintentional and occurred notwithstanding the maintenance of procedures reasonably designed to avoid such errors.

3. Maintain reasonable procedures as required by Section 607(a) of the FCRA to avoid including in any Equifax consumer report, other than a consumer report described in Section 605(b) of the FCRA, any information, notice or other statement that indicates directly or indirectly the existence of items of adverse information, the reporting of which is prohibited by Section 605(a) of the FCRA.

4. Follow reasonable procedures to assure maximum possible accuracy of the information concerning the consumer about whom the consumer report relates, as required by Section 607(b) of the FCRA. Such procedures shall include but are not limited to reasonable procedures:

a. To detect, before credit information is available for reporting by Equifax, logical errors in such credit information.

b. To prevent reporting to subscribers that credit information pertains to a particular consumer unless Equifax has identified such information by at least two of the following identifiers: (i) the consumer's name, (ii) the consumer's Social Security number, (iii) the consumer's date of birth, (iv) the consumer's account number with a subscriber or a similar identifier unique to the consumer; provided however that,

(A) For public record information only, if such public record information does not contain at least two of the above identifiers, Equifax may identify such public record information by the consumer's full name (including middle initial and suffix, if available) together with the consumer's full address (including apartment number, if any); and

(B) In the future Equifax may alternatively identify credit information (including public record information) by a discrete identifier that is (i) unique to the consumer, (ii) not utilized by Equifax at the time of execution of this agreement, and (iii) not susceptible of data entry error.

c. To assure that information in a consumer's file that has been determined by Equifax to be inaccurate is not subsequently included in a consumer report furnished on that consumer;

d. To prevent furnishing any consumer report containing information that Equifax knows or has reason to believe is incorrect, including information that the consumer or the source or repository

of the information has stated is not accurate (including that it does not pertain to the consumer) unless Equifax has reason to believe that the statement is frivolous or irrelevant or, upon investigation, not valid;

e. To avoid the occurrence of mixed files, including but not limited to mixing of files as the result of entry of data by subscribers when seeking consumer reports; and

f. To avoid reporting in a consumer report public record information that pertains to consumers other than the consumer who is the subject of the consumer report, or which does not accurately reflect information concerning such subject as it appears on public records, including but not limited to following reasonable procedures to sample, verify or otherwise corroborate public record information furnished by Equifax.

5. Maintain reasonable procedures so that information disputed by a consumer that is deleted or corrected upon reinvestigation by Equifax, does not subsequently appear in uncorrected form in consumer reports pertaining to that consumer; provided, however, that if after Equifax has deleted such information from the file, Equifax reverifies such information, Equifax may reinsert such information in the file and report such information in subsequent consumer reports concerning that consumer if, and only if, Equifax advises the consumer in writing that the information has been reinserted.

6. Make disclosure of the nature and substance of all information (except medical information) in its files on the consumer at the time of the request for disclosure, as required by Sections 609 and 610 of the FCRA, to any consumer who has requested disclosure, has provided proper identification as required under Section 610 of the FCRA, and has paid or accepted any charges that may be imposed under Section 612 of the FCRA.

7. Reinvestigate and record the current status of items of information the completeness or accuracy of which is disputed by a consumer, when the consumer directly conveys the dispute to Equifax, and Equifax does not have reason to believe the dispute is frivolous or irrelevant. Such reinvestigation shall include but not be limited to:

a. Completing any reinvestigation, *i.e.*, verifying, deleting, or modifying all disputed items in the consumer's file, within thirty (30)

days of receipt of the consumer's dispute; provided, however, that if Equifax in good faith cannot determine the nature of the consumer's dispute, Equifax shall attempt to determine the nature of the dispute by contacting the consumer by mail or telephone within five (5) business days of receiving the consumer's dispute, and complete its reinvestigation within thirty (30) days of the consumer's response if Equifax in good faith can then determine the nature of the consumer's dispute;

b. Communicating to the source used to verify the disputed information, a summary of the nature and substance of the consumer's dispute;

c. Accepting the consumer's version of the disputed information and correcting or deleting the disputed information, when the consumer submits to Equifax documentation obtained from the source of the information in dispute which confirms that the disputed information on the consumer report was inaccurate or incomplete, unless Equifax in good faith has reason to doubt the authenticity of the documentation, in which case Equifax need not accept the consumer's version of the dispute if it reinvestigates the dispute by contacting the source of the information and verifies that the documentation is not authentic; and

d. Employing reasonable procedures designed specifically to resolve (i) consumer disputes that Equifax has reason to believe arise from mixed files, and (ii) consumer disputes that indicate the repeated inclusion in consumer reports of previously disputed inaccurate or incomplete items.

8. Reinvestigate consumer disputes in accordance with Section 611 of the FCRA. In connection therewith, Equifax shall impose no requirements beyond those in Section 611 of the FCRA, including but not limited to requirements that the consumer:

a. Pay a fee for updating and recording the current status of disputed information;

b. Provide copies of identifying documentation, including but not limited to driver's license, Social Security card, and utility bills; and

c. Provide a written authorization before reinvestigating information the consumer has disputed.



9. Continue, upon completion of the reinvestigation of information disputed by a consumer, to write the consumer and provide the following:

- a. The results of the reinvestigation conducted by Equifax; and
- b. A statement advising the consumer of the consumer's right to request that Equifax furnish notification that information has been deleted, or furnish a copy or codification or summary of any consumer statement of explanation of the dispute that has been filed by the consumer, to any person specifically designated by the consumer who has within the preceding two years received a consumer report for employment purposes, or within the preceding six months received a consumer report for any other purpose, which contained the deleted or disputed information.

## II.

*It is further ordered,* That Equifax shall, annually for the five (5) year period following the approval date, measure, monitor, and test the extent to which changes in its computer system, including its algorithms, reduce the incidence of mixed files.

1. In complying with this Section, Equifax shall submit, within one hundred eighty (180) days of the effective date of this order, for approval to the Associate Director for Enforcement, Bureau of Consumer Protection, of the Federal Trade Commission ("ADE"):

- a. A proposed methodology for establishing a baseline against which changes may be measured, monitored, and tested; and
- b. A proposed methodology for accurately measuring, monitoring, testing, and reporting the effects of changes made against the baseline established under the preceding paragraph.

2. For five (5) years following the approval date, Equifax shall submit annually to the ADE, in writing, the results of its comparison using the methodologies approved by the ADE as specified in paragraph II.1. above, and to the extent not otherwise provided, shall include with such reports the results of a statistically significant analysis to determine the incidence of mixed files.

## III.

*It is further ordered,* That Equifax shall, annually for five (5) years following the effective date of this order, submit the following information to the ADE within sixty (60) days of the anniversary of the effective date of this order and with respect to the preceding twelve (12) month period:

1. The total number of file disclosures to consumers by Equifax;
2. The number of occasions on which consumers have informed Equifax that they dispute information in files maintained by Equifax;
3. The number of such disputes where the disputed information was verified as accurate;
4. The number of such disputes in which information disputed was deleted from, or modified in, the disputing consumer's file, after reinvestigation response; and
5. The number of such disputes in which information disputed was deleted from the disputing consumer's file because no response to Equifax's verification inquiry was received within thirty days.

## IV.

*It is further ordered,* That, except for Section III above, Equifax shall, until the expiration of five (5) years following the effective date of this order, maintain and upon request make available to the ADE for inspection and copying, all documents demonstrating compliance with this order. Such documents shall include, but are not limited to, representative copies of each form of agreement or contract governing subscriber access to or use of credit information, each periodic audit or similar report concerning the testing or monitoring of its systems for preparation, maintenance, and furnishing of consumer reports and files, instructions given to employees regarding compliance with the provisions of this order, and any notices provided to subscribers in connection with the terms of this order.

## V.

*It is further ordered,* That Equifax shall deliver a copy of this order to all of its present and future management officials having administrative or policy responsibilities with respect to the subject matter of this order.

## VI.

*It is further ordered,* That Equifax shall notify the ADE at least thirty (30) days prior to any proposed change in Equifax that might affect compliance obligations arising out of this order such as dissolution, assignment, sale resulting in the emergence of a successor corporation, or the creation or dissolution of subsidiaries.

## VII.

*It is further ordered,* That Equifax shall, within one hundred eighty (180) days of service of this order, deliver to the ADE a report, in writing, setting forth the manner and form in which it has complied with this order as of that date. The Commission shall keep such report and its contents, or any report, document, or other information provided under Sections II, III, or IV above, or any notification provided under Section VI above, strictly confidential, in accordance with the Commission's Rules of Practice.

## VIII.

*It is further ordered,* That if the FCRA is amended (or other similar federal legislation enacted) or the Commission issues any interpretation of the FCRA, relating to any obligation imposed on Equifax herein, which creates any new requirement for compliance with the FCRA that directly conflicts with any obligation imposed on Equifax by this order, Equifax may conform the manner in which it conducts its business as a consumer reporting agency or its use of credit information to the requirements of such statutory provision or interpretation; provided, however, that Equifax shall notify the ADE promptly if it intends to change its conduct as provided for in this Section, and provided further that nothing in this provision shall limit the right of the FTC to challenge any determination of direct conflict

by Equifax hereunder and to seek enforcement of Equifax's obligations under this order to the extent such determination is erroneous. For purposes of this order, and by way of example only, a "direct conflict" between this order and a new statutory amendment or interpretation shall include a requirement in any such amendment or interpretation that a consumer reporting agency complete a task or obligation addressed in this order in a greater period of time than is specified in the order.

#### IX.

This order does not address the issue of disclosure under Section 609 of Credit Information (whether or not separately maintained in any file), including but not limited to credit information utilized for fraud alert or similar application verification services, which categorizes the identifiers on the consumer or categorizes any other data on the consumer and is susceptible of being furnished to a subscriber, and the order does not in any way limit the right of the Commission to take any appropriate action after entry of this order relating to this issue, nor does it limit in any way Equifax's defenses to any such action.

Chairman Pitofsky not participating.

## IN THE MATTER OF

## ATLAS SUPPLY COMPANY

SET ASIDE ORDER IN REGARD TO ALLEGED VIOLATION OF  
SEC. 2 OF THE CLAYTON ACT AND SEC. 5 OF THE  
FEDERAL TRADE COMMISSION ACT

*Docket 5794. Consent Order, July 19, 1951--Set Aside Order, Aug. 24, 1995*

This order reopens a 1951 consent order--which prohibited Atlas from receiving illegal allowances or knowingly accepting or inducing discriminatory prices in their purchase of automotive tires, tubes, batteries, accessories or other automobile products--and sets aside the consent order pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

ORDER REOPENING PROCEEDING  
AND SETTING ASIDE ORDER

On May 23, 1995, Atlas Supply Company ("Atlas") and its shareholders Chevron U.S.A., Inc., and BP Exploration and Oil, Inc., as respondents and successors to four of the six respondents named in the order, filed their Petition To Reopen and Set Aside Order ("Petition") in this matter. Thereafter, Amoco Oil Holding Company and Exxon Corporation, as respondents and successors to the two remaining respondents named in the order, filed Statements in Support of the Petition in which they joined in the Petition. The respondents request that the Commission set aside the 1951 order, pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), Rule 2.51 of the Commission's Rules of Practice, 16 CFR 2.51, and the Commission's Statement of Policy With Respect to Duration of Competition Orders and Statement of Intention to Solicit Public Comment With Respect to Duration of Consumer Protection Orders, issued July 22, 1994, and published at 59 Fed. Reg. 45,286-92 (Sept. 1, 1994) ("Sunset Policy Statement"). In the Petition and the Statements in Support of the Petition, each respondent affirmatively states that it has complied with the terms of the order. The Petition was placed on the public record for thirty days, and no comments were received.

The Commission in its Sunset Policy Statement said, in relevant part, that "effective immediately, the Commission will presume, in the context of petitions to reopen and modify existing orders, that the public interest requires setting aside orders in effect for more than twenty years."<sup>1</sup> The Commission's cease and desist order in Docket No. 5794, issued on July 19, 1951, and modified by the Commission on October 8, 1985, has been in effect for forty-four years. Consistent with the Commission's Sunset Policy Statement, the presumption is that the order should be terminated. Nothing to overcome the presumption having been presented, the Commission has determined to reopen the proceeding and set aside the order in Docket No. 5794.

Accordingly, *It is ordered*, That this matter be, and it hereby is, reopened;

*It is further ordered*, That the Commission's order in Docket No. 5794 be, and it hereby is, set aside as of the effective date of this order.

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<sup>1</sup> Sunset Policy Statement, 59 Fed. Reg. at 45, 289.

## IN THE MATTER OF

P. LORILLARD CO.

SET ASIDE ORDER IN REGARD TO ALLEGED VIOLATION  
OF SEC. 2 OF THE CLAYTON ACT*Docket 6600. Consent Order, May 7, 1958--Set Aside Order, Aug. 24, 1995*

This order reopens a 1958 consent order--which required Lorillard to offer compensation for promotional services on proportionally equal terms to all competing companies that distribute its tobacco and other products--and sets aside the consent order pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

ORDER REOPENING AND PROCEEDING  
AND SETTING ASIDE ORDER

On May 5, 1995, Lorillard Tobacco Company ("Lorillard"), as respondent and successor to P. Lorillard Co., filed its Petition to Reopen and Set Aside Cease and Desist Order ("Petition") in this matter. Lorillard request that the Commission set aside the 1959 order in this matter pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), Rule 2.51 of the Commission's Rules of Practice, 16 CFR 2.51, and the Statement of Policy With Respect to Duration of Competition Orders and Statement of Intention to Solicit Public Comment With Respect to Duration of Consumer Protection Orders, issued on July 22, 1994, and published at 59 Fed. Reg. 45,286-92 (Sept. 1, 1994) ("Sunset Policy Statement"). In the Petition, Lorillard affirmatively states that it has not engaged in any conduct violating the terms of the order. The Petition was placed on the public record, and the thirty-day comment period expired on June 14, 1995. No comments were received.

The Commission in its Sunset Policy Statement said, in relevant part, that "effective immediately, the Commission will presume, in the context of petitions to reopen and modify existing orders, that the public interest requires setting aside orders in effect for more than twenty years."<sup>1</sup> The Commission's cease and desist order in Docket No. 6600, issued on May 7, 1958, and affirmed by the United States

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<sup>1</sup> See Sunset Policy Statement, 59 Fed. Reg. at 45, 289.

Court of Appeals for the Third Circuit on June 4, 1959, has been in effect for thirty-six years. Consistent with the Commission's Sunset Policy Statement, the presumption is that the order should be terminated. Nothing to overcome the presumption having been presented, the Commission has determined to reopen the proceeding and set aside the order in Docket No. 6600.

Accordingly, *It is ordered*, That this matter be, and it hereby is, reopened;

*It is further ordered*, That the Commission's order in Docket No. 6600 be, and it hereby is, set aside, as of the effective date of this order.



## IN THE MATTER OF

## THE VALSPAR CORPORATION, ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF  
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE  
FEDERAL TRADE COMMISSION ACT

*Docket C-3478. Consent Order, Jan. 25, 1994--Modifying Order, Aug. 29, 1995*

This order reopens a 1994 consent order that settled allegations that Valspar's acquisition of the Resin Products Division of Cargill, Inc. would eliminate competition between two leading U.S. producers of coating resins. This order modifies the consent order by deleting the prior approval requirements in paragraph VI pursuant to the Commission's Prior Approval Policy, under which the Commission presumes that the public interest requires reopening prior approval provisions in outstanding merger orders and making them consistent with the policy.

## ORDER REOPENING AND MODIFYING ORDER

On June 27, 1995, McWhorter Technologies, Inc. ("McWhorter," formerly McWhorter, Inc. prior to its spin-off from Valspar Corporation) filed a Petition To Reopen And Modify Order ("Petition") pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), Section 2.51 of the Commission's Rules of Practice and Procedure, 16 CFR 2.51, and the Statement of Federal Trade Commission Policy Concerning Prior Approval And Prior Notice Provisions, issued on June 21, 1995, and published at 60 Fed. Reg. 39,745-47 (August 3, 1995) ("Prior Approval Policy Statement"). McWhorter requests that the order in Docket No. C-3478 be reopened and modified to terminate the prior approval provision in paragraph VI. The Petition was placed on the public record, and the thirty-day comment period expired on August 1, 1995. No comments were received.

The Commission, in its Prior Approval Policy Statement, stated that the availability of the premerger notification and waiting period requirements of Section 7A of the Clayton Act, commonly referred to as the Hart-Scott-Rodino ("HSR") Act, 15 U.S.C. 18a, will adequately protect the public interest in effective enforcement in merger cases, and that, as a general matter, "Commission orders in such cases will not include prior approval or prior notice

requirements." Accordingly, the Commission announced that, when a petition is filed to reopen and modify an order pursuant to the Prior Approval Policy Statement, "the Commission will apply a rebuttable presumption that the public interest requires reopening of the order and modification of the prior approval requirement." Consistent with the Commission's Prior Approval Policy Statement, the presumption is that the prior approval requirements in paragraph VI of this order should be terminated. Nothing to overcome the presumption having been presented, the Commission has determined to reopen the proceedings and modify the order in Docket No. C-3478 to set aside the prior approval requirement in paragraph VI.

The Commission also stated that it would continue to fashion remedies as needed in the public interest, including ordering narrow prior notification requirements in certain limited circumstances. Accordingly, a prior notification provision may be used where there is a credible risk that a company would, but for an order, engage in an anticompetitive merger that would not be subject to the premerger notification and waiting period requirements of the HSR Act. As explained in the Prior Approval Policy Statement, the need for a prior notification requirement will depend on circumstances such as the structural characteristics of the relevant markets, the size and other characteristics of the market participants, and other relevant factors. Based on the record in this case, there is no evidence that a prior notification requirement is warranted.

Accordingly, *It is ordered*, That this matter be, and it hereby is, reopened;

*It is further ordered*, That the Commission's order in Docket No. C-3478 be, and it hereby is, modified to set aside the prior approval requirement in paragraph VI as of the effective date of this order.

#### CONCURRING STATEMENT OF COMMISSIONER MARY L. AZCUENAGA

The Commission has adopted a policy to "apply a rebuttable presumption that the public interest requires the reopening of the order and modification of the prior approval requirement" in merger cases. *See* Statement of Federal Trade Commission Policy Concerning Prior Approval and Prior Notice Provisions, 60 Fed. Reg.

39,745, 39,746 (Aug. 3, 1995), Commissioner Azcuenaga Dissenting (60 Fed. Reg. at 39,476). The order in this case is the first to be modified since the new policy was adopted. Although I dissented from the decision of the Commission to change its policy, the revised order is consistent with the new policy, and I have voted to issue it.

Complaint

120 F.T.C.

IN THE MATTER OF

JERRY'S FORD SALES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE  
TRUTH IN LENDING ACT, REGULATION Z, CONSUMER LEASING ACT  
AND THE FEDERAL TRADE COMMISSION ACT

*Docket C-3612. Complaint, Aug. 29, 1995--Decision, Aug. 29, 1995*

This consent order requires, among other things, three corporations in Virginia and their President and CEO, in any advertisement to promote any extension of consumer credit, to cease and desist from misrepresenting the terms of financing the purchase of a vehicle, including whether there may be a balloon payment and the amount of any balloon payment. The consent order also requires the respondents, in any advertisement to promote any extension of consumer credit, to cease and desist from failing to state all terms required by Sections 226.24(b) and 226.24(c) of Regulation Z. In addition, the consent order also requires the respondents, in any advertisement to aid, promote or assist any consumer lease, to cease and desist from failing to state all terms required by Section 213.5(c) of Regulation M.

#### *Appearances*

For the Commission: *Carole L. Reynolds.*

For the respondents: *Basil Mezines and George Tobin, Stein, Mitchell & Mezines, Washington, D.C.*

#### COMPLAINT

The Federal Trade Commission, having reason to believe that Jerry's Ford Sales, Inc., and John's Ford, Inc. dba Jerry's Leesburg Ford, corporations, hereinafter sometimes referred to collectively as respondent Jerry's Ford, Jerry's Chevrolet Geo Oldsmobile, Inc., a corporation, hereinafter sometimes referred to as respondent Jerry's Chevy, and Jerry C. Cohen, individually and as an officer of the aforementioned corporations, hereinafter sometimes referred to as respondent Cohen, have violated the Truth in Lending Act ("TILA"), 15 U.S.C. 1601-1667, as amended, and its implementing Regulation Z, 12 CFR 226, the Consumer Leasing Act ("CLA"), 15 U.S.C. 1667-1667e, as amended, and its implementing Regulation M, 12 CFR 213, and the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 45-58, as amended, and it appearing to the Commission that a

proceeding by it in respect thereof would be in the public interest, hereby issues this complaint and alleges:

PARAGRAPH 1. Jerry's Ford Sales, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal place of business located at 6510 Little River Turnpike, Annandale, Virginia.

PAR. 2. John's Ford, Inc. dba Jerry's Leesburg Ford is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its principal place of business located at 847 East Market Street, Leesburg, Virginia.

PAR. 3. Jerry's Chevrolet Geo Oldsmobile, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its principal place of business located at 325 East Market Street, Leesburg, Virginia.

PAR. 4. Jerry C. Cohen is an individual and an officer and director of the corporate respondents Jerry's Ford Sales, Inc., John's Ford, Inc. dba Jerry's Leesburg Ford, and Jerry's Chevrolet Geo Oldsmobile, Inc. He formulates, directs and controls the acts and practices of the aforementioned corporate respondents, including the acts and practices hereinafter set forth. His business address is 6510 Little River Turnpike, Annandale, Virginia.

PAR. 5. In the ordinary course and conduct of their business, and at least since January 1, 1993, respondents Jerry's Ford, Jerry's Chevy and Cohen have been engaged in the dissemination of advertisements that promote, directly or indirectly, credit sales and other extensions of other than open end credit in consumer credit transactions, as the terms "advertisement," "credit sale," and "consumer credit," are defined in the TILA and Regulation Z. In the ordinary course and conduct of their business, and at least since January 1, 1993, respondents Jerry's Ford, Jerry's Chevy and Cohen have been engaged in the dissemination of advertisements that promote, directly or indirectly, consumer leases, as the terms "advertisement," and "consumer lease," are defined in the CLA and Regulation M.

PAR. 6. The acts and practices of respondents Jerry's Ford, Jerry's Chevy and Cohen alleged in this complaint have been and are in or affecting commerce, as "commerce" is defined in the FTC Act.

## COUNT ONE

PAR. 7. Respondents Jerry's Ford and Cohen, in the course and conduct of their business, in numerous instances including but not limited to Exhibit A have disseminated or caused to be disseminated advertisements that state an initial, low monthly payment. In fine print, the aforementioned respondents' advertisements, *inter alia*, state an initial number of payments and another amount variously described as "optional final payment," "optional final price," or "COP." The aforementioned respondents' advertisements misrepresent that the remaining obligation is optional and fail to disclose that the financing to be signed at purchase requires the consumer to make a substantial balloon payment at the conclusion of the initial payments, which is a mandatory obligation.

PAR. 8. Respondents Jerry's Ford's and Cohen's aforesaid practice constitutes an unfair and deceptive act or practice, in violation of Section 5(a) of the FTC Act, 15 U.S.C. 45(a).

## COUNT TWO

PAR. 9. Respondents Jerry's Ford and Cohen, in the course and conduct of their business, in numerous instances including but not limited to Exhibit A have disseminated or caused to be disseminated advertisements that state an initial number and amount of payments required to repay the indebtedness and another amount variously described as "optional final payment," "optional final price," or "COP." Respondents Jerry's Ford's and Cohen's advertisements fail to accurately state the terms of repayment, by failing to disclose that the additional amount is a final payment and by inaccurately stating that the amount is optional when, in fact, it is mandatory, based on the financing to be signed at purchase.

PAR. 10. Respondents Jerry's Ford's and Cohen's aforesaid practice violates Section 144 of the TILA, 15 U.S.C. 1664, and Section 226.24(c) of Regulation Z, 12 CFR 226.24(c).

## COUNT THREE

PAR. 11. Respondents Jerry's Ford and Cohen, in the course and conduct of their business, in numerous instances have disseminated or caused to be disseminated advertisements that state a rate of

finance charge without stating that rate as an "annual percentage rate," using that term or the abbreviation "APR," and have failed to calculate that rate in accordance with Regulation Z.

PAR. 12. Respondents Jerry's Ford's and Cohen's aforesaid practice constitutes a violation of Sections 144 and 107 of the TILA, 15 U.S.C. 1664 and 1606, respectively, and Sections 226.24(b) and 226.22 of Regulation Z, 12 CFR 226.24(b) and 226.22, respectively, and also constitutes an unfair and deceptive act or practice, in violation of Section 5(a) of the FTC Act, 15 U.S.C. 45(a).

#### COUNT FOUR

PAR. 13. Respondents Jerry's Chevy and Cohen, in the course and conduct of their business, in numerous instances including but not limited to Exhibit B have disseminated or caused to be disseminated advertisements that state an initial, low monthly payment and an initial number of payments. Respondents Jerry's Chevy's and Cohen's advertisements fail to disclose that the financing to be signed at purchase requires the consumer to make a substantial final balloon payment.

PAR. 14. Respondents Jerry's Chevy's and Cohen's aforesaid practice constitutes an unfair and deceptive act or practice, in violation of Section 5(a) of the FTC Act, 15 U.S.C. 45(a).

#### COUNT FIVE

PAR. 15. Respondents Jerry's Chevy and Cohen, in the course and conduct of their business, in numerous instances including but not limited to Exhibit B have disseminated or caused to be disseminated advertisements that state an initial number and amount of payments required to repay the indebtedness, but fail to accurately state the terms of repayment, by failing to disclose the amount of the final balloon payment required at the end of the initial payments, based on the financing to be signed at purchase.

PAR. 16. Respondents Jerry's Chevy's and Cohen's aforesaid practice violates Section 144 of the TILA, 15 U.S.C. 1664, and Section 226.24(c) of Regulation Z, 12 CFR 226.24(c).

## COUNT SIX

PAR. 17. Respondents Jerry's Ford, Jerry's Chevy and Cohen, in the course and conduct of their business, in numerous instances have disseminated or caused to be disseminated advertisements that state the amount or percentage of any downpayment, the number of payments or period of repayment, or the amount of any payment, but fail to state all of the terms required by Regulation Z, as follows: the amount or percentage of the downpayment, the terms of repayment, and the annual percentage rate, using that term or the abbreviation "APR."

PAR. 18. Respondents Jerry's Ford's, Jerry's Chevy's and Cohen's aforesaid practice violates Section 144 of the TILA, 15 U.S.C. 1664, and Section 226.24(c) of Regulation Z, 12 CFR 226.24(c).

## COUNT SEVEN

PAR. 19. Respondents Jerry's Ford, Jerry's Chevy and Cohen, in the course and conduct of their business, in numerous instances have disseminated or caused to be disseminated advertisements that state the amount of any payment, the number of required payments, or that any or no downpayment or other payment is required at consummation of the lease, but fail to state all of the terms required by Regulation M, as applicable and as follows: that the transaction advertised is a lease; the total amount of any payment such as a security deposit or capitalized cost reduction required at the consummation of the lease or that no such payments are required; the number, amount, due dates or periods of scheduled payments, and the total of such payments under the lease; and a statement of whether or not the lessee has the option to purchase the leased property and at what price and time (the method of determining the price may be substituted for disclosure of the price).


PAR. 20. Respondents Jerry's Ford's, Jerry's Chevy's and Cohen's aforesaid practice violates Section 184 of the CLA, 15 U.S.C. 1667c, and Section 213.5(c) of Regulation M, 12 CFR 213.5(c).



600

Complaint

EXHIBIT A



# NO MONEY DOWN

MERCURY  
LINCOLN

## IN THE CAR OR TRUCK OF YOUR CHOICE ON APPROVED CREDIT

**3 TAURUS GL 4 DR.**  
Final MSRP \$14,999  
 2004 Package, 27" Disc

FACT. PRICE	\$14,999
DISC.	-325
CUST. CASH	-800
JERRY'S DISC.	-2,169

**PRICE \$13,999**  
**\$248.87\* PER MONTH**

**RANGER SALE**  
**'93 RANGER LONGBED**  
15.1L Air Bag Package, 6 in Disc

MSRP	\$13,330
FACT. PRICE	-1,150
JERRY'S DISC.	-4,330
SPECIAL DISC.	-51
FACT. CUST. CASH	-800

**BALANCE \$9,550**

**1993 CROWN VICTORIA**  
113A Package, Dual Air Bag, Anti-Lock Brakes, Keyless Entry, Mirror

MSRP	\$25,851
FACT. PRICE	-450
FACT. CUST. CASH	-1,800
JERRY'S DISC.	-3,221

**FINAL PRICE \$19,450**

**1993 COUGAR XR7 260 A PK.**  
TR, Cruise, Lin Group, Anti-Lock Brakes Sys., Power Windows

MSRP	\$17,411
FACT. CUST. CASH	-513
JERRY'S DISC.	-1,833

**FINAL PRICE \$14,999**

**1993 TAURUS GL WAGON**  
Final MSRP \$14,999  
 2004 Package, 27" Disc

FACT. PRICE	\$14,999
DISC.	-325
CUST. CASH	-800
JERRY'S DISC.	-2,169

**PRICE \$14,999**

**1993 EXPLORER 4x4**  
**2 DOOR**  
**913A PACKAGE**

**PAYMENT AS LOW AS \$316.87\*\***

**1993 RANGER XLT**  
**864E PACKAGE**

**PAYMENT AS LOW AS \$184.57\*\*\***

**1993 F150**  
**STYLESIDE, O/D TRANS.**  
**#1 SELLING TRUCK IN AMERICA**

**PAYMENT AS LOW AS \$191.61\*\*\*\***

**1993 AEROSTAR XL WAGON**  
401A, Rear Drives, AM/FM Cass., Clock, Luggage Rack, AC, Cruise, TR

MSRP	\$18,046
FACT. DISC.	-950
FACT. CUST. CASH	-750
EXTRA DISCOUNT	-950
JERRY'S DISC.	-1,521

**FINAL PRICE \$13,865**

**1993 F150 498PK. 4X4**  
Limited Slip Axle, Sliding Window, Step Dumper, Kin

MSRP	\$18,737
FACT. DISC.	-300
JERRY'S DISC.	-1,827

**FINAL PRICE \$13,800**

**37 EXPLORERS AVAILABLE**  
The Explorer is the only SUV that can tow 5,000 lbs. and has a 100 mph top speed. It's the only SUV that can tow a boat. It's the only SUV that can tow a horse trailer. It's the only SUV that can tow a horse trailer and a boat. It's the only SUV that can tow a horse trailer and a boat and a horse trailer.

**TOLL ROAD TICKET TO SAVINGS!**

**JERRY'S LEESBURG**  
**FORD • LINCOLN MERCURY**

847 EAST MARKET ST., LEESBURG, VA  
 (703) 777-2102 • METRO (703) 478-1886

**Jerry's**  **FORD**

6510 LITTLE RIVER TURNPIKE (DUKE ST. EXTENDED), ANNANDALE, VA. (703) 256-5000

**JERRY'S ANNANDALE • JERRY'S LEESBURG**

©1993 Ford Motor Company. All rights reserved. MSRP includes destination charge. Dealer price may vary. \*MSRP includes destination charge. Dealer price may vary. \*\*MSRP includes destination charge. Dealer price may vary. \*\*\*MSRP includes destination charge. Dealer price may vary. \*\*\*\*MSRP includes destination charge. Dealer price may vary.

WASHINGTON POST  
 3-10-93

EXHIBIT B



**THE HEARTBEAT OF AMERICA**

# NO MONEY DOWN

## JERRY'S LEESBURG



**DEMAND THE BEST**

**ON THE CAR OR TRUCK OF YOUR CHOICE ON APPROVED CREDIT**

<p><b>NEW</b></p>  <p><b>93 CAVALIER 4 DR. COUPE</b>                  Deister, Air Cond., Tilt Wheel, AM/FM Stereo, 16" wheels, Sport mirrors, Floor mats, Tinted glass, Body side moulding, Vanity mirrors.</p> <p><b>Now \$9,997</b></p>	<p><b>93 CHEVY CHEYENNE 4x4 PICKUP</b>                  (2) in stock, 6100 GVW, Air, Optional axle, Auto OD transmission, AM/FM stereo, ON/OFF road tires, Bedliner, Rear step-bumper, Sliding rear window.</p> <p>FACTORY LIST \$17,851  <b>SALE PRICE \$15,977</b></p>	<p><b>93 OLDSMOBILE 88 ROYAL SEDAN</b>                  Company Official, 158 Option Package.</p> <p><b>NEW</b>                  LIST \$21,962  <b>Now \$18,677 SAVE \$3,400</b></p>
<p><b>92 PRIZM 4 DR.</b>                  Air Cond., Auto, AM/FM stereo - (3) in stock.                  FACTORY LIST \$12,383.  <b>*\$8977</b></p>	<p><b>92 CORSICA LT 4 DR. SEDANS.</b>                  (3) in stock, Auto, P/Door locks, Tilt wheels, AM/FM stereo, Air Cond., Air bag, 4-wheel ABS brakes, V6 engine and more.</p> <p>FACTORY LIST \$14,299  <b>NOW \$9,997</b></p>	<p><b>92 Lumina Euro 4 DR</b>                  Air, Auto P/S, Power Windows, Power locks, AM/FM Stereo, and more</p> <p><b>\$12,467*</b>                  \$1000 Cash Rebate on 1993 Lumina in Stock</p>
<p><b>1993 Z28's AND CAMAROS IN STOCK FOR IMMEDIATE DELIVERY!</b></p>	<p><b>93 Geo Metro Hatch Back</b>  <b>NEW</b>                  (2) in stock, Elec. Del., AM/FM Stereo, A/C, 30 MPG HWY</p> <p><b>\$7,487</b></p>	<p><b>2.9% FINANCING AVAILABLE ON SELECTED MODELS.</b></p> <p><b>FREE CELLULAR PHONE</b>                  with purchase of any car or truck.</p>
<p><b>Jerry's Chevrolet</b>                  Leesburg                  325 E. Market St., Leesburg 703-778-8300</p>		<p><b>Jerry's OLDSMOBILE</b>                  Leesburg-Metro 589-1902                  In Town, Rt. 7 East, next to McDonalds                  6/1/93</p>

EXHIBIT B

*The Loudon... Time... Miles... 1000... 1000... 1000...*

## DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and that, if issued by the Commission, would charge the respondents with violation of the Truth in Lending Act, 15 U.S.C. 1601 *et seq.* and its implementing Regulation Z, 12 CFR 226, the Consumer Leasing Act, 15 U.S.C. 1667 *et seq.* and its implementing Regulation M, 12 CFR 213 and the Federal Trade Commission Act, 15 U.S.C. 45 *et seq.*; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having considered the matter and having determined that it had reason to believe that the respondents have violated the said Acts and Regulation, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Jerry's Ford Sales, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 6510 Little River Turnpike, Annandale, Virginia.

2. Respondent John's Ford, Inc. dba Jerry's Leesburg Ford is a corporation organized, existing, and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its principal office and place of business located at 847 East Market Street, Leesburg, Virginia.

3. Respondent Jerry's Chevrolet Geo Oldsmobile, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the Commonwealth of Virginia, with its principal office and place of business located at 325 East Market Street, Leesburg, Virginia.

4. Respondent Jerry C. Cohen is an individual and an officer and director of the aforementioned corporate respondents. He formulates, directs and controls the acts and practices of the aforementioned corporate respondents, including the acts and practices hereinafter set forth. His business address is 6510 Little River Turnpike, Annandale, Virginia.

5. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

#### ORDER

##### I.

*It is ordered*, That respondent Jerry's Ford Sales, Inc., John's Ford, Inc. dba Jerry's Leesburg Ford, Jerry's Chevrolet Geo Oldsmobile Inc., corporations, their successors and assigns and their officers, and Jerry C. Cohen, individually and as an officer of the corporate respondents, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with any advertisement to promote directly or indirectly any extension of consumer credit, as "advertisement," and "consumer credit" are defined in the TILA and Regulation Z, do forthwith cease and desist from:

A. Misrepresenting in any manner, directly or by implication, the terms of financing the purchase of a vehicle, including but not limited to whether there may be a balloon payment and the amount of any balloon payment.

B. Stating a rate of finance charge without stating the rate as an "annual percentage rate" or the abbreviation "APR," using that term, and failing to calculate the rate in accordance with Regulation Z. If the annual percentage rate may be increased after consummation, the advertisement shall state that fact. The advertisement shall not state any other rate, except that a simple annual rate or periodic rate that

is applied to an unpaid balance may be stated in conjunction with, but not more conspicuously than, the annual percentage rate.

(Sections 144 and 107 of the TILA, 15 U.S.C. 1664 and 1606, and Sections 226.24(b) and 226.22 of Regulation Z, 12 CFR 226.24(b) and 226.22, as more fully set out in Sections 226.24(b) and 226.22 of the Federal Reserve Board's Official Staff Commentary to Regulation Z, 12 CFR 226.24(b) and 226.22, respectively).

C. Stating any number or amount of payment(s) required to repay the debt, without stating accurately, clearly and conspicuously, all of the terms required by Regulation Z, as follows:

- (1) The amount or percentage of the downpayment;
- (2) The terms of repayment, including the amount of any balloon payment, and
- (3) The annual percentage rate, using that term or the abbreviation "APR." If the annual percentage rate may be increased after consummation of the credit transaction, that fact must also be disclosed.

(Section 144 of the TILA, 15 U.S.C. 1664, and Section 226.24(c) of Regulation Z, 12 CFR 226.24(c), as more fully set out in Section 226.24(c) of the Federal Reserve Board's Official Staff Commentary to Regulation Z, 12 CFR 226.24(c)).

D. Stating the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, without stating, clearly and conspicuously, all of the terms required by Regulation Z, as follows:

- (1) The amount or percentage of the downpayment;
- (2) The terms of repayment, and
- (3) The annual percentage rate, using that term or the abbreviation "APR." If the annual percentage rate may be increased after consummation of the credit transaction, that fact must also be disclosed.

(Section 144 of the TILA, 15 U.S.C. 1664, and Section 226.24(c) of Regulation Z, 12 CFR 226.24(c)).

E. Failing to state only those terms that actually are or will be arranged or offered by the creditor, in any advertisement for credit that states specific credit terms, as required by Regulation Z. (Section 144 of the TILA, 15 U.S.C. 1664, and Section 226.24(a) of Regulation Z, 12 CFR 226.24(a)).

F. Failing to comply in any other respect with Regulation Z and the TILA. (Regulation Z, 12 CFR 226, as amended, and the TILA, 15 U.S.C. 1601-1667, as amended).

## II.

*It is further ordered,* That respondents Jerry's Ford Sales, Inc., John's Ford, Inc. dba Jerry's Leesburg Ford, Jerry's Chevrolet Geo Oldsmobile, Inc., corporations, their successors and assigns and their officers, and Jerry C. Cohen, individually and as an officer of the corporate respondents, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with any advertisement to aid, promote or assist directly or indirectly any consumer lease, as "advertisement," and "consumer lease" are defined in the CLA and Regulation M, do forthwith cease and desist from:

A. Stating the amount of any payment, the number of required payments, or that any or no downpayment or other payment is required at consummation of the lease, unless all of the following items are disclosed, clearly and conspicuously, as applicable, as required by Regulation M:

- (1) That the transaction advertised is a lease;
- (2) The total amount of any payment such as a security deposit or capitalized cost reduction required at the consummation of the lease, or that no such payments are required;
- (3) The number, amounts, due dates or periods of scheduled payments, and the total of such payments under the lease;
- (4) A statement of whether or not the lessee has the option to purchase the leased property and at what price and time (the method of determining the price may be substituted for disclosure of the price), and

(5) A statement of the amount or method of determining the amount of any liabilities the lease imposes upon the lessee at the end of the term and a statement that the lessee shall be liable for the difference, if any, between the estimated value of the leased property and its realized value at the end of the lease term, if the lessee has such liability.

(Section 184 of the CLA, 15 U.S.C. 1667c, and Section 213.5(c) of Regulation M, 12 CFR 213.5(c)).

B. Stating that a specific lease of any property at specific amounts or terms is available unless the lessor usually and customarily leases or will lease such property at those amounts or terms, as required by Regulation M.

(Section 184 of the CLA, 15 U.S.C. 1667c, and Section 213.5(a) of Regulation M, 12 CFR 213.5(a)).

C. Failing to comply in any other respect with Regulation M and the CLA.

(Regulation M, 12 CFR 213, and the CLA, 15 U.S.C. 1667-1667e, as amended).

### III.

*It is further ordered,* That respondents, their successors and assigns shall distribute a copy of this order to any present or future officers, agents, representatives, and employees having responsibility with respect to the subject matter of this order and that respondents, their successors and assigns shall secure from each such person a signed statement acknowledging receipt of said order.

### IV.

*It is further ordered,* That respondents, their successors and assigns shall promptly notify the Commission at least thirty (30) days prior to any proposed change in the corporate entity such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

## V.

*It is further ordered,* That for five years after the date of service of this order respondents, their successors and assigns shall maintain and upon request make available all records that will demonstrate compliance with the requirements of this order.

## VI.

*It is further ordered,* That respondents, their successors and assigns shall, within sixty days (60) days of the date of service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

## VII.

*It is further ordered,* That this order will terminate on August 29, 2015, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any paragraph in this order that terminates in less than twenty years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the complaint was never filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.