

Annual Report of the Federal Trade Commission

For Fiscal Year Ended September 30, 1997

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FEDERAL TRADE COMMISSION - 1997

ROBERT PITOFSKY, *Chairman*

MARY L. AZCUENAGA, *Commissioner*

JANET D. STEIGER, *Commissioner*

ROSCOE B. STAREK, III, *Commissioner*

CHRISTINE A. VARNEY, *Commissioner*

DONALD S. CLARK, *Secretary*

COMMISSIONERS

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Robert Pitofsky, *Chairman*

Robert Pitofsky was sworn in as 54th Chairman of the Federal Trade Commission on April 12, 1995. At the time he was nominated by President Clinton to chair the Commission, Chairman Pitofsky was a Professor of Law at the Georgetown University Law Center and Of Counsel to the Washington, D.C. law firm of Arnold & Porter. He also has held positions at the Federal Trade Commission as a Commissioner (1978-1981) and as Director of the Bureau of Consumer Protection (1970-1973).

Chairman Pitofsky chaired the Defense Science Board Task Force on Antitrust Aspects of Defense Industry Downsizing in 1994. He has been a member of the Council of the Administrative Conference, the Board of Governors of the D.C. Bar Association, and the Council of the Antitrust Section of the American Bar Association. In addition, he has been Dean of the Georgetown University Law Center, a professor at New York University School of Law, and Visiting Professor of Law at Harvard Law School.

Chairman Pitofsky's publications include legal casebooks on both trade regulation and antitrust law. He received a B.A. degree from New York University and an L.L.B. from the Columbia School of Law.

Mary L. Azcuenaga, *Commissioner*

Mary L. Azcuenaga was sworn in as a member of the Federal Trade Commission on November 27, 1984. She was appointed by President Reagan for a term expiring September 26, 1991, and she was reappointed by President Bush for a second term, expiring September 26, 1998.

Before her appointment, Commissioner Azcuenaga spent more than 11 years on the legal staff of the Commission. She has a varied litigation background, including both federal court and administrative litigation. She has substantial expertise in the field of antitrust, a background in the field of consumer protection and administrative law, and experience in administration and management.

Immediately before assuming her present position, Commissioner Azcuenaga served as Assistant General Counsel for Legal Counsel of the Federal Trade Commission. Earlier, she served as Assistant to the General Counsel, as Assistant Director of the San Francisco Regional Office, as Assistant to the Executive Director, and as a litigation attorney in the Office of the General Counsel.

Commissioner Azcuenaga is a graduate of Stanford University and the University of Chicago School of Law. She is a member of the bars of the District of Columbia and the State of California.

Janet D. Steiger, *Commissioner*

Janet D. Steiger was sworn in as a member of the Federal Trade Commission on August 11, 1989, and served until September 28, 1997. She was nominated by President Bush. Commissioner Steiger served as Chairman of the Commission from August 1989 until April 1995.

Commissioner Steiger was Chairman of the Postal Rate Commission, by appointment of President Reagan, from March 1982 to August 1989. She also chaired the Congressionally mandated three-year Commission to Assess Veterans' Education Policy (1987-1989), which reported to the 100th Congress. A Republican, she was nominated by President Carter and confirmed by the Senate as a Postal Rate Commissioner in 1980. In 1985, the Federally Employed Women of Washington awarded her the Outstanding Woman in Government Award for 1984.

A member of Phi Beta Kappa, Commissioner Steiger received her B.A. from Lawrence University and did postgraduate study at the University of Reading in England and at the University of Wisconsin-Madison. She was a Fulbright Scholar, a Woodrow Wilson Scholar, and a member of the Lawrence Board of Trustees (1986-1989). Lawrence awarded her an honorary doctor of laws degree in 1992.

Roscoe B. Starek, III, *Commissioner*

Roscoe B. Starek, III, was sworn in as a member of the Federal Trade Commission on November 19, 1990, and served until December 18, 1997. From January 1989 until he was sworn in by President Bush, Commissioner Starek was Deputy Assistant to the President and Deputy Director of Presidential Personnel at the White House. Immediately prior to joining the White House staff, Commissioner Starek worked on the Bush transition team. He served for seven years at the Department of State, most recently as Deputy Assistant Secretary for Policy and Counterterrorism.

From 1972 to 1982, Commissioner Starek worked on Capitol Hill and on the Ford White House staff. From 1976 to 1982, he worked as Counsel for three Committees of the U.S. House of Representatives. In 1975, Commissioner Starek was appointed as Assistant General Counsel to the Presidential Clemency Board. In 1974, Commissioner Starek was a Counsel to the Impeachment Inquiry. During 1972 and 1973, he served on the staff of U.S. Senator Charles Percy of Illinois.

Commissioner Starek graduated with an A.B. in political science from Syracuse University. He received a Juris Doctor degree from the Washington College of Law at American University. He is a member of the bar in Illinois and in the District of Columbia.

Christine A. Varney, *Commissioner*

Christine Varney was nominated by President Clinton and sworn in as a Commissioner of the Federal Trade Commission on October 14, 1994. She served until August 5, 1997.

Commissioner Varney formerly served as President Clinton's Cabinet Secretary, the primary point of contact between the President and the 20 members of his Cabinet. Prior to joining the Clinton Administration, Commissioner Varney practiced law with the Washington, D.C., firm of Hogan & Hartson. Her representations included serving as Chief Counsel for the Clinton Campaign, General Counsel to the 1992 Presidential Inaugural

Committee, and General Counsel to the Democratic National Committee.

Commissioner Varney is a graduate of the State University of New York in Albany and earned a Master's in Public Administration from the Maxwell School at Syracuse University. She earned a Juris Doctorate from the Georgetown University Law Center, where she was a Law Fellow. She also attended Trinity College in Dublin, Ireland.

Commissioner Varney is a member of the District of Columbia Bar, the New York State Bar, the American Bar Association, and the National Lawyers' Council. She is also a committeewoman on the ABA Standing Committee on Election Law.

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Competition Mission

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The Competition Mission is based upon the fundamental premise of the antitrust laws that competition produces the best products and services at the lowest prices, spurs efficiency and innovation, and strengthens the U.S. economy. Unreasonable restraints on competition harm everyone, from consumers to businesses to workers. It is the Commission's job under its Competition Mission to ensure that markets function competitively by eliminating unreasonable competitive restraints, preventing anticompetitive mergers and acquisitions, and encouraging governmental reliance on market solutions. In mergers and acquisitions alone, the Commission has saved consumers approximately \$24 billion in each of the last two fiscal years.

Mission Focus

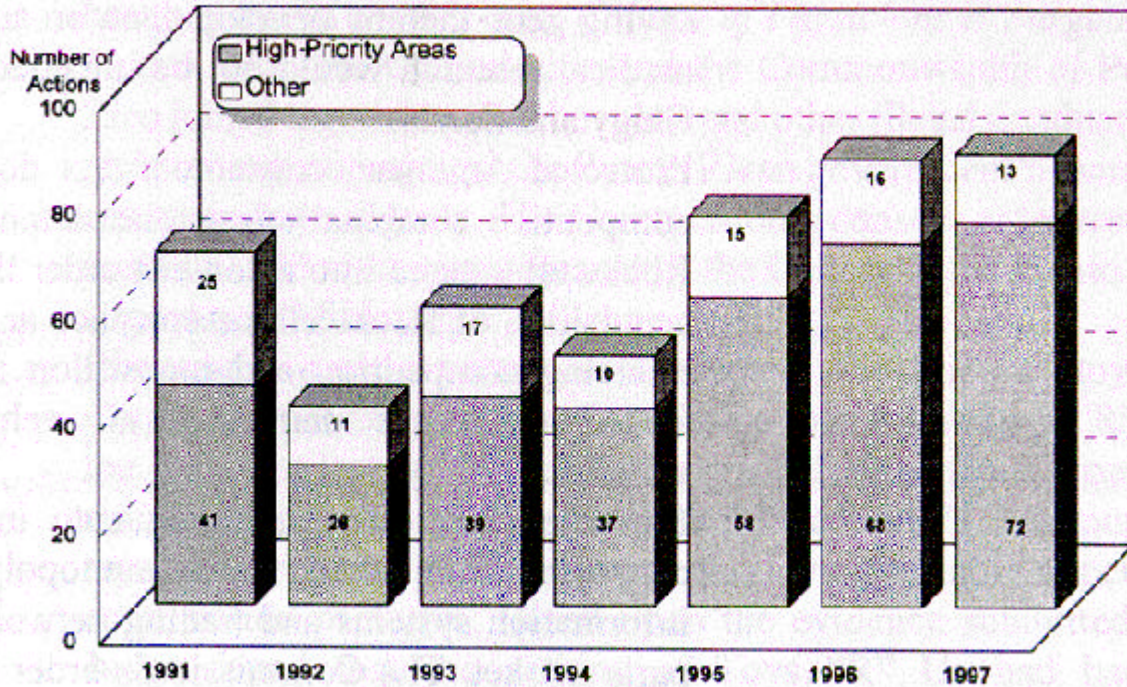
Given the Commission's flat resources in the midst of a growing economy and the unprecedented levels of mergers and acquisitions, the challenges to accomplishing this Mission are formidable. During fiscal year 1997, the Competition Mission focused its limited resources on bringing enforcement actions that make a positive difference in consumers' lives, minimizing the burden Commission actions place on business, and continuing to refine the agency's enforcement policies to account for dynamic changes in both the economy and antitrust analysis.

[[Chart 1](#)]

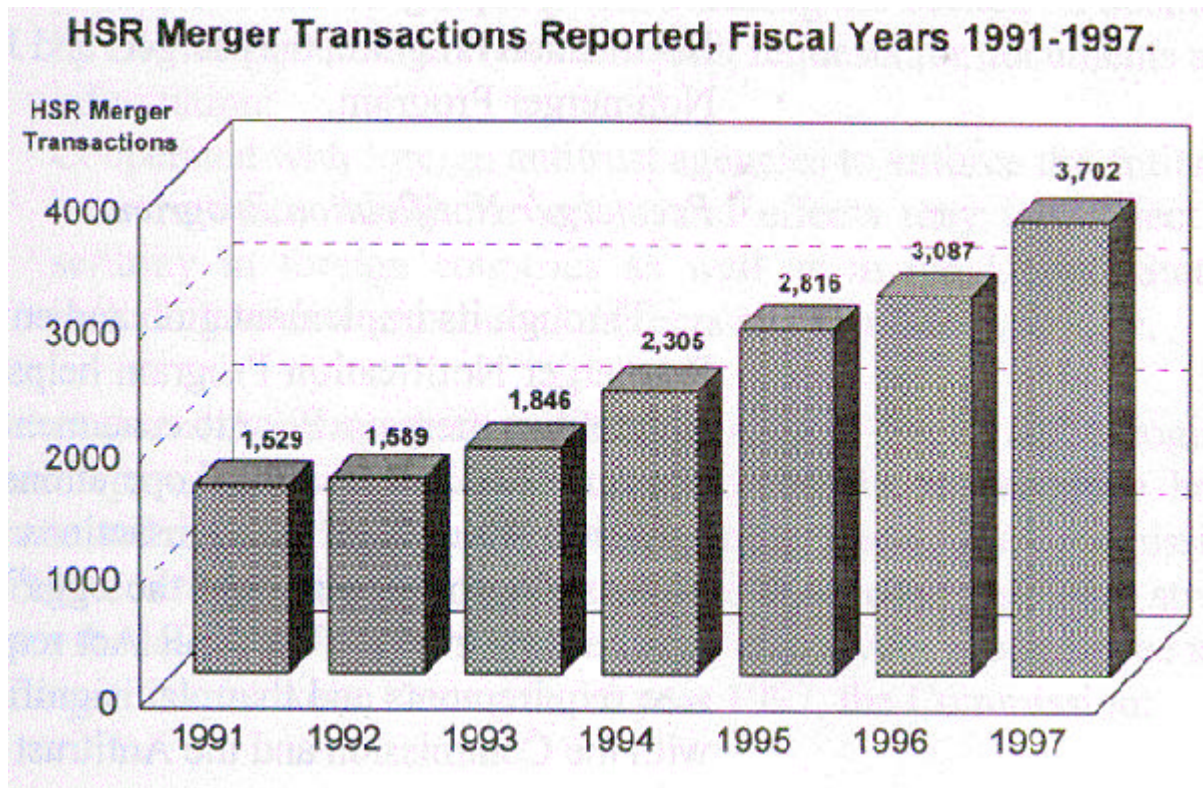
*Making a Difference in Consumers' Lives-*The Competition Mission has focused its enforcement actions in markets and industries that matter most to consumers. In fiscal year 1997, more than 70% of the Mission's resources, measured by staff hours devoted to large cases, were at work in six key areas of the economy: health care, pharmaceuticals, information and technology, energy, consumer goods and services, and defense (where the consumer as taxpayer is the beneficiary). The agency's enforcement actions against proposed mergers in these key industries have made a difference. The Commission's actions:

- Blocked the planned merger of Staples and Office Depot, the Nation's two largest office supply superstores. It is estimated that consumers nationwide would have paid \$1.1 billion more for office supplies over a five-year period if the merger had proceeded.
- Prevented the merger of the only national medical equipment rental companies in the United States, Mediq and Universal Hospital Services. Because the combined firm would have had the monopoly power to raise prices above competitive levels, the Commission filed a preliminary injunction action in federal court and the parties abandoned the transaction.
- Required Ciba-Geigy and Sandoz to provide necessary intellectual property rights to medical researchers to continue potentially life-saving gene therapy development, an action that ensured critical medical research would not be impeded by the merger of Ciba-Geigy and Sandoz.
- Protected American consumers' tax dollars by preventing anticompetitive

Competition Mission Actions, Fiscal Years 1991-1997.
Actions Are Targeted on High-Priority Areas: Health Care, Pharmaceuticals, Information and Technology, Energy, Consumer Goods and Services, and Defense



"Competition actions" include actions that advance or resolve a matter – Part 3 administrative complaints, Part 2 and Part 3 consent agreements accepted for comment, civil penalty actions, preliminary injunctions authorized, transactions withdrawn after second requests were issued, initial decisions, final litigated orders, and prior approval of divestitures and acquisition requests.



Consumer Protection Mission

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The goal of the Consumer Protection Mission is to prevent fraud, deception, and unfair business practices in the marketplace. The Mission is accomplished by identifying practices that cause the greatest consumer injury, stopping these practices through law enforcement, and preventing consumer injury through education.

In fiscal year 1997, three primary strategies were used to address current issues of concern to consumers: (1) protecting consumers from fraud, deception, and unfair practices in three traditional law enforcement areas - health, safety, and financial well-being, (2) evaluating the impact on consumers of globalization and new technologies and adapting consumer protection principles to these frontier areas, and (3) using creative approaches such as education and regulatory reform that are effective in protecting consumers and are not unduly burdensome for businesses. By targeting resources to priority areas, working with law enforcement and industry partners, and coordinating law enforcement actions with education, the Commission was able to increase its effectiveness.

Consumer and Business Education

The Commission puts a high priority on consumer education - the first line of defense against fraud and deception. With each major enforcement initiative, the Commission launches an educational campaign, using both traditional and new media to reach as many consumers as possible. In fiscal year 1997, the Office of Consumer and Business Education produced 99 new and revised consumer and business publications: 88 for consumers, 10 for businesses, and 1 for nonprofit organizations. A record 5.5 million print copies of Commission publications were distributed in response to requests from the public. To complement its online FTC ConsumerLine (www.ftc.gov), the Commission developed the online FTC BusinessLine (www.ftc.gov) to disseminate business information. An additional 609,000 copies of publications were accessed through these two Web sites. The Office continued to produce new information products, including postcards and FTC Briefs - a collection of tips that address specific consumer issues.

Economic Analysis

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The Bureau of Economics provides economic support to the Commission's antitrust and consumer protection activities, advises the Commission and other government entities about the impact on consumers and competition of various regulatory reform initiatives, and analyzes economic phenomena in the Nation's industrial economy as they relate to antitrust and consumer protection.

The primary mission of the Commission is to enforce the antitrust and consumer protection laws. In fiscal year 1997, the Bureau continued to provide guidance and support to those activities.

In the antitrust area, economists offered advice on the economic merits of potential antitrust actions. Situations in which the marketplace performed reasonably well were distinguished from situations in which the market might be improved by Commission action. When enforcement actions were initiated, economists worked to integrate economic analysis into the proceeding, to provide expert testimony, and to devise remedies that would improve market competition.

In the consumer protection area, economists assessed the benefits and costs of alternative policy approaches. Potential consumer protection actions were evaluated not only for their immediate impact, but also for their longer-run effects on price, product variety, and overall consumer welfare.

Although the Commission is primarily an enforcement agency, it is also charged with analyzing data and publishing information about the Nation's industries, markets, and business firms. Much of this work is undertaken by the Bureau of Economics. In fiscal year 1997, economists conducted studies on selected topics in antitrust and consumer protection.

The Bureau of Economics also coordinated the Commission's Consumer and Competition Advocacy Program, which the agency uses to provide advice to federal, state, and other regulatory entities concerning the actual or potential economic impacts of existing and proposed trade regulations.

Antitrust

In the antitrust area, economists participated in all investigations of alleged antitrust violations and in the presentation of cases in support of complaints. Economists also advised the Commission on all proposed antitrust actions and provided economic expertise for matters in litigation. These activities consumed the bulk of the Bureau's resources assigned to directly support the Commission's antitrust responsibilities.

The Bureau also maintains a small research program in support of the Commission's antitrust activities. Ongoing antitrust-related studies included (1) a study of the price and output effects of brand ownership consolidation and vertical integration in local markets for carbonated soft drink bottling, (2) a descriptive study of the pharmaceutical industry, (3) an

Management and Administration

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Budget and Finance

The Division of Budget and Finance managed the Commission's financial services. Its ongoing activities included maintaining a general ledger accounting system; ensuring that effective financial policies and procedures were developed and maintained to support mission operations and to take full advantage of available technologies; issuing accurate and timely financial reports to program offices, the Department of the Treasury, and the Office of Management and Budget; and providing oversight of services received from the Administrative Service Center. The Division also carried out Commission-wide management programs for audit follow-up and reviewed and reported on internal controls. The Division planned and carried out the fiscal year 1997 budget, supported the fiscal year 1998 budget request through Congress, and developed the fiscal year 1999 budget request.

Personnel

In fiscal year 1997, the Division of Personnel coordinated an array of human resources management activities that included recruitment, position classifications, performance management, benefits, employee relations, labor relations, and training. During the course of the year, the Division worked with the various Bureaus and Offices to fill the positions vacated by employees taking advantage of the "early out" retirement authority. The Division continued its work with the agency's Partnership Council by facilitating training sessions with the Secretarial Forum. The Division also was active in assisting managers to improve the performance of their workforce by arranging a variety of coaching/mentoring services. The Division also continued to make enhancements to report formats generated by the Department of the Interior Payroll Personnel System, to make them more user-friendly for Commission staff. Planning was started during the later part of fiscal year 1997 for a conversion to an updated version of the system.

Procurement and General Services

In addition to providing the day-to-day administrative support to the Commission, the Division of Procurement and General Services completed several significant initiatives during fiscal year 1997. These accomplishments included major contract awards for the following:

- Personal computers,
- Services of experts,
- Administrative support services for Federal Trade Commission advisors working with the Ukrainian Government.

The Division submitted reports to the Federal Procurement Data Center and the Small Business Administration describing goals and accomplishments in the procurement area for the year. The Division also administered the Commission's credit card purchase program.

APPENDIX

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This appendix includes summaries of the Commission's law enforcement, rulemaking, education, and advocacy activities for fiscal year 1997.

Law Enforcement

Commission law enforcement actions may be triggered by letters from consumers or businesses, Congressional inquiries, referrals from federal/state/local officials, or public information on consumer, business, or economic subjects.

If the Commission believes a violation of the law occurred, it may obtain voluntary compliance by entering into a Part 2 administrative consent order with a company or individual respondent. A company or individual signing a consent order need not admit a violation of the law, but must agree to stop the injurious practices.

If voluntary compliance is not reached, the Commission may issue an Part 3 administrative complaint. This results in a formal proceeding, much like a court trial, held before an Administrative Law Judge (ALJ), at which evidence is submitted, testimony is heard, and witnesses are examined and cross-examined. If a respondent decides to settle the charges against it, it may enter into a Part 3 consent order and end the proceeding. If the proceeding continues to completion, the ALJ issues an initial decision and the case moves to the Commission for final disposition. If the Commission ultimately finds a law violation, it may issue a cease-and-desist order or other appropriate relief. These final orders issued by the Commission may be appealed by respondents to a U.S. Court of Appeals (and, ultimately, to the U.S. Supreme Court).

In cases involving ongoing consumer fraud, the Commission may file a complaint in federal district court. The court can then order the defendants to immediately stop the practices cited in the complaint, and freeze their assets before further consumer injury occurs. In these cases, the Commission seeks consumer redress, or refunds for consumers who have been injured, and/or a permanent injunction barring the practices in the future.

In addition, when a company or individual violates a Commission Trade Regulation Rule, a statute enforced by the Commission, or a prior Commission order, a complaint may be filed in federal district court seeking civil penalties and an injunction against future violations.

Rulemaking

The Commission also issues Trade Regulation Rules and industry guides. The Commission may begin a rulemaking proceeding if it finds evidence of unfair or deceptive practices in an entire industry. Throughout the proceeding, the public has opportunities to attend hearings and file written comments, which the Commission considers along with the entire rulemaking record - the hearing testimony, staff reports, and the presiding officer's report - before making a decision on the proposed rule. A Commission rule may be challenged in any of the U.S. Courts of Appeals. When issued, the rules have the force of law. The

Competition Mission Part 2 Consent Orders Issued

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Title	Number	Action Date	Type of Matter	Product/Service
American Cyanamid Company	C3739	5/12/97	Vertical Price Fixing	Agricultural Chemicals
American Home Products Corporation	C3740	5/16/97	Horizontal Merger	Canine and Feline Vaccines
Autodesk, Inc.	C3756	6/18/97	Horizontal Merger	Computer-Aided Design Software Engines
Baxter International Inc.	C3726	3/24/97	Horizontal Merger	Blood Plasma Products
Boeing Company, The	C3723	3/05/97	Horizontal Merger	Defense and Space Vehicles
Cadence Design Systems, Inc.	C3761	8/11/97	Horizontal Merger	"Routing" Software for Integrated Circuits
Ciba-Geigy Limited	C3728	3/28/97	Horizontal Merger	Research and Development in Gene Therapy Treatments, Corn Herbicides, Flea-Control Products
Class Rings, Inc.	C3701	12/20/96	Horizontal Merger	Commemorative Class Rings
Cooperative Computing, Inc.	C3757	6/20/97	Horizontal Merger	Electronic Automotive Parts Catalogs
CVS Corporation	C3762	8/13/97	Horizontal Merger	Drug Stores
Dwight's EnergyData, Inc.	C3759	7/28/97	Horizontal Merger	Gas and Oil Production Data
Fresenius AG	C3689	10/15/96	Horizontal Merger	Hemodialysis Concentrate
General Mills, Inc.	C3742	5/16/97	Horizontal Merger	Ready-to-Eat Cereals
Hale Products, Inc.	C3694	11/25/96	Exclusive Dealing	Fire Truck Pumps
J.C. Penney Company, Inc.	C3721	2/28/97	Horizontal Merger	Drug Stores
	C3722			
Mahle GmbH	C3746	6/04/97	Horizontal Merger	Diesel Engine Pistons
Montana Associated Physicians, Inc.	C3704	1/13/97	Horizontal Restraints	Physician Services
NGC Corporation	C3697	12/12/96	Horizontal Merger	Natural Gas Fractionation
Phillips Petroleum Company	C3728	3/28/97	Horizontal Merger	Natural Gas Transportation
Tenet Healthcare Corporation	C3743	5/20/97	Horizontal Merger	Inpatient Hospital Services
Time Warner Inc.	C3709	2/03/97	Horizontal Merger	Cable Television
Waterous Company, Inc.	C3693	11/22/96	Exclusive Dealing	Fire Truck Pumps
Wesley-Jessen Corporation	C3700	1/03/97	Horizontal Merger	Contact Lenses

American Cyanamid Company

American Cyanamid agreed to settle allegations that it had fixed the resale prices of its agricultural chemical products, violating the federal antitrust laws. According to the complaint issued with the consent order, American Cyanamid allegedly entered into agreements with its retail dealers offering substantial rebates if the dealers sold its chemicals at or above specific prices. The consent order prohibits American Cyanamid from entering into agreements that control prices and from conditioning the payment of rebates or other incentives on the resale prices its dealers charge for its products.

American Home Products Corporation

American Home Products agreed to settle charges that its \$463 million acquisition of the animal health business of Solvay, S.A., would create a monopoly in the market for canine Lyme disease

Competition Mission Part 3 Administrative Complaints

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Title	Number	Action Date	Type of Matter	Product/Service
Automatic Data Processing, Inc.	D9282	11/13/96	Horizontal Merger	Automotive Salvage Yard Information Systems
Blodgett Memorial Medical Center Butterworth Health Corporation	D9283	11/18/96	Horizontal Merger	Inpatient Hospital Services
Mesa County Physicians Independent Practice Association, Inc.	D9284	5/12/97	Horizontal Restraints	Physician Services

Automatic Data Processing, Inc.

The Commission issued an administrative complaint alleging that the 1995 acquisition by Automatic Data Processing (ADP) of AutoInfo, Inc., assets created a monopoly that raised prices and reduced the quality of service in information management for the automobile salvage yard industry. The complaint alleged that through the acquisition, ADP intended to acquire monopoly power and raise prices by making ADP the sole auto parts inventory exchange. Under the terms of a consent agreement accepted for public comment, ADP will be required to divest the AutoInfo assets within 150 days to a Commission-approved acquirer.

Blodgett Memorial Medical Center; Butterworth Health Corporation

The Commission issued an administrative complaint that challenged the proposed merger of Butterworth and Blodgett hospitals in Grand Rapids, Michigan. The complaint charged that the merger would substantially reduce competition for acute-care inpatient hospital services in the Grand Rapids area. The Commission ended its litigation after the federal district court's decision to deny the Commission's motion for a preliminary injunction was upheld by the U.S. Court of Appeals for the Sixth Circuit. The case was dismissed under the agency's 1995 policy to determine on a case-by-case basis whether to pursue administrative litigation in merger cases after a federal court has declined to bar the companies from merging pending the outcome of an administrative trial (see Blodgett Memorial Medical Center, page 52).

Mesa County Physicians Independent Practice Association, Inc.

The Commission issued an administrative complaint alleging that the Mesa County Physicians Independent Practice Association, Inc., conspired to fix the prices for physician services and encouraged its member physicians not to deal with certain health insurance companies or other third-party payers.

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Competition Mission Initial Decision

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Title	Number	Action Date	Type of Matter	Product/Service
Toys "R" Us	D9278	9/30/97	Horizontal Restraints, Vertical Restraints	Toys

Toys "R" Us

An Administrative Law Judge issued an initial decision that would prohibit Toys "R" Us from entering into agreements with toy manufacturers that result in restrictions on sales to warehouse clubs. The Judge found that Toys "R" Us enforced agreements with toy manufacturers that sought to increase the costs of warehouse clubs. Toys "R" Us threatened to stop buying products that were sold to warehouse clubs, which resulted in major toy makers' halting the sale of certain products to clubs. The Judge found that these actions reduced competition and led to higher toy prices. The Judge's order would prohibit the toy chain from entering into any agreement with a supplier to restrict sales to any toy discounter, from facilitating agreements among suppliers that would limit sales to any retailer, and for five years, from refusing to or announcing it will refuse to purchase from a supplier because the supplier sells to a toy discounter. The initial decision is currently on appeal to the Commission.

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Competition Mission Final Orders

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Title	Number	Action Date	Type of Matter	Product/Service
Blodgett Memorial Medical Center	D9283	9/26/97	Horizontal Merger	Inpatient Hospital Services
Butterworth Health Corporation				
International Association of Conference Interpreters	D9270	3/14/97	Horizontal Restraints	Language Interpretation and Translation

Blodgett Memorial Medical Center; Butterworth Health Corporation

The Commission ended its administrative challenge of the proposed merger of Butterworth and Blodgett, two acute-care inpatient hospitals in the Grand Rapids, Michigan, area, with a final order concluding that further litigation in the case was not in the public interest. The administrative complaint (see page 48) was dismissed under a 1995 policy statement in which the Commission determines on a case-by-case basis whether to pursue administrative litigation in merger cases, after a federal district court declined to bar the companies from merging pending the outcome of an administrative trial. The hospitals merged in 1997.

International Association of Conference Interpreters

The Commission's decision and order prohibits the International Association of Conference Interpreters and its U.S. affiliate members from entering into agreements that fix or suggest fees for the provision of interpretation, translation, or language services performed within the United States. The final order requires the Association to amend its rules and bylaws to conform to the Commission's order and further requires the elimination of Association rules regarding, among other things, fees, travel expenses, pro bono work, and commissions.

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Competition Mission Injunctions

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Title	Number	Action Date	Type of Matter	Product/Service
Mediq Incorporated	971 0066	7/29/97	Horizontal Merger	Medical Equipment Rentals
Universal Hospital Services, Inc.				
Staples, Inc.	971 0008	6/30/97	Horizontal Merger	Office Supplies
Office Depot, Inc.				

Mediq Incorporated; Universal Hospital Services, Inc.

Mediq abandoned its proposed \$100 million acquisition of Universal after the Commission filed a complaint and motion for a preliminary injunction to block the merger of the Nation's two largest firms engaged in the rental to hospitals of movable medical equipment, such as respiratory, infusion, and monitoring devices. The complaint, filed in the U.S. District Court for the District of Columbia, alleged that the merger would create a monopoly that would raise the rental prices of movable medical equipment rental in many major metropolitan areas across the Nation.

Staples, Inc.; Office Depot, Inc.

Staples abandoned plans to acquire Office Depot after the Commission won a preliminary injunction against the merger in the U.S. District Court for the District of Columbia. The complaint alleged that the merger of two of the three largest office supply superstores in the country would have allowed the combined firm to control prices for the sale of office supplies in over 40 major metropolitan areas throughout the United States. The Commission argued that the merger would violate federal antitrust laws by substantially reducing competition in the sale of office supplies by superstores in various local markets throughout the country where each firm directly competes against the other.

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Competition Mission Civil Penalty Actions

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Title	Number	Action Date	Type of Matter	Product/Service
Figgie International Inc.	941 0027	2/14/97	Premerger Notification	Consumer and Industrial Products
Mahle GmbH	961 0085	6/23/97	Premerger Notification	Diesel Engine Pistons
Red Apple Companies, Inc.	D9266	2/23/97	Order Violation	Grocery Stores
Schnuck Markets, Inc.	C3585	7/28/97	Order Violation	Grocery Stores

Figgie International Inc.; Harry E. Figgie, Jr.

Figgie International and its former chairman and chief executive officer, Harry E. Figgie, Jr., agreed to pay a \$150,000 civil penalty to settle allegations that they failed to notify federal antitrust enforcement agencies before Mr. Figgie acquired restricted voting stock in Figgie International. The complaint alleged that Mr. Figgie failed to comply with the reporting provisions and waiting period requirements under the Hart-Scott-Rodino Act. The complaint further alleged that Mr. Figgie was required to file notification before he increased his holdings to over 15% of the outstanding voting securities of Figgie International.

Mahle GmbH; Metal Leve, S.A.

Mahle, a German corporation, agreed to pay a record \$5.6 million civil penalty to settle allegations that it failed to notify the two federal antitrust agencies of its acquisition of a controlling interest in Metal Leve, a Brazilian competitor engaged in the manufacture of diesel engine parts, including pistons. According to the complaint filed in the U.S. District Court for the District of Columbia by the Commission, Mahle acquired 50.1% of the voting securities of Metal Leve for approximately \$40 million, without first filing notification with the Commission and the Department of Justice and observing the required waiting period, in violation of the Hart-Scott-Rodino Act. A separate consent order with Mahle settled allegations that the acquisition could create a monopoly in the market for articulated pistons. (See Mahle GmbH, page 45.)

Red Apple Companies, Inc.; Sloan's Supermarkets, Inc.; Supermarket Acquisition Corporation; John Catsimatidis

Red Apple, its chairman John Catsimatidis, and two affiliated supermarket operators, Sloan's and Supermarket Acquisition, agreed to pay a \$600,000 civil penalty for failure to divest five Manhattan supermarkets, as required by order of the Commission, by March 1996. The complaint and consent judgment were filed in the U.S. District Court for the Southern District of New York. The civil penalty was paid to the Department of the Treasury.

Schnuck Markets, Inc.

Schnuck Markets agreed to pay a \$3 million civil penalty to settle allegations that the supermarket chain allowed numerous stores, designated for divestiture under a 1995 Commission consent order, to deteriorate before being sold. Under terms of the proposed settlement, Schnuck will be required to divest two closed supermarkets in the St. Louis area within six months to a Commission-approved acquirer. The complaint and proposed stipulations were filed in U.S. District Court for the Eastern District of Missouri.

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Competition Mission Order Modifications

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Title	Number	Action Date	Type of Matter	Product/Service
Columbia/HCA Healthcare Corporation	C3619	7/14/97	Horizontal Merger	Inpatient Hospital Services
Commemorative Brands, Inc.	C3701	7/21/97	Horizontal Merger	Commemorative Rings
Compagnie de Saint-Gobain	C3673	11/19/96	Horizontal Merger	Refractories and Hot Surface Igniters
Del Monte Foods Company	C3569	10/31/96	Horizontal Merger	Canned Fruit
Geon Company, The	D9159	12/12/96	Horizontal Merger	Chemicals
HealthSouth Corporation	C3570	10/01/96	Horizontal Merger	Rehabilitation Hospital Facilities
(Home Oxygen and Medical Equipment Company) John E. Sailer, M.D.	C3530	10/01/96	Single-Firm Violation	In-Home Oxygen
Oerlikon-Burhle Holding AG	C3555	9/09/97	Horizontal Merger	Turbomolecular Pumps, Compact Disc Metallizers
Onkyo U.S.A. Corporation	C3092	10/24/96	Distributional Restraints	Audio Components
Penn Traffic Company, The	C3577	1/10/97	Horizontal Merger	Supermarkets
Schwegmann Giant Super Markets, Inc.	C3584	2/24/97	Horizontal Merger	Supermarkets
Stop & Shop Companies, Inc., The	C3649	6/20/97	Horizontal Merger	Supermarkets

¹A company name shown in parentheses is for identification of the case only.

Order Modifications

Columbia/HCA Healthcare Corporation

The Commission granted the petition of Columbia/HCA to modify a 1995 consent order that settled antitrust concerns stemming from the acquisition of Healthtrust, Inc. - The Hospital Company. The consent order was modified ending Columbia/HCA's obligation to divest a commercial lease for office space, which Columbia had mistakenly represented to the Commission was part of its Pioneer Valley Hospital assets in West Valley City, Utah.

Commemorative Brands, Inc. (formerly Class Rings, Inc.); Castle Harlan Partners II, L.P.

The Commission granted the petition of Commemorative Brands to set aside a provision barring it from employing any person employed during 1996 by Gold Lance, Inc., or Town & Country Corporation, competitors in the market for the manufacture and distribution of commemorative class rings purchased by high school and college students. The 1997 consent order settled allegations that the proposed merger of Class Rings, Town & Country, and Castle Harlan would have increased the likelihood of coordinated interaction and led to higher prices in the market; however, the market conditions for that order changed after the order was made final. Gold Lance, formerly owned by Town & Country, was sold to Jostens, Inc. Keeping the order provision would have had the unintended effect of precluding Commemorative Brands from competing against Gold Lance's new owner for experienced, skilled employees.

Competition Mission Staff Advisory Opinions

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Business Health Companies, Inc.

Commission staff advised Business Health that a planned survey of hospital prices in Texas appeared to fall within the safety zone for exchanges of price and cost information outlined in the 1996 Healthcare Guidelines issued by the Commission and the Department of Justice. Business Health was retained by the Central Texas Healthcare Coalition to collect and analyze data on average charges and patient outcomes of the two major Waco hospitals and three other Texas hospitals.

Direct Marketing Association

The Commission staff advised the Direct Marketing Association that it could require its members to (1) honor requests from consumers that direct marketers (direct mail marketers or telemarketers) not contact them, (2) disclose to consumers how their members sell or otherwise transfer personal information about those consumers to others, and (3) honor consumers' requests that the members not sell or transfer their personal information.

First Look, LLC

Commission staff advised First Look that the staff would not recommend a challenge on antitrust grounds to a proposed network of optical firms that First Look organized. The network would respond to requests for proposals for employer contracts for optical and vision care services for individuals living in an area larger than that served by any one provider.

Foundation for the Accreditation of Hematopoietic Cell Therapy

Commission staff advised the Foundation for the Accreditation of Hematopoietic Cell Therapy that the staff would not recommend a challenge to a proposal to establish a program of standards, inspection, and voluntary accreditation of entities involved in medical or laboratory practice related to hematopoietic progenitor cell therapy. Hematopoietic progenitor cell therapy refers generally to the infusion into a patient of blood-forming stem cells for the treatment of leukemia, certain other cancers, and other blood disorders. The Foundation developed standards for facilities and individuals performing such therapy or providing support services for the procedures and will implement an accreditation program incorporating on-site inspections.

Henry County Memorial Hospital

Commission staff advised Henry County Memorial Hospital that the hospital's purchase of drugs for resale to patients in a physician hospital organization (PHO) would not qualify as "own use" under the Non-Profit Institutions Act. The Act exempts from the Robinson-Patman Act "purchases of their supplies for their own use by . . . hospitals, and charitable institutions not operated for profit."

Mobile Health Resources, LLC

Commission staff advised Mobile Health Resources that the staff would not recommend a challenge to a proposal to establish a network of seven ambulance companies that would provide medically related transportation services in Michigan to health care plans, health maintenance organizations, and other large purchasers. The network proposed to enter into contracts involving significant economic and functional integration among participating providers in the network.

New Jersey Pharmacists Association

Commission staff advised the New Jersey Pharmacists Association that the staff would not recommend a challenge on antitrust grounds to a proposed pharmacist network offering health education and monitoring services to diabetes and asthma patients. These services would be marketed to insurance companies, health maintenance organizations, managed care organizations, pharmacy

Consumer Protection Mission Part 2 Consent Orders Issued

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Title	Number	Action Date	Type of Matter	Product/Service
1554 Corporation	C3733	4/14/97	Unsubstantiated Earnings Claims	Work-at-Home Course
2943174 Canada, Inc.	C3748	6/16/97	Unsubstantiated Health and Weight-Loss Benefit Claims	Weight-Loss Patch
AAF-McQuay, Inc.	C3703	1/06/97	Unsubstantiated Health Benefits and Performance Claims	Home Furnace Filters
Filtration Manufacturing, Inc.	C3702	1/06/97		
Abbott Laboratories, Inc.	C3745	5/30/97	Unsubstantiated Health Benefit Claims	Dietary Supplement
Abflex, U.S.A., Inc.	C3771	9/18/97	Unsubstantiated Weight-Loss Claims	Abdominal Exerciser
Kent & Spiegel Direct, Inc.	C3769	9/18/97		
Administrative Company, The	C3731	4/14/97	Unsubstantiated Statements and Benefits of Legal Services	Living Trusts
Pre-Paid Legal Services, Inc.	C3729	4/04/97		
Aldi Inc.	C3764	9/05/97	Fair Credit Reporting Act	Employment Applications
Amerifit, Inc.	C3747	6/16/97	Unsubstantiated Health and Weight-Loss Benefit Claims	Dietary Supplements
Apple Computer, Inc.	C3763	8/18/97	Misrepresented Performance	Personal Computers
BodyWell, Inc.	C3754	6/16/97	Unsubstantiated Weight-Loss Claims; Mail or Telephone Order Merchandise Rule	Shoe Insoles
Bruno's, Inc.	C3760	7/29/97	Fair Credit Reporting Act	Employment Applications
Budget Marketing, Inc.	C3698	12/13/96	Electronic Funds Transfer Act	Magazine Subscription Telemarketing
California SunCare, Inc.	C3715	2/11/97	Unsubstantiated Health Benefit Claims	Tanning Products
Computer Business Services, Inc.	C3705	1/21/97	Misrepresented Earnings Claims	Work-at-Home Business Opportunity
Jeanette L. Douglass	C3727	3/24/97		
Comtrad Industries, Inc.	C3719	2/25/97	Unsubstantiated Safety and Effectiveness Claims	Thermo-Electric Food Cooler/Warmer
Conopco, Inc.	C3706	1/23/97	Unsubstantiated Health Benefit Claims	Margarine
Dean Distributors, Inc.	C3755	6/16/97	Multi-Level Marketing Distribution	Weight-Loss Diet Programs
Efficient Labs, Inc.	C3768	9/12/97	Unsubstantiated Health Benefit Claims	Dietary Supplement
General Motors Corporation	C3710	2/06/97	Inadequate Disclosure of Terms	Automobile Credit Sales

Consumer Protection Mission Part 3 Administrative Complaint

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Title	Number	Action Date	Type of Matter	Product/Service
R.J. Reynolds Tobacco Company	D9285	5/28/97	Advertising Campaign Involving Cartoon Character	Cigarettes

R.J. Reynolds Tobacco Company

In an administrative complaint, the Commission alleged that the advertising campaign for Camel cigarettes featuring the cartoon character Joe Camel violated federal law. The purpose of the campaign, according to the Commission, was to reposition the Camel brand to make it attractive to younger smokers. The campaign allegedly induced many underage consumers to begin or to continue smoking cigarettes and as a result caused significant injury to their health and safety. The agency sought an order that would bar R.J. Reynolds from using the Joe Camel campaign and would require the company to conduct a public education campaign discouraging young people from smoking. In July 1997, R.J. Reynolds announced the termination of its Joe Camel advertising campaign.

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Consumer Protection Mission Part 3 Consent Orders Issued

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Title ¹	Number	Action Date	Type of Matter	Product/Service
Exxon Corporation	D9281	9/12/97	Unsubstantiated Performance Claims	Gasoline
New Balance Athletic Shoe, Inc.	D9268	12/02/96	Country-of-Origin Labeling	Athletic Footwear
(RustEvader Corporation) David F. McCready	D9274	10/30/96	False and Unsubstantiated Efficacy and Performance Claims	Automobile Electronic Corrosion-Control Device

¹A company name shown in parentheses is for identification of the case only. The company is not a respondent in the item shown in the table.

Exxon Corporation

The Commission approved a consent order with Exxon, the largest oil company in the United States, that triggered the launch of a massive consumer education and advertising campaign informing consumers that regular gasoline, not the more expensive high octane, is the right fuel for most cars. Exxon is running television advertisements in 18 major metropolitan markets and distributing consumer information brochures at its service stations nationwide. The order settled allegations that the company made unsubstantiated and misleading advertising claims about the ability of its high-octane gasoline to clean engines and reduce automobile maintenance costs. The order also prohibits Exxon from making similar claims without adequate scientific evidence to back them up.

New Balance Athletic Shoe, Inc.

New Balance settled allegations that it misrepresented that all of its athletic footwear is made in the United States when a substantial amount is made wholly abroad. In addition, New Balance allegedly misrepresented the quantity of footwear it exports to Japan annually. The consent order prohibits the company from such misrepresentations in the future.

(RustEvader Corporation)

David F. McCready

The Commission finalized a consent order with David McCready, former president of RustEvader and inventor of a purported electronic corrosion-control device for motor vehicles, settling allegations that he made false claims about the effectiveness of the device, used a deceptive demonstration, and illegally conditioned warranty coverage on inspections by an authorized RustEvader dealer. The order requires McCready to pay \$200,000 for redress to consumers. It bars him from using the names "Rust Evader" or "Rust Buster" for this or similar devices, from misrepresenting performance or test results, and from conditioning warranty coverage on the purchase of certain brand-named or trade-named products or services. The order also requires him to have substantiation to back up performance or efficacy claims about any product for use in motor vehicles. (Also see RustEvader Corporation, page 89.)

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Consumer Protection Mission Initial Decisions

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Title	Number	Action Date	Type of Matter	Product/Service
Automotive Breakthrough Sciences, Inc.	D9275	3/03/97	False and Unsubstantiated Performance Claims	Automotive Braking System
Brake Guard Products, Inc.	D9277	5/02/97	False and Unsubstantiated Performance Claims	Automotive Braking System

Automotive Breakthrough Sciences, Inc.; ABS Tech Sciences, Inc.; ichard Schops

In an initial decision, an Administrative Law Judge found that the add-on vehicle braking system marketed by Automotive Breakthrough and ABS Tech Sciences does not function like a factory-installed antilock braking system (ABS), as claimed. The order prohibits the respondents, who include the CEO of Automotive Breakthrough, from using the initials or term "ABS" in the name of their product and from representing that the product is an ABS system or that it prevents wheel lockup, skidding, or loss of steering control in emergency situations. The order requires the respondents to notify distributors and purchasers of the system that the Commission has found that the respondents' claims are false. It also requires the respondents to have substantiation for future claims about any braking system they offer.

Brake Guard Products, Inc.; Ed F. Jones

An Administrative Law Judge found that advertisements for the Brake Guard add-on braking system were false in claiming that it performed as effectively as factory-installed antilock braking systems (ABS) and barred the respondents from using the term "ABS" in marketing their brakes. The order prohibits Brake Guard and Ed Jones, its director, from misrepresenting their braking system's performance characteristics, eligibility for insurance discounts, and compliance with government standards. The respondents were also ordered to notify all distributors and purchasers that the Commission has found that the ads and promotional materials stating that Brake Guard was an antilocking braking system with the safety and economy advantages of factory-installed ABS brakes are false and misleading.

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Consumer Protection Mission Final Orders

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Title	Number	Action Date	Type of Matter	Product/Service
BST Enterprises, Inc.	D9276	5/30/97	Misrepresented and Unsubstantiated Performance Claims	Automotive Braking System
RustEvader Corporation	D9274	11/01/96	False and Unsubstantiated Efficacy and Performance Claims	Automotive Rust- Control Product

BST Enterprises, Inc.; Michael Woodruff

The Commission issued an order making final an initial decision by an Administrative Law Judge in regard to BST and corporation officer Michael Woodruff. According to the Judge, advertisements claiming that BST's add-on vehicle braking system is an antilock braking system (ABS) that protects against wheel lockup were deceptive and misleading. The decision upheld the Commission's complaint against BST that the add-on devices promoted as genuine ABS are, in fact, substantially different in design and operation from true factory-installed ABS and do not prevent or substantially reduce wheel lockup and skidding. The order bars BST and its president from using the term "ABS" in connection with their retrofitted brakes and from making false or unsubstantiated claims about the performance, benefits, or safety of the brakes.

RustEvader Corporation (a/k/a Rust Evader Corporation, d/b/a Rec Technologies)

The Commission issued an order making final an initial decision by an Administrative Law Judge in regard to RustEvader. The initial decision prohibited RustEvader from using the names "Rust Evader" or "Rust Buster" for a purported electronic corrosion-control device for automobiles that the Judge said is not effective in substantially reducing corrosion, despite the company's advertising campaign to the contrary. The Commission alleged that RustEvader made false claims about this product and about a demonstration and studies regarding its efficacy. The final order prohibits RustEvader from using the two brand names; misrepresenting the performance, efficacy, or attributes of any automotive product; and conditioning warranty coverage on the purchase of certain brand-named or trade-named products or services. The former president of the company is also required to pay consumer redress (see RustEvader Corporation, page 87).

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Consumer Protection Mission Permanent Injunctions

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Title ¹	Number	Action Date	Type of Matter	Product/Service
Ad-Com International, Inc.	X960041	10/01/96	Franchise Rule, 900-Number Rule	900-Number Business Venture
Alliance Communications, Inc.	X960124	11/06/96	Investment Fraud	Mobile Radio and Paging License Services
Carousel of Toys USA, Inc.	X970070	9/29/97	Franchise Rule	Display Rack Business Opportunity
Commercial Electrical Supply, Inc.	X960097	11/22/96	Telemarketing Sales Rule	Office Supplies
(Dean Thomas Corporation, Inc., The) Raymond Celie Randy B. Lonis	X970045 X970045	9/16/97 9/16/97	Deceptive Billing	Advertisements in Charitable Publications
Delta Distributors Company, Inc.	X950102	11/17/96	Franchise Rule	Pay Telephone Business Opportunity
(Direct Link, Inc.) Suzanne Bannister	X960065	11/07/96	Job Placement Fraud	Employment Services
(Fortuna Alliance, LLC) Monique Delgado	X960059	2/24/97	Investment Fraud	Internet Pyramid Scheme
(Genesis One Corporation, d/b/a Bureau One) Rose Kistorian	X960038	11/19/96	Franchise Rule	900-Number Business Venture
Georgia International Export Co., Inc., Andrew Gilmore L&S Manufacturing, Inc. Steven Axelrod Arnold Filner Wayne Gregory	X970008 X970008 X970008 X970008 X970008	8/06/97 8/06/97 8/06/97 8/06/97 8/06/97	Franchise Rule	Vending Machine Business Opportunity
Ideal Concepts, Inc.	X960002	2/10/97	Telemarketing Fraud	Prize Promotion
(Ideal Credit Referral Services Ltd.) David Wayne Panella	X960063	4/24/97	Telemarketing Sales Rule; Advance-Fee Loan Fraud	Consumer Finance Loans
(Intelinet Data Services) Patrick Donaghy	X960067	10/21/96	Job Placement Fraud	Employment Services

Consumer Protection Mission Civil Penalty Actions

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Title ¹	Number	Action Date	Type of Matter	Product/Service
Budget Marketing, Inc.	X890010	3/17/97	Electronic Funds Transfer Act	Magazine Subscriptions
Cabot Hosiery Mills, Inc.	X970035	3/31/97	Textile Fiber Products Identification Act	Socks
Hawthorne Communications, Inc.	X970024	1/28/97	Order Violation	Home-Based Business Opportunity
Health Wave, Inc.	X950097	12/20/96	Franchise Rule	Vending Machine Business Opportunity
International Masters Publishers Inc.	X970055	6/10/97	Order Violation	Mail Order Informational Cards
J.C. Penney Company, Inc.	X960110	10/08/96	Equal Credit Opportunity Act	Retail Consumer Credit
Lifestyle Fascination, Inc.	X970025	3/27/97	Order Violation	Catalog Products
Marketing Masters, Inc.	X970020	11/07/96	Funeral Rule	Funeral Goods and Services
Mattel, Inc.	X970016	1/21/97	Mail or Telephone Order Merchandise Rule	Toys
(Megatrend Telecommunications, Inc.) Alan D. Wittstein	X940016	9/04/97	Franchise Rule	Cordless Telephones
Money Tree, Inc., The	X970026	2/14/97	Equal Credit Opportunity Act	Consumer Loans
National Marketing, Inc.	X950089	10/01/96	Franchise Rule	Display Rack Business Opportunity
Nu Skin International, Inc.	X970073	8/11/97	Order Violation	Skin Care Products and Nutritional Supplements
O'Neill, Incorporated	X960100	10/10/96	Order Violation	Wetsuits
T.C.A., Inc.	X950082	4/17/97	Fair Debt Collection Practices Act	Debt Collection
Tower Loan of Mississippi, Inc.	X970022	2/20/97	Order Violation	Consumer Loan and Finance Services
United Compucred Collections, Inc.	X970053	4/16/97	Order Violation	Debt Collection
Venus Enterprises, Inc.	X970080	8/25/97	Care Labeling Rule	Women's Clothing
WestPoint-Stevens, Inc.	X970086	6/04/97	Textile Fiber Products Identification Act	Sheets and Towels

¹ A company name shown in parentheses is for identification of the case only. The company is not a defendant in the item shown in the table.

Budget Marketing, Inc (BMI).; Dale Branson (d/b/a Leisure Day Marketing); Charles P. Donly (d/b/a Budget Renewal Service); Charles A. Eagle; Roy Golden (d/b/a American Marketing Service); Dennis H. Gougion; John Harrison; Steven Johnson; Dave Keown (d/b/a Publishers Marketing); Dale T. Lenard (d/b/a Mega-Magazine

Consumer Protection Mission Consumer Redress Actions

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Title ^{1,2}	Number	Action Date	Type of Matter	Product/Service
American Business Supplies, Inc.	X960074	11/13/96	Telemarketing Sales Rule	Office Supplies
American Exchange Group, Inc.	X960080	3/13/97	Telemarketing Sales Rule	Magazine Subscription Prize Promotion
Todd Bishop	X960080	3/19/97		
American Fortune 900, Inc.	X960011	11/18/96	Investment Fraud	900-Number Telephone Lines
Amstar Finance Corporation	X960055	3/04/97	Advance-Fee Loan Fraud	Consumer Finance
Bell Connections, Inc.	X960030	12/10/96	Investment Fraud	Paging License Services
Best Marketing, Inc.	X960077	2/28/97	Prize-Promotion Fraud	Specialty Merchandise
Bureau 2000 International, Inc.	X960042	10/01/96	Franchise Rule	900-Number Business Venture
Career Assistance Planning, Inc.	X960089	9/18/97	Scholarship Fraud	Scholarship Search Services and Finance
Becky Burch Settles	X960089	2/24/97		
Career Information Services, Inc.	X960058	3/20/97	Job Placement Fraud; 900-Number Rule	Employment Services
Careers, Inc.	X960072	10/25/96	Job Placement Fraud	Employment Services
Christopher Ebere Nwaigwe	X960091	4/14/97	Scholarship Fraud	Scholarship Search Services and Finance
Udoka Maduka	X960091	4/14/97		
David L. Amkraut	X970033	1/21/97	Immigration Services Fraud	Green Card Lottery
Diversified Marketing Service Corporation	X960025	10/18/96	Telemarketing Sales Rule	Magazine Subscription Sales
Empress Corporation	X960008	2/15/97	Telemarketing Fraud	Magazine Subscription Prize Promotion
Falcon Crest Communications, Inc.	X960016	7/01/97	Investment Fraud	Mobile Radio and Paging Licensing Services
Republic Communications Corp.		2/07/97		
Joseph Caridi	X960016	7/01/97		
Joel H. Cohen	X960016	7/01/97		
Jordan S. Drew	X960016	7/01/97		
Gary Paperman	X960016	7/01/97		
	X960016			
Family Publishers Clearing Center	X960090	7/16/97	Telemarketing Sales Rule	Magazine Subscription Prize Promotion
Fortuna Alliance, LLC	X960059	2/24/97	Investment Fraud	Internet Pyramid Scheme
Genesis One Corporation, d/b/a Bureau One	X960038	11/19/96	Franchise Rule	900-Number Business Venture

Consumer Protection Mission Civil Contempt Actions

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Title	Number	Action Date	Type of Matter	Product/Service
Clear Your Credit, Inc.	X960101	3/25/97	Telemarketing Sales Rule; Fair Credit Reporting Act	Credit Repair
Digital Interactive Associates, Inc.	X950039	9/26/97	Telemarketing Fraud	Interactive Video and Data Service

Clear Your Credit, Inc.; Keith Berggren

The Commission obtained an agreement with Keith Berggren and the credit repair company through which he did business, settling civil contempt of court charges for violating a 1996 consent order. The Commission alleged that Berggren and the company continued to misrepresent that they could remove negative information about bankruptcies and automobile repossessions from consumers' credit reports, although the 1996 order included a permanent injunction against such deceptive credit repair claims. The current order permanently bars the defendants from doing any business in connection with credit improvement services. Berggren is also required to notify clients that they do not have to pay any amounts still owed on contracts entered into after April 12, 1996.

Digital Interactive Associates, Inc.; Terry K. Vickery

The court granted the Commission's motion for civil contempt against two defendants in this high-tech investment fraud case involving the telemarketing of interests in general partnerships. The court found that the defendants had failed to send a disclosure document to prospective investors and to advise them of the death of a managing partner, in violation of a preliminary injunction obtained by the Commission. The court required the defendants to offer refunds, totaling up to \$3.5 million, to approximately 340 investors. The court also found that the defendants had discarded documents in violation of the preliminary injunction. The ruling is on appeal to the Tenth Circuit Court of Appeals.

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Consumer Protection Mission Criminal Contempt Actions

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Title ¹	Number	Action Date	Type of Matter	Product/Service
(Meridian Capital Management, Inc.) Jeffrey A. Jordan	X950060	4/09/97	Telemarketing Fraud	Investment Scheme "Recovery Room"
(Metropolitan Communications Corp.) Joan Orth	X940024	9/08/97	Investment Fraud	Specialized Mobile Radio Licenses
(Perma-Derm Academy) Ronald Dante, d/b/a	X900025	3/12/97	Misrepresented Training and Potential Earnings	"Permanent Makeup" Workshops

¹ A company name shown in parentheses is for identification of the case only. The company is not a defendant in the item shown in the table.

(Meridian Capital Management, Inc.) Jeffrey A. Jordan

A U.S. district court ordered Jeffrey Jordan to show cause why he should not be held in criminal contempt pursuant to a petition charging him with violating a court-ordered asset freeze. The order stemmed from a 1995 case in which the Commission alleged that Jordan was part of a fraudulent telemarketing "recovery room," together with Meridian Capital Management, Inc., Advisory Consultants, Inc., and other individuals. The court temporarily halted the allegedly deceptive business practices and froze the defendants' assets to preserve them for consumer redress or disgorgement and subsequently entered a default judgment against Jordan. The Commission alleged that Jordan disobeyed the asset freeze provisions of the preliminary injunction by cashing certain checks and selling personal property without holding and accounting for the checks or property. Jordan was formally charged with the violations and entered a plea of not guilty. (Also see Meridian Capital Management, Inc., pages 98 and 128.)

(Metropolitan Communications Corp.) Joan Orth

Joan Orth, a defendant in a massive plan to sell Federal Communications Commission (FCC) specialized mobile radio licenses as a "low-risk, high-return" investment, pled guilty in July 1997 to violating a court-ordered asset freeze. The freeze was imposed as part of a settlement of allegations that the FCC license sales and services were based on false and misleading claims. The Commission alleged that Orth had transferred funds from her bank accounts and made other transfers in violation of the temporary restraining order and preliminary injunction. (Also see Metropolitan Communications Corp., page 128).

(Perma-Derm Academy; American Dermalogy Association) Ronald Dante, d/b/a

Ronald Dante was ordered by a U.S. district court to show cause why he should not be held in criminal contempt pursuant to a petition charging him with violating a permanent injunction. The order stemmed from a 1990 case in which the Commission alleged that Dante, doing business under two company names, misrepresented the training he provided at his "permanent makeup" workshops, the value of the certificates awarded, and the potential earnings of trainees. In 1991, an order was issued permanently barring Dante from making such misrepresentations and requiring him to make certain disclosures in advertising permanent makeup classes. According to the Commission, Dante violated the order by failing to make the required disclosures in connection with classes offered by

Consumer Protection Mission Consumer and Business Education

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Publications and Other Products

The Office of Consumer and Business Education produced 99 new and revised publications: 88 for consumers, 10 for businesses, and 1 for nonprofit organizations. During fiscal year 1997, the Office distributed more than 5.5 million print copies of Commission publications in response to requests from the public, including brochures sent to consumers with mailings of redress checks as a result of settlements of cases. To complement its online FTC ConsumerLine, the Office developed the FTC BusinessLine to disseminate business information. An additional 609,000 publications were accessed through these two Web sites. The Office continued to produce new information products including postcards and "FTC Briefs" - topic-specific consumer tips. Its Partnership for Consumer Education has grown to include the Metropolitan Atlanta Regional Transit Authority, Atlanta Gas Light, and others. The Partnership provides consumer education campaigns against fraud, both telemarketing and non-telemarketing fraud.

Outreach

To reach new audiences, the Office is working with the Commission's regional offices to translate selected consumer publications into Spanish and other languages, as needed. It also developed or repackaged materials for special audiences. For example, Getting Back in the Black - produced with the Chicago regional office, the Consumer Credit Counseling Service of Greater Chicago, and the Better Business Bureau - is designed to help indebted consumers become solvent. The Office also worked with the Washington, D.C., Fraud Task Force to produce and distribute a Consumer Alert - Thinking About a Home Improvement? Don't Get Nailed - to warn D.C. residents about unscrupulous home improvement contractors. The Alert was distributed through the local Meals-On-Wheels program and more than 550 District churches and senior centers.

During the three-day national Public Service Recognition Week event on the Mall with 60 other federal agencies, Office staff met the public and distributed more than 10,000 consumer brochures. In another outreach effort, the Office teamed up with the American Society of Travel Agents to distribute consumer education materials during the three-day D.C. Travel Fest.

The Office also continued its education effort to combat scholarship scams. Since 1996, nearly one million flyers, bookmarks, and posters have been distributed to counselors, students, parents, and college bookstores throughout the country. The project's specialized Web site has received tens of thousands of hits. In June 1997, two million bookmarks were printed and distributed through the 3,000 member stores of the National Association of College Stores. In addition, the College Board is distributing 40,000 bookmarks to the nation's high school guidance counselors. The Office also worked with public school systems and military family service centers across the country to disseminate consumer education materials.

Rulemaking Activities

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Competition Mission

Merger Guidelines

The Commission and the Department of Justice revised their joint 1992 Horizontal Merger Guidelines to clarify how they analyze efficiency claims in mergers under review and what merging firms must do to demonstrate claimed efficiencies. The revisions, drafted by an interagency task force, explain how efficiencies may affect the analysis of whether a proposed merger may lessen competition substantially in a relevant market. The agency will analyze, according to the revisions, the extent to which efficiencies enhance the merged firm's capacity to behave competitively and whether those efficiencies are likely to result in lower prices, improved quality, and enhanced service or new products. The revisions define more precisely which efficiencies are attributable to a proposed merger and which could be achieved in other ways, clarify what parties must do to demonstrate claimed efficiencies, and explain how efficiencies are factored into the analysis of the competitive effects of a merger.

Consumer Protection Mission

Care Labeling Rule

The Commission modified its Trade Regulation Rule Concerning the Care Labeling of Textile Wearing Apparel and Certain Piece Goods to permit clothing manufacturers to use symbols rather than written care instructions, beginning on July 1, 1997. The specified care symbols, developed by the American Society for Testing and Materials, appear on permanent labels inside garments to indicate a method for properly cleaning them. For the first 18 months the new symbols are in use, manufacturers must include written information explaining the symbols on hangtags or elsewhere with the garments. Allowing manufacturers to use symbols to comply with labeling requirements harmonizes U.S. clothing labeling regulations with those of Canada and Mexico, so that companies can use the same labels on garments offered for sale in any or all of the countries that are parties to the North American Free Trade Agreement.

Environmental Marketing Guides

The Commission updated its "green guides" on environmental claims in marketing, to reflect changing consumer perceptions and the emergence of new claims since 1992 when the first guides were issued. Additional guidance is now provided on the use of environmental seal-of-approval logos and the chasing arrows symbol, as well as marketing claims such as "environmentally preferable," "nontoxic," and "chlorine free." The Environmental Marketing Guidelines retain the section on general advertising principles and continue to address specific categories of environmental benefit claims, such as "degradable," "recycled content," and "ozone friendly." The revised guides were effective as of October 1996.

Games of Chance Rule

The Commission repealed its Trade Regulation Rule on Games of Chance in the Food

Economic Analysis Economic Reports and Working Papers

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Economic Reports

Economic Reports are major, published reports, usually containing original research and entailing a substantial commitment of resources, concerning an issue of current policy interest or of long-term impact on Federal Trade Commission antitrust or consumer protection missions.

Information and Advertising Policy: A Study of Fat and Cholesterol Consumption in the United States, 1977-1990, Pauline Ippolito and Alan Mathios, October 1996.

This study examines changes in Americans' consumption of fat, saturated fat, and cholesterol during a period when federal policy governing diet and health claims changed. The study finds that dietary improvements occurred more rapidly in the years after 1985, when policies were relaxed and health-related claims became more explicit and more frequent in advertising and labeling. The study includes a variety of detailed data on differences in consumer knowledge and sources of dietary fats over the period.

Economic Working Papers

Economic Working Papers are preliminary, unpublished work products of the Commission, resulting from original research by Bureau of Economics staff, either in connection with ongoing agency activities or as independent analyses.

Market Structure and the Flow of Information in Repeated Auctions (WP #213), Charles J. Thomas, December 1996.

Do Nonprofit Hospitals Exercise Market Power? (WP #214), John Simpson and Richard Shin (U.S. Department of Justice), December 1996.

Discriminatory Dealing with Downstream Competitors: Evidence from the Cellular Industry (WP #215), David Reiffen, Laurence Schumann, and Michael R. Ward, September 1997.

Advocacy Filings

Agency/State	Matter Number	Authorization Date	Subject/Issue
FEDERAL GOVERNMENT			
Congress of the United States	V970005	9/22/97	Tobacco Industry Settlement
Federal Communications Commission	V970001	4/16/97	Telecommunications Licensing
STATES			
California	V970003	4/07/97	Environmental Marketing Guides
Illinois	V960010	12/02/96	Collision Damage Waivers in Car Rentals
New Mexico	V970004	8/22/97	Optometrists' Business Operations
Virginia	V960015	1/03/97	Real Estate Closings

Economic Analysis Economic Reports and Working Papers

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Economic Reports

Economic Reports are major, published reports, usually containing original research and entailing a substantial commitment of resources, concerning an issue of current policy interest or of long-term impact on Federal Trade Commission antitrust or consumer protection missions.

Information and Advertising Policy: A Study of Fat and Cholesterol Consumption in the United States, 1977-1990, Pauline Ippolito and Alan Mathios, October 1996.

This study examines changes in Americans' consumption of fat, saturated fat, and cholesterol during a period when federal policy governing diet and health claims changed. The study finds that dietary improvements occurred more rapidly in the years after 1985, when policies were relaxed and health-related claims became more explicit and more frequent in advertising and labeling. The study includes a variety of detailed data on differences in consumer knowledge and sources of dietary fats over the period.

Economic Working Papers

Economic Working Papers are preliminary, unpublished work products of the Commission, resulting from original research by Bureau of Economics staff, either in connection with ongoing agency activities or as independent analyses.

Market Structure and the Flow of Information in Repeated Auctions (WP #213), Charles J. Thomas, December 1996.

Do Nonprofit Hospitals Exercise Market Power? (WP #214), John Simpson and Richard Shin (U.S. Department of Justice), December 1996.

Discriminatory Dealing with Downstream Competitors: Evidence from the Cellular Industry (WP #215), David Reiffen, Laurence Schumann, and Michael R. Ward, September 1997.

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Federal Government

Congress of the United States: Tobacco Industry Settlement

According to a Commission staff report, cigarette manufacturers could realize substantial profits by increasing the price of cigarettes significantly above the level needed to satisfy their payments under the proposed settlement between the tobacco industry and 40 state Attorneys General. The report states that profits could rise substantially, in part, because of an antitrust exemption that is much broader than necessary to achieve the legitimate public health goals of the settlement. The public sector will also gain financially from the proposed settlement, but the payments made by the companies most likely will be considerably less than the \$368.5 billion in the agreement, the staff suggested. The report, "Competition and the Financial Impact of the Proposed Tobacco Industry Settlement," is an analysis of the potential economic impact of the proposed settlement and was prepared in response to a request from the House of Representatives Task Force on Tobacco and Health.

Federal Communications Commission: Telecommunications Licensing

Federal Trade Commission staff filed comments with the Federal Communications Commission (FCC) supporting its efforts to provide important information to potential purchasers of FCC telecommunications licenses. The Commission agreed that the license application form should be modified to include clear and conspicuous disclosures about several items: FCC regulations prohibiting speculating and trafficking in wireless telecommunications licenses, construction requirements for the licenses, and the potential for fraud in the licensing process. The Commission also supported the FCC requirement that application preparers identify themselves on the application and certify that they have provided the applicants with information about pertinent FCC regulations. The Commission suggested in addition that entities coordinating the frequencies for paging license applications be required to disclose to applicants the number of preexisting co-channelled licenses for the frequency and that bidders at auctions be required to disclose the ultimate intended owners of the licenses and certify that they have provided these persons with information about FCC regulatory requirements. The Commission said that providing consumer applicants with information about the licenses, the application process, and FCC regulations would help to reduce investment fraud in that area in the future.

States

California: Environmental Marketing Guides

Commission staff responded to a member of the California Assembly who asked about the effectiveness of the Commission's Environmental Marketing Guidelines. Staff stated that the guides have been effective in helping to reduce confusion about environmental claims in advertising and in preventing the false or misleading use of terms such as "recyclable," "degradable," and "environmentally friendly," and that the number of deceptive claims had declined since the guides were issued in 1992. Several states, including California, have repealed or modified their laws to make them consistent with the Commission's guides, and the Commission has cooperated with state Attorneys General in bringing law enforcement cases against firms engaged in allegedly deceptive environmental advertising. The comments were solicited in connection with the California Assembly's consideration of a proposed environmental labeling bill.

Illinois: Collision Damage Waivers in Car Rentals

Commission staff filed comments with the Illinois State Legislature regarding Illinois House Bill 3285, "The Renters' Financial Responsibility and Protection Act." The proposed bill would repeal the current ban preventing car rental firms in Illinois from offering a "collision damage waiver" (CDW) option and would impose disclosure requirements on car rental firms and a cap on CDW charges, among other things. The Commission expressed the view that allowing CDW to be offered could benefit consumers by giving them an additional way to cover the risk of unintentional loss, that giving consumers enough information to make informed choices is better than eliminating a choice altogether, and that requiring some disclosures is preferable to prohibiting CDW altogether.

New Mexico: Optometrists' Business Operations

Commission staff testified at a hearing of the New Mexico Board of Optometry that the Board's proposal to restrict the business arrangements between optometrists and complementary businesses (such as stores that sell eyeglasses) could increase costs and restrict consumers' access to eye care, while offering no countervailing benefits. The proposed rules would prevent optometrists from entering into leases or any other kinds of business arrangements that contain certain prohibited features, such as maintaining particular office hours or sharing support services or personnel. According to Commission staff, such restrictions discourage potentially efficient and procompetitive ways of providing services and may inhibit the development of large-scale practices and volume purchase discounts.

Virginia: Real Estate Closings

Joint comments of the Commission and the Department of Justice were submitted to the Supreme Court of Virginia in opposition to an Advisory Opinion issued by the Virginia State Bar, Standing Committee on Unauthorized Practice of Law. The Opinion addressed the issue of non-lawyers conducting real estate closings in Virginia. The question was whether a non-lawyer (who may or may not be licensed as a title agent in Virginia and may or may not be employed by a title and escrow company) may conduct a closing of the sale of real estate or a loan secured by real estate. The Commission and the Department of Justice expressed the view that the proposed Opinion would prevent anyone other than a lawyer from conducting closings for real estate purchases and would thus deprive consumers of the choice to use a lay settlement service, which would increase real estate closing costs.

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Retailing and Gasoline Industries because the concerns that prompted adoption of the rule in 1966 appear to have disappeared. The Rule had addressed abuses in games of chance used by grocery stores and gas stations and had required various disclosures and prescribed certain procedures for operating the games. The Rule also became outdated because it covered only a limited sector of retail businesses that now use games of chance in their promotions. The Commission determined that the costs of the Rule now outweigh its benefits and that any future abuses can be prosecuted on a case-by-case basis.

Jewelry Guides

The Commission revised its guide for the marketing of jewelry made wholly or in part of platinum, a precious metal more costly than gold. The guide provides for different markings on articles made of platinum, depending on the relative fineness or parts per thousand of pure platinum versus platinum-group metals (iridium, palladium, ruthenium, rhodium, and osmium). The revised guide adopts the international standard for platinum jewelry but continues to permit some markings not currently included in the international standard on products marketed in the United States. Other sections of the Guides for Jewelry, Precious Metals, and Pewter Industries, which assist the industry and consumers by helping marketers avoid deceptive or misleading representations about such products, were revised in 1996.

Leather Guides

As part of its efforts to streamline and update regulations, the Commission issued Guides for Select Leather and Imitation Leather Products, which combine relevant portions of three older guides for shoes, luggage, and handbags, and provisions from a now-rescinded rule on the marketing of leather belts. The Commission also worked to harmonize the new guides with a European Union Directive concerning footwear. The new guidelines warn manufacturers and retailers against misrepresenting the composition of such products or misusing terms such as "waterproof" and "scratchproof." Products that are imitation leather should include a disclosure to that effect. The new guides became effective in December 1996.

Mirror Guides

The Commission rescinded the Guides for the Mirror Industry, which have been made obsolete by the adoption of industry standards and the technological advances in the manufacture of mirror glass. The Guides, issued in 1962 and revised in 1972, were intended to help the industry avoid deceptive claims in advertising or promotional materials, concerning such things as the quality or composition of mirrors or mirror glass.

Used Oil Rule

The Commission repealed the Trade Regulation Rule on Deceptive Advertising and Labeling of Previously Used Lubricating Oil, stating that the Rule's requirements for engine oils had been preempted by the new Recycled Oil Rule, which the agency promulgated in October 1995 as required by the Energy Policy and Conservation Act. The Recycled Oil Rule permits manufacturers and sellers to represent that recycled oil is substantially equivalent to new engine oil, so long as the determination of equivalency is based on test procedures prescribed by the Commission.

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Cooperative Projects

The Office continued its work on consumer.gov - a Web page with links to federal consumer information - with the Consumer Product Safety Commission, the Food and Drug Administration, the National Highway Traffic Safety Administration, the Securities and Exchange Commission, and the U.S. Office of Consumer Affairs.

The Office continues to develop public/private sector partnerships to advance its education efforts whenever possible. During fiscal year 1997, the Office designed, developed, and marketed multi-pronged communications efforts including print, broadcast, and specialty Web sites for the following projects:

- Project Missed Fortune - with the North American Securities Administrators Association (NASAA) - to alert consumers to fraudulent get-rich-quick schemes.
- Operation False Alarm - with the Seattle Regional Office, the National Association of Attorneys General (NAAG), secretaries of state, and other state charities regulators - to attack badge-related fund-raising fraud. In addition to regular distribution to national media and more than 6,500 consumer opinion leaders, a targeted mailing list was compiled of more than 2,000 consumer and business media and nonprofit outlets with a combined circulation of more than 210 million readers.
- Project Price Check - with several private-sector organizations - to tell consumers how they can avoid pricing errors in stores using electronic scanners and to provide tips for business to help them better implement good pricing practices.
- Who Cares? Sources of Information About Health Care Products and Services - with NAAG - to provide information to consumers on how to avoid deceptive claims and whom to contact about alternative medicines or prescription drugs, complaints about nursing care facilities, and much more. The Office released a radio public service announcement in English and Spanish that was distributed to an estimated 2,200 stations across the country.
- Operation Trip Up - with the American Society of Travel Agents - to warn consumers about travel-related scams. The U.S. Tour Operators Association and the National Tour Association cooperated in the promotion and distribution of these materials.
- Project Waistline - a long-term public education program to alert consumers to misleading and deceptive weight-loss claims and to steer them to accurate information about healthy weight loss.
- Disaster Response and Consumer Protection: Action Items - with NAAG and the National Association of Consumer Agency Administrators - to help law enforcement officials prepare for or respond to disaster-related consumer protection problems. The information kit includes a 10-step guide to disaster response and other materials.
- Internet Pyramid Surf Day - with the Interactive Services Association through Project OPEN (the Online Public Education Network) - to tell consumers how to avoid potential scams when surfing the net for investment and business opportunities.

- Project CLEAN - with clothing and laundry appliance manufacturers, retailers, detergent and bleach companies, and other industry members - to educate consumers about the new, voluntary clothing care symbols.
- Project Workout - a public education campaign with the American College of Sports Medicine, American Council on Exercise, American Orthopaedic Society of Sports Medicine, and Shape Up America! to educate consumers about fitness and shopping wisely for exercise equipment.
- Measuring Up: Good Packaging Practices for Dairy Products - with the National Institute of Standards and Technology - a business brochure that highlights findings of a federal/state study on "short-filling" of milk, other dairy products, and juice.
- Field of Schemes - with NASAA - to increase public awareness of fraudulent investment opportunities.
- Project Trade Name Games - with Walt Disney and Warner Bros. - to alert consumers to fraudulent display racks scams involving licensed products from well-known companies and organizations.
- Project Mousetrap - with the U.S. Patent and Trademark Office, inventors associations, and other public and private sector groups - to tell consumers about the invention marketing and patenting process and to alert them to the fact that fraudulent invention promotion companies promise returns, but never deliver.
- Costly Coupon Scams - with the Coupon Information Center (CIC) - a brochure giving tips to consumers tempted to buy into a coupon clipping venture. As part of Internet Coupon Surf Day, the Commission and CIC identified 31 Internet ads for potentially fraudulent coupon-related schemes and warned promoters, by e-mail, of the consequences of running such schemes.
- The Low-Down on High Octane Gasoline - a Commission brochure informing consumers that regular gasoline, not high octane, is the right fuel for most cars. Exxon Corporation, as part of a consent agreement with the Commission regarding unsubstantiated advertising claims, launched a massive consumer education and advertising campaign that includes 15-second television ads and the distribution of its own consumer publication at Exxon service stations nationwide.
- Fair Credit Reporting Act, as amended - a long-term education campaign to alert consumers, employers, insurers, and other businesspeople about major changes to the FCRA.
- Project Mail Box - with the U.S. Postal Inspection Service, NAAG, 25 state Attorneys General and local law enforcement officials, and the American Association of Retired Persons - announced 190 law enforcement actions against fraudulent direct-mail schemes.
- The Alliance for Investor Education -- a public/private consortium to alert consumers to bogus investment opportunities.

- The Leasing Education Project Team - a public/private effort coordinated by the Federal Reserve Board to educate consumers about vehicle leasing.

Additional Education Efforts

Additional education efforts include: Ready, Set...Credit, with the American Express Company; Buying Time: The Facts About Pre-Paid Phone Cards, with American Express and the Better Business Bureau of Metropolitan New York; Federal Job Scams, with the U.S. Office of Personnel Management; Advertisements Offering Debt Relief May Be Offering Bankruptcy, with the American Financial Services Association; Look Before You Lease; Magazine Subscription Scams; International Telephone Number Scams; Knee-Deep in Debt; and Toll-free Telephone Number Scams.

The Office also continues to work with the Consumer Literacy Consortium, the Federal Consumer Information Center, the Alliance Against Fraud in Telemarketing, the International Credit Association, the National Coalition for Consumer Education, the Fair Lending Task Force, and the JumpStart Coalition for Personal Financial Literacy.

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Permanetics Institute, a company he owned and operated under an assumed name, and further violated the order by making misrepresentations about potential earnings in connection with paralegal courses offered by the American Professional Institute, a subsidiary of Permanetics. Dante was formally charged with the violations and entered a plea of not guilty.

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Ali Mostashari	X960038	2/21/97		
Glendale Associates (Patricia Esme Popp, d/b/a)	X960084	10/10/96	Telemarketing Sales Rule; Advance-Fee Loan Fraud	Consumer Finance
Global Assistance Network for Charities	X970006	2/04/97	Pyramid Scheme	Charity Contributions
Gold Leaf Publishing & Distributing Company, Inc. (William Szabo, d/b/a)	X960044	10/01/96	Franchise Rule	900-Number Business Venture
(Ideal Concepts, Inc.) Michael Garganese	X960002	6/25/97	Telemarketing Fraud	Prize Promotion
Ideal Credit Referral Services Ltd.	X960063	4/24/97	Telemarketing Sales Rule; Advance-Fee Loan Fraud	Consumer Finance
Incentive International, 9013-0980 Quebec, Inc., d/b/a	X960099	2/11/97	Cross-Border Telemarketing Fraud	Prize Promotion
Infinity Multimedia, Inc.	X960073	1/15/97	Franchise Rule	Display Rack Business Opportunity
Insulate Industries, Inc.	X950038	10/18/96	Home Improvement Fraud	Windows
Intelinet Data Services	X960067	8/06/97	Job Placement Fraud	Employment Services
(Law Center, The) Walter D. Channels	X960069	12/12/96	Telemarketing Sales Rule	Credit Repair
James Martin Coose	X960069	12/12/96		
(Linc II, Inc.) Betty Busler	X960083	3/12/97	Job Placement Fraud	Employment Services
Marquette, Inc. Monte Bolt	X950076	1/28/97	Franchise Rule	Billing Software Business Opportunity
	X950076	2/24/97		
Medical Recovery Service, Inc.	X970012	2/28/97	Business Opportunity Fraud	Medical Billing Consultant
Shapiro, Kossmeyer & Flom PC	X970012	2/28/97		
Mentor Network, Inc., The	X970015	3/20/97	Pyramid Scheme	Charity Contributions
Mercantile Messaging, LLC (Daniel B. Lubell, d/b/a)	X970013	5/27/97	Telemarketing Sales Rule	Pay-Per-Call Travel Information
(Meridian Capital Management, Inc.) Jeffrey A. Jordan, Markos Mendoza	X950060	2/04/97	Telemarketing Fraud	Investment Scheme "Recovery Room"
Russell Mann	X950060	10/10/96		
(Metropolitan Communications Corp.) Sheldon Jackler	X940024	9/08/97	Investment Fraud	Specialized Mobile Radio Licenses
Joan Orth	X940024	9/08/97		
Michael P. McGowan	X960076	4/10/97	Telemarketing Sales Rule	Office Supplies
Micom Corporation	X960024	3/12/97	Investment Fraud	Mobile Radio and Paging License Services

(Multinet Marketing, LLC) American Readers Service, Inc.	X960081	11/04/96	Telemarketing Sales Rule	Magazine Subscription Prize Promotion
National Art Publishers and Distributors, Inc.	X940042	6/26/97	Telemarketing Fraud	Movie Posters and Collectibles
National Business Distributors Company, Inc. Deborah L. Azari, Raphael Ralph Azari	X960087	1/22/97	Telemarketing Sales Rule	Office Supplies
Oasis Southwest, Inc.	X960087	11/12/96		
Oasis Southwest, Inc.	X960079	6/06/97	Telemarketing Sales Rule	Prize Promotion - "Say No to Drugs" Materials
Omega Promotions Inc.	X960118	4/04/97	Job Placement Fraud	Employment Services
(On Line Communications, Inc.) Robert Corey	X960022	11/02/96	Telemarketing and Investment Fraud	Paging License Services
Pantron I Corporation	X890012	2/13/97	Infomercials	Baldness Cure
Pase Corporation	X940059	2/06/97	Business Opportunity Fraud	Work-at-Home Opportunity
Precision Communications Administration, Inc.	X970004	2/25/97	Business Opportunity Fraud	Pay-Per-Call Business Ventures
Progressive Media, Inc. Collegiate Communications Group, Inc.	X970011	7/24/97	Telemarketing Fraud	Student Employment and Financial Aid
Collegiate Communications Group, Inc.	X970011	7/24/97		
(Publishers Award Bureau) Marc DuBoise, Gerald E. LaFrance, Kenneth E. Nelson	X960098	3/12/97	Telemarketing Sales Rule	Magazine Subscription Prize Promotion
Retail Sales & Marketing (Joseph Hayes and Thelma Hayes, d/b/a)	X970003	8/18/97	Franchise Rule	Directory Board Advertising Business Opportunity
S.J.A. Society, Inc.	X970061	8/25/97	Telemarketing Sales Rule; Fair Debt Collection Practices Act	Magazine Subscriptions
Sage Seminars, Inc.	X950065	10/29/96	Franchise Rule	Motivational Seminars
Silver State Western Publishing, Inc., d/b/a Prime Time Marketing	X960053	12/04/96	Telemarketing Sales Rule	Prize Promotion - "Say No to Drugs" Materials
Sparta Chem, Inc.	X960071	11/05/96	Telemarketing Sales Rule	Office Supplies
Student Aid Incorporated	X960115	8/07/97	Scholarship Fraud	Scholarship Search Services and Finance
Student Assistance Services, Inc.	X960120	6/23/97	Scholarship Fraud	Scholarship Search Services and Finance
Thadow, Inc.	X950018	12/05/96	Telemarketing Fraud	Telefunding Scheme "Recovery Room"
Thornton Communications, Inc.	X970083	8/14/97	Telemarketing Fraud	Advance-Fee Credit Cards
Tower Cleaning Systems, Inc.	X960122	10/02/96	Franchise Rule	Commercial Janitorial Cleaning Franchises
Universal Credit Corporation (Gabrielle Ellis and Mark Thomas Ellis, d/b/a)	X960048	12/16/96	Telemarketing Sales Rule	Credit Repair
USA Channel Systems, Inc. Rick Havil	X960017	12/05/96	Investment Fraud	Paging License Services
Rick Havil	X960017	12/06/96		

USA Credit Services	X960068	3/18/97	Telemarketing Sales Rule	Credit Repair
Windward Marketing, Ltd.	X960026	3/05/97	Telemarketing Fraud	Magazine Subscription Prize Promotion
Genisis Marketing and Administration, Inc.	X960026	10/16/96		
World Class Network, Inc.	X970031	5/06/97	Multi-Level Marketing Fraud	Travel Agent Credential Mill
Worldwide Marketing and Distribution Company, Inc.	X950056	10/23/96	Franchise Rule	Vending Machine Business Opportunity
Worldwide Wallcoverings and Blinds, Inc.	X960096	6/24/97	Mail/ Telephone Order Merchandise Rule	Wallpaper and Window Coverings
Martha Kazak, Bruce Sears	X960096	5/06/97		

¹A company name shown in parentheses is for identification of the case only. The company is not a defendant in the item shown in the table.

²Redress or disgorgement funds were also obtained from the following:

2943174 Canada, Inc. (see page 68)
 Amerifit, Inc. (see page 71)
 BodyWell, Inc. (see page 71)
 Computer Business Services, Inc. (see page 73)
 Guildwood Direct Limited (see page 76)
 Interactive Medical Technologies, Ltd. (see page 77)
 KCD Holdings, Inc. (see page 78)
 Money Tree, Inc., The (see page 79)
 Nationwide Syndications, Inc. (see page 80)
 Pre-Paid Legal Services, Inc. (see page 70)
 RustEvader Corporation (see page 87)
 Tower Loan of Mississippi, Inc. (see page 109)

The consumer redress amounts included in the following case descriptions are those ordered by the court. They may be higher than the amounts actually collected and returned to consumers.

American Business Supplies, Inc.; Creative Business Consultants, Inc.; Interstate Office Systems, Inc.; Nationwide Office Products, Inc.; Michael Chierico; Teri Chierico

A "boiler room" telemarketing operation selling office supplies under four company names will pay \$1 million for consumer redress to settle allegations that its business practices violated federal laws. The Commission alleged that the operation used deceptive tactics to induce thousands of consumers to order merchandise, charged them inflated prices, and pressured them to collect bills. The order also requires Michael and Teri Chierico, who ran the operation, to post a \$100,000 performance bond before engaging in telemarketing again and prohibits them from using misrepresentations in future telemarketing.

American Exchange Group, Inc.; Todd Bishop; William S. Kelly

American Exchange and William Kelly, one of its principals, are required to pay \$52,000 for consumer redress to settle allegations that they violated the Telemarketing Sales Rule. A default judgment was also entered against Todd Bishop, which requires him to pay more than \$173,000 into the consumer redress fund. The Commission alleged that the defendants ran a fraudulent prize-promotion telemarketing scheme in which they promised consumers large awards if they purchased magazine subscriptions and other items, but the awards were not received or were worth significantly less than represented. The orders prohibit all three defendants from future misrepresentations and violations of the Rule, and the order with Kelly and American Exchange also bans them from engaging in prize-promotion telemarketing and recovery services.

American Fortune 900, Inc.

American Fortune settled allegations that it falsely represented that investments in its 900-number venture were low risk and would produce substantial profits. In fact, the Commission alleged, the company depleted a substantial portion of investors' capital in paying sales commissions and other expenses and misrepresented the number of operational 900-number lines in which it had a financial interest. The order imposes a judgment of \$2,544,000 against the firm, to be used for consumer redress, although it is unclear how much of this amount can be collected. The order also prohibits the firm from making false claims in marketing any investment or telephone information service in the future.

Amstar Finance Corporation; Amstar Investment Corporation; Bibekanand Satpathy

Two loan companies and their owner agreed to settle allegations that few, if any, of their customers received promised business loans and other financing for which they paid upfront fees averaging \$3,000. The order includes a \$300,000 judgment for consumer redress, but suspends that judgment based on the defendants' sworn financial statements. The consent order requires Bibekanand Satpathy to post a \$500,000 performance bond before marketing loan or credit services in the future and bars all defendants from making false representations regarding such services.

Bell Connections, Inc.; Michael Berman (d/b/a Discount Filing Services); Donald Lee Dayer; Jimmie Justus; Erwin Allen Strauss

A settlement with Bell Connections and four individual defendants resulted in a consumer redress fund totaling nearly \$200,000. The Commission alleged that the defendants misrepresented the value and investment potential of paging licenses available through the Federal Communications Commission (FCC), to induce consumers to pay substantial fees for Bell Connections' services in preparing license applications. The order requires each of the individual defendants to post a \$275,000 bond before selling similar or related services for FCC licenses or any investment and prohibits them from making false claims about any investments and telemarketed products or services. Judgments of approximately \$1,378,000 had been entered against the defendants, but the total amount could not be collected.

Best Marketing, Inc.; Edward H. Hexter (a/k/a David D. Best)

Best Marketing and its president agreed to settle allegations that they misrepresented the value of prizes they awarded to induce small business owners to buy advertising specialty products through their telemarketing operation. The order requires Edward Hexter to pay \$125,000 to the U.S. Treasury. In addition, the defendants are prohibited from making misrepresentations in prize promotions, and Hexter is required to post a \$500,000 bond before engaging in future telemarketing activities.

Bureau 2000 International, Inc.; Malibu Media, Inc.; Krystee Carr; Dave Ryder

The Commission reached a settlement with two companies and their corporate officers, under which they are required to pay \$25,000 into a consumer redress fund. The defendants, who sold business opportunities consisting of 900-number lines offering entertainment programs, were alleged to have violated the Franchise Rule by failing to give investors important information about the venture they offered. The order requires the defendants to give potential purchasers of any future franchise or business opportunity the information and documentation mandated by the Rule and prohibits them from making false earnings claims and other misrepresentations.

Career Assistance Planning, Inc. (d/b/a College Assistance Planning, College Assistance Program, and C.A.P.); David Chaim Levy; Donna M. Levy (a/k/a Donna Holleger); Becky Burch Settles

A federal district court judge upheld Commission allegations against David and Donna Levy, who allegedly ran a scholarship search service scam that defrauded consumers of over \$6 million. The court found that the Levys orchestrated the fraudulent practices used by Career Assistance Planning, inducing tens of thousands of students and their parents to pay for services the company failed to provide. The court observed that the company had received over 2,500 consumer complaints, many from consumers who did not receive scholarships or the refunds of fees that the defendants promised.

The judge ordered the Levys to pay over \$6 million in consumer redress and to post a \$6 million performance bond before engaging in any telemarketing activity in the future. In a separate settlement, Becky Settles agreed to pay just over \$13,000 for consumer redress for her role in the fraudulent scholarship search service. The order requires Settles, for 10 years, to post a \$75,000 bond before participating in any telemarketing activity and prohibits her from making false representations about any future scholarship search service she markets.

Career Information Services, Inc.; CIS Associates, Inc.; William Phillips; David Lee Smith

Two related employment services and their senior officers agreed to settle allegations that they defrauded consumers seeking federal and postal jobs. According to the Commission, the defendants advertised what appeared to be specific and available jobs, but consumers who called the 800 number in the ads were directed to call a 900 number and were not told about the charge for placing that call. The Commission alleged that the pay-per-call service then instructed the caller to write for an information package, which turned out to have little or no information about particular job openings. The settlement requires monetary redress of nearly \$2.6 million. In addition, each defendant is required to post a \$1 million bond before marketing career advisory or pay-per-call services in the future. The order would also prohibit the defendants from violating the 900-Number Rule's cost disclosure requirements and from making deceptive statements about the availability and nature of federal and postal employment.

Careers, Inc.; Daniel T. Faulkner; Nicholas S. Mancino

An agreement with Careers and two of its officers requires them to pay \$350,000 into a fund for consumer redress to settle allegations that they deceptively marketed employment services for airline jobs. According to the Commission, the defendants placed advertisements in newspapers nationwide and charged upfront fees for their services, but few, if any, consumers received the type of job placement assistance promised. The order prohibits the defendants from claiming that they are affiliated with airlines and from making other false statements. In addition, the two individuals are required to post a \$250,000 performance bond before getting involved in an employment services business in the future.

Christopher Ebere Nwaigwe (a/k/a Christopher Maige, Michael Morge, and Michael Norge); Udoka Maduka (a/k/a Michael Mann)

Two individuals agreed to settle allegations that they promoted a fraudulent college scholarship search service. The Commission alleged that the defendants solicited students nationwide, under such names as "National Science Program" and "National Law Scholarship Program," but that consumers got little or nothing for their "processing fee." In separate orders, each defendant agreed to forfeit consumer funds seized by the Commission, which will be used for consumer redress. In addition, the settlements impose a \$10,000 judgment against Christopher Nwaigwe and a \$9,000 judgment against Udoka Maduka. Nwaigwe is required to post a \$300,000 bond and Maduka a \$50,000 bond before engaging in a scholarship service business in the future.

David L. Amkraut (d/b/a Law Offices of David L. Amkraut)

David Amkraut, an immigration attorney, settled allegations that he misled tens of thousands of people worldwide who wanted to obtain visas through the State Department's "green card" lottery. Winners of the lottery, created to encourage ethnic diversity, can apply for immigrant visas, which are used to enter the United States. The immigrant visas are then exchanged for permanent residence visas, commonly referred to as "green cards." According to the Commission, Amkraut misrepresented the nature of the lottery and his ability to increase an individual's chances of winning. In addition, the Commission alleged, he jeopardized his customers' lottery entries by violating State Department rules and he withheld information packages from lottery winners to try to pressure them into paying him additional fees to process the green card application. The consent order prohibits Amkraut from misrepresenting his ability to increase an individual's chances of becoming a winner in the lottery or misrepresenting any other fact material to a consumer's decision to purchase his services and from failing to comply with State Department rules and procedures. The order also requires Amkraut to disclose the nature of the lottery, procedures, and fees and to return information packages to winners in a timely manner. In addition, Amkraut agreed to provide consumer redress "in kind" by assisting past customers to enter the lottery free of charge. The actual cost of redress depends on the number of

customers who avail themselves of the offer, but is expected to total over \$250,000.

Diversified Marketing Service Corporation; Magazine Club Billing Service, Inc.; National Marketing Service, Inc.; Neighborhood Periodical Corporation (NPC) of the Midwest, Inc.; C.H. Kuykendall; H.G. Kuykendall, Jr.; H.G. Kuykendall, Sr.

Diversified Marketing, its affiliated corporations, and its officials settled allegations that they made a variety of misrepresentations and debited consumers' bank accounts without authorization as part of a magazine telemarketing scheme. The Commission alleged that the defendants misrepresented the cost of magazine subscription packages and the reason for obtaining checking account numbers and refused to cancel subscriptions. The order requires the defendants to pay \$1.5 million in consumer redress and prohibits them from making the alleged misrepresentations and from charging consumer's credit cards or debiting their checking accounts without approval.

Empress Corporation (d/b/a American Publishers Exchange, Inc.); Scott Cooke

Empress, a telemarketing company, and its president agreed to settle allegations that they induced consumers to purchase magazine subscriptions by misrepresenting that consumers would receive prizes worth as much as or more than the cost of the subscriptions. The Commission settlement, together with a companion settlement filed by the State of Nevada, requires the defendants to pay approximately \$277,000, of which \$93,000 will go toward consumer redress. Funds will also go to consumer protection enforcement in Nevada and to the National Tape Library in San Diego, a valuable law enforcement resource that is a repository for telemarketing pitches. In addition, the order prohibits the defendants from misrepresentations in connection with prize promotions like those in this case.

Falcon Crest Communications, Inc.; Republic Communications Corporation; Joseph Caridi; Joel H. Cohen; Jordan S. Drew; Gary Paperman

In six separate settlements, two related companies and four individuals agreed to settle allegations in connection with the sale and management of wireless communications licenses issued by the Federal Communications Commission (FCC). Falcon Crest and Republic allegedly touted themselves as experienced brokers for FCC licenses but delivered few, if any, offers to buy or lease the licenses. The orders require consumer redress as follows: Falcon Crest, \$3,100; Republic, \$38,544; Joseph Caridi, \$350,000; Joel Cohen, \$30,000; Jordan Drew, \$350,000; Gary Paperman, \$30,000. The order with Republic bars it from misrepresenting facts about wireless communications licenses or investment offerings in the future. The orders with Falcon Crest and four of its principals prohibit them from misrepresenting investments or any telemarketed product or service. In addition, Caridi and Drew are barred from any telemarketing for five years, and Cohen and Paperman must obtain \$500,000 bonds before engaging in the telemarketing of any investments in the future.

Family Publishers Clearing Center; Warner Lists (American Enterprise List, Inc., d/b/a); Kenneth Caparoni; Philip Katz; Sheldon Katz; Michael Weiss

Two companies and their principals agreed to settle allegations that they misrepresented the nature and value of prizes they offered to induce consumers to purchase magazine subscriptions and failed to make other disclosures required by the Telemarketing Sales Rule. According to the Commission, Family Publishers solicited consumers for magazine subscriptions by offering purportedly valuable prizes, and Warner Lists provided customer lists and other services. As part of the settlement, the four individuals paid consumer redress totaling over \$120,000. The defendants are prohibited from providing lists, prizes, prize certificates, or any other substantial assistance or support to any seller or telemarketer engaged in deceptive practices. The defendants are also required to post a performance bond of \$500,000 before engaging in similar telemarketing activities or providing lists to telemarketing businesses, and they are prohibited from violating the Rule in the future.

Fortuna Alliance, LLC; Augustine Delgado; Donald R. Grant; Libby Gustine Welch

The Commission reached a settlement with Fortuna and its officers under which the defendants could pay more than \$5 million for consumer redress. The Commission alleged that the defendants promoted an investment program on the Internet that was actually an illegal pyramid scheme. They allegedly induced thousands of consumers around the world to join the pyramid scheme, promising

thousands of dollars in "profits" as other people "enrolled" in the program. Under the settlement, every Fortuna member is entitled to a full refund of membership fees. The money for the refunds comes from funds frozen in the United States and from \$2.8 million transferred from Antigua, West Indies. The order also permanently bars the defendants from participating in any chain or pyramid program and from making deceptive earnings claims in connection with any marketing or investment program they offer. (Also see Fortuna Alliance, LLC, page 94.)

Genesis One Corporation (d/b/a Bureau One); Ali Mostashari (a/k/a Alex Bass)

The Commission reached a settlement with Genesis One and entered a default judgment against Ali Mostashari in connection with allegations that they made false earnings claims and other misrepresentations in marketing pay-per-call 900-number business ventures. The Commission also alleged that the defendants violated the Franchise Rule by failing to give investors required pre-purchase information. The settlement with Genesis One, which is under receivership, includes a \$5 million judgment for consumer redress. It is uncertain how much of this amount will be collected, but the receiver now holds \$400,000 in funds that will be distributed. The default judgment against Ali Mostashari includes \$6.1 million for redress. Both orders bar the defendants from misrepresenting income and other information concerning any franchise or business opportunity and from violating the Rule. (Also see Genesis One Corporation, page 95.)

Glendale Associates; Crown Credit Services; Star Financial Services (Patricia Esme Popp, d/b/a all three businesses)

Patricia Popp, doing business under three company names, agreed to pay \$10,000 for consumer redress to settle allegations that she falsely promised "guaranteed" loans to consumers and that she charged an advance fee for her services, a violation of the Telemarketing Sales Rule. The order prohibits Popp from violating the Rule and from misrepresenting any credit offer or service in the future and requires her to post a \$250,000 bond before engaging in any telemarketing effort or offering any credit services.

Global Assistance Network for Charities; Eileen Belcar; Cedrick Robles

Operators of a pyramid plan that advertised on the Internet and in newspapers agreed to settle allegations that they made false and misleading statements to sell membership in the scheme, claiming that consumers could contribute to a charity and earn thousands of dollars a month. The order bars Eileen Belcar and Cedrick Robles from selling or offering for sale membership in any multilevel marketing, investment, or charitable donation program or plan, and from making unsubstantiated income or profitability claims and misrepresentations. The defendants are also required to pay full consumer redress of \$4,900, an amount that reflects the fact that the Commission stopped the scheme in its very early stages.

Gold Leaf Publishing & Distributing Company, Inc. (William Szabo, d/b/a)

William Szabo, doing business as Gold Leaf, is required to pay over \$28,000 for consumer redress to settle allegations in connection with the sale of pay-per-call 900-number business ventures. The Commission alleged that Szabo made false earnings claims and failed to give investors required pre-purchase information, in violation of the Franchise Rule. Szabo is prohibited from violating the Rule in the future.

(Ideal Concepts, Inc.)

Michael Garganese

The former owner of Ideal Concepts agreed to settle allegations that the company's telemarketers promised consumers, primarily senior citizens, valuable prizes or awards that were never delivered or, if delivered, were worth a fraction of their claimed value. The prizes were offered as an inducement for consumers to purchase a variety of products costing from \$400 to over \$1,000. The settlement requires Michael Garganese to pay \$15,000 in consumer redress and permanently bans him from any future telemarketing activities, including sales of any goods or services and charitable solicitations. (Also see Ideal Concepts, Inc., page 95.)

Ideal Credit Referral Services Ltd.; CAF Phone Systems; Direct Telemarketing Inc.;

Elite Credit Referral Services Ltd.; New Consolidated Consultants Inc.; Universal Client Services Inc.; Cindy W. Forde (a/k/a Cindy Williams); Donald Patrick Hugh; Karl Morris; Enghieberth (Bert) Smith; Maria Tilotta Smith

Ideal Credit, five related companies, and five individuals are required to pay over \$1.8 million in consumer redress to settle allegations that they violated the Telemarketing Sales Rule by marketing advance-fee loans. According to the Commission, the defendants, operating out of Canada, ran a "boiler room" operation that offered loans to consumers for advance fees of \$200 to \$540. The defendants allegedly misrepresented that they could obtain or arrange loans for consumers, that consumers' loan applications had been approved, and that consumers would receive the requested loans regardless of their creditworthiness. In addition to paying redress, the defendants are prohibited from making false or misleading statements in the marketing of any good or service, from violating the Telemarketing Sales Rule, and from providing assistance or support to any seller or telemarketer engaged in practices that violate the Rule or federal law. (Also see Ideal Credit Referral Services Ltd., page 96.)

Incentive International (9013-0980 Quebec Inc., d/b/a Incentive International, Incentives International, and Pegasus Industries); Joshua Baazov; Ofer Baazov

The Commission alleged that this Canadian firm and two principals engaged in cross-border telemarketing fraud, calling senior citizens in the United States and telling them they had won valuable prizes if they purchased certain merchandise. In fact, the Commission said, consumers received premiums worth a fraction of the money they spent on purchases. The order requires the defendants to pay almost \$777,000 for consumer redress. It also prohibits them from misrepresenting facts about prize promotions in the future and from violating the Telemarketing Sales Rule.

Infinity Multimedia, Inc.; Quality Marketing Associates, Inc.; Joseph A. Wentz

The Commission negotiated a settlement with Infinity Multimedia, Quality Marketing, and Joseph Wentz, marketers of CD-ROM display rack businesses, that requires them to turn over \$340,000 for a consumer redress fund. The settlement stems from allegations that the defendants made false earnings claims and used a variety of other deceptive practices in selling their pre-packaged businesses. The order also dissolves the two corporate defendants and bars Wentz from participating in any way in the marketing of any business venture in the future.

Insulate Industries, Inc.; Garry E. Wamsley

Insulate Industries and its vice-president/co-owner agreed to settle allegations that they misrepresented the thermal performance, or energy efficiency ratings, of windows the company manufactured and sold in the Pacific Northwest. The Commission alleged that sample windows submitted for testing were different from production windows and had been modified to improve the test results. The agreement does not provide for a monetary settlement, but requires the company to provide 1,000 code-compliant windows to government-funded projects and structures in Oregon and Washington. The order also requires the defendants to have competent and reliable scientific evidence for any claims about the thermal performance of production windows and requires test samples to be representative of production windows.

Intelinet Data Services (Stratified Advertising and Marketing, Inc., d/b/a)

A company that telemarketed job search services was ordered to pay over \$2.3 million in redress to settle Commission allegations that its operation was fraudulent. Stratified, doing business as Intelinet, allegedly misrepresented the availability of government jobs in consumers' chosen fields and locations and misrepresented the ease of obtaining a refund of the advance fees it charged, if a consumer failed to find a job. In addition to requiring redress, the order bars the company from making false representations about positions or jobs available, bars it from misrepresenting the conditions for refunds, and requires it to clearly disclose to consumers all conditions of obtaining a refund. Three individual defendants settled under separate orders (see Intelinet Data Services, page 96).

**(The Law Center; The Consumer Law Center)
Walter D. Channels; James Martin Coose**

The Commission negotiated settlements with Walter Channels and James Coose, who did business together as The Law Center and The Consumer Law Center, to settle allegations that they ran a

fraudulent credit repair telemarketing operation. The defendants allegedly violated the credit repair provision of the Telemarketing Sales Rule by charging upfront fees and claiming that they could force credit bureaus to remove negative or bad credit information. The two orders require each defendant to pay \$2,500 for consumer redress and bar them from future violations of the Rule. The orders also require them to notify prospective clients of their rights under the Fair Credit Reporting Act.

(Linc II, Inc.)

Betty Busler

The president-owner of Linc II agreed to turn over \$8,000 in frozen funds as part of a settlement of allegations that she engaged in a fraudulent job search service. The Commission alleged that Betty Busler falsely claimed that she had access to a nationwide "hidden" job market and could obtain interviews for clients for an upfront fee, but did not provide clients with jobs or even job interviews in many cases. The settlement also requires her to post a \$200,000 bond before engaging in future job placement services and prohibits her from misrepresenting such services. (Also see Linc II, Inc., page 97.)

Marquette, Inc.; Monte Bolt; Russell Brantmyer; Amy Felton; Lawrence Ken Swenson, Jr.

The Commission reached a settlement with Marquette and three of its officers, and a federal district court entered a default judgment against another officer, in connection with allegations that they made numerous misrepresentations in their sale of business opportunities involving medical billing software. The Commission alleged that the defendants misrepresented the amount of assistance they provided and the amount of earnings that could be expected and that they used false references. The defendants also allegedly violated the Franchise Rule by failing to give potential investors complete and accurate information about the business opportunity and documentation to support claimed earnings. The settlement with Marquette, Russell Brantmyer, Amy Felton, and Lawrence Swenson requires them to pay almost \$147,000 in consumer redress. The default judgment against Monte Bolt includes \$3,253,500 for redress. The orders also require the defendants to refrain from future misrepresentations about franchises or business ventures and prohibit them from violating the Rule.

Medical Recovery Service, Inc.; S&K Group, Inc.; Shapiro, Kossmeyer & Flom PC; Marc Freeman; Nancy Freeman; Carl F. Kossmeyer; Richard C. Neiswonger

In two settlements, a group of firms and individuals agreed to pay a total of \$1 million in consumer redress to settle allegations that they used false earnings claims and phony references in selling business consultant training programs. One order requires the defendant accounting firm, Shapiro, Kossmeyer & Flom, to pay \$10,000; the second requires redress as follows: Richard Neiswonger, \$425,000; S&K and Carl Kossmeyer, \$265,000; Nancy Freeman and Marc Freeman, \$300,000. All defendants are also subject to broad injunctive provisions.

The Mentor Network, Inc.; Parviz Firouzgar

The Mentor Network and Parviz Firouzgar are required to pay \$75,000 for consumer redress as part of a settlement of allegations that they operated a fraudulent pyramid scheme promoted on the Internet, nominally involving the sponsorship of needy children in foreign countries, in which earnings depended on the recruitment of new participants. The order prohibits the defendants from engaging in any chain or pyramid program and from making misrepresentations about material facts in any marketing or investment program. It requires that payments to participants in any multi-level marketing program operated by the defendants come primarily from sales of goods or services and not from recruiting additional participants in the program.

Mercantile Messaging, LLC, and DB&L, Inc. (Daniel B. Lubell, d/b/a)

Daniel Lubell, doing business as Mercantile Messaging and DB&L, agreed to pay a total of \$111,000 in consumer redress to settle allegations that he ran a fraudulent scheme to get consumers to place lengthy and expensive telephone calls - unknowingly - to Guyana or the Caribbean, for which the defendants received a per-minute payment from the foreign telephone company. The Commission alleged that Lubell's practices in soliciting consumers to call for information about free or discount travel and accommodations, or vacation sweepstakes, violated the Telemarketing Sales Rule. The settlement, in addition to requiring the redress payment, prohibits similar violations in the future.

(Meridian Capital Management, Inc.)**Jeffrey A. Jordan; Russell Mann; Markos Mendoza**

Three individuals settled allegations stemming from their roles in an allegedly deceptive scheme in which telemarketers called victims of previous telemarketing fraud - often involving investments in wireless telecommunications licenses - and falsely represented that, for a fee, they could recover the money the consumers had previously lost. The order with Russell Mann requires him to pay \$50,000 for consumer redress and prohibits him from misrepresenting any material aspect of any future telemarketing or recovery room service. In addition, he is required to post a \$200,000 performance bond before participating in any future telemarketing activities. Jeffrey Jordan and Markos Mendoza are required to pay \$1.6 million in consumer redress. (Also see Meridian Capital Management, Inc., pages 98 and 141.)

(Metropolitan Communications Corp.)**Sheldon Jackler; Joan Orth**

Two defendants in a massive plan to sell Federal Communications Commission (FCC) specialized mobile radio licenses as "low-risk, high-return" investments agreed to settle allegations that the scheme was fraudulent. One settlement requires Sheldon Jackler to pay \$1.6 million in redress to victims of the scam, permanently bars him from selling application preparation services for licenses or permits issued by any agency of the U.S. Government or any investment involving such licenses, prohibits misrepresentations about FCC licenses and investments generally, and requires a bond for any future telemarketing. A second settlement permanently bars Joan Orth from telemarketing investments and from misrepresenting FCC licenses and other investments generally and requires her to pay \$20,000 for consumer redress. (Also see Metropolitan Communications Corp., page 142.)

Michael P. McGowan (d/b/a Amna Medical Products Corporation and Industrial Chemical Corporation)

Michael McGowan, a telemarketer doing business under a number of aliases and corporate names, agreed to settle allegations that his practices violated federal laws. McGowan allegedly bilked businesses and not-for-profits by sending them unordered office supplies, billing them, and then harassing and threatening them for payment. The order bars McGowan from any telemarketing business in the future and from using any aliases in business dealings. In addition, \$11,800 in frozen assets will be divided between the Commission and the U.S. Postal Inspection Service, which brought a parallel suit. A suspended judgment of \$317,000, the amount of consumer losses, has also been ordered, which is collectable for consumer redress if the defendant has misrepresented his assets.

Micom Corporation; Joseph M. Viggiano

A federal district court order bars Micom and company principal Joseph Viggiano from offering any investment that involves a license or permit issued by the federal government and any application filing service in connection with a government-issued permit or license. The order also includes a \$1.6 million judgment for consumer redress and a ban on misrepresentations regarding any investment or telemarketed offering. The order settles allegations that the defendants used false and misleading promises in their operation to sell consumers application preparation and filing services for paging licenses issued by the Federal Communications Commission. The order also requires Viggiano to post a \$500,000 performance bond before engaging in telemarketing in the future.

(Multinet Marketing, LLC)**American Readers Service, Inc.**

American Readers agreed to pay as much as \$127,000 for consumer redress to settle allegations that it facilitated a deceptive prize-promotion scheme in which a group of telemarketers defrauded consumers of over \$1 million. The Commission alleged that American Readers assisted the telemarketers by sponsoring the promotion, sending confirmation letters and prizes, taking customer service calls, and billing consumers' credit cards. The order prohibits American Readers from giving future assistance to deceptive telemarketers and from other violations of the Telemarketing Sales Rules.

National Art Publishers and Distributors, Inc.; Benjamin Valenty

Benjamin Valenty, a telemarketer who touted movie paraphernalia as an excellent investment, settled allegations that he violated federal law, including a 1994 order barring him from telemarketing investments. The earlier order followed allegations that Valenty and his firm, National Art, ran a deceptive scheme to sell vintage movie posters at inflated prices. Since the 1994 ban, Valenty has been part-owner of International Art Galleries, doing business as International Art Publishers. International Art has allegedly marketed movie collectibles, misrepresenting them as excellent investments. The current order permanently bans Valenty from telemarketing and requires him to pay \$150,000 in consumer redress.

National Business Distributors Company, Inc.; Deborah L. Azari; Raphael Ralph Azari

National Business and its owners agreed to two orders to settle allegations that they used a variety of deceptive practices in their telemarketing operation to get orders for business supplies. They allegedly claimed that unordered merchandise had been ordered, charged inflated prices, added unauthorized fees, and charged "restocking" and shipping costs when consumers returned unordered goods. One order prohibits the defendants from making false statements or misrepresentations and from making unfounded threats about ruining consumer credit or taking legal action. The order also requires the Azaris to pay \$200,000 for consumer redress and to relinquish rights to company assets, to secure a bond of \$200,000 each before participating in any telemarketing business in the future, and to comply with the Telemarketing Sales Rule. Under the second order, the defendants are required to pay \$10 million in refunds to consumers.

Oasis Southwest, Inc.; Michael A. Portalatin

A settlement with Oasis and one of its principals requires them to pay \$30,000 in consumer redress to settle allegations that they ran a fraudulent telemarketing prize promotion, primarily targeting senior citizens. The defendants allegedly told consumers that if they purchased "Say No to Drugs" items, they would receive a prize worth more than the amount they paid. In fact, according to the Commission, the prizes consumers received, if any, were not worth more than they paid. In addition, the defendants allegedly failed to disclose that no purchase was necessary to win a prize, in violation of the Telemarketing Sales Rule. The order prohibits the defendants from involvement in any telephone prize promotion or recovery room service and from future violations of the Rule. A separate settlement was made with another officer of the company (see Oasis Southwest, Inc., page 100).

Omega Promotions, Inc.

An allegedly bogus employment service is banned from ever again engaging in another telemarketing operation or the activities of a job placement agency, under an agreement resolving allegations that it pitched openings for such positions as cruise ship tour guides, electronic specialists, and chemical engineers. The defendant allegedly promised to arrange interviews and induced consumers to divulge their checking account numbers, then debited the accounts without providing any services. The order calls for payment of \$236,835 for consumer redress, although it is unclear how much of that amount can be collected. The three principals pled guilty to criminal charges brought by the Department of Justice and were sentenced to prison terms (see Omega Promotions, Inc., page 101).

(On Line Communications, Inc.)

Robert Corey (a/k/a Michael Allen)

The Commission reached a settlement with Robert Corey, a hidden principal in On Line Communications, a company that allegedly made false claims to investors about the nature and value of the Federal Communications Commission paging licenses it could obtain for them. Corey is required to disgorge a total of \$362,500 from funds that he allegedly diverted to a Bahamian bank, of which \$337,780 will be used for consumer redress. In addition, he is prohibited from making a variety of false claims about any investment offering and is required to obtain a \$300,000 performance bond before engaging in any type of telemarketing in the future. This case marks the first time the U.S. Government obtained an asset freeze issued by a foreign court and returned the frozen funds to American telemarketing fraud victims.

Pantron I Corporation (a/k/a Pantron III Corporation; Pantron NV, and Second Pantron); Hal Z. Lederman

The Commission agreed to a final settlement that brings to a close its pending lawsuit against Pantron I, a now-defunct company, and owner Hal Lederman. The order settles allegations first filed by the Commission in 1988, that advertising claims created and disseminated by the defendants in an infomercial for Helsinki Formula falsely represented that the product was effective in stopping hair loss and promoting hair regrowth. The injunction resulting from the 1988 suit was modified by an appeals court in 1994, and the court issued an order that the defendants pay monetary relief. The judgment against Lederman is for \$27 million; however, the Commission will receive a pro rata share of the proceeds of Lederman's Chapter 7 bankruptcy. In addition to requiring the redress payment, the order prohibits the defendants from making claims about the effectiveness of any baldness product unless such claims would be permitted in labeling by the U.S. Food and Drug Administration. In addition, the defendants must have reliable scientific evidence for any claims about the performance, benefits, safety, or efficacy of any food, drug, device, or cosmetic, and they are prohibited from misleading endorsements and demonstrations in infomercials.

Pase Corporation; Robert J. Febre

A federal district court ordered Pase and its president to pay more than \$16 million as redress to consumers who invested in allegedly fraudulent work-at-home business opportunities and programs that purported to offer grants, loans, and credit cards. The Commission alleged that, after consumers paid upfront fees, they found that the defendants were selling books that contained general information about jobs, money-making opportunities, entities that offered grants, or tax havens, and were soliciting consumers' assistance in selling products for Pase. The order prohibits the defendants from misrepresenting work opportunities and opportunities to obtain products and services and requires them to disclose any facts material to consumers' decisions to purchase products and services.

Precision Communications Administration, Inc.; Jeffrey Blayz (a/k/a John Blammy, John Colburn, Jeff Gagliano, and John Jeff Sutton)

Precision Communications and its principal settled Commission allegations that they made false earnings and assistance claims in offering their pay-per-call business ventures to consumers. According to the Commission, few if any purchasers of the business ventures achieved the specific level of earnings promised by the defendants, and the defendants did not provide promised services, such as sending monthly checks and weekly call count reports. The settlement calls for the defendants to pay approximately \$45,000 in consumer redress.

Progressive Media, Inc.; Collegiate Communications Group, Inc.; Mark Buchan; Matthew G. Lucas; Kevin Lustgarten

Two companies and their principal officers agreed to pay an estimated \$293,000 into a redress pool from which partial refunds may be made to students who paid fees to obtain either high-paying summer jobs or scholarships and other financial aid. The Commission alleged that the defendants misrepresented that the employment and financial aid directories they sold through telemarketing were actually "programs" that guaranteed students jobs or free financial aid. The Commission also alleged that the defendants' money-back guarantees turned out to be false. The two consent orders prohibit the defendants from making any false or misleading representations in connection with the future marketing of any employment or financial aid product or service and from misrepresenting any money-back guarantee.

(Publishers Award Bureau)

Marc DuBoise; Gerald E. LaFrance; Kenneth E. Nelson

Three individuals who operated through Publishers Award Bureau agreed to pay a total of \$130,000 in consumer redress as part of a settlement of allegations that they ran a fraudulent prize-promotion program. The defendants allegedly sent solicitations to consumers telling them that they were "guaranteed to win" seemingly valuable prizes, but when consumers called to claim the prizes, they were told they had to pay several hundred dollars for magazine subscriptions to be eligible. The defendants agreed to an injunction against making future misrepresentations and against future violations of the Telemarketing Sales Rule. The order with Marc DuBoise and Gerald LaFrance requires them to post a \$200,000 performance bond before becoming involved in prize promotions again and to pay \$65,000 each in redress. The order with Kenneth Nelson requires him to pay \$1,000

in redress. The company assets of Publishers Award Bureau have been given to a permanent receiver.

Retail Sales & Marketing (Joseph Hayes and Thelma Hayes, d/b/a); Automated Guest Directories, Inc.

A federal district court issued an order banning Joseph and Thelma Hayes, who did business under the name Retail Sales & Marketing, and Automated Guest Directories from marketing or helping others to market any business venture in the future. The default order was issued after the defendants failed to respond to Commission allegations that they used deceptive claims in marketing their business opportunity, which involved the sale of advertising on directory boards placed in hotel lobbies. The Hayeses, who offered their business opportunities for \$30,000, allegedly made false earnings claims and false representations about the location assistance that would be provided to purchasers of the business opportunities. The judgment against the Hayeses and Automated Guest Directories includes a \$465,000 judgment for consumer redress, but it is unclear how much can be collected. (Also see Retail Sales & Marketing, page 101).

S.J.A. Society, Inc. (d/b/a Apex Marketing Group, ASC, Atlantic Service Corp., and Publishers Service); Thomas Alan Blair; Thomas P. Johnson

A telemarketing company and two principals are required to pay \$88,000 in consumer redress to settle allegations that they used fraud and deception in their magazine marketing business, in violation of federal laws. The Commission alleged that the defendants told consumers they would receive "prepaid" magazines and sometimes promised prizes or cash during the sales pitch. In fact, the Commission said, S.J.A. billed consumers more than the full cost of the regular magazine subscriptions offered by the publishers and harassed and threatened consumers who tried to cancel orders. The consent order, among other things, bars future misrepresentations about the cost of magazines and the awarding of prizes, provides for accurate disclosures of charges and a 30-day cancellation period, and bars future violations of the Telemarketing Sales Rule and the Fair Debt Collection Practices Act.

Sage Seminars, Inc.; Peggy Ann Davenport; William R. Dempsey

Sage Seminars, a franchisor of opportunities to produce motivational seminars, agreed to settle allegations that it overstated potential earnings and failed to provide required documentation to prospective investors, in violation of the Franchise Rule, and misrepresented that it provided marketing support and assistance in recruiting seminar participants. Under the terms of the order, the two owners/officers of the company are banned from selling or marketing any franchise or similar business venture in the future and from offering employment opportunities for which they charge money. The defendants are also required to pay more than \$950,000 for consumer redress to franchise purchasers.

Silver State Western Publishing, Inc. (d/b/a Prime Time Marketing and Prime Time Publishing); John A. Pieri

Silver State, doing business as Prime Time, and its president agreed to pay \$65,000 for consumer redress to settle allegations that they engaged in a deceptive telemarketing prize-promotion scheme. The Commission alleged that the defendants enticed consumers into purchasing "Say No to Drugs" materials or magazines through promises of valuable prizes, which turned out to be worth much less than what consumers paid Prime Time. Under the terms of the order, the defendants are banned from engaging in any telephone premium promotion, prize promotion, or recovery service, and are prohibited from future violations of the Telemarketing Sales Rule.

Sparta Chem, Inc.; Compu-Kleen, Inc.; Dennis J. Saccurato

Two companies and their owner agreed to settle allegations that they used a variety of deceptive practices in their telemarketing operation to get orders for business supplies. The Commission alleged that the defendants claimed that unordered merchandise had been ordered, charged inflated prices, added unauthorized fees, and charged "restocking" and shipping costs when consumers returned unordered goods. The order requires the defendants to pay \$305,000 for consumer redress. It also requires Dennis Saccurato to secure a \$100,000 performance bond before engaging in any future telemarketing and bars the defendants from the business practices cited, including violations of the Telemarketing Sales Rule.

Student Aid Incorporated; Adel Kovaleva; Raimma Tagiev

Two officers of Student Aid agreed to pay \$7,500 to settle allegations in connection with the college scholarship search service they ran. According to the Commission, the respondents charged an upfront fee for "guaranteed" scholarship or grant money, but consumers almost never obtained the promised money and could not receive refunds of their fees without meeting onerous conditions. The consent order bars the respondents from misrepresenting any similar service they offer in the future, requires them to disclose all terms and conditions of any refund policy, and prohibits them from withdrawing money from consumers' accounts without authorization, among other prohibited conduct.

Student Assistance Services, Inc.; Fred Markowitz; Donald McGovern

The Commission negotiated an agreement with Student Assistance and two individuals, who ran an alleged scholarship search service scam. According to the Commission, the defendants solicited high school and college students and charged an upfront fee for their services, but provided nothing at all or a list of sources for financial aid that students had to apply to on their own. In addition, the defendants allegedly misrepresented their refund policy. The settlement requires the payment of approximately \$340,000 into a refund pool for consumer redress, bans the defendants from ever selling scholarship-related services again, requires each individual defendant to post a \$75,000 bond before engaging in any telemarketing activity, and prohibits them from violating the Telemarketing Sales Rule in the future.

Thadow, Inc.; Alex Norman

Thadow and its president agreed to pay \$130,000 for consumer redress as part of a settlement of allegations arising from their roles in an allegedly fraudulent "telefunding" scheme. The Commission alleged that the defendants telephoned elderly consumers to whom previous telemarketers had promised valuable prizes, told them that the prizes would be delivered in return for a purportedly tax-deductible charitable donation, and falsely claimed that the value of the prize greatly exceeded the amount of the donation. The order prohibits the defendants from engaging in future misrepresentations in connection with soliciting charitable donations or payments in return for prizes or awards and any other misrepresentations regarding any material aspect of any future telemarketing or telefunding activity.

Thornton Communications, Inc.; Thomas E. Thornton

Thornton Communications and its owner are required to pay \$8,000 in consumer redress to settle Commission allegations that they ran a fraudulent advance-fee credit card mill. According to the Commission, the defendants offered unsecured credit card accounts and charged a \$100 processing fee, but few consumers, if any, received the promised card. In addition to requiring the redress payment, the settlement bars future misrepresentations and violations of the Telemarketing Sales Rule.

Tower Cleaning Systems, Inc.; David A. Gansky

Tower Cleaning, which has commercial janitorial franchisees in 11 states, agreed to pay \$50,000 for consumer redress to settle allegations that it made inflated earnings claims to potential franchisees, did not provide critical information, and refused in numerous instances to refund fees or deposits. The order prohibits the company and its president from misrepresenting the sales volume or income of franchisees and from violating the Franchise Rule in connection with future efforts to market commercial janitorial services or any other franchises.

Universal Credit Corporation (Gabrielle Ellis and Mark Thomas Ellis, d/b/a)

Gabrielle and Mark Ellis are required to pay \$50,000 for consumer redress as part of a settlement of allegations in connection with their credit repair business. The Commission alleged that the Ellises, doing business under the name Universal Credit, misrepresented their ability to remove negative information from credit reports and debited consumers' checking accounts without authorization. The order also requires the Ellises to post a \$250,000 performance bond before engaging in any telemarketing activities in the future, permanently bans them from performing credit repair services or selling credit repair products, and prohibits them from violating the Telemarketing Sales Rule.

USA Channel Systems, Inc.; Two-Way Systems, Inc.; Charles Bernard Bayne; Rick Havil

The Commission negotiated settlements with two individuals and two firms that they ran as a single business enterprise, resolving allegations that the defendants understated the risks and overstated the potential profits to investors in paging licenses issued by the Federal Communications Commission (FCC). The settlement with Rick Havil requires him to pay \$65,000 for consumer redress. The settlement with Charles Bayne and the two corporate defendants imposes a \$50,000 judgment against Bayne and a \$50,000 judgment against the two companies. Both orders prohibit the defendants from making a variety of false claims in connection with FCC licenses or any telemarketed product or service and require Havil and Bayne each to post a \$250,000 performance bond before engaging in telemarketing again.

USA Credit Services; Steven Spence

USA Credit and its president agreed to settle Commission allegations that claims about their "credit repair" capability were false. According to the Commission, Steven Spence claimed he could remove negative information from consumers' credit reports, even if the information was accurate; in addition, he sought payment for services before they were rendered, a violation of the Telemarketing Sales Rule. The settlement requires Spence to pay \$265,395 in consumer redress, bars him from deceptive practices, and requires him to provide customers with information on their rights and remedies under the Fair Credit Reporting Act.

Windward Marketing, Ltd.; Genesis Marketing and Administration, Inc.; Philip Edward Dill; Ronald Jay Pepper

The Commission reached settlements with two companies and their owners in connection with allegations about their roles in a magazine subscription scheme involving a group of telemarketers. According to the Commission, Genesis telephoned consumers and used a variety of deceptive claims, including promising valuable prizes, to get information about consumers' bank accounts. Windward then allegedly made deceptive "verification" calls and used the information to process unauthorized debits of consumers' bank accounts. In both settlements, the corporate defendants are required to relinquish their rights to frozen assets that are to be used for consumer redress, the full amount of which is \$13 million. The order with Genesis and Philip Dill requires them to relinquish approximately \$60,000 for consumer redress, and the second order requires Windward and Ronald Pepper to relinquish \$25,000. The orders prohibit the defendants from debiting consumers' checking accounts without advance written approval and permanently ban Dill, Pepper, and Windward from any future telemarketing activities.

World Class Network, Inc.; Howard K. Cooper; Daniel R. Dimacale; Denise L. Dimacale; Robert C.K. Lee

World Class Network, a multilevel marketer of travel agency credentials and a work-at-home travel agency business opportunity, and four company officers agreed to pay more than \$3 million into a consumer redress fund to provide refunds for the more than 51,000 consumers who purchased the defendants' travel tutorial kit. The Commission alleged that the defendants misrepresented the discounts and earnings available through the tutorial kit. The settlement bars the defendants from operating any type of pyramid or multilevel marketing scheme for travel-related business opportunities in the future, requires them to provide a full refund policy and "cooling off" period in connection with sales of any travel tutorials, and bars misrepresentations of earnings claims and travel benefits. The order requires redress as follows: World Class Network, \$800,000; Howard Cooper, \$50,000; Daniel and Denise Dimacale, \$1,702,000; Robert Lee, \$450,000.

Worldwide Marketing and Distribution Company, Inc. (d/b/a Hollywood Pop); Mammoth Holding Corporation; Planet Ice Cream, Inc.; Popcorn Flavors International Inc.; Popcorn Supply Company, Inc.; Remote Assembly Corporation; Royal Imperial Ltd., Inc.; Sutton Group of Palm Beach, Inc.; Titan Management Corporation; Frank Friedland; Steven F. Gelb

Nine corporations and two individuals agreed to pay approximately \$1.4 million for consumer redress to settle allegations of business opportunity fraud. The Commission alleged that Frank Friedland,

Steven Gelb, and two other individual defendants, through a web of corporations, made numerous misrepresentations in marketing their business opportunities involving popcorn vending machines. They also allegedly failed to give potential investors pre-sale disclosures about their business opportunities and documentation to support claimed earnings, as required by the Franchise Rule. The order permanently removes Friedland and Gelb as officers of the defendant corporations; it requires Friedland to pay \$45,500 for redress and Gelb to pay \$64,000, which will be added to other assets in control of the court-appointed receiver. The order also prohibits the defendants from future violations of the Rule and from making false statements or misrepresentations in the sale of any telemarketed product, service, or investment opportunity.

Worldwide Wallcoverings and Blinds, Inc.; Martha Kazak; Bruce Sears

The Commission obtained a final judgment against Worldwide and a settlement with its principals in connection with allegations that the company, which advertised discount wallpaper and blinds in national magazines, defrauded thousands of consumers by, in many instances, simply pocketing their money and not shipping any merchandise at all. Both settlements prohibit the defendants from misrepresenting any fact material to a consumer's decision to purchase from them, and from violating the Mail or Telephone Order Merchandise Rule. The agreement with the two individuals permanently bans Bruce Sears from the mail order industry and requires him to pay the proceeds of the sale of his boat as consumer redress. It requires Martha Kazak to pay \$3,000 for consumer redress. The judgment against Worldwide requires the company to pay more than \$447,600 for consumer redress, although it is unlikely that there will be any funds available to pay the judgment

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Service, Colorado Dawn, and Key Concept); Richard Prochnow (d/b/a Direct Sales International); William J. Stemple, Sr. (d/b/a Budget Marketing of Virginia)

Budget Marketing, a national telemarketer of magazine subscriptions, and 11 of its dealers agreed to pay a \$395,000 civil penalty in connection with a consent order settling allegations that they debited consumers' bank accounts electronically without written authorization, in violation of the Electronic Funds Transfer Act. The consent order bars the respondents from violating the Act and from other illegal practices in the future. (Also see Budget Marketing, Inc., page 72.)

Cabot Hosiery Mills, Inc.

Cabot agreed to settle allegations that the company violated the Textile Fiber Products Identification Act when it sold a mislabeled line of socks to a national retailer, The Gap. According to the Commission, labels on the Granite Ragg socks indicated that the socks contained more cotton and Lycra spandex fiber and less polyester, acrylic, and nylon fibers than they actually did. In addition, the company allegedly furnished false guaranties that its socks were not misbranded under the Act. The consent order prohibits the company from violating the Act in the future and requires it to pay a \$10,000 civil penalty.

Hawthorne Communications, Inc.

Hawthorne, an advertising agency, is required to pay a \$25,000 civil penalty for violating a 1994 Commission order requiring it to have substantiation for advertising claims, including those made by endorsers. Hawthorne allegedly violated the 1994 order in an infomercial it produced that contained unsubstantiated high earnings claims in connection with the Mellinger Plan, a course in starting and operating a work-at-home import/mail order business. In addition to paying the civil penalty, Hawthorne is barred from producing or distributing infomercials that contain deceptive earnings claims or testimonials. The Mellinger Plan's promoter agreed to settle allegations stemming from the same infomercial (see 1554 Corporation, page 68).

Health Wave, Inc.; Mark Livingston

Health Wave and its president agreed to pay a \$10,000 civil penalty to settle allegations stemming from their sale of business opportunities involving snack food vending machines. The Commission alleged that the defendants failed to give potential investors complete and accurate information about the business opportunity they sold and failed to substantiate earnings claims, in violation of the Franchise Rule. The consent order prohibits the defendants from misrepresenting material aspects of any franchise or business venture they offer and requires them to comply with all aspects of the Rule.

International Masters Publishers Inc.

International Masters Publishers, a mail order company that sells informational cards on a variety of topics (recipes, home repairs, gardening, etc.), agreed to pay a \$60,000 civil penalty to settle allegations that it violated the debt collection provisions of a previous Commission order. The 1987 order settled allegations that the company did not honor membership cancellation requests or promptly credit the accounts of consumers who returned the cards but, instead, sent dunning letters. The current order prohibits the company from violating any provision of the 1987 order, including misrepresenting the terms of its sales plan and engaging in debt collection practices using threats of adverse consequences that are unlikely to occur.

J.C. Penney Company, Inc.

J.C. Penney, one of the largest retail stores in the country, agreed to pay a \$225,000 civil penalty to settle allegations that it violated consumers' rights to receive written notice of the reasons for a denial of credit, as required by the Equal Credit Opportunity Act. The Commission alleged that when the store denied credit applications, it either failed to explain the reasons or gave the wrong reasons. Under the consent order, J.C. Penney is required to give consumers who were denied credit in the past a written statement of the correct reasons for denial and to comply with federal laws requiring such explanation in the future.

Lifestyle Fascination, Inc.

Lifestyle, a company that markets a number of products through its catalog, agreed to pay a \$60,000

civil penalty for allegedly violating a 1994 Commission order by making unsubstantiated claims about the performance or efficacy of certain products: a pest control device, a pain reliever, and an antenna substitute. The consent decree to settle these allegations prohibits Lifestyle from future violations of the 1994 order and requires the company to give copies of the 1994 order and consent decree to its officers, agents, representatives, employees, and distributors.

Marketing Masters, Inc. (a/k/a Pre-Need Family Services of Lancaster County); Pre-Need Family Services of Berks County, Inc.; Pre-Need Family Services of Delaware Valley, Inc.; Pre-Need Funeral Associates of Lehigh Valley, Inc.; David A. Heisterkamp; Donald E. Morris

Marketing Masters, its subsidiaries, and two officers agreed to pay a \$12,000 civil penalty to settle allegations that they violated the Funeral Rule. These companies are nontraditional funeral providers: they sell funeral goods and services but do not operate funeral homes. The Commission alleged that the defendants did not provide a general price list to consumers during sales presentations and failed to make the required disclosure on their price list for outer burial containers. In addition to paying the civil penalty, the defendants agreed to comply with the Rule in the future.

Mattel, Inc.

Mattel, a toy manufacturer and marketer, agreed to pay more than \$146,000 in civil penalties to settle allegations that it violated the Mail or Telephone Order Merchandise Rule. The Commission alleged that the company failed to make timely deliveries or issue prompt refunds in the sale of its Barbie collectible dolls, which it advertises by direct mail and in magazines and other publications. The consent order prohibits Mattel from violating the Rule in the future.

(Megatrend Telecommunications, Inc.)

Alan D. Wittstein

The former president of Megatrend agreed to settle allegations stemming from his role in marketing TableMate System franchises for cordless telephones designed to be used in restaurants and similar locations. The Commission alleged that the defendants misrepresented the ease with which the buyers could place the product and the amount of assistance the defendants would provide to the buyers. In addition, the defendants allegedly violated the Franchise Rule by failing to provide prospective buyers with the required basic disclosure and earnings claims documents and making unsubstantiated earnings claims. Under the settlement, Alan Wittstein agreed not to violate any provisions of the Rule in the future and to pay a civil penalty of \$10,000.

The Money Tree, Inc.; Vance R. Martin

The Commission announced a settlement agreement with Money Tree and its president in connection with their business of making short-term installment loans, most of them to low-income consumers. Under the consent order, Money Tree and Vance Martin will pay \$75,000 in civil penalties to settle allegations that they discriminated against elderly consumers and consumers who receive public assistance, in violation of the Equal Credit Opportunity Act. The order bars them from the alleged practices and requires them to comply with the provisions of the Act in the future. In a separate agreement, Money Tree and Martin are required to offer consumer refunds (see The Money Tree, Inc., page 79).

National Marketing, Inc.; Paul Woodward

National Marketing and officer Paul Woodward agreed to pay a \$15,000 civil penalty to settle allegations that they failed to give potential investors pre-sale disclosures about the business opportunity they sold and documentation to support claimed earnings, as required by the Franchise Rule. The defendants sold bulk candy using display racks placed in retail stores. The consent order prohibits the defendants from misrepresenting material aspects of any business venture they offer and requires them to comply with the Rule in the future.

Nu Skin International, Inc.

Nu Skin, the firm behind an international multilevel marketing system with thousands of distributors

selling skin care products and nutritional supplements, agreed to pay a \$1.5 million civil penalty to settle allegations over claims for fat loss, muscle maintenance, and other benefits that it made for supplements containing chromium picolinate and L-carnitine. The Commission alleged that Nu Skin could not produce adequate substantiation for the claims and therefore violated a 1994 order requiring the firm to have competent and reliable scientific evidence to support benefits claims for any product it sells.

O'Neill, Incorporated

O'Neill, the largest seller of wetsuits in the United States, agreed to pay a \$10,000 civil penalty to settle allegations that it failed to accurately list the fiber content of its garments in violation of federal law and a 1992 Commission order. The previous order had settled allegations that O'Neill violated the Textile Fiber Products Identification Act by mislabeling certain wetsuits. Since that time, the company has allegedly sold thousands of mislabeled wetsuits. In addition to paying the civil penalty, O'Neill is permanently barred from future violations of the 1992 order, which requires compliance with the Textile Act.

T.C.A., Inc.; Stephen Lawrence; Effie Pappas

Two principal officials of a collection agency, T.C.A., paid \$25,000 in civil penalties to settle allegations that they violated the Fair Debt Collection Practices Act when they or their collectors used abusive and deceptive practices in attempting to collect debts from consumers. The settlement originally imposed a \$100,000 judgment, but \$75,000 was suspended if the remaining \$25,000 was paid by a certain date. In addition to requiring the civil penalties, the consent order permanently enjoins the defendants from engaging in further violations of the Act.

Tower Loan of Mississippi, Inc.

Tower Loan, a consumer loan and finance company, agreed to pay close to \$380,000 to settle allegations that it violated a 1992 Commission order, which had settled earlier allegations that the company did not include the costs of credit-related insurance when making loan disclosures to consumers. The Commission alleged that Tower Loan failed to make full redress payments to its customers as required by the earlier order and that it incorrectly described how it calculated redress in a report to the Commission. The current consent decree requires Tower Loan to pay almost \$280,000 to make full consumer redress and to pay a civil penalty of \$100,000.

United Compucred Collections, Inc.; Arthur B. Stineman

United Compucred and its president are permanently banned from sending out "attorney" letters under a consent order settling allegations that they violated the terms of two previous Commission orders. The previous orders were issued against the debt collection agency in 1976 and 1980 for allegedly making deceptive threats of legal action and misleading references to attorneys in debt collection letters sent to consumers. The current order prohibits the defendants from violating any provisions of the two previous orders and from violating the Fair Debt Collection Practices Act. It requires the company and Arthur Stineman to pay civil penalties of \$55,000 and \$5,000, respectively.

Venus Enterprises, Inc.; Balram Hingorani

Venus Enterprises, an importer of women's clothes, and company president Balram Hingorani agreed to pay a \$4,000 civil penalty to settle allegations that the company mislabeled the care instructions on various garments made of rayon. The clothes shrank significantly when consumers hand-washed them as instructed, the Commission said. The consent order prohibits the defendants from violating the Care Labeling Rule in the future.

WestPoint-Stevens, Inc.

WestPoint-Stevens, one of the biggest textile manufacturers in the United States, agreed to settle allegations that it violated the Textile Fiber Products Identification Act by misbranding the sheets and towels it manufactures and sells. The company allegedly indicated that its sheets and towels were made entirely of Pima cotton (a premium cotton) when, in fact, the products contained only 6% to 50% Pima cotton. In addition, according to the Commission, the company furnished a false guarantee

that its textile products were not misbranded under the Textile Act. The company is required to pay a \$360,000 civil penalty, the largest civil penalty even obtained in a Textile Act case, and is prohibited from future violations of the Act.

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¹ A company name shown in parentheses is for identification of the case only. The company is not a defendant in the item shown in the table.

Ad-Com International, Inc.; Anthony Catalano; Lorraine Corrales

The Commission reached a settlement with Ad-Com and its officers in connection with their sale of business opportunities consisting of 900-number lines that offer entertainment programs. The defendants allegedly violated the Franchise Rule, which requires franchisors to give potential buyers important information about the business venture offered. They also allegedly violated the 900-Number Rule by using "collect callback," whereby a caller telephones a toll-free 800-number and receives in return a collect call with the entertainment program. The order prohibits the defendants from misrepresenting the sales, income, or profits of franchisees; requires them to comply with the Franchise Rule; and bars them from violating the 900-Number Rule.

Alliance Communications, Inc.; Oliver Porter

Alliance and its president settled allegations in connection with their application preparation services for specialized mobile radio and paging licenses issued by the Federal Communications Commission (FCC). The defendants allegedly misrepresented that consumers would receive FCC licenses through their services and misrepresented the investment value of the licenses. The order permanently bars the defendants from the marketing of application preparation services and from falsely representing the profit or risk of any investment in the future.

Carousel of Toys USA, Inc.; Kelie Brodzinski

Carousel of Toys is out of business, and the company director has agreed not to front for any fraudulent franchisor in the future, following the resolution of allegations against them. The Commission alleged that the defendants used deceptive and false claims to sell their business opportunity, which consisted of display racks featuring Disney and other trade-named toys and products to be placed in retail locations. The settlement prohibits the defendants from misrepresenting the income or profits of any franchise or business opportunity they sell; failing to disclose all the costs and fees dealers must pay in order to begin operating the business, including an itemized list of inventory, and the dealer cost and a suggested retail price for each item; violating the Franchise Rule; and assisting anyone who misrepresents a franchise or business opportunity or violates the Rule.

Commercial Electrical Supply, Inc.; Michael C. Spence

Commercial Electrical and its owner agreed to settle allegations that they used a variety of deceptive practices in their telemarketing operation to get orders for business supplies. The Commission alleged that the company misrepresented its products, sent merchandise that was unordered, charged inflated prices, and added unauthorized fees. The order prohibits the defendants from the business practices cited, requires them to comply with the Telemarketing Sales Rule, and requires Michael Spence to obtain a \$100,000 performance bond before engaging in future telemarketing.

(Dean Thomas Corporation, Inc.,The)

Raymond Celie; Randy B. Lonis

Two former managers of a publishing company agreed to settle allegations that they misrepresented how and where their publications were distributed and attempted to collect money for unordered advertising. The Commission alleged that the defendants misrepresented that the advertising proceeds would support a local civic purpose and that businesses had previously authorized advertising and were obligated to pay for it. Under separate but identical settlements, Raymond Celie and Randy Lonis are prohibited from making false or misleading representations in connection with the sale of any advertisement, publication, or program in the future. Each is required to post a \$500,000 bond before entering the business of selling advertisements.

Delta Distributors Company, Inc.; Steven Harding

The Commission reached a settlement with Delta Distributors and its president, settling allegations in connection with their sale of business opportunities involving countertop pay telephones. The defendants allegedly made unsubstantiated earnings claims and failed to provide critical pre-purchase information to potential buyers, in violation of the Franchise Rule. The order permanently bars the defendants from future violations of the Rule.

(Direct Link, Inc.)**Suzanne Bannister**

A federal district court has permanently barred Suzanne Bannister from misrepresenting that the services of her employment firm will lead to jobs in specific fields or geographic areas. In addition, she must post a \$50,000 performance bond before marketing employment-related services for the next 10 years. The order follows Commission allegations that the defendant charged consumers upfront fees for access to "guaranteed" jobs, but few, if any, of her clients obtained jobs in their chosen fields or geographic areas.

(Fortuna Alliance, LLC)**Monique Delgado**

The Commission reached a settlement with Monique Delgado in connection with her role in an allegedly illegal pyramid scheme on the Internet. The Commission alleged that Fortuna and its officers induced thousands of consumers around the world to join the pyramid scheme, promising thousands of dollars in "profits" as other people "enrolled" in the program. The order permanently bars Delgado from participating in any chain or pyramid program and from making deceptive claims in connection with any marketing or investment program she offers. (Also see Fortuna Alliance, LLC, page 122.)

(Genesis One Corporation, d/b/a Bureau One)**Rose Kistorian (a/k/a Vartouhi Kistorian)**

The Commission reached a settlement with Rose Kistorian, president of Genesis One, in connection with allegations that she made false earnings claims and other misrepresentations in marketing 900-number business ventures. The defendant also allegedly violated the Franchise Rule by failing to give investors required pre-purchase information. The order bars Kistorian from misrepresenting income and other information concerning any franchise or business opportunity and from violating the Rule in the future. (Also see Genesis One Corporation, page 122.)

Georgia International Export Co., Inc. (d/b/a Creative Technologies International); L&S Manufacturing, Inc.; Steven Axelrod; Arnold Filner; Andrew Gilmore; Wayne Gregory

The defendants in a lawsuit that alleged that they deceptively sold business opportunities for vending machines agreed to settle the allegations under orders that would bar them permanently from selling franchises and business opportunities. The Commission alleged that the defendants misrepresented the earnings potential of the vending machines, which dispensed single-use disposable cameras; used phony references; misrepresented the ability of locating firms to find profitable sites for the machines; and falsely stated that Creative Technologies was in partnership with Eastman Kodak Company. The five settlements ban the defendants from franchise or business opportunity sales for life.

Ideal Concepts, Inc.

Ideal Concepts is banned from future telemarketing under an agreement settling allegations that the company's telemarketers promised consumers, primarily senior citizens, valuable prizes or awards that were never delivered or, if delivered, were worth a fraction of their claimed value. The prizes were offered as an inducement for consumers to purchase a variety of products costing from \$400 to over \$1,000. A separate settlement requires the company president to pay consumer redress (see Ideal Concepts, Inc., page 123.)

(Ideal Credit Referral Services Ltd.)**David Wayne Panella (d/b/a Consolidated Financial Services or Gateway Service**

Center)

David Panella, a loan broker, agreed to settle allegations in connection with his role in a scheme that charged consumers advance fees for loans they never received. According to the Commission, Panella operated a U.S.-based "turn-down" room, sending out denial letters to loan applicants who had answered ads and paid an upfront fee. The other six corporate and seven individual defendants in the case were based in Canada, but targeted U.S. consumers. The settlement bars Panella from knowingly providing assistance or support to any telemarketers employing unfair or deceptive practices to sell credit-related services and from violating the Telemarketing Sales Rule. A number of the defendants in this case were required to pay consumer redress (see *Ideal Credit Referral Services Ltd.*, page 124).

(Intelinet Data Services)**Patrick Donaghy; Thomas F. Frontera; Robin L. Murphy**

In separate settlements, three officers of a firm that marketed job search services agreed to settle allegations that they participated in a fraudulent telemarketing scheme. Stratified Advertising and Marketing, Inc., doing business as Intelinet, allegedly misrepresented the availability of government jobs in consumers' chosen fields and locations, and misrepresented the ease of obtaining a refund of the advance fees it charged, if a consumer failed to find a job. The three orders prohibit the defendants from making such misrepresentations in the future and from engaging in any telemarketing activities for 10 years unless each first posts a \$100,000 performance bond. (Also see *Intelinet Data Services*, page 125.)

International Champions, Inc.; Wayne B. Hunt

The Commission reached a settlement with International Champions and its president, settling allegations in connection with their sale of business opportunities involving countertop video games. The defendants allegedly made unsubstantiated earnings claims and failed to provide critical pre-purchase information to potential buyers, in violation of the Franchise Rule. The order permanently bars the defendants from future violations of the Rule.

InVisions International Corporation; Stephen C. Fox

InVisions and its president agreed to settle allegations that the company was selling nothing but toupees when advertising its painless, nonsurgical "procedure" or "process" as a maintenance-free, permanent solution to hair loss. The Commission also alleged that the company misrepresented consumer endorsements used in its infomercials and misled consumers as to its refund policy. The order prohibits the defendants from claiming that the InVisions Process is not a hairpiece, wig, or toupee, and from misrepresenting endorsements, testimonials, or refund policies.

J.P. Meyers Company, Inc.; Joseph Shapiro

The Commission reached a settlement with J.P. Meyers and its corporate officer in connection with their sale of business opportunities consisting of 900-number lines that offer entertainment programs. The defendants were alleged to have violated the Franchise Rule, which requires franchisors to give potential buyers important information about the business venture offered. The order prohibits the defendants from misrepresenting the sales, income, or profits of franchisees in the future and requires them to comply with the Rule.

(Linc II, Inc.)**Joel Ancelewitz (a/k/a Jim Manti)**

Joel Ancelewitz, a telemarketer who sold employment services for Linc II, agreed to settle allegations regarding his role in an allegedly fraudulent job search service. According to the Commission, the company claimed that it had access to specific jobs and charged consumers upfront fees for its services, but did not provide clients with jobs or even job interviews in many cases. The order bars Ancelewitz from engaging in telemarketing in any form or in the activities of a job placement agency and from assisting others in either of these activities. (Also see *Linc II, Inc.*, page 126.)

Majors Medical Supply, Inc.; Joanne Phillips; Stuart Phillips

Majors Medical and its two corporate officers agreed to settle Commission allegations that they made false claims about the income franchisees could make and the startup costs of investing in their

medical equipment business ventures. The franchises involved the sale and rental of durable medical equipment such as wheel chairs. The settlement provides for the liquidation of corporate assets; requires the individual defendants, for five years, to post a \$1 million bond each before involving themselves in the sale of any franchise or business opportunity; and prohibits them from misrepresenting the likely income, profits, or sales of any product or service they offer in the future.

Marketing Response Group, Inc.; Marketing Response Group and Laser Company, Inc.; Palm Harbor Holdings, Inc.; Pete-Nik Holdings, Inc.; Service Bureau International, Inc.; William S. Kilichowski; Peter J. Porcelli, Jr.

Marketing Response, a mailing house, and related defendants agreed to settle allegations that they assisted fraudulent telemarketers by sending out mail promotions that falsely promised quick land sales, guaranteed awards, and free vacations. The order bars the two individuals and the five companies they operate from sending out misleading promotional materials and requires them to monitor the business activities of future telemarketing clients for deception. It also bars the defendants from violating, or assisting others in violating, the Telemarketing Sales Rule.

Mauney Hosiery Mills, Inc.

Mauney agreed to settle allegations that the company violated the Textile Fiber Products Identification Act when it sold a mislabeled line of socks to a national retailer, The Gap. According to the Commission, labels on the Granite Ragg socks indicated that the socks contained more cotton, nylon, polyester, acrylic, and Lycra spandex fiber than they actually did. In addition, the company allegedly furnished false guaranties that its socks were not misbranded under the Act. The consent order prohibits the company from violating the Act in the future.

(Meridian Capital Management, Inc.)

Richard Randall

Richard Randall settled allegations stemming from his role in an allegedly deceptive scheme in which telemarketers called victims of previous telemarketing fraud - often involving investments in wireless telecommunications licenses - and falsely represented that, for a fee, they could recover the money the consumers had previously lost. The order bars Randall from misrepresenting any material aspect of future telemarketing or recovery room services and from violating the Telemarketing Sales Rule. He is required to post a \$200,000 performance bond before participating in future telemarketing activities. (Also see Meridian Capital Management, Inc., pages 128 and 141.)

(Metro Data, Inc.)

Katherine M. Howard (a/k/a Cassandra Stone)

Katherine Howard settled allegations stemming from her position as a sales representative for Metro Data, a telemarketing operation that ran an allegedly fraudulent employment service. According to the Commission, contrary to what the company told consumers, it had no relationships with prospective employers, it cashed checks and charged accounts immediately, it refused to cancel memberships, and it denied requests for refunds. The order permanently bars Howard from the job placement business.

Mortgage Service Associates, Inc.; J.D. Raffone Associates, Inc.; MSA Nationwide Field Services, Inc.; Joseph D. Raffone; Vita L. Raffone

Two individuals and the companies through which they did business agreed to settle allegations that they made false claims in selling franchises for property inspection services. The Commission alleged that the defendants violated the Franchise Rule by misrepresenting earnings and by not providing required disclosure documents to potential franchisees. The order prohibits such misrepresentations in the future, requires all of the defendants to comply with the Rule, and requires each of the individuals to post a \$300,000 performance bond before becoming involved, over the next three years, in a business that sells franchises or business opportunities.

(National Credit Foundation, Inc.)

NCF Corporation; Brian W. Cutright; Mark F. Guimond; Hal Z. Lederman; Robert J. Maynard, Jr.

In four agreements, one corporate defendant and four individuals settled allegations in connection

with their roles in a now-defunct credit repair business. According to the Commission, National Credit misrepresented its ability to improve consumers' credit histories by permanently removing negative but accurate information from credit reports. Company officers Brian Cutright and Robert Maynard also allegedly misrepresented the company's purpose in obtaining consumers' bank account numbers and debited the accounts without authorization. The Commission alleged that Maynard, NCF, and NCF owner Hal Lederman produced and disseminated an infomercial about National Credit's services that misrepresented that the program was an independent television program and not a paid advertisement. The four orders prohibit NCF and Lederman, Cutright, Guimond, and Maynard from making the misrepresentations alleged in the complaint, including misrepresenting any right or remedy under the Fair Credit Reporting Act. In addition, Lederman and Maynard are permanently banned from engaging in any business or activity relating to credit repair services.

National Invention Services, Inc.; John F. Lee

National Invention Services and its president/CEO were required by court order to disclose that none of the nearly 1,000 clients who signed up for their invention promotion services has made more money from their inventions that they paid the firm to patent and promote them. The disclosure requirement is included in preliminary orders issued by a federal district court following Commission allegations that the defendants deceptively marketed their services. Phase 1 of the services included a research report and preliminary patent search, and phase 2 included patent and promotion services that cost inventors thousands of dollars. The preliminary orders also prohibit the defendants from falsely representing any material aspect of their research, patent, marketing, or invention promotion services. The orders were in effect pending the outcome of a trial on the Commission allegations.

(Oasis Southwest, Inc.)

Ray Jojola

Ray Jojola, one of the principals of Oasis, agreed to settle allegations concerning his role in a fraudulent prize-promotion scheme primarily targeting senior citizens. According to the Commission, the company allegedly promised consumers valuable prizes if they purchased "Say No to Drugs" items, but the prizes consumers received, if any, were not worth more than they paid. In addition, the company allegedly failed to disclose that no purchase was necessary to win a prize, in violation of the Telemarketing Sales Rule. The order permanently bans Jojola from engaging in any telephone prize promotion or recovery room service and prohibits him from future violations of the Rule. A separate settlement was made with the company and another of its officers (see Oasis Southwest, Inc., page 130).

(Omega Promotions, Inc.)

Regency Services, Inc.; Lisa Warnock Grant (a/k/a Lisa Phillips); Richard Devon Grant; Michael Warnock

A settlement agreement bans three individuals who allegedly ran a bogus employment services scheme from ever again engaging in telemarketing or the activities of a job placement agency. The settlement resolves allegations that the defendants, who owned and operated Regency Services and Omega Promotions, ran telemarketing operations pitching openings for such positions as cruise ship tour guides, electronic specialists, and chemical engineers. They allegedly promised to arrange interviews and induced consumers to divulge their checking account numbers, then debited the accounts without providing any services. The three defendants pled guilty to criminal charges brought by the Department of Justice and were sentenced to prison terms. An order against Omega Promotions calls for payment of consumer redress (see Omega Promotions, Inc., page 130).

(Retail Sales & Marketing)

Ann Fox; Allan O'Hearn

Two defendants agreed to settle allegations concerning their roles in marketing a business opportunity that involved the sale of advertising on directory boards placed in hotel lobbies. The Commission alleged that the defendants made false earnings claims and false representations about the location assistance that would be provided to purchasers of the business opportunities. Under the two settlements, Ann Fox and Allan O'Hearn are prohibited from engaging in similar deceptive practices and from violating the Franchise Rule in the future. (Also see Retail Sales & Marketing, page 133).

Telecommunications Protection Agency, Inc.; Charles Fulton; Jennifer Fulton

A telemarketing "recovery room" operation and its principals agreed to settle allegations that they falsely claimed they would recover a substantial portion of the money that consumers had previously lost to fraudulent telemarketers. According to the Commission, Telecommunications Protection charged an upfront fee for its services but, in most if not all instances, did not recover any money for its customers. The order prohibits the defendants from making misrepresentations about their recovery services and from future violations of the Telemarketing Sales Rule. As a result of the Commission's action, the company ceased all business operations.

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1554 Corporation (d/b/a The Mellinger Company); Brainerd L. Mellinger III

A consent order with 1554 Corporation and its president settled allegations that an infomercial and other advertising for the Mellinger World Trade Mail Order Plan, a course in starting and operating a work-at-home import/mail order business, included unsubstantiated earnings claims. The order bars the respondents from making unsubstantiated claims about the performance, benefits, efficacy, or success rate of any such product or service; it also bars them from using testimonials or endorsements, unless they either substantiate that the experience is typical or qualify the representation. In a separate order, the advertising agency involved is required to pay a civil penalty (see Hawthorne Communications, Inc., page 105).

2943174 Canada, Inc. (d/b/a United Research Center, Inc.); Patrice Runner

The Commission approved a consent order with a Canadian company and its president settling allegations in connection with their marketing of Svelt-PATCH, a skin patch that purportedly melts away body fat. The order requires the respondents to have scientific substantiation for claims that any product or program controls appetite, increases metabolism, reduces body fat, causes weight loss, reduces cholesterol, or provides any weight-related benefit. It also requires them to pay \$375,000 in consumer redress.

AAF-McQuay, Inc. (d/b/a AAF International); Filtration Manufacturing, Inc.; Horace R. Allen; Brandon R. Clausen; Gary L. Savell

Two companies that manufacture and market replacement filters for home forced-air furnaces agreed to settle allegations that they made misleading claims regarding allergy relief, airborne particle removal, and cost savings when their filters are used in place of standard forced-air system filters. The two consent orders, one with AAF-McQuay and the other with Filtration Manufacturing and three company officers, require the respondents to have substantiation for all claims they make about the performance, health benefits, and efficacy of any air-cleaning product in the future.

Abbott Laboratories, Inc.

Abbott agreed to settle allegations that it made false and unsubstantiated claims in an extensive national advertising campaign promoting a nutritional beverage, Ensure, for healthy, active adults. The Commission alleged that Abbott represented without adequate substantiation that many doctors

recommend Ensure as a meal supplement and meal replacement for healthy adults, including those in their thirties and forties. The consent order prohibits Abbott from making any claim about the extent to which doctors or other professionals recommend any food or dietary or nutritional supplement, or about any other recommendation, approval, or endorsement of such products, unless Abbott possesses competent and reliable scientific evidence to substantiate the claim.

Abflex, U.S.A., Inc.; Kent & Spiegel Direct, Inc.; Marsha Kent; Peter Spiegel; Martin Van Der Hoeven

The Commission approved two consent orders in connection with the marketing of an abdominal exerciser, one order with Abflex and company officer Martin Van Der Hoeven, and the other with Kent & Spiegel and its principals. The orders settled allegations that respondents' infomercials and other advertising for the exerciser contained unsubstantiated claims for weight loss and spot reduction. The orders require the respondents to have competent and reliable evidence for a variety of claims regarding the benefits, efficacy, or performance of any exercise equipment in the future. Any testimonials used in their ads must represent the typical experience of consumers or be accompanied by a disclaimer.

The Administrative Company; Pre-Paid Legal Services, Inc.; Michael P. McIntyre

Two consent orders, one with Administrative and its corporate officer Michael McIntyre, and one with Pre-Paid, settled allegations that the respondents made numerous false statements, in general, about the benefits and appropriateness of living trusts and, in particular, about the more than 3,000 living trusts they sold in conjunction with memberships in the American Association for Senior Citizens (AASC). Both orders bar the respondents from making false claims about the features and benefits of living trusts and require them to clearly disclose facts about the appropriateness of living trusts and the availability of other options for transferring assets. Administrative and McIntyre are also barred from making false, misleading, or unsubstantiated statements about any legal service they offer. Pre-Paid is required to monitor clients who sell living trusts and for whom it provides legal services to ensure they are in compliance with the settlement. In addition, Pre-Paid must offer up to \$130,000 in refunds to certain past purchasers of AASC trusts.

Aldi Inc.

The Commission approved a consent order with Aldi, settling allegations that this regional grocery chain violated the Fair Credit Reporting Act (FCRA) by failing to tell job applicants who were denied employment (1) when information in the applicant's credit records played a role in the denial and (2) the name and address of the firm that provided the credit history information. The order prohibits Aldi from violating the FCRA in the future and requires the chain to give the information required by the FCRA to consumers denied employment after January 1, 1994, as appropriate.

Amerifit, Inc.

A consent order with Amerifit settled allegations in connection with the marketing of diet supplements sold under the trade names "Fat Burners" and "Fast Burners." The order requires the company to pay \$100,000 for disgorgement and to have scientific substantiation for any claim that a food, drug, or dietary supplement will cause weight loss or reduce body fat. The order also requires that material bearing the name "Fat Burners Diet, Exercise and Supplement System" clearly disclose that "the dietary supplement in this system is for nutritional use only and does not contribute to weight loss or loss of body fat."

Apple Computer, Inc.

Apple agreed to offer PowerPC Upgrade Kits at less than half the original price to certain consumers who had purchased certain Performa or Macintosh computers and to give rebates to others who had already purchased the upgrade kits, as part of a settlement of allegations that the company misrepresented that the upgrade kit was available at the time of computer purchase or would be available within a reasonable time thereafter, when it actually was not available for more than a year and cost almost as much as a new PowerPC computer. The consent order also prohibits Apple from misrepresenting the availability of any microprocessor upgrade product and from representing that computer hardware is currently able to be upgraded unless the upgrade is then available in reasonable quantities.

BodyWell, Inc. (d/b/a BodyWell U.S.A.); Gerard Du Passage

A consent order with BodyWell and company officer Gerard Du Passage resolved allegations in connection with the marketing of Slimming Soles, shoe insoles that purportedly cause weight loss by stimulating certain areas of the feet. The order prohibits use of the name "Slimming Soles" without scientific substantiation that the product actually causes weight loss, requires the respondents to have scientific substantiation for weight-loss claims for any other products, and requires that testimonials represent the typical experience of consumers or disclose the fact that results are not typical. The respondents are also prohibited from violating the Mail or Telephone Order Merchandise Rule and are required to pay \$100,000 in redress.

Bruno's, Inc.

The Commission approved a consent order with Bruno's, settling allegations that this regional grocery chain violated the Fair Credit Reporting Act (FCRA) by failing to tell job applicants who were denied employment (1) when information in the applicant's credit records played a role in the denial and (2) the name and address of the firm that provided the credit history information. The order requires Bruno's to comply with the provisions of the FCRA in the future.

Budget Marketing, Inc.; Dale Branson (d/b/a Leisure Day Marketing); Charles P. Donly (d/b/a Budget Renewal Service); Charles A. Eagle; Roy Golden (d/b/a American Marketing Service); Dennis H. Gougion; John Harrison; Steven Johnson; Dave Keown (d/b/a Publishers Marketing); Dale T. Lenard (d/b/a Mega-Magazine Service, Colorado Dawn, and Key Concept); Richard Prochnow (d/b/a Direct Sales International); William J. Stemple, Sr. (d/b/a Budget Marketing of Virginia)

Budget Marketing (BMI), a national telemarketer of magazine subscriptions, and 11 of its dealers agreed to settle allegations that their sales and collection practices were deceptive and violated federal laws. The Commission alleged that the respondents misrepresented the costs and conditions of subscription agreements and illegally deducted charges electronically from consumers' bank accounts without authorization. The consent order bars the respondents from violating the Electronic Funds Transfer Act and from carrying out other illegal practices in the future. (Also see Budget Marketing, Inc., page 104.)

California SunCare, Inc.; Donald J. Christal

The Commission accepted a consent order with California SunCare and its president, settling allegations that they made false and unsubstantiated claims that moderate exposure to ultraviolet radiation of the sun or in indoor tanning salons provides health benefits and that users of the company's tanning products can obtain these benefits while avoiding the dangers of overexposure and burning. The order bars the respondents from misrepresenting the effects of exposure to ultraviolet radiation and requires them to have scientific substantiation for any claims about the health benefits of ultraviolet exposure and about the performance, safety, benefits, or efficacy of any tanning product or service. The order also requires the company to place a prominent cautionary statement in future advertising and labeling for their tanning products.

Computer Business Services, Inc.; Andrew L. Douglass; Jeannette L. Douglass; Matthew R. Douglass; Peter B. Douglass

Two agreements with Computer Business Services and its principals settled allegations that the firm made false and misleading advertising claims overstating the potential earnings and profits of its home-based computer business opportunity. The consent order with the company and three principals, Andrew Douglass, Matthew Douglass, and Peter Douglass, requires them to pay \$5 million in consumer redress. It also bars them from misrepresenting the earnings or success rate of investors and prohibits them from using misleading testimonials or endorsements. A separate consent order with officer Jeannette Douglass contains similar provisions, but no consumer redress requirement.

Comtrad Industries, Inc.

The Commission approved a consent order with Comtrad, settling allegations that the firm made false and unsubstantiated safety and effectiveness claims for a portable electronic food cooler that doubles

as a food warmer. The order prohibits Comtrad from misrepresenting the ability of any food storage product to cool or warm foods or maintain proper cold storage temperatures and requires the company to have substantiation for claims about the safety or efficacy of such products and to disclose their potential food safety risks.

Conopco, Inc. (d/b/a Van Den Bergh Foods Company)

A consent order with Conopco, a subsidiary of Unilever United States, Inc., settled allegations that a national advertising campaign for Promise margarine included unsubstantiated claims. The consent order requires the company to have adequate scientific substantiation for claims that any margarine or spread reduces the risk of heart disease or contributes to any health-related condition. The order also bars Conopco from misrepresenting the amount of fat, saturated fat, cholesterol, or calories in any spread or margarine and requires it to follow U.S. Food and Drug Administration labeling regulations for such claims.

Dean Distributors, Inc. (d/b/a Advanced Health Care System, Cambridge Direct Sales, and Medibase)

The Commission approved a consent order with three companies in connection with the marketing of low-calorie and very-low-calorie diet programs, including the Food for Life Weight Management System and the Cambridge Diet, through a multilevel distribution system. The order requires the respondents to have substantiation for weight-loss and weight-maintenance claims. It also requires that advertisements state that weight loss may be temporary and clearly disclose the need for physician monitoring to minimize potential health risks.

Efficient Labs, Inc.; Blas Reyes-Reyes

A consent order with Efficient Labs and a company officer settled allegations that their Spanish-language advertisements for Venoflash, a dietary supplement composed of vitamins and plant derivatives, included unsubstantiated claims. The order requires the respondents to have scientific substantiation to back up future representations regarding the health benefits, performance, safety, or efficacy of any food, drug, cosmetic, or dietary supplement promoted or used to treat conditions or illnesses related to the circulatory system.

General Motors Corporation; American Honda Motor Co., Inc.; American Isuzu Motors, Inc.; Mazda Motor of America, Inc.; Mitsubishi Motor Sales of America, Inc.

Five major automobile manufacturers agreed to provide consumers with clear, readable, and understandable cost information in their car leasing and financing advertisements, settling allegations that the companies' advertising inadequately disclosed significant lease terms and fees. Television commercials cited by the Commission allegedly contained critical cost disclosures in small, often scrolling print that appeared on the screen for only a few seconds. The five final consent orders bar the companies from misrepresenting the total amount due at the inception of a car lease and require their advertisements to disclose clearly and conspicuously that the deal is a lease, the total amount due at lease inception, and other payments required and charges imposed. The orders with General Motors and Mitsubishi also bar these companies from misrepresenting terms for car loans and require them to disclose clearly and conspicuously the amount of any balloon payment, the correct annual percentage rate, and other important credit terms.

Georgetown Publishing House Limited Partnership, Inc.; Georgetown Publishing House, Inc.; Daniel Levinas

The Commission approved a consent order with Georgetown Publishing House Limited, its general partner, and its president, settling allegations that they used deceptive advertising tactics to promote the sale of a book. The respondents allegedly misled consumers by sending them what appeared to be an independent book review torn from a magazine, with an attached handwritten personalized message, but which was actually an advertisement prepared and sent by the respondents. The order prohibits the respondents from misrepresenting that a paid advertisement is an independent review or article and from misrepresenting that a product has been independently reviewed or evaluated.

Gerber Products Company

A consent order with Gerber settled allegations that the company made false and unsubstantiated "doctor recommended" claims for Gerber baby food. The order bars the company from making any claims about the extent to which doctors or other health, nutrition, child care, or medical professionals recommend, approve of, or endorse baby or toddler food, without competent and reliable scientific substantiation, and from misinterpreting the results or existence of any survey, test, or research.

Grey Advertising, Inc.

The Commission approved two consent orders with Grey, settling allegations over the role the agency played in advertising a paint-sprayer toy marketed by Hasbro, Inc., and a line of frozen yogurt marketed by The Dannon Company. The order in connection with the Hasbro toy resolves allegations that a TV commercial employed a hidden motorized air compressor to misrepresent how easily children could operate the sprayer. The order prohibits Grey from using deceptive demonstrations or otherwise misrepresenting the performance of any toy. The second order resolves allegations that a commercial falsely implied that some of the flavors in the Pure Indulgence line of yogurt were low in fat and calories. This order prohibits Grey from misrepresenting the fat, saturated fat, cholesterol, or calories in frozen yogurt, frozen sorbet, and ice cream.

Guildwood Direct Limited (d/b/a Intermed Laboratories)

A consent order with Guildwood resolved allegations in connection with the marketing of Slimming Insoles, shoe insoles that purportedly cause weight loss by stimulating certain areas of the feet. The order prohibits use of the name "Slimming Insoles" without scientific substantiation that the product actually causes weight loss, requires the respondents to have scientific substantiation for weight-loss claims for any other products, and requires that testimonials represent the typical experience of consumers or disclose the fact that the results are not typical. In addition, Guildwood is required to pay \$7,500 in consumer redress.

Herb Gordon Auto World, Inc. (d/b/a Herb Gordon Auto World, Herb Gordon Dodge, Herb Gordon Mercedes-Benz, Herb Gordon Nissan, Herb Gordon Oldsmobile, Herb Gordon Volvo, and Herb Gordon Used Cars)

A consent order with Herb Gordon settled allegations that the company and seven of its dealerships violated federal laws by misrepresenting, hiding, or failing to disclose terms in advertising automobile financing plans. According to the Commission, car sales advertisements touted low monthly payments and misrepresented or failed to disclose later higher payments, and lease advertising failed to disclose all required costs and terms. The consent order prohibits the respondents from misrepresenting or obscuring important cost information and from advertising financing or leasing terms that are not actually available to consumers. The order requires the respondents to comply with federal laws mandating accurate, clear, and conspicuous disclosure of rates, payments, and other terms in financed automobile purchases and leases.

Huling Bros. Chevrolet, Inc.; Huling Bros. Chrysler/Plymouth, Inc.; Huling Buick, Inc.

The Huling Bros. car dealerships agreed to settle allegations that they misrepresented, hid, or failed to disclose the terms of their advertised automobile deals, in violation of federal laws. The Commission alleged that their advertising for financed car purchases understated the true annual percentage rate (APR) or failed to state the APR at all and included conflicting payment amounts and terms or rebates that were not actually available to consumers. The consent order bars the respondents from misrepresenting any payments, rebates, or other terms of financed car deals. It also requires Huling Bros. to calculate the APR in accordance with regulations and to clearly include in their advertising all disclosures required by law.

Hyde Athletic Industries, Inc.

Hyde agreed to a consent order settling allegations that the shoe company misrepresented that all of its athletic footwear is made in the United States, when a substantial amount is made wholly abroad. The order prohibits the company from making such misrepresentations, but provides that Hyde would not be in violation of the order if it makes truthful statements about domestic production of footwear, accompanied by certain disclosures.

Icon Health and Fitness, Inc.; IHF Capital, Inc.; IHF Holdings, Inc.

A consent order with Icon, which bills itself as the world's largest manufacturer of home fitness equipment, and two related companies settled allegations that they made unsubstantiated claims about the weight-loss benefits of the Proform Cross Walk Treadmill. The order requires the respondents to have substantiation for future claims about the weight-loss, calorie-burning, or fat-burning benefits of any exercise equipment. The order also requires that testimonials in advertising either represent the typical experience of users or disclose that the results are not typical.

Interactive Medical Technologies, Ltd.; Effective Health, Inc.; William Pelzer, Jr.; William E. Shell, M.D.

The Commission approved three separate consent orders with Interactive Medical and Effective Health, William Pelzer, and William Shell, M.D., settling allegations in connection with both the marketing of Lipitrol, a purported weight-loss product, and the assistance provided to KCD Holdings, Inc., in marketing SeQuester, a similar product (see below). Both Lipitrol and SeQuester are over-the-counter cellulose-bile products that purportedly aid in weight loss and fat and cholesterol reduction. The order with Interactive Medical and Effective Health requires scientific substantiation for claims and prohibits misrepresentations regarding the benefits or safety of any product or program. All three orders bar the respondents from assisting entities that make false, misleading, or unsubstantiated claims for any weight-loss, fat-reduction, or cholesterol-reduction product or program, and require them to monitor the business practices of certain parties to whom they provide assistance. The two companies must pay \$35,000 in redress, and Shell must pay \$20,000 in redress and post a performance bond before he is involved in marketing any weight-loss, fat-reduction, or cholesterol-reduction product or program in the future.

KCD Holdings, Inc.; Deerfield Corporation; KCD Incorporated; Gerald E. Hatto; Clark M. Holcomb; Bonnie L. Richards

The Commission approved a consent order with three related companies and three company officers, settling allegations in connection with the marketing of SeQuester, an over-the-counter cellulose-bile product that purportedly aids weight loss and fat and cholesterol reduction. The order requires the respondents to have scientific substantiation for claims regarding the benefits or safety of any product or program, including claims that it provides any weight-loss benefit or reduces the risk of certain health problems. The order also requires KCD Holdings, KCD Incorporated, and Bonnie Richards to pay \$150,000 in consumer redress.

Leeka Products (Eliana Crema and Rogerio Monteiro, d/b/a)

Two individuals doing business as Leeka settled allegations that their Spanish-language advertisements for three products (a weight-loss nutritional supplement, a product to improve the results of exercise, and a product to prevent or retard hair loss) contained unsubstantiated claims. The consent order requires the respondents to have scientific evidence to support any claims they make about the benefits, efficacy, or performance of any food, drug, cosmetic, or dietary supplement. The order also prohibits them from using product names that represent that a product prevents or retards hair loss unless they can substantiate that it does. Finally, the order prohibits the respondents from misrepresenting the existence or conclusions of any test, study, or research.

Life Fitness; The Life Fitness Companies L.P.

A consent order with Life Fitness, which markets a variety of exercise equipment, settled allegations that the company made unsubstantiated claims about the weight-loss benefits of its Lifecycle stationary exercise cycle. The order requires Life Fitness and its general partner, The Life Fitness Companies, to have substantiation for future claims about the weight-loss, calorie-burning, or fat-burning benefits of any exercise equipment. It also prohibits them from misrepresenting the result of any test or study relating to these types of benefits.

M.E.K. International (Kave Elahie, d/b/a)

A consent order with Kave Elahie, doing business as M.E.K., settled allegations that the company's Spanish-language advertisements included unsubstantiated claims that NutraTrim cream reduces or eliminates cellulite and fat and that NutraTrim chromium picolinate tablets cause weight loss, reduce

cholesterol, reduce body fat and cellulite, reduce appetite, and increase metabolism. The order requires the respondents to have competent and reliable scientific evidence for similar claims, as well as any other claims about the performance, benefits, efficacy, or safety of any food, drug, or dietary supplement. The order also prohibits the company from misrepresenting the existence or results of any test or study and requires that testimonials represent the typical experience of consumers or be accompanied by a disclaimer.

The Money Tree, Inc.; Vance R. Martin

A consent order with Money Tree and its president settled allegations in connection with their business of making short-term installment loans, most of them to low-income consumers. According to the Commission, the respondents required consumers applying for loans to purchase insurance and/or an auto club membership. The costs of these extras were included in the amount financed instead of in the finance charge and annual percentage rate, causing consumers to pay interest on the premiums and fees for these extras, in violation of the Truth-in-Lending Act. In addition, the respondents allegedly violated the Fair Credit Reporting Act (FCRA) by failing to disclose the names of the credit bureaus that supplied credit reports when consumers' credit applications were denied. The consent order requires Money Tree to offer its customers the chance to cancel the insurance they purchased and to obtain refunds or credits. The order bars the respondents from misrepresenting the purchase of insurance and other extras and requires them to disclose in the future that such insurance is optional. The order also bars the respondents from violating the FCRA regarding disclosures to consumers when credit reports play a role in the denial of credit. In a separate agreement, the respondents are required to pay a civil penalty (see *The Money Tree, Inc.*, page 107).

Nationwide Syndications, Inc.; Thomas W. Karon

Nationwide and its company president agreed to settle allegations that claims that their NightSafe Glasses improve night vision and make night driving safer were false and not supported by reliable evidence. The consent order prohibits the company from making such claims and bars them from using the name "NightSafe" or any other name that would imply that such a product makes night driving safer. The order requires the respondents to have competent and reliable scientific evidence to substantiate claims about the efficacy, performance, benefits, or safety of such products. In addition, the respondents are required to pay \$125,000 in consumer redress and to provide the Commission with names and addresses of consumers who purchased the glasses so that they can be notified that wearing the glasses at night may in fact be unsafe.

Natural Innovations, Inc.; World Media T.V., Inc.; William S. Gandee

The Commission approved two consent orders, one with Natural Innovations and its president and one with World Media, settling allegations stemming from the advertising and sale of a purported pain relief device, the Stimulator, which emits a weak electric spark when activated. The orders require the respondents to have scientific substantiation to support any pain relief or other health or medical benefit claims for any device and either to substantiate the claim that testimonials represent the typical experience of users or to accompany such endorsements with a prominent disclaimer.

Nutrition 21; Selene Systems, Inc.; Herbert H. Boynton

A consent order with Nutrition 21, Selene Systems, and Herbert Boynton settled allegations that advertising claims for their weight-loss and health care products containing chromium picolinate were unsubstantiated. Nutrition 21 is the sole U.S. supplier for chromium picolinate and sells it to the public through distributors. The order requires competent and reliable scientific evidence to support the challenged claims and any representation about the benefits, performance, efficacy, or safety of any food, dietary supplement, or drug the respondents advertise or sell, and prohibits misrepresentation of the results of any test, study, or research. The order also requires the company to send its past, current, and future distributors a notice of the Commission's allegations and a request not to use sales materials that make the challenged claims.

Phaseout of America, Inc.; Products & Patents, Ltd.

An agreement with Phaseout and Products & Patents settled allegations that they made false or unsubstantiated claims for PhaseOut, a purported stop-smoking device that also was said to make cigarettes less harmful by puncturing holes in the filters. The consent order requires the companies to

contact past purchasers of the device, notify them of the Commission's action, and advise them that the device has not been proven to reduce the risks of smoking or make cigarettes safer. The order bars the companies from misrepresenting any test or study and requires them to have scientific substantiation for any claim that an endorsement reflects the typical experience of users.

Premier Products, Inc.; T.V. Products, Inc.; T.V.P. Corporation; Issie Kroll; Michael Sander

A consent order with three companies and two company officers settled allegations that they made false and unsubstantiated claims about the safety and effectiveness of Miracle Thaw, a tray that purportedly thaws frozen food quickly and safely. The order prohibits the respondents from misrepresenting how long it takes any product to thaw food, the process by which it does so, and the existence or results of any study. The order also bars the respondents from misrepresenting the risk of bacteria buildup on foods with such a product and requires them to have substantiation for claims about product safety or efficacy.

Progressive Mortgage Corporation; Sanford Cramer

Progressive Mortgage and its president settled allegations stemming from their mortgage lending services. According to the Commission, the respondents provided false and misleading information about payment schedules and the cost of credit to mortgage applicants. The consent order bars the respondents from misrepresentations in the future and requires them to provide full and accurate disclosure of finance charges, annual percentage rates, and other terms and conditions of financing, in compliance with the Truth-in-Lending Act.

RBR Productions, Inc.; Richard Rosenberg

The Commission reached an agreement with RBR Productions, a supplier of beauty salon products, and corporate officer Richard Rosenberg, settling allegations that they overstated the human safety and environmental benefits of two disinfectants and one aerosol fingernail-glue drying spray. The consent order prohibits the respondents from making the allegedly false claims and requires them to have competent and reliable evidence to back up similar claims.

Schering-Plough Healthcare Products, Inc.

Schering-Plough agreed to settle allegations that advertisements for its Coppertone Kids 6-Hour Waterproof Sunblock were deceptive in claiming that one application would provide six hours of protection from the sun for children engaged in sustained vigorous activity in and out of the water. According to the Commission, that claim was unsubstantiated because the company did not test the product under those conditions. The consent order prohibits Schering-Plough from making certain claims about the effectiveness of its sunscreen protection for children without scientific substantiation and requires it to produce and distribute consumer education brochures about the importance of sunscreens and their proper application.

SplitFire, Inc.

A consent order with SplitFire settled allegations that the company made false and unsubstantiated claims for the fuel economy, efficiency, and improved performance of its spark plugs. The order prohibits SplitFire from making such claims without competent and reliable scientific evidence. It also bars misrepresentations about any test or study and requires the company to have substantiation for claims made in endorsements or testimonials and to disclose what typical consumers experience or indicate the limited applicability of the endorser's experience.

Synchronys Softcorp; Wendell Brown; Rainer Poertner; Daniel G. Taylor

The Commission approved a consent order with Synchronys Softcorp and three of its officers, settling allegations that they made misrepresentations and/or unsubstantiated claims regarding the ability of two computer software programs they manufactured, SoftRAM and SoftRAM95, to improve the performance of personal computers using Windows programs. The order prohibits the respondents from making a variety of misrepresentations about the capabilities of these or similar software products and requires them to have appropriate substantiation for any claims they make about any product intended to improve computer performance.

Telebrands Corporation; Ajit Khubani

The consent order with Telebrands, a mail and telephone order company, and its owner settled allegations that they made false and unsubstantiated performance claims in advertising two products, a hearing aid and a television antenna. The order prohibits the respondents from making false claims about the ability of the hearing aid to amplify sound and the ability of the antenna to improve television reception and requires them to have substantiation for any claims about the performance and effectiveness of these or similar products.

Universal Merchants, Inc.; Steven Oscherowitz

The Commission approved a consent order with Universal Merchants and its president Steven Oscherowitz, settling allegations that the respondents made unsubstantiated claims about the weight loss and health benefits of chromium picolinate, a popular dietary supplement. The order requires them to have competent and reliable scientific substantiation for any claims they make about the performance, benefits, or safety of chromium picolinate or any food, dietary supplement, or drug, and bars them from misrepresenting any test or study.

Uno Restaurant Corporation; Pizzeria Uno Corporation; Uno Restaurants, Inc.

Uno Restaurant Corporation and two subsidiaries agreed to settle allegations that they falsely advertised their Thinzettas line of thin-crust pizzas as low fat. The consent order bars the respondents from misrepresenting the existence or amount of fat or any other nutrient or substance in any pizza or other "baked crust" food product.

Victoria Bie, d/b/a Body Gold

The Commission approved a consent order with Victoria Bie, doing business as Body Gold, settling allegations that the respondent made unsubstantiated claims about the weight loss and health benefits of chromium picolinate, a popular dietary supplement. The order requires her to have competent and reliable scientific substantiation for any claims she makes about the performance, benefits, or safety of chromium picolinate or any food, dietary supplement, or drug, and bars her from misrepresenting any test or study.

Zale Corporation

Zale, the nation's largest jewelry retailer, agreed to settle allegations that it deceptively advertised its Ocean Treasures line of imitation pearl jewelry, creating the impression that the jewelry was composed of cultured pearls. The consent order prohibits Zale from misrepresenting the composition or origin of any imitation, cultured, or natural pearl product. The order requires Zale to disclose clearly and prominently the nature of the pearl jewelry it sells and to make available consumer information in its stores about the definition and origin of natural, cultured, and imitation pearls.

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benefits managers, and other third-party payers in an attempt to reduce payers' costs .

North Mississippi Health Services

Commission staff advised North Mississippi that the sale of discounted pharmaceuticals to retired or former employees of the hospital would not be entitled to the exemption from the Robinson-Patman Act provided by the Non-Profit Institutions Act. North Mississippi's Medical Center pharmacy provides pharmaceuticals at discounted prices to employees, students, medical staff, and their dependents. Commission staff advised that the provision of pharmaceuticals to persons who no longer have a direct relationship with the Medical Center would not constitute purchases for the Medical Center's "own use" under the Act.

North Ottawa Community Hospital

Commission staff advised North Ottawa that its plan to sell pharmaceuticals to Hospice of North Ottawa County would be exempt from the Robinson-Patman Act under the Non-Profit Institutions Act so long as it did not realize a profit from the sale. North Ottawa could receive from Hospice the price it paid for the drugs plus reimbursement for any costs it incurs as a direct result of providing the drugs to Hospice patients. North Ottawa could charge a monthly per-patient fee for the drugs if the fee accurately reflects its direct expenses in servicing Hospice patients.

Ohio Ambulance Network, Inc.

Commission staff advised the Ohio Ambulance Network that the staff would not recommend a challenge to a proposal to create a network of licensed ambulance and ambulance service providers to offer scheduled, non-emergency service throughout northeast and south-central Ohio. The network members will provide services in accordance with the terms of participating agreements and contracts entered into individually by each network member with purchasers; an independent contractor will act as "messenger," conveying contract offers between potential purchasers and each member provider. The network will administer contracts by coordinating scheduling and dispatch, centralizing billing and payment, and facilitating communication between a purchaser and participating providers. Members will be free to join other networks or to contract with purchasers independently.

Southwest Florida Oral Surgery Associates

Commission staff advised that the staff would not recommend a challenge to Southwest's proposal to form a cooperative for the purpose of jointly marketing oral surgery services to employers, managed care plans, and other payers. The cooperative, composed of three oral and maxillofacial surgery practices, will use a "messenger" to solicit payer and managed care contracts and to transmit contract offers to members for individual acceptance or rejection. The cooperative will engage in group purchasing, joint marketing, and the sharing of medical information systems. Each practice will continue to operate individually and to provide its own claims processing and other administrative functions. Members will have the ability to join in other networks and to market their practices independently of the cooperative.

Yellowstone Physicians, LLC

Commission staff advised Yellowstone Physicians, a proposed multispecialty physician network joint venture in Montana, that the staff would not recommend a challenge to the formation and operation of the for-profit company to be owned by its members, who will also be the health care providers for the network. The network plans to enter into managed care provider contracts on behalf of its members, whereby participating physicians will share risk through either the use of capitated rates or contracts with substantial risk withholds.

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Compagnie de Saint-Gobain; The Carborundum Company; Saint-Gobain/Norton Industrial Ceramics Corporation

The Commission granted a petition of Compagnie de Saint-Gobain, and its U.S. subsidiary, Saint-Gobain/Norton, to modify a 1996 consent order settling allegations stemming from Compagnie de Saint-Gobain's acquisition of Carborundum. The modified order allows knowledgeable managers and officers of Carborundum to serve on the boards or management committees of the separately held businesses.

Del Monte Foods Company

The Commission granted in part a petition from Del Monte to modify a 1995 consent order by ending the company's obligation to obtain Commission approval before making certain acquisitions or entering into certain marketing agreements. Consistent with the Commission's policy, announced in June 1995, to reduce the burden on companies while still protecting consumers, in place of prior approval, the Commission substituted a prior notice requirement for certain acquisitions. The consent order settled allegations that supply agreements between Del Monte and Pacific Coast Producers eliminated Pacific Coast as a substantial and direct competitor to Del Monte in the canned fruit business.

The Geon Company (successor to B.F. Goodrich)

The Commission granted a petition from Geon to modify a 1989 consent order against The B.F. Goodrich Company and deleted the requirement that Goodrich and its successors obtain Commission approval before acquiring certain vinyl chloride monomer (VCM) assets. The order had settled an administrative complaint that alleged that Goodrich's acquisition of the VCM business of Diamond Shamrock Chemical Company could lessen competition in the production of polyvinyl chloride and vinyl chloride monomer materials used to make plastics. The Commission's modification was consistent with its policy, announced in June 1995, to reduce the burden on companies while still protecting consumers.

HealthSouth Corporation

(successor to HealthSouth Rehabilitation Corporation)

The Commission granted the petition of HealthSouth, ending its obligation to obtain Commission approval before merging any of its rehabilitation hospital facilities with competing facilities in three areas of South Carolina and Tennessee. The order had required prior notification of such acquisitions. The 1995 order settled antitrust concerns stemming from the merger of HealthSouth Rehabilitation and ReLife, Inc., two rehabilitation hospital facilities. The Commission's modification was consistent with its policy, announced in June 1995, to reduce the burden on companies while still protecting consumers.

(Home Oxygen and Medical Equipment Company)

John E. Sailer, M.D.

The Commission granted the petition of John E. Sailer, M.D., to reopen and modify a 1994 consent order accepted with 11 pulmonologists and their Home Oxygen and Medical Equipment joint venture. The order was modified by relieving Sailer, who has now retired, of all obligations under the consent order. The Commission had alleged that the joint venture would create a barrier to others who might provide oxygen to patients' homes, thus reducing competition and risking higher consumer prices.

Oerlikon-Buhrle Holding AG

The Commission granted a petition from Oerlikon-Buhrle to modify a 1995 consent order to replace a requirement that the firm obtain prior Commission approval until February 2005 before acquiring certain assets used in the manufacture and distribution of turbomolecular pumps or compact disc metallizers. A provision requiring Oerlikon to give the Commission prior notice was substituted for the prior approval provision. The Commission's modification was consistent with its policy, announced in June 1995, to reduce the burden on companies while still protecting consumers.

Onkyo U.S.A. Corporation

The Commission granted in part and denied in part a petition from Onkyo to modify a 1982 consent

order. The modified consent order permits the company to implement price-restrictive cooperative advertising programs and to unilaterally terminate a dealer for failing to adhere to previously announced resale prices. The Commission denied Onkyo's request to end the firm's obligation to furnish copies of the order to certain employees and to terminate the order in the year 2002 rather than 20 years after a 1995 consent judgment was entered for allegedly violating the consent order.

The Penn Traffic Company

The Commission granted the petition of Penn Traffic and modified a consent order ending the firm's obligation to divest one of its two supermarkets in Mount Carmel, Pennsylvania. The divestiture was one of three required under a 1995 consent order that had settled antitrust concerns stemming from the acquisition of 45 retail grocery stores in Pennsylvania and New York from Acme Markets, Inc. The Commission found that new supermarket entrants into the area eliminated the need for the divestiture.

Schwegmann Giant Super Markets, Inc.

The Commission granted a petition of Schwegmann to reopen and modify a 1995 consent order that had settled allegations stemming from the acquisition of supermarkets in New Orleans, Louisiana. The order was modified by replacing the provision requiring that Schwegmann receive prior Commission approval before acquiring retail grocery stores in the New Orleans metropolitan area with a provision requiring prior Commission notice before such transactions. The Commission's modification was consistent with its policy, announced in June 1995, to reduce the burden on companies while still protecting consumers.

The Stop & Shop Companies, Inc.

The Commission granted a petition from Stop & Shop and deleted divestiture requirements for two Purity Supreme supermarkets in Massachusetts. Stop & Shop presented evidence that changed conditions, including the entry of new supermarkets in Brookline and Roslindale, rendered the two Purity Supreme stores unsalable. The 1996 consent order had settled allegations that Stop & Shop's merger with Purity Supreme, Inc., would substantially reduce competition and lead to higher prices in several markets in Massachusetts.

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vaccines, canine coronavirus vaccines, and feline leukemia vaccines. The consent order, designed to preserve competition, requires American Home Products to divest Solvay's U.S. and Canadian rights to the three vaccines to Schering-Plough Corporation. To ensure that there is no break in the supply of Solvay's vaccines, the order requires American Home Products to manufacture and supply the vaccines to Schering-Plough until Schering-Plough obtains all necessary government certifications and approvals to manufacture and sell the vaccines.

Autodesk, Inc.; Softdesk, Inc.

Autodesk agreed to settle allegations that its acquisition of Softdesk would substantially lessen competition in the development and sale of computer-aided design (CAD) software engines. Autodesk develops and markets AutoCAD, a design engine for use in Windows-based personal computers. Prior to the acquisition, Softdesk sold its developmental-stage CAD engine, IntelliCADD, to Boomerang Technology, Inc. The consent order prohibits Autodesk or Softdesk from reacquiring IntelliCADD without prior Commission notice for 10 years. The order also requires that neither Autodesk nor Softdesk interfere with Boomerang's ability to recruit or hire Softdesk employees who worked on the development of IntelliCADD.

Baxter International Inc.

Baxter International agreed to settle antitrust concerns stemming from its proposed acquisition of Immuno International AG. According to the complaint issued with the consent order, the acquisition would create the world's largest manufacturer of human plasma products used to treat hemophilia and to control bleeding in surgical applications. The consent order requires Baxter to divest its Autoplex blood plasma product and to license Immuno's fibrin sealant to Commission-approved buyers.

The Boeing Company

Boeing agreed to settle allegations that its \$3.025 billion acquisition of Rockwell International Corporation's aerospace and defense business would reduce competition in two markets: high-altitude-endurance unmanned air vehicles (UAVs) and space launch vehicles. In the first market, according to the complaint issued with the consent order, the acquisition would make Boeing a member of both teams competing to develop UAVs for the Department of Defense. Under terms of the consent order, Teledyne Ryan, the prime contractor of one team, could replace Boeing on that team, with no significant cost or risk to Teledyne Ryan, thereby protecting competition in the UAVs market. In the second market, Boeing would be positioned as both a competitor in the space launch vehicle business and a provider of propulsion systems for other competitors. To remedy the possibility that as a competitor and supplier, Boeing would have inappropriate access to competitively sensitive information, the consent order establishes two information firewalls: (1) preventing the flow of competitively sensitive information between Boeing's team and a division of Rockwell that currently provides wings to the other team, and (2) prohibiting Boeing from disclosing nonpublic information from any space launch vehicle manufacturer to its own launch vehicle division.

Cadence Design Systems, Inc.

Cadence agreed to settle allegations that its acquisition of Cooper & Chyan Technology, Inc., would substantially reduce competition for "routing" software used to automate the design of integrated circuits or microchips. According to the complaint accompanying the consent order, the merger would reduce Cadence's incentives to permit competing suppliers of routing tools to obtain access to its software infrastructure for layout environments, resulting in less innovation, higher prices, and reduced services. To ensure that independent software developers of commercial routing tools continue to compete with Cooper & Chyan's technology, the consent order requires Cadence to allow these developers to participate in Cadence's software interface programs.

Ciba-Geigy Limited; Ciba-Geigy Corporation; Chiron Corporation; Novartis AG; Sandoz Corporation; Sandoz Ltd.

Ciba-Geigy agreed to settle allegations that its \$63 billion merger with Sandoz Corporation raised antitrust concerns in three markets affected by the proposed acquisition of Sandoz Ltd.: research and development in gene therapy products that are being targeted for life-threatening conditions such as hemophilia and cancer, corn herbicides, and flea-control products. In the gene therapy market, the order requires the licensing of certain intellectual properties to Rhone-Poulenc Rorer and other firms

to permit continued competition in research, development, and commercialization for a broad range of future medical treatments. In addition, in one of the largest divestitures ever required under a consent order, Sandoz agreed to divest its U.S. and Canadian corn herbicide business to BASF Aktiengesellschaft within 10 days. The consent order also requires the divestiture of Sandoz's flea-control business to Central Garden and Pet Supply of Lafayette, California, within 30 days.

Class Rings, Inc.; Castle Harlan Partners II, L.P.; Town & Country Corporation

Three manufacturers of school class rings agreed to settle allegations that their proposed merger would have increased the likelihood of coordinated interaction and led to higher prices for commemorative rings. The consent order, designed to restore competition, prevents Class Rings from acquiring Town & Country's Gold Lance, Inc., division, which will remain as an independent competitor, and prohibits Town & Country from acquiring any interest in Castle Harlan or Class Rings. In addition, for 10 years, the order requires the three companies to obtain Commission approval before acquiring certain assets from one another.

Cooperative Computing, Inc.

Cooperative Computing agreed to settle concerns that its proposed acquisition of Triad Systems Corporation would substantially reduce competition in the development and sale of electronic parts catalogs used in the automotive parts aftermarket. The consent order requires Cooperative Computing to divest its electronic parts catalog and related assets to MacDonald Computer Services or another Commission-approved buyer.

CVS Corporation; Revco D.S., Inc.

CVS agreed to settle allegations that its acquisition of Revco would substantially reduce competition for the retail sale of pharmacy services to health insurance companies and other third-party payers in Virginia and in the Binghamton, New York, metropolitan area. The consent order requires CVS to divest 114 Revco stores in Virginia and 6 pharmacies in Binghamton. Under terms of the order, CVS agreed to divest the Revco stores in Virginia to Eckerd Corporation, a subsidiary of J.C. Penney Company, and the pharmacies in Binghamton to Medicine Shoppe International, Inc.

Dwight's EnergyData, Inc.; Geoquest International Holdings, Inc.; SoftSearch Holdings, Inc.

Dwight's EnergyData (a subsidiary of SoftSearch) agreed to license its gas and oil production data to a Commission-approved buyer to settle allegations that its acquisition of Petroleum Information Corporation (a subsidiary of Geoquest) could create a monopoly in the collection and sale of well history data to the oil and gas industry. The consent order also requires the two firms to notify the Commission before acquiring any interest in a provider of well history or production data.

Fresenius AG; Fresenius USA, Inc.

Fresenius AG and its U.S. subsidiary, Fresenius USA, agreed to settle allegations that their proposed acquisition of National Medical Care, Inc., would substantially reduce competition by combining two significant producers of a hemodialysis concentrate used in the treatment of patients with chronic kidney failure. The consent order requires Fresenius to divest a production facility in Lewisberry, Pennsylvania, to Di-Chem, Inc., or to another Commission-approved acquirer.

General Mills, Inc.

General Mills agreed to settle allegations that its acquisition of the branded ready-to-eat cereal and snack mix businesses of Ralcorp Holdings, Inc., would restrict the entry of new private-label products similar to the branded cereals. Under terms of the consent order, Ralcorp retains its private-label cereal business, composed of cereals identical to the Chex-brand cereals, as well as the right to transfer those private-label cereals to any other firm without the authorization or approval of General Mills. The consent order also prohibits General Mills from delaying production of the private-label Chex rival cereals.

Hale Products, Inc.

Hale agreed to settle allegations that it and Waterous Company, Inc. (see page 47) separately entered

into exclusive dealing agreements requiring their respective customers to purchase fire-truck-mounted fire pumps. Together, Hale and Waterous account for about 90% or more of the market for truck-mounted fire pumps. According to the complaint issued with the consent order, these practices reduced competition between the two firms and made it more difficult for other firms to enter the market for truck-mounted fire pumps. The consent order prohibits Hale from engaging in any conduct that restrains fire truck manufacturers from purchasing mounted fire pumps from any other company.

J.C. Penney Company, Inc.; Thrift Drug, Inc.

J.C. Penney agreed to settle allegations that its acquisitions of Eckerd Corporation and 190 Rite Aid drug stores would substantially reduce drug store competition and raise prices for pharmacy services to health insurance companies and other third-party payers in certain areas of North Carolina and South Carolina. The consent order requires J.C. Penney to divest 34 Thrift drug stores in the Charlotte and Raleigh-Durham areas of North Carolina, all 110 Rite Aid drug stores in North Carolina, and all 17 Rite Aid drug stores in the Charleston, South Carolina, area to a Commission-approved buyer. The Commission approved divestiture of the stores to New Kerr Drug, Inc., in May 1997.

Mahle GmbH; Metal Leve, S.A.

Mahle, a German piston manufacturer, agreed to settle allegations that its acquisition of Metal Leve would create a monopoly in the manufacture and sale of articulated pistons used in truck engines for big highway rigs and in locomotive engines. The consent order requires Mahle to divest Metal Leve's two piston plants in South Carolina and a research and development center in Ann Arbor, Michigan. A consent judgment filed in the U.S. District Court for the District of Columbia requires Mahle to pay a record \$5.6 million civil penalty for failing to notify the two federal antitrust agencies before consummating the acquisition. (See Mahle GmbH, page 54.)

Montana Associated Physicians, Inc.; Billings Physician Hospital Alliance, Inc.

Montana Associated Physicians and Billings Physician Hospital Alliance agreed to settle allegations that they engaged in agreements with member physicians to control the prices they would accept from health insurance companies and other third-party payers and engaged in a boycott to block the entry of a managed care plan. According to the complaint issued with the consent order, the physicians' acts reduced consumer choices for health care and increased the fees physicians charged for their services. The consent order prohibits the two organizations from entering into any agreements with physicians to refuse to deal with third-party payers and to fix or control the fees charged for any physician's services.

NGC Corporation

NGC agreed to settle allegations that its acquisition of certain natural gas transportation and processing assets of Chevron Corporation would substantially lessen competition by leaving only two companies operating four natural gas liquids fractionation plants in Mont Belvieu, Texas, and increasing the likelihood that NGC could unilaterally raise prices or engage in coordinated interaction. The consent order requires NGC to divest its 80% interest in the Mont Belvieu I natural gas liquids fractionation facility in Texas. The Commission approved NGC's sale of the assets to Koch Hydrocarbon Company, a division of Koch Industries, Inc.

Phillips Petroleum Company

Phillips agreed to divest 160 miles of its natural gas pipeline system in the Anadarko Basin area of Oklahoma to KN Gas Gathering, Inc., under a consent order settling antitrust concerns stemming from its acquisition of certain ANR Pipeline Company gas gathering assets.

Tenet Healthcare Corporation

Tenet agreed to settle allegations that its proposed acquisition of OrNda Healthcorp would reduce competition for inpatient hospital care in San Luis Obispo County, California. According to the complaint issued with the consent order, the acquisition would substantially lessen competition in the area for inpatient acute hospital services. The consent order requires Tenet to divest OrNda's French Hospital Medical Center and related assets in the county within six months to a Commission-approved acquirer.

Time Warner Inc.; Tele-Communications, Inc.; Turner Broadcasting System, Inc.

Time Warner agreed to restructure its proposal to acquire Turner Broadcasting to settle antitrust concerns that the merger would reduce competition in cable television programming and allow Time Warner to unilaterally raise prices. The consent order, among other things, requires Tele-Communications to either divest its interest in Time Warner or accept a limited nonvoting interest, requires the three companies to cancel long-term carriage agreements, reduces Time Warner's enhanced opportunities for bundling Time Warner and Turner programming, bars Time Warner from discriminating in price against rival cable systems, and requires Time Warner's cable interests to carry a rival television station to Turner's Cable News Network.

Waterous Company, Inc.

Waterous agreed to settle allegations that it and Hale Products, Inc. (see page 44) separately entered into exclusive dealing agreements requiring their respective customers to purchase fire-truck-mounted fire pumps. Together, Waterous and Hale account for about 90% or more of the market for truck-mounted fire pumps. According to the complaint issued with the consent order, these practices reduced competition between the two firms and made it more difficult for other firms to enter the market for truck-mounted fire pumps. The consent order prohibits Waterous from engaging in any conduct that restrains fire truck manufacturers from purchasing mounted fire pumps from any other company.

Wesley-Jessen Corporation

Wesley-Jessen agreed to settle allegations that its acquisition of Pilkington Barnes Hind International, Inc., would create a monopoly in the market for opaque contact lenses used to change eye color for cosmetic reasons. The consent order requires Wesley-Jessen to divest the Pilkington Barnes Hind opaque lens business to a Commission-approved acquirer. On March 18, 1997, the Commission approved divestiture of the business to The Cooper Companies, Inc.

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Commission continually reviews its rules and guides, and amends or repeals them as needed.

Education

The Commission is committed to educating consumers and businesses about their rights and responsibilities under Federal Trade Commission regulations and to encourage informed consumer choice and competitive business practices in the marketplace. For each major consumer protection law enforcement or rulemaking initiative, an education campaign is launched. A campaign may consist of printed materials - which are also made available on the Commission Web site - specialized Internet pages, and/or public service announcements. The Commission views the consumer and business education effort as a cost-effective way to help minimize consumer injury and obtain compliance with the law.

Advocacy

The Commission presents comments, upon request, to other agencies and entities concerning the effects of regulation on competition and consumers. At the request of lawmakers or agency officials, the Commission often provides comments or testimony to assist legislatures' consideration of pending bills or to assist agency rulemaking proceedings. These submissions advocate policies that will enhance both competition and consumer choice.

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Procurement and General Services completed a number of projects. These included reopening the Top of the Trade cafeteria with a renovated and refurbished kitchen, replacing the key card security system in the Headquarters satellite building with one compatible with the system in the main building, overseeing the cleanup and restoration of the satellite building after several floors were flooded by a water pipe rupture, and renovating the Public Reference and Records Processing areas to establish a new Consumer Resource Center. The Division also coordinated with the General Services Administration in the relocation of the Cleveland and Los Angeles regional offices.

Information and Technology Management

Information and Technology Management (ITM) is designed to provide improved information and technology services to its customers - the Commission, agency staff, and the public. The overall mission of ITM is to support and improve the productivity and effectiveness of the Commission's Consumer Protection and Competition Missions through the effective use of information resources. To ensure that its program is providing the services and systems that are most important to its customers, ITM implemented a Board of Directors, which is made up of several senior managers within the Commission, including the Executive Director, Directors of the Bureaus of Competition and Consumer Protection, Deputy Director of the Bureau of Economics, and, as a representative of the regional offices, the Director of the Seattle Regional Office. The Executive Director chairs the Board and also represents the interests of all support organizations throughout the Commission. The Board meets regularly and provides advice and direction to the program, as well as reviewing and approving ITM budget proposals.

ITM efforts for fiscal year 1997 were organized around three basic types of services: (1) providing reliable base systems and services, (2) providing responsive customer support, and (3) continuing the development of products and services begun in previous years.

Providing Reliable Base Systems and Services

Commission staff has come to rely heavily upon many of the systems for which ITM is responsible, including the Local Area Network (LAN), telephone and phonemail systems, the central computing facility, communications with regional offices, facsimile services, personal computers (pc's) on the desktops, local printers, and others. Those systems and services have greatly increased the productivity of the entire agency. However, because the agency relies on those systems, any interruption of service or weaknesses in their operation are dramatically felt by individual staff and the agency as a whole.

In fiscal year 1997, ITM installed new telephone and phonemail systems in the Dallas and Atlanta regional offices; upgraded, and therefore improved performance of, the e-mail servers; connected the Commission's e-mail system to the system at the Department of Justice's Antitrust Division; and updated ITM's Disaster Recovery Plan to include new equipment and processes. ITM purchased and installed more than 250 new Pentium-class pc's on desktops and 40 new laptop computers throughout the agency. ITM also purchased and installed a new video teleconferencing bridge, which resulted in a reduction in operating expenses.

In addition to providing those technological systems, ITM was responsible for providing direct support to Commission staff and the public through training services; maintaining an extensive library collection and providing various types of library services; providing

support for investigations and litigation; establishing records management policies and procedures for both paper and electronic records; processing, storing, and retrieving the official records of the agency; providing information and documents to the public, both records that have previously been made public and records that are requested under the Freedom of Information Act; and producing many important publications, including the Commission's Annual Report, Operating and Administrative Manuals, and FTC Decisions. During the year, responsibility for providing public materials through the Public Reference Unit was transferred to the Consumer Response Center in the Bureau of Consumer Protection. Staff from throughout ITM worked closely with the Competition and Economics staff on the *Staples* matter, providing expert technological advice and assistance to the investigatory and litigatory staff.

Providing Responsive Customer Support

Some of the systems and services that are available through ITM can provide vital support to both Commission staff and the public. However, one of the primary themes of ITM's Board of Directors and individual customers was the need to improve the ease of use, quality, and responsiveness of the core systems and to improve the responsiveness and customer orientation of support services. The systems and services that fall into this category include those provided through the HelpDesk, including pc installation and repair, telephone "trees" used throughout the Commission, and others.

Specifically in fiscal year 1997, ITM began an experiment providing HelpDesk support in the evenings after regular business hours and on weekends to assist Commission staff who work during those hours. ITM staff also conducted special "Litigation Support Expos" for both headquarters and regional office staff, in which presentations and demonstrations explained how available technology can assist in conducting law enforcement investigations and litigations. ITM directly supported the Consumer Response Center by developing special desktop pc's, rewiring the Center's office space, and training and supporting the staff in using their new equipment and systems.

Continuing the Development of Products and Services Begun in Previous Years

In fiscal year 1997, ITM continued to work on several important initiatives designed to provide new or better systems and services. The initiatives begun in previous years that continued in 1997 include:

MIS Replacement--A new system, the Matter Management System, or MMS, is replacing the Management Information System (MIS) as a tool for assisting in managing the agency's investigations, litigations, rulemaking proceedings, and projects. An intensive analysis of what the Commission needs from such a system was conducted in fiscal year 1995 and was followed by an exhaustive evaluation of commercial, off-the-shelf software packages that would meet those needs. In fiscal year 1996, ITM began to make initial modifications to the selected package and replace the existing MIS with the customized software. The first phase of the new system was implemented in fiscal year 1997. The MMS provides improved operation of the functionality of the existing MIS.

LANDOC--LANDOC is the Commission's automated document research system. In fiscal year 1997, the LANDOC Steering Committee identified a list of system and process changes needed and established priorities for implementation. ITM also provided several

demonstrations of the system to other government agencies that are considering purchasing the underlying commercial software. The collection of documents in LANDOC available to Commission staff and the public was expanded to include over 32,000 documents.

Internet.--In fiscal year 1997, ITM redesigned the Commission's Internet site (www.ftc.gov), and the new site received universal praise as a model of government information dissemination. ITM also added a feature to provide sound to users of the Internet site, in support of a Bureau of Consumer Protection/American Association of Retired Persons project.

Correspondence Control and Consumer Complaint System--ITM worked closely with the Consumer Protection Mission in fiscal year 1997 to design, develop, and implement the replacement for the Commission's consumer correspondence system, which was created in 1984. The new system, the Consumer Information System, uses current technology and provides considerably enhanced functionality as well as improved ease of operation.

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examination of the effects of Commission divestiture orders, (4) a study of the effects of the entry of branded generic drugs on the pricing and output of branded drugs, and (5) an examination of the price and output effects of previous hospital mergers.

Consumer Protection

In the consumer protection area, economists provided important assistance to law enforcement activities. Also, economists routinely provided day-to-day guidance on individual matters, provided litigation support services, and made policy recommendations directly to the Commission.

In addition to the Bureau's direct support for individual consumer protection case matters, staff economists worked on consumer protection topics of interest to the Commission. During fiscal year 1997, the Bureau released one study: Information and Advertising Policy: A Study of Fat and Cholesterol Consumption in the United States, 1977-1990, which examines the effects of various types of information on the dietary choices of the public. The Bureau also continued studies on (1) the effects on consumer perception of various nutrient disclosures and cautionary disclosures in ads for food products that make health or nutrition claims and (2) the rent-to-own industry.

Consumer and Competition Advocacy

The interests of consumers are not always well represented in some legislative and regulatory forums. Consequently, laws or regulations are sometimes promulgated that harm consumers by restricting entry, limiting competition, chilling innovation, raising prices, or reducing the quality of goods and services. The goal of the Commission's advocacy activities is to limit such harm to consumers by informing appropriate governmental and self-regulatory bodies about the potential effects on consumers, both positive and negative, of proposed legislation, rules, or industry guides or codes. The advocacy program in the Bureau of Economics is the central source of planning, coordination, review, and information for the staff's work in this area. During fiscal year 1997, the Commission staff submitted six comments to the Federal Communications Commission and various state agencies, covering subject areas such as telecommunications licensing, collision damage waivers in car rentals, optometrists' business operations, and real estate closings. Staff also submitted a report in response to requests from a Congressional Task Force that addressed the Tobacco Industry Settlement.

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A unique initiative of the Commission is the Partnership for Consumer Education, a national coalition of over 90 businesses, trade associations, consumer groups, and government agencies. Originally conceived to combat telemarketing fraud, the Partnership now participates in all

types of educational campaigns. From January 1996, when the partnership was launched, through September 1997, this group disseminated over 100 million educational messages.

In fiscal year 1997, the Commission led a multi-agency initiative to develop consumer.gov, the first Internet site to provide one-stop access to federal consumer information resources, offering information by subject rather than by federal agency. Charter partners in the site include the Consumer Product Safety Commission, the Food and Drug Administration, the National Highway Traffic Safety Administration, the Securities and Exchange Commission, and the U.S. Office of Consumer Affairs. As the host agency, the Commission maintains the site and provides all technical support.

Federal-State Coordination

The Commission works hand-in-hand with other federal agencies, states, and local authorities in a variety of coordinated law enforcement efforts and task forces, including individual cases involving fraud and deceptive advertising, efforts to boost industry compliance with rules and regulations, and consumer and law enforcement training programs. By sharing information and resources, these joint efforts are able to more effectively target issues that have a direct impact on consumers. In fiscal year 1997, the Commission led 13 major joint law enforcement efforts resulting in 60 Commission actions and 444 state and federal actions. For every case the Commission brought, its state and federal partners leveraged seven more.

Programs Under the Consumer Protection Mission

The Consumer Protection Mission is advanced by five law enforcement programs - Advertising Practices, Credit Practices, Enforcement, Marketing Practices, and Service Industry Practices - the Office of Consumer and Business Education, and the Commission's 10 regional offices. Regional staff are responsible for a wide variety of significant consumer protection cases in the various programs and are important contacts for state Attorneys General and other state and local consumer protection officials.

Advertising Practices Program

The Advertising Practices Program strives to ensure that advertising is truthful and non-deceptive and is not done in a legally unfair manner, to protect consumers in a way that

maximizes the amount of information available for decision-making. The Commission's market-based national advertising standards foster these goals.

Health and safety claims in advertising are of particular concern because of the significant potential for consumer injury if the claims prove to be deceptive and because they usually involve claims that consumers cannot readily evaluate based on their own experience. In addition, this area often involves rapid, new scientific and technological developments. Thus, advertisers are faced with the challenge of conveying complex scientific or technical information in a manner that is truthful and non-deceptive.

This program monitors health-related claims for dietary supplements, food, and over-the-counter drugs (especially "switch" drugs, those that previously were available only by prescription). Moreover, an increasing number of new methods of advertising and promoting prescription drugs are being monitored.

The Commission has important responsibilities for administering the Federal Cigarette Labeling and Advertising Act and for administering and enforcing the Comprehensive Smokeless Tobacco Health Education Act. In fiscal year 1997, public comment was requested on proposed revisions to the testing method used to determine the tar, nicotine, and carbon monoxide ratings of cigarettes.

As the marketing opportunities on the Internet grow, so do the opportunities for fraud and deception. The Commission works with industry, consumer groups, and the states to identify and address consumer protection issues in this rapidly growing market, including the collection of personally identifiable information from children online. In fiscal year 1997, program staff issued a letter outlining several principles that it believes should generally apply to the collection of this type of information and stating that it would monitor online sites that collect information from children and initiate enforcement actions as appropriate.

The Advertising Practices Program puts a special emphasis on all types of children's advertising issues. This includes reviewing advertising directed to children for deception, maintaining a close liaison with industry self-regulatory efforts, exploring new children's marketing issues on the Internet, and reviewing questions about inappropriate placement and content of advertising for adult products on programming for underage audiences.

To encourage cable networks and print media to develop advertising screening programs, Commission staff work with members of these media, gathering information about individual media screening programs, and exploring and encouraging interest in a self-regulatory program. In fiscal year 1997, as part of "Operation Waistline," a law enforcement and consumer education effort designed to stop misleading weight-loss claims, letters were sent to 80 publications that disseminated weight-loss advertisements, urging them to improve their screening. A media screening tip sheet on weight-loss fraud was also sent to these publications. During the fiscal year, a regional media screening conference was held, and staff met with major magazine publishers to discuss a Partnership Program.

The Commission coordinates closely with other federal agencies with parallel or overlapping authority in the advertising area. For example, it maintains a close working relationship with the Environmental Protection Agency (EPA) in monitoring environmental and pesticide advertising and ensuring that marketers do not make deceptive claims concerning their participation in the Federal Acquisition, Recycling, and Waste Prevention Program. The

Commission also works closely with the Food and Drug Administration (FDA) on drug, cosmetic, and medical devices issues, and on monitoring health fraud activities. In addition, the Commission consults with and obtains expert assistance from the Consumer Product Safety Commission (CPSC), the National Highway Traffic Safety Administration (NHTSA), and other agencies.

Some activities, such as consumer education projects, are coordinated with non-governmental organizations. In fiscal year 1997, in connection with "Project Workout," a law enforcement effort involving advertising by manufacturers of exercise equipment, consumer education material was issued nationwide in conjunction with three consumer and professional organizations, as well as the President's Council on Physical Fitness.

Credit Practices Program

The Credit Practices Program identifies and deals with problems that have resulted from the proliferation of credit. It enforces several federal credit statutes that affect more than 113 million consumers who hold over 900 million credit cards and many millions more who obtain credit through loans. With files on approximately 200 million Americans, the major credit bureaus have a responsibility to ensure the accuracy and privacy of this personal and sensitive information. One of the major types of complaints received by the Commission, however, is that many of these credit histories contain errors. A major goal of this program is to ensure that these credit histories are accurate and remain correct.

At the same time, personal credit histories are being distributed constantly both among those who have legitimate reasons for seeing them as well as among those who may not be entitled to them. The value of the information in these histories makes it likely that their rate of dissemination will increase. The Credit Practices Program works to ensure that only those parties who have permissible purposes will receive these reports.

Privacy is becoming an important concern to consumers. Following up on the Commission's 1996 privacy workshop and report, a four-day public workshop on consumer privacy issues was held in fiscal year 1997. Through the workshop, the Commission began to gather data for a Congressionally requested study on "look-up services," or computer databases that contain identifying information about consumers. The Commission also examined the computer database industry's response to the growing concern about personal privacy in the new online marketplace, including concerns about unsolicited e-mail and the privacy of children. Similarly, the Consumer Electronic Payments Task Force, on which the Commission participates, held two public meetings to address privacy and other consumer issues arising from emerging electronic payment systems.

Charging higher prices or denying credit for reasons unrelated to creditworthiness (such as race or age) continues to be a serious problem. Attempting to ensure that everyone is able to obtain credit on an equal basis is part of this program.

The way credit or leases are advertised and the information that is given to the borrower before the transaction is consummated are also important. Consumers must be able to meaningfully compare terms and costs to shop effectively for credit. Program staff monitor the way credit is advertised, to ensure that it is not deceptive, and the subsequent disclosure of information, to ensure that it is conspicuous as well as accurate. The same concerns arise with leasing, particularly with the rising popularity of automobile leasing.

Once credit is granted, delinquency and default can occur for a variety of reasons. How consumers are handled who do not or cannot pay is extraordinarily important to the efficacy of the overall credit transaction. It is the responsibility of the Commission to prevent abusive, deceptive, and unfair debt collection practices.

Credit scams are always emerging in the marketplace. Misleading promises about credit availability or procurement are constantly being made and advertised. Credit card fraud is increasing in a variety of contexts. Typically, perpetrators of deception and fraud prey on consumers who are unable to obtain credit legitimately and thus are most vulnerable to false claims. The Credit Practices Program works to protect these consumers as well as all who need credit to live and prosper.

The Commission also enforces the current Fair Credit Reporting Act (FCRA). Extensive FCRA amendments became effective on September 30, 1997. As mandated by the newly enacted amendments, the Commission prescribed notices that will be distributed by credit bureaus - one for consumers, which summarizes their FCRA rights, and others for those that furnish information to credit bureaus and use credit reports, which summarize their FCRA responsibilities.

During fiscal year 1997, the new Credit Repair Organizations Act was passed. The Act prohibits false claims about credit repair and makes it illegal for credit repair companies to charge a fee until they have performed their services. The Commission began working with states to implement the Act, and hosted a public/private conference to discuss possible joint efforts in this area. The Commission sent information on the new law directly to over 1,000 credit repair companies. It conducted a "surf day" for credit repair ads on the Internet and created a new section on the Commission's home page (www.ftc.gov) providing information on credit repair.

The Commission continues to work in the area of identity theft, which occurs when an individual appropriates another's name, address, social security number, or other identifying information to commit fraud. In fiscal year 1997, the Commission held a meeting at which industry members, consumer representatives, and law enforcement officials discussed specific problems and proposed solutions in working groups. Through these types of meetings, the Commission focuses the attention of the consumer credit industry on the plight of the victims of identity theft and prompts changes in industry practices.

Enforcement Program

The Enforcement Program enforces Commission administrative orders and more than a dozen statutes and rules, covering such diverse areas as care labels on clothes, mail and telephone order sales, energy labels on appliances, buyers' guides on used cars, octane ratings, door-to-door sales, and the receipt of unordered merchandise. This program also initiates cases involving false or unsubstantiated product claims that may result in significant economic injury. In fiscal year 1997, staff investigated the truthfulness of advertising claims for air-cleaning devices, such as ozone generators, and automotive products, such as engine oil treatments.

The Commission's administrative orders, which are issued to address a wide array of unfair or deceptive practices, govern the sales and marketing conduct of many major, national

firms. The Enforcement Program monitors and enforces compliance with these orders, overseeing redress programs, such as cash reimbursement to consumers, to ensure that firms comply with their obligations as specified in the orders.

Program staff also process requests by firms to modify or vacate orders on the basis of legal or factual changes or other grounds. Under a rule adopted in January 1996, existing Commission administrative orders that are more than 20 years old expire automatically, unless there has been a court-filed action to enforce the order during the last 20 years. Adoption of this rule has resulted in the termination of over 10,000 orders that reflected outmoded policies or contained requirements no longer of value to consumers.

Another important responsibility is to implement the Commission's ongoing project, initiated in 1992, to review all rules and guides every 10 years. During the last 27 months, additional efforts were focused on regulatory review, responding aggressively to President Clinton's memorandum urging agencies to streamline and eliminate unnecessary or obsolete regulations. Since the beginning of the regulatory review project, the Commission has reviewed more than half of its rules and industry guides, repealing more than one-third of them - 12 rules and 15 guides. An additional 19 rules and guides have been updated, clarified, or streamlined.

The statutes and rules enforced by this program require sellers to provide consumers with information they need to make informed choices. For example, the Care Labeling and Textile Rules require sellers to disclose care and fiber content information accurately on more than 10 billion garments annually so individuals can make informed purchases and care for their garments properly.

Global harmonization of labeling requirements received significant attention in fiscal year 1997. The Commission announced that it would permit the use of symbols in lieu of words to provide care instructions on garments, thus avoiding the necessity of giving information in three languages in North American markets. Implementation efforts, including working with business groups to conduct a comprehensive consumer education campaign to help consumers learn the meaning of the symbols, began during the last quarter of fiscal year 1997. In addition, to facilitate global trade, efforts were made to harmonize the care labeling symbol system developed for use in North America by the American Society for Testing and Materials with the system adopted for use in Europe by the International Organization for Standardization.

An area of significant product innovation and improvement has been with so-called "green" products, those promoted as beneficial for the environment. The Commission enforces Environmental Marketing Guides that both give companies a basis to conform their environmental labeling and advertising claims with the law and provide a basis for a coordinated enforcement policy between the states and the Commission. International standard-setting organizations have based their standards on many of the principles embodied in the Guides. The Commission recently determined, after conducting a formal review and a public workshop, that the Guides were effective in preventing deception and encouraging truthful claims.

As the states pass electricity restructuring and deregulation legislation allowing consumers to choose their electricity supplier, many consumer protection issues are raised. Accordingly, the Commission works with other federal and state agencies on consumer

information disclosure issues, including "green" marketing claims for electricity, and provides informal advice regarding proposed federal legislation to permit retail competition for electricity.

In fiscal year 1997, the Commission completed a project, organized with state Attorneys General and state weights and measures authorities, to investigate the accuracy of electronic price scanning devices through a multi-state survey. The resulting report showed that many retailers have achieved high levels of pricing accuracy but that scanner errors continue to happen. The report, which was co-authored by the National Institute of Standards and Technology and the states of Florida, Massachusetts, Michigan, Tennessee, Vermont, and Wisconsin, discusses efforts to enlist industry cooperation in improving pricing accuracy. The report's sponsors developed brochures offering guidance to consumers and businesses. Some states also brought actions where frequent or serious overcharge incidents were uncovered.

A fiscal year 1997 report on the accuracy of the net content labeling of milk containers sold to schools for student meals, as well as in retail stores, was released by the Commission and three other federal agencies: the Office of Weights and Measures of the National Institute of Standards and Technology, the Food and Consumer Service of the U.S. Department of Agriculture (USDA), and the Office of Food Labeling of the Food and Drug Administration. The report, based on inspections conducted by weights and measures inspectors in 20 states, found that about 40% of inspected lots of milk and other products contained less than the labeled amount. Business education efforts were initiated to reduce the incidence of under-filling, and states and the USDA pursued enforcement actions where appropriate.

Marketing Practices Program

The Marketing Practices Program works to stop injury caused by unfair and deceptive practices in the marketing and sale of products and services to consumers and small businesses. Its scope includes virtually any deceptive or unfair practice occurring within a marketing or sales context, ranging from hard-core fraud to inadequate pre-sale disclosure of warranty information. Its principal focus, however, is deceptive sales practices, and a major goal is to halt those abuses that cause the greatest consumer injury or otherwise undermine consumer confidence and fair competition.

The Commission monitors the sales and marketing practices of the multi-billion-dollar franchise industry and enforces the Franchise and Business Opportunities Rule, which requires sellers of franchises and business opportunities to give prospective buyers a disclosure document containing specific information about the franchise and any earnings claims that are made.

During fiscal year 1997, several federal-state efforts were undertaken attacking the fraudulent sale of business activities. "Operation Missed Fortune" targeted a variety of self-employment schemes, including work-at-home scams, pyramid schemes often pitched on the Internet, and pre-packaged small businesses involving everything from vending machine frauds to sophisticated medical billing services. This coordinated law enforcement effort involved more than 75 law enforcement actions, 11 of which were filed by the Commission.

"Operation Trade Name Game," conducted by the Commission and eight states, was an

aggressive campaign against scam artists selling bogus business opportunities to own and service in-store carousel racks that display products licensed by well-known companies, including plush toys, t-shirts, and trinkets. A total of 18 enforcement actions, 6 by the Commission and 12 by the states, were brought against companies and their principals involved in this business. The campaign also involved a massive educational component launched in coordination with industry members whose trade names have been used by the scam artists.

Economic fraud directed at consumers and small businesses is one of the most common consumer protection problems. The Marketing Practices Program targets fraud that cannot be readily detected by most consumers or is aimed at vulnerable populations, like older consumers. Many perpetrators of this type of fraud use new technologies in new ways to confuse consumers, such as the Internet, new payment systems (such as 900 numbers and other innovative telecommunications services), credit cards, electronic fund transfers, and demand drafts (bank transactions that deduct money from a consumer's checking account without a written instrument bearing the consumer's signature).

A high priority is enforcement of the Telemarketing Sales Rule, which requires material disclosures and prohibits misrepresentations in telemarketing. The Commission also enforces the Pay-Per-Call Rule, which governs disclosures and billing dispute procedures in the 900-number industry.

During fiscal year 1997, four major law enforcement efforts were initiated under the Telemarketing Sales Rule. "Operation Trip-Up" targeted travel scams and resulted in 36 law enforcement actions, 5 filed by the Commission and 31 filed by 12 state Attorneys General. The American Society of Travel Agents partnered with the Commission in this effort to produce and distribute a variety of consumer education materials designed to provide consumers tips on how to avoid being a victim of travel fraud. With participation from all 50 state charities regulators, "Operation False Alarm" targeted deceptive activities of certain for-profit "telefunders" who falsely represented that they engaged in fundraising on behalf of police departments, fire fighters, and other community organizations. This effort involved 57 law enforcement actions, including 3 filed by the Commission and 54 filed by the states. In conjunction with this effort, the Commission launched a nationwide public education campaign in cooperation with the National Association of Attorneys General. In a third effort, "Operation MagaScheme," fraudulent magazine marketers who bilked tens of thousands of consumers out of millions of dollars were targeted in a crackdown by the Commission and Attorneys General from five states. Finally, "Peach Sweep," targeted geographically based fraud in one particular region of the United States and resulted in 3 actions filed by the Commission and 23 actions taken by eight states.

In a significant fiscal year 1997 initiative, the Commission asserted its leadership as the Nation's chief consumer protection agency by improving the process for handling consumer-protection-related complaints from the public. This effort has a threefold mission: to continue to develop and improve the Commission's role as the custodian of the leading consumer protection law enforcement database; to respond promptly and helpfully to public inquiries, whether by telephone, mail, or e-mail; and to generate statistics and other information, both for public education and for measuring how effective the agency is in meeting its overall consumer protection mission.

As a follow-up to an earlier conference, in fiscal year 1997 program staff organized a second

conference on cross-border fraud and represented the Commission in several meetings with Canadian officials to discuss mutual law enforcement concerns. The conference, co-hosted by the Commission and the Canadian Provincial Attorney General's office, resulted in the formation of working groups on cross-border criminal law enforcement, civil law enforcement, and information sharing. In addition, Canadian officials are reviewing the Telemarketing Sales Rule as a starting point for consideration of how Canada's consumer protection laws, which are primarily criminal, might be expanded to the civil arena. Greater attention to cross-border fraud has already started to pay off as the number of complaints related to Canadian-based telemarketing appear to have begun a downward trend.

One innovative way the Marketing Practices Program is addressing the growing problem of fraud on the Internet is through the organization of law enforcement Internet "surf" days. Commission staff identifies Internet advertisements that appear fraudulent (e.g., illegal pyramid or business opportunity schemes) and trains other law enforcement personnel to search the Internet for similar advertisements. Internet sites that appear fraudulent are identified, and messages are sent to Web site operators informing them of relevant laws and directing them to the Commission's Web site (www.ftc.gov) for additional information. Each surf undertaken in fiscal year 1997 took only three hours, but yielded hundreds of offending sites. After messages were sent to Web site operators, more than one-fifth of the offending sites were removed; other sites became targets for further investigation.

Another goal of this program is to remedy consumer injury that occurs when sellers fail to provide important information to consumers. By enforcing its Funeral Rule, the Commission imposes sanctions on funeral providers who fail to give consumers information about choices and prices for all goods and services sold. In conjunction with the National Funeral Directors' Association (NFDA), the Commission designed an industry training and certification program, the Funeral Rule Offenders Program (FROP), to bring noncomplying funeral homes into compliance with the Rule without formal law enforcement actions. FROP participants make a voluntary payment to the U.S. Treasury or the state, which is generally less than paying the civil penalty that may have been assessed by the court. They also agree to enroll their personnel in NFDA's training program and submit to NFDA certification and business form review procedures.

Service Industry Practices Program

The Service Industry Practices Program addresses a variety of frauds and market failures that cost consumers a substantial amount of money each year. A major focus is consumer fraud in the sale of investment goods and services. Fraudulent telemarketers and Internet operators have increasingly turned to investment scams, and deregulation in the telecommunications industry continues to spawn numerous investment ventures designed to capitalize on purported new markets. False claims are made concerning the value and capabilities of the particular technologies being promoted, the profits to be earned, and the risks of investing.

In fiscal year 1997, the Commission continued its efforts to combat investment fraud as well as to educate consumers against these pervasive frauds with its project known as "Field of Schemes." This effort by U.S. and Canadian enforcement authorities resulted in 61 law enforcement actions, 8 filed by the Commission and 53 filed by the states. It also included a major consumer education campaign warning consumers about the hottest investment scams being pitched and encouraging them to report suspected frauds.

Consumers also continue to purchase what are claimed to be rare coins, precious metals, gemstones, and other hard assets. The Service Industry Practices Program targets unscrupulous telemarketers who often blatantly misrepresent the value, past performance, and risk of these investments.

It also challenges deceptive and fraudulent representations made by idea promotion firms who offer services of very little value to consumers who want to make money from their inventions. In fiscal year 1997, the Commission and two state Attorneys General brought actions against a significant number of companies in the invention promotion industry for perpetrating a massive fraud on consumers. As part of this effort, called "Project Mousetrap," a message of extreme caution was issued to consumers about using the very expensive, but almost always fruitless, services of invention promotion firms.

In addition, this program addresses fraudulent representations in the area of career services and education. In fiscal year 1997, staff continued to follow up on "Project Scholar\$cam," a massive consumer education and law enforcement effort highlighting scams that target high school and college students in need of money to finance their education. Consumer education materials have been widely distributed to high schools and colleges throughout the country, including bookmarks and posters targeted for high school and college students, posters distributed in 2,000 college bookstores, flyers for college financial aid offices, and alerts targeted at high school guidance counselors and college financial aid advisors. The Commission worked with many partners in the private sector: The Interactive Services Association's Project Open launched its public service announcement campaign with the Commission by featuring alerts warning of scholarship scams through member online services. The National Association of Student Financial Aid Administrators, the College Board, and Sallie Mae all publicized "Project Scholar\$cam" and provided links to the Scam Alert located at the Commission's home page (www.ftc.gov). In addition, Olan Mills distributed posters to 5,000 high schools in 27 states. The Commission joined with the New York Attorney General's Office to notify 25 operators of Web sites offering scholarship services that they may be engaged in deceptive or unfair practices. Law enforcers had identified the sites as containing many of the claims the Commission warns consumers are "red flags" of a scam.

"Project Career Sweep," conducted in fiscal year 1996, resulted in seven law enforcement actions against employment-search schemes. In fiscal year 1997, in conjunction with this effort, the U.S. Attorney's Office for the Middle District of Florida secured federal grand jury indictments of six telemarketers of fraudulent employment services, charging them with 99 counts of mail and wire fraud, conspiracy, and money laundering. Three of the individuals pled guilty and received prison sentences. Authorities in central Florida report that, since the Commission actions, complaints about fraud perpetrated by the entire telemarketing community have significantly dropped.

The Commission joined forces with the U.S. Office of Personnel Management and the U.S. Postal Service in fiscal year 1997 to produce a consumer alert on federal job placement scams. This alert was made available on job information computers located at federal facilities and a new Web page that lists job openings (www.usajobs.opm.gov).

The Commission's authority to go into federal district court to halt violations of the Federal Trade Commission Act is a powerful weapon in the fight against consumer fraud. In the past

five years, the Commission has obtained nearly 400 federal district orders against individual and corporate defendants. In fiscal year 1997, a vigorous enforcement program was initiated to ensure compliance with these orders and to prevent further harm to consumers.

The Commission also focuses on the fraud and deception in the promotion, marketing, and sale of health care goods and services. The amount of information available to consumers about health care and health care products is unprecedented, and with emerging technology such as the Internet, it will continue to expand dramatically, as will consumer fraud. The Commission coordinates its health services activities with federal, state, and local law enforcement agencies; works with other private and consumer groups concerned with health care issues; and has expanded its efforts to encourage professional associations to adopt advertising guidelines. In fiscal year 1997, in consultation with Commission staff, five professional associations developed and endorsed advertising guidelines for refractive eye surgery. The Commission also co-sponsored a two-day conference with the National Association of Attorneys General and the Federation of State Medical Boards, which focused on coordination of federal and state resources to combat fraudulent and misleading advertising and marketing of health care services.

This program also addresses a variety of consumer problems that may arise in other service industries. These include newly deregulated services (e.g., certain segments of the financial planning industry), services that target the elderly and homeowners, and private product standards and certification bodies that may deceive consumers or inhibit innovation.

Finally in fiscal year 1997, the Commission published its first annual report documenting its efforts to combat consumer fraud. The report, entitled "Fighting Consumer Fraud: The Challenge and the Campaign," described recent efforts led by the agency to fight telemarketing fraud against older people, investment fraud, business opportunity and job placement scams, and consumer finance scams. The report outlined a road map for combating fraud through collaborative, cooperative law enforcement actions combined with innovative public-private sector consumer education campaigns.

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combinations in the defense industry. Boeing and Rockwell entered into a consent order that will prevent Boeing's acquisition of Rockwell's Aerospace and Defense business from reducing competition and innovation in the markets for high-altitude-endurance unmanned air vehicles and space launch vehicles.

- Prevented auto salvage yards, auto insurance companies, and consumers from having to pay monopoly prices for computerized information systems and trading networks vital to the used auto parts market. The Commission's order required Automatic Data Processing to divest the rival computerized system and trading network it had acquired in 1995 after violating the Hart-Scott-Rodino (HSR) Act filing requirements.
- Ensured for consumers and businesses in the Southwest the benefits of competitive prices for natural gas by requiring Phillips Petroleum, which had acquired ANR Pipeline Company, to divest substantial natural gas gathering services in certain sections of Oklahoma.
- Required the divestiture of 10 supermarkets in Mississippi and Florida after the merger of Jitney Jungle and Delchamps. The divestiture ensured that competition by supermarkets would continue in those areas.
- In two separate challenges to drug store mergers, protected consumers from higher prices by securing the divestitures of over 200 stores in four states along the East Coast.

Commission actions in nonmerger cases, although often less visible than faster paced merger enforcement, also addressed anticompetitive conduct that threatened consumer welfare. For example, the Commission's actions:

- Prevented associations of health care providers from collectively increasing prices to consumers, government agencies, and third-party payers. In the case Mesa County Physicians Independent Practice Association, Inc., the Commission accepted a settlement agreement of an administrative complaint alleging that the Colorado physicians organization conspired with its members to fix fees charged for their services with third-party payers of other health plans. In another case, College of Physicians & Surgeons of Puerto Rico, the Commission and the Commonwealth of Puerto Rico joined together to halt boycotts and other illegal conduct by a physicians group against the Puerto Rican government's managed care plan for indigents. The Commission's consent order resulted in a \$300,000 restitution payment by the College to the Puerto Rico Department of Health.
- Challenged practices that could increase the price of toys. A Commission Administrative Law Judge found that Toys "R" Us, the Nation's largest toy retailer, extracted agreements from toy manufacturers to stop selling some of the country's most popular toys to warehouse clubs or to put the toys into more expensive combination packages. Based upon the evidence submitted, the Judge found that the actions of Toys "R" Us had harmed consumers, limiting their ability to obtain lower-priced toys from the clubs or to compare prices easily. The case is currently before the Commission on appeal.
- Prevented an association of dentists from denying important advertising information to consumers. In the case California Dental Association, the Commission issued an order finding that the association unlawfully restrained truthful and nondeceptive advertising regarding the price, quality, and availability of dental services. The U.S. Court of Appeals for the Ninth Circuit affirmed the Commission's order. A petition for certiorari is pending before the U.S. Supreme Court.
- Protected farmers from paying higher prices due to vertical price fixing. In American

Cyanamid, the Commission accepted a consent order settling charges that the firm had violated the antitrust laws by fixing the resale prices of agricultural chemical products through a rebate program that induced dealers to sell at or above specified minimum prices. In a coordinated enforcement action by 50 state Attorneys General, \$7 million in damages was recovered.

Minimizing the Burden on Business--While the Commission looks out for consumers' interests, it attempts to do so with the least possible burden on business. Obviously, the Commission cannot avoid all burdens on business if it is to investigate and enforce the law. The agency constantly reassesses its policies and procedures, however, to see where it can streamline them or eliminate any unnecessary requirements. During fiscal year 1997, for example, the Commission:

- Revised, in coordination with the Department of Justice, the Horizontal Merger Guidelines to clarify the way the agencies analyze efficiency claims and determine whether claimed efficiencies are likely to lead to lower prices, the creation of new products, or enhanced competition in the marketplace.
- Improved the Premerger Notification process by adding a Premerger section to its Web site to make more accessible the existing guidance on HSR Act filing requirements.
- Responded to an estimated 44,000 phone calls to help business in complying with the HSR Act.
- Penalized a supermarket chain for allowing assets it had agreed to divest to deteriorate significantly before they could be sold. In Schnuck Markets, Inc., the Commission obtained a \$3 million civil penalty and divestiture of other stores under terms of the proposed settlement agreement.
- Implemented the Commission's policy to review cases in which a District Court has denied the Commission's request for a preliminary injunction in order to determine if further administrative litigation is warranted.
- Continued its commitment to work with state antitrust agencies to leverage antitrust resources. The Commission has engaged in several joint investigations with the states, including Staples/Office Depot, American Cyanamid, and College of Physicians & Surgeons of Puerto Rico, enabling it to conduct thorough investigations with fewer Commission resources and reducing the burden on business by allowing joint interviews and joint requests for documents and information.
- Cooperated with foreign antitrust agencies to enforce the antitrust laws in cases where the actors and effects may be subject to scrutiny in foreign countries as well as in the United States, including such transnational mergers as Ciba-Geigy/Sandoz.

Forward-Looking Antitrust Enforcement--Rapid technological development and increased globalization of the marketplace have increased the need for dynamic antitrust enforcement. The Commission continues to refine its analysis to adapt to these changes and to structure the least intrusive enforcement that effectively protects free and competitive markets. During fiscal year 1997, the Commission:

- Held hearings on the appropriate role of antitrust enforcement regarding joint ventures. The hearings included testimony from economic and legal scholars, business executives, consumer groups, state enforcement authorities, and foreign enforcement authorities.
- Considered the critical importance in merger analysis of "innovation markets," or the

competition between companies in the research and development of new products that currently may not be available to consumers. For example, in Ciba-Geigy/Sandoz, the Commission's consent order required the divestiture of intellectual property necessary for scientists to continue research and development toward novel, life-saving gene therapy products that are expected to be used for many diseases, including hemophilia and cancer. As a result, consumers may enjoy the benefit of competition in the products of this research when they begin to appear in the near future.

- Protected innovation and competition in the market for "routing" software, used in the design of microchips to map out the connections between millions of miniature components. The Commission's consent order in Cadence Design Systems, Inc. requires Cadence to allow participation by other developers of routing software in its programs for the development of interfaces between Cadence products and the software design tools of other manufacturers.

Programs Under the Competition Mission

The Commission implements its Competition Mission through three major program areas: the Hart-Scott-Rodino (HSR) Premerger Notification Program, the Mergers and Joint Ventures Program, and the Nonmerger Program.

Premerger Notification Program

Through its implementation and enforcement of the HSR Act, the Premerger Notification Program helps protect consumers from anticompetitive mergers. Prior to enactment of the Act, mergers often were consummated and assets and operations combined before the antitrust agencies learned of the transactions. It was then difficult, if not impossible, to "unscramble the eggs" and restore the benefits of a competitive market. The HSR Act requires entities that meet certain size requirements and that plan significant acquisitions to file notice with the Commission and the Antitrust Division of the Department of Justice. Consummation of the merger must be delayed for statutorily prescribed periods of time. The HSR Act thus allows the antitrust agencies to analyze and take action against anticompetitive mergers before they actually take place.

The program strives to minimize the burden on businesses that are required to comply with the HSR Act. To improve voluntary compliance, the Commission's Premerger Office provides assistance to filers in understanding the Act's requirements, primarily through responses to tens of thousands of telephone inquiries annually.

The HSR Act has become an essential component of antitrust enforcement. In particular, the Commission's effective enforcement of the Act has made parties to mergers and acquisitions more certain of the timing of stages along the investigation path, enabling them to schedule business activities with greater confidence. Similarly, the Commission can make more reliable enforcement decisions because it has access to most of the relevant data concerning the competitive effect of a proposed merger. In sum, the Premerger Program is an important example of efficient antitrust enforcement that protects the consumer's interest in a competitive market while minimizing costs to business.

Premerger Notification Enforcement Activities

During fiscal year 1997, the number of premerger filings increased for the sixth year in a row, totaling 3,702. This number of filings represents a 20% increase over the number

reported during fiscal year 1996 and a 142% increase over the 1,529 filings recorded in fiscal year 1991.

[[Chart 2](#)]

The Premerger Office works closely with the private bar to minimize unnecessary filings and to make the entire process work as efficiently as possible. The Premerger Office's activities in fiscal year 1997 included responding to an estimated 44,000 phone calls seeking information under the HSR Act. Approximately one-half of the calls concerned whether a proposed transaction was covered under the reporting requirements, while the other half concerned details involved in completing and filing notices of proposed transactions.

The HSR Act can ensure swift and efficient review of proposed mergers only if the parties comply with the Act's requirements and provide complete information. When parties fail to comply with these requirements, the Act provides for the imposition of civil penalties. During fiscal year 1997, the Commission collected \$5.752 million in civil penalties after obtaining consent decrees for violations of the HSR Act. In the settlements:

- Mahle GmbH, a German automotive parts manufacturer, and Metal Leve, S.A., a competing Brazilian automobile parts manufacturer, paid a combined \$5.602 million, the largest civil penalty ever paid for an HSR violation;
- Harry E. Figgie, Jr., paid a civil penalty of \$150,000 for an alleged failure to file.

Mergers and Joint Ventures Program

The Mergers and Joint Ventures Program seeks to prevent mergers and acquisitions that are likely to harm competition and consumers. The program also investigates joint ventures and interlocking directorates among competing firms that may have similar anticompetitive effects. The program has three essential components:

- Detecting potentially harmful mergers before they occur by monitoring merger activity and screening all significant mergers, in conjunction with the Premerger Notification Program;
- Investigating those mergers that the screening process has targeted for further inquiry; and
- Taking appropriate action to prevent (or undo) those mergers or portions of mergers that, after investigation and analysis, appear likely to substantially lessen competition.

In the case of some mergers, the Commission can act to prevent harm to consumers and competition only by preventing the merger or, in rare cases, by undoing it. In many other cases, however, competition can be preserved by more narrowly tailored relief that still allows the overall merger or transaction to proceed. Determining the kind of relief necessary entails investigations that are designed to answer fundamental questions about the merger and the affected relevant product and geographic markets:

- Is the merger likely to result in a lessening of actual or potential competition, increase the market power of the merging firms, and lead to market dominance or a significant increase in the likelihood of collusion?
- Is the merger likely to increase barriers to entry or expansion or to foster interdependent conduct among firms?

To protect consumers from mergers that may substantially lessen competition, the most efficient and cost-effective strategy is to prevent mergers before they occur. The Commission has authority under Section 13(b) of the Federal Trade Commission Act to seek a preliminary injunction in federal district court to stop a merger pending administrative adjudication, but more often, it resolves the competitive problem through consent agreements with the merging parties. In addition to injunctive relief, the Commission may rely on administrative remedial powers to restore competition lost as a result of a merger. In either case, the principal (though not exclusive) remedy is the prompt divestiture of assets sufficient to restore competition.

Merger and Joint Ventures Enforcement Activities

During fiscal year 1997, Commission staff opened investigations on 82 transactions, including 32 initial-phase investigations (9 of these were later converted to full-phase) and 50 full-phase investigations. The Commission issued requests for additional information or documentary materials under the HSR Act ("second requests") for 45 of these proposed transactions. Preliminary injunction cases were authorized in two transactions. One of these cases, Mediq, was subsequently abandoned by the parties once the complaint was authorized. In the other transaction, the proposed merger between Staples and Office Depot, a federal court granted the Commission's motion for a preliminary injunction, and the parties then abandoned the transaction. Finally, parties abandoned five transactions after the Commission issued second requests for information.

During the year, the Commission authorized an appeal of a federal court decision denying the Commission's 1996 motion for a preliminary injunction to block the proposed merger of Butterworth and Blodgett, two hospitals in the Grand Rapids, Michigan, area. The Sixth Circuit upheld the lower court's decision on July 6, 1997. On September 26, 1997, the Commission ended its administrative challenge to the merger, concluding that further litigation was no longer in the public interest. The Commission's action was in keeping with its policy to determine on a case-by-case basis whether to pursue administrative litigation in merger cases in which the federal court had denied the Commission's motion for a preliminary injunction.

The Commission's merger investigations included a number of complex and significant transactions in the defense, health care, and computer and software industries, where Commission efforts helped protect competition in the midst of intense industry restructuring as a result of rapidly changing economic forces and technology. Notable examples include the merger between Boeing and Rockwell, the merger between Ciba-Geigy and Sandoz, and the acquisition of Cooper & Chyan Technology by Cadence Design Systems.

During the year, the Commission also accepted for public comment 17 new consent agreements (of which 15 were also finalized during the year) in the following industries:

Health care	3
Defense and technology	3
Drug stores	3
Automotive	3
Oil and natural gas	2
Supermarkets and food	2
Manufacturing	1

The Commission continued to improve the analysis of, and the remedies for, the anticompetitive effects of proposed mergers and made significant gains in achieving divestitures more quickly. During fiscal year 1997, the Commission built on efforts begun in earlier years to shorten the time to accomplish divestitures ordered to remedy otherwise anticompetitive mergers. The Commission has done so by insisting, where appropriate, that signed purchase agreements for divestiture assets be provided to the Commission before the order becomes final. Other provisions that advance this goal include shorter divestiture periods, broader asset packages, and so-called "crown jewel" provisions, which provide for the divestiture of an alternative, generally more marketable package of assets by a trustee if the respondent fails to divest the basic package of assets by a specific date. Enforcement of the terms of these orders also has been made a high priority, with stringent penalties assessed for noncompliance.

Finally, the Commission continued its commitment to work with state antitrust agencies to coordinate antitrust enforcement. The Commission's regional offices have particularly close working relationships with state antitrust enforcers. Staff from both the regional offices and the Bureau of Competition conduct joint and parallel antitrust investigations with the states. Last year, the regional offices hosted two "Common Ground" conferences, bringing together representatives of state Attorneys General offices, several Commission regional offices, and the Department of Justice. The conferences were designed to discuss substantive antitrust issues and to explore areas where the state and federal agencies could work together to promote consumer welfare. Plans are underway for future conferences.

Nonmerger Program

The Commission's Nonmerger Program includes three areas of potential anticompetitive conduct: horizontal restraints, distributional arrangements, and single firm violations. The Horizontal Restraints Program is directed at investigating collusive or other collaborative activities involving direct competitors that may harm consumers, such as price fixing. Such activities can harm consumers by raising prices and reducing the quantity and quality of available goods and services. Although some joint activity among competitors, such as setting standards and promulgating legitimate ethical codes, can be procompetitive and even essential, such agreements also can be abused in a way that harms consumers.

The Distributional Restraints Program seeks to protect consumers from anticompetitive consequences that arise from certain vertical agreements among firms in the chain of distribution - from producers to distributors to retailers. An agreement on minimal resale price between firms in a vertical relationship is an example of a distributional practice that has a harmful effect on consumers and is considered per se illegal. The Commission investigates distributional restraints carefully to avoid challenging vertical agreements that may benefit consumers.

The Single Firm Program seeks to prevent firms from creating or maintaining market power through conduct that is injurious to consumer welfare. A single firm with market power can use various anticompetitive practices to reduce output below the competitive level and to maintain supracompetitive prices, thereby injuring consumers and misallocating resources. While neither the existence of market power nor the attempt to gain market share is unlawful in itself, achieving market power by practices that exclude competition is unlawful. The principal challenge of the Single Firm Program is to distinguish anticompetitive conduct from conduct that merely constitutes vigorous competition. Conduct investigated under this program that may be unlawful includes exclusive dealing arrangements, tying arrangements, and price and non-price predation - all of which can have the effect of driving competitors from a market through means other than vigorous competition on the merits.

Nonmerger Enforcement Activities

Under the three nonmerger programs, the Commission opened 38 initial-phase investigations during fiscal year 1997. Ten of these investigations were converted to full-phase, along with 15 others that had been opened in earlier years.

The Commission accepted three consent agreements for public comment (with two of them made final during the year), finalized three other consent agreements, and modified two others. The consent agreements accepted for public comment included:

- American Cyanamid (resale price maintenance on agricultural chemicals);
- College of Physicians & Surgeons of Puerto Rico (physician boycott to demand price-related changes under Puerto Rico's health care plan for the indigent); and
- Montana Associated Physicians, Inc. (concerted action to obstruct managed care plans, to set prices, and to thwart cost containment measures).

During fiscal year 1997, adjudicated decisions were issued in three significant nonmerger matters:

- In Toys "R" Us, an administrative law judge upheld the Commission's complaint and ruled that Toys "R" Us entered into illegal vertical agreements with toymakers to restrict sales to warehouse clubs and facilitated horizontal agreements to prevent competition among toy manufacturers. The initial decision is currently on appeal before the Commission.
- In California Dental Association, the Court of Appeals for the Ninth Circuit upheld the Commission decision finding antitrust violations for restrictions against truthful, nondeceptive advertising involving the price, quality, and availability of dental services. A petition for certiorari is pending before the Supreme Court.
- A Commission decision in International Association of Conference Interpreters upheld portions of the complaint regarding the Association's rules, fees, and expenses, but found insufficient evidence to support charges concerning rules that governed non-price-related practices.

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This sculpture is one of a pair outside the Federal Trade Commission building, entitled "Man Controlling Trade." It was completed in 1942 by New York sculptor Michael Lantz.

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