

IN THE MATTER OF
KINNEY DRUGS, INC.

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

Docket 9227. Complaint, April 19, 1989—Decision, July 1, 1991*

This consent order prohibits, among other things, a pharmaceutical firm from organizing or entering into any agreement among pharmacy firms to withdraw from or refuse to enter into a third-party payer prescription drug plan; for ten years, from stating or communicating to any pharmacy firm the intent to enter into or refuse to enter into any third-party payer prescription drug plan; and for eight years, from providing comments or advice to any pharmacist or pharmacy firm on the desirability or appropriateness of entering into or refusing to enter into any third-party prescription drug plan.

Appearances

For the Commission: *Karen G. Bokat and Michael D. McNeeley.*

For the respondent: *Robert J. Leader, Case & Leader, Gouveneur, N.Y.*

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondent Kinney Drugs, Inc. with a violation of Section 5 of the Federal Trade Commission Act, as amended, and the respondent having been served with a copy of that complaint, together with a notice of the contemplated relief; and

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

The Secretary of the Commission having thereafter withdrawn this

*Complaint previously published at 114 FTC 327 (1991).

matter from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of (60) days, now in further conformity with the procedure prescribed in Section 3.25(f) of its rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Kinney Drugs, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 29 Main Street, in the City of Gouverneur, State of New York.

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

ORDER

I.

For purposes of the order, the following definitions shall apply:

A. "*Kinney*" means Kinney Drugs, Inc., its directors, officers, agents, employees, divisions, subsidiaries, successors and assigns;

B. "*Third-party payer*" means any person or entity that provides a program or plan pursuant to which such a person or entity agrees to pay for prescriptions dispensed by pharmacies to individuals described in such plan or program as eligible for such coverage ("Covered Persons"), and includes, but is not limited to, health insurance companies; prepaid hospital, medical, or other health service plans, such as Blue Cross and Blue Shield plans; health maintenance organizations; preferred provider organizations; prescription service administrative organizations; and health benefit programs for government employees, retirees or dependents;

C. "*Participation agreement*" means any existing or proposed agreement, oral or written, in which a third-party payer agrees to reimburse a pharmacy for the dispensing of prescription drugs to Covered Persons, and the pharmacy agrees to such payment from the third-party payer for such prescriptions dispensed during the term of the agreement;

D. "*Pharmacy firm*" means any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, that owns, controls or operates one or more pharmacies, including the directors, officers, employees, and agents of such partnership, sole proprietorship or corporation as well as the directors, officers, employees, and agents of such partnership's, sole proprietorship's or corporation's subsidiaries, affiliates, divisions and joint ventures, but excludes any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, which own, are owned by, control or are under common control with Kinney. The words "subsidiary", "affiliate", and "joint venture" refer to any firm in which there is partial (10% or more) or total ownership or control between corporations.

II.

It is ordered, That Kinney, directly, indirectly, or through any corporate or other device, in or in connection with its activities in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Agreeing or combining, attempting to agree or combine, or taking any action in furtherance of any agreement or combination, advocating an agreement, or organizing or cooperating with any pharmacy firm(s) to (1) boycott, refuse to enter into, withdraw from, or not participate in, any participation agreement or (2) threaten to boycott, threaten to refuse to enter into, threaten to withdraw from, or threaten not to participate in, any participation agreement;

B. For a period of ten (10) years after the date this order becomes final, stating or communicating in any way to any pharmacy firm the intention or decision of Kinney with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement into which Kinney and the other pharmacy firm have entered, could enter or are considering entering;

C. For a period of eight (8) years after the date this order becomes final, advising any pharmacy firm with respect to entering into, refusing to enter into, participating in, or withdrawing from any existing or proposed participation agreement into which Kinney and the other pharmacy firm have entered, could enter or are considering entering.

Provided that, nothing in this order shall prevent Kinney from:

(1) Exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency or legislative body concerning legislation, rules or procedures, or to participate in any federal or state administrative or judicial proceeding;

(2) Subcontracting, preparing joint bids, or otherwise jointly undertaking with pharmacy firms to provide prescription drug services under a participation agreement if requested to do so in writing by the third-party payer; or

(3) Communicating to the public truthful, nondeceptive statements concerning any existing or proposed participation agreement.

III.

It is further ordered, That Kinney:

A. Provide a copy of this order within thirty (30) days after the date this order becomes final to each officer, director, employee pharmacist who is employed in New York state, and each employee whose responsibilities include recommending or deciding whether to enter into any participation agreement, and each employee who regularly attends meetings on Kinney's behalf that include representatives of other pharmacies; and

B. For a period of five (5) years after the date this order becomes final, provide each new director and each employee who enters a position described in paragraph A a copy of the order within ten (10) days of the date the employee or director assumes the new position.

IV.

It is further ordered, That Kinney:

A. File a verified, written report with the Commission within ninety (90) days after the date this order becomes final, and annually thereafter for five (5) years on the anniversary of the date this order becomes final, and at such other times as the Commission may, by written notice to Kinney, require, setting forth in detail the manner and form in which it has complied and is complying with this order;

B. For a period of five (5) years after the date this order becomes final, maintain and make available to Commission staff for inspection

and copying upon reasonable notice all documents generated by Kinney or that come into Kinney's possession, custody, or control regardless of source, that embody, discuss or refer to the decision or upon which Kinney relies in deciding whether to enter into any participation agreement in which Kinney participates, has participated, or has considered participating; and

C. Notify the Commission at least thirty (30) days prior to any proposed change in Kinney such as, assignment or sale resulting in the emergence of a successor corporation or association, change of name, change of address, dissolution, the creation, sale or dissolution of a subsidiary, or any other change that may affect compliance with this order.

Commissioner Azcuenaga dissenting.

IN THE MATTER OF
JAMES E. KRAHULEC

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

Docket 9227. Complaint, April 19, 1989—Decision, July 1, 1991*

This consent order prohibits, among other things, Mr. Krahulec from organizing or entering into any agreement with any pharmacy firms to boycott, withdraw from or refuse to enter into a third-party payer prescription drug plan; for ten years, from organizing, sponsoring, or attending a meeting of pharmacy firms at which persons make any statements concerning the pharmacy firm's intent to enter into or refuse to enter into any third-party payer prescription drug plan; for ten years, from communicating to any pharmacy firm, other than Mr. Krahulec's employer, any information concerning any pharmacy firm's intention to enter into or refuse to enter into any third-party payer prescription drug plan; and for eight years, from providing comments or advice to any pharmacist or pharmacy firm on the desirability or appropriateness of entering into or refusing to enter into any third-party payer prescription drug plan.

Appearances

For the Commission: *Karen G. Bokat and Michael D. McNeely.*

For the respondent: *William J. Guzick, Skadden, Arps, Slate, Meagher & Flom, Washington, D.C.*

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondent James E. Krahulec with a violation of Section 5 of the Federal Trade Commission Act, as amended, and the respondent having been served with a copy of that complaint, together with a notice of the contemplated relief; and

The respondent, his attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such

*Complaint previously published at 114 FTC 327 (1991).

complaint, and waivers and other provisions as required by the Commission's Rules; and

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of (60) days, now in further conformity with the procedure prescribed in Section 3.25(f) of its rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Krahulec is an individual employed by Rite Aid Corporation in Rite Aid Corporation's principal offices at Railroad Ave. and Trindle Road, Shiremantown, Pennsylvania.

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

ORDER

I.

For purposes of the order, the following definitions shall apply:

A. "*Mr. Krahulec*" means James E. Krahulec, his agents and employees;

B. "*Third-party payer*" means any person or entity that provides a program or plan pursuant to which such a person or entity agrees to pay for prescriptions dispensed by pharmacies to individuals described in such plan or program as eligible for such coverage ("Covered Persons"), and includes, but is not limited to, health insurance companies; prepaid hospital, medical, or other health service plans, such as Blue Cross and Blue Shield plans; health maintenance organizations; preferred provider organizations; prescription service administrative organizations; and health benefit programs for government employees, retirees or dependents;

C. "*Participation agreement*" means any existing or proposed agreement, oral or written, in which a third-party payer agrees to reimburse a pharmacy for the dispensing of prescription drugs to Covered Persons, and the pharmacy agrees to accept such payment

from the third-party payer for such prescriptions dispensed during the term of the agreement;

D. "*Pharmacy firm*" means any partnership, sole proprietorship or corporation, including all of its subsidiaries, affiliates, divisions and joint ventures, that owns, controls or operates one or more pharmacies, including the directors, officers, employees, and agents of such partnership, sole proprietorship or corporation as well as the directors, officers, employees, and agents of such partnership's, sole proprietorship's or corporation's subsidiaries, affiliates, divisions and joint ventures. The words "subsidiary", "affiliate", and "joint venture" refer to any firm in which there is partial (10% or more) or total ownership or control between corporations.

II.

It is ordered, That Mr. Krahulec, directly, indirectly, or through any device, in or in connection with his activities in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Agreeing or combining, attempting to agree or combine, or taking any action in furtherance of any agreement or combination, advocating an agreement, or organizing or cooperating with any pharmacy firm(s) to (1) boycott, refuse to enter into, withdraw from, or not participate in, any participation agreement or (2) threaten to boycott, threaten to refuse to enter into, threaten to withdraw from, or threaten not to participate in, any participation agreement;

B. For a period of ten (10) years after the date this order becomes final, organizing, sponsoring, facilitating, or attending a formal or informal meeting of representatives of pharmacy firms that Mr. Krahulec expects or reasonably should expect will facilitate communications, or continuing to conduct a formal or informal meeting of representatives of pharmacy firms at which two persons make any statement, concerning one or more firms' intentions or decisions with respect to entering into, refusing to enter into, threatening to refuse to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement;

C. For a period of ten (10) years after the date this order becomes final, communicating in any way to or soliciting from any pharmacy firm other than Mr. Krahulec's employer any information concerning any pharmacy firm's intention or decision with respect to entering

into, threatening to refuse to enter into, refusing to enter into, participating in, threatening to withdraw from, or withdrawing from any existing or proposed participation agreement; and

D. For a period of eight (8) years after the date this order becomes final, advising any pharmacist not employed by Mr. Krahulec's employer or any pharmacy firm other than Mr. Krahulec's employer with respect to entering into, refusing to enter into, participating in, or withdrawing from any existing or proposed participation agreement into which Mr. Krahulec's employer and the other pharmacy firm have entered, could enter or are considering entering.

Provided that, nothing in this order shall prevent Mr. Krahulec from:

(1) Exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency or legislative body concerning legislation, rules or procedures, or to participate in any federal or state administrative or judicial proceeding; or

(2) Communicating to the public truthful, nondeceptive statements concerning any existing or proposed participation agreement.

III.

It is further ordered, That Mr. Krahulec:

A. Shall file a verified, written report with the Commission within ninety (90) days after the date this order becomes final, and annually thereafter for five (5) years on the anniversary of the date this order becomes final, and at such other times as the Commission may, by written notice to Mr. Krahulec, require, setting forth in detail the manner and form in which he has complied and is complying with this order;

B. For a period of five (5) years after the date this order becomes final, maintain and make available to Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with the activities covered by Part II of the order, including, but not limited to, all documents generated by Mr. Krahulec or that come into his possession, custody, or control regardless of source, that embody, discuss or refer to the terms or conditions of any participation agreement; and

C. Notify the Commission within thirty (30) days of any change in Mr. Krahulec's employer or of any other change that may affect compliance with the order.

Commissioner Azcuenaga dissenting.

Complaint

114 F.T.C.

IN THE MATTER OF

ZIPATONE, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3336. Complaint, July 9, 1991—Decision, July 9, 1991*

This consent order prohibits, among other things, a Hillside, Ill., based manufacturer of artists' materials from representing that any product containing a Class I ozone-depleting substance will not damage the environment, and from making any unsubstantiated claims that any product containing an ozone-depleting substance offers environmental benefits.

*Appearances*For the Commission: *Michael Dershowitz.*For the respondents: *Benjamin E. Beale, Jr., officer of Zipatone, Inc., Hillside, IL.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Zipatone, Inc., a corporation, and Benjamin E. Beale Jr., individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Zipatone, Inc. is an Illinois corporation, with its office and principal place of business located at 150 Fencil Lane, Hillside, Illinois.

Respondent Benjamin E. Beale Jr. is an officer of the corporate respondent named herein. He formulates, directs, and controls the acts and practices of the corporate respondent. His address is the same as that of the corporation.

PAR. 2. Respondents have advertised, offered for sale, sold and distributed certain spray products to the public, including Zipatone Spray Cement, a product which contains the chemical 1,1,1 - Trichloroethane.

PAR. 3. The acts and practices of respondents alleged in this complaint have been in or affecting commerce.

PAR. 4. Respondents have disseminated or have caused to be disseminated advertisements for Zipatone Spray Cement. Typical examples of respondents' advertisements and product labeling, but not necessarily all inclusive thereof, are attached hereto as Exhibits A and B.

The aforesaid advertising (Exhibit A) includes the following statement:

"Zipatone's time saving spray products use only ecologically safe propellants. You get the job done quickly without damaging the environment."

The aforesaid product labeling (Exhibit B) includes the following statement:

ECOLOGICALLY-SAFE PROPELLANT

PAR. 5. Through the use of statements referred to in paragraph four in its advertising and product labeling, respondents have represented directly or by implication that:

1. Zipatone Spray Cement contains no ingredients that are damaging to the environment.
2. Use of Zipatone Spray Cement will not have a detrimental effect on the earth's ecology.

PAR. 6. In truth and in fact, Zipatone Spray Cement contains a harmful ozone depleting chemical, 1,1,1 - Trichloroethane, which will cause damage to the environment and the earth's ecology by contributing to the depletion of the earth's ozone layer. Therefore, the representations set forth in paragraph five were, and are, false and misleading.

PAR. 7. Through the statements and representations referred to in paragraphs four and five, respondents have represented, directly or by implication, that at the time they made such representations, respondents possessed and relied upon a reasonable basis for such representations.

PAR. 8. In truth and in fact, at the time respondents made such representations, respondents did not possess and rely upon a reasonable basis for such representations. Therefore, the representations set forth in paragraph seven were, and are, false and misleading.

PAR. 9. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

Complaint

EXHIBIT A

Zipatone Spray Products

Zipatone spray products use only specially safe propellants. You get the job done quickly without damaging the environment.

Zipatone Plastic Spray code number 3100
 Zipatone Plastic Spray is a specially formulated, transparent coating that protects plastic from abrasion, discoloration, and staining. It can be used to protect plastic items such as car radios, pencil and pen cases.

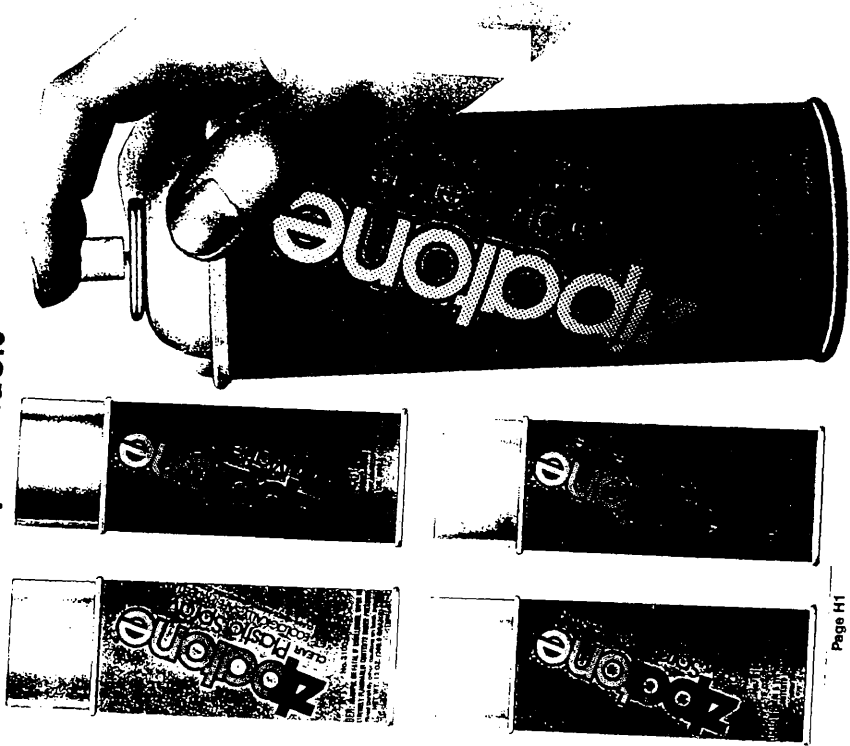
Zipatone Matte Fixative code number 3110
 Zipatone Matte Fixative is a transparent, colorless, fast-drying fixative that adheres to most surfaces. It is ideal for use on wood, metal, and plastic. It can be used to seal and protect surfaces such as car radios, pencil and pen cases, and other plastic items.

Zipatone Spray Adhesive code number 3120
 Zipatone Spray Adhesive is a fast-drying, clear adhesive that can be used to bond plastic, metal, and wood. It is ideal for use on car radios, pencil and pen cases, and other plastic items.

Zipatone Glass Cleaner (Optical) code number 3130
 Zipatone Glass Cleaner (Optical) is a fast-drying, clear glass cleaner that can be used to clean glass, plastic, and metal. It is ideal for use on car radios, pencil and pen cases, and other plastic items.

Zipatone Spray Cement code number 3140
 Zipatone Spray Cement is a fast-drying, clear cement that can be used to bond plastic, metal, and wood. It is ideal for use on car radios, pencil and pen cases, and other plastic items.

Note: The above description of Zipatone products may vary from time to time without notice.



Page H1

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of respondents Zipatone, Inc., a corporation, and Benjamin E. Beale, Jr., individually and as an officer of said corporation, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

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

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

1. Respondent Zipatone, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois. Zipatone, Inc. has its offices and principal place of business at 150 Fencil Lane, Hillside, Illinois.

2. Respondent Benjamin E. Beale, Jr. is an officer of said corporation. He formulates directs, and controls the acts and practices of said corporation, and his address is the same as that of Zipatone, Inc.

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

ORDER

DEFINITIONS

For purposes of the order, the following definitions shall apply:

“Competent and reliable scientific evidence” means such tests, analyses, research, studies, or other scientific evidence conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted by others in the profession to yield accurate and reliable results.

“Class I ozone depleting substance” means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in Title 6 of the Clean Air Act Amendments of 1990, Pub. L. No. 101-549, and any other substance which may in the future be added to the list pursuant to Title 6 of the Act. Class I substances currently include chlorofluorocarbons, halons, carbon tetrachloride and 1,1,1 - Trichloroethane.

“Class II ozone depleting substance” means a substance that harms the environment by destroying ozone in the upper atmosphere and is listed as such in Title 6 of the Clean Air Act Amendments of 1990, Pub. L. No. 101-549, and any other substance which may in the future be added to the list pursuant to Title 6 of the Act. Class II substances currently include hydrochlorofluorocarbons.

I.

It is ordered, That respondents Zipatone, Inc. (hereinafter “Zipatone”), a corporation, its successors and assigns, and its officers, and Benjamin E. Beale, Jr., individually as an officer of said corporation, and respondents’ representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale, or distribution of any product, in or affecting commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, by words, depictions, or symbols that any product containing any Class I ozone depleting substance, will not damage the environment, or is ecologically safe, or through the use of any substantially similar term or expression, including but not limited to “ozone friendly” or “ozone safe,” that any such product will not damage the environment, or that

any such product is ecologically safe, or that any such product will not deplete, destroy, or otherwise adversely affect ozone in the upper atmosphere.

II.

It is further ordered, That respondents Zipatone, a corporation, its successors and assigns, and its officers, and Benjamin E. Beale, Jr., individually as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, labeling, offering for sale, sale, or distribution of any product, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, by words, depictions or symbols, that any product containing any Class I ozone depleting substance or any Class II ozone depleting substance, or any other ozone depleting substance, offers any environmental benefits, including but not limited to any environmental benefit claims concerning the ecology, atmosphere, upper atmosphere, stratosphere or the ozone layer, unless at the time of making such representation, respondents possess and rely upon a reasonable basis, consisting of competent and reliable scientific evidence that substantiates such representation.

III.

It is further ordered, That for three years from the date that the representations to which they pertain are last disseminated, respondents shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

1. All materials that respondents relied upon in disseminating any representation covered by this order.
2. All tests, reports, studies or surveys in respondents' possession or control or of which they have knowledge that contradict any representation of respondents covered by this order.

IV.

It is further ordered, That respondents shall distribute a copy of this order to each of its operating divisions and to each of its officers,

agents, representatives, or employees engaged in the preparation and placement of advertisements, promotional materials, product labels or other such sales materials covered by this order.

V.

It is further ordered, That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporation such as a dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations under this order.

VI.

It is further ordered, That the individual respondent named herein shall promptly notify the Commission in the event of the discontinuance of his present business or employment and of each affiliation with a new business or employment. In addition, for a period of five (5) years from the date of service of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the sale, distribution and/or manufacturing of any cleaning or adhesive products or of his affiliation with a new business or employment in which his own duties and responsibilities involve the sale, distribution and/or manufacturing of any cleaning or adhesive products. Such notice shall include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

VII.

It is further ordered, That respondents shall, within sixty (60) days after service of this order upon them, and at such other times as the Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

385

Complaint

IN THE MATTER OF
ALLEGHANY CORPORATION

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

Docket C-3335. Complaint, July 11, 1991—Decision, July 11, 1991

This consent order requires, among other things, Alleghany Corporation to divest, within twelve months of this order, all rights and interest in either its own title plants and back plants or those of Westwood Equities Corporation, to a Commission-approved acquirer.

Appearances

For the Commission: *Ann B. Malester.*

For the respondent: *John C. Christie, Jr., Bell, Boyd & Lloyd,*
Washington, D.C.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission ("Commission"), having reason to believe that respondent Alleghany Corporation ("Alleghany"), a corporation subject to the jurisdiction of the Commission, through one of its subsidiaries, has entered into an agreement that constitutes a violation of Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C. 45); and that such acquisition, if consummated, would constitute a violation of Section 7 of the Clayton Act, as amended, (15 U.S.C. 18); and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, pursuant to Section 11 of the Clayton Act (15 U.S.C. 21) and Section 5(b) of the Federal Trade Commission Act, (15 U.S.C. 45(b)), stating its charges as follows:

I. DEFINITIONS

1. For the purposes of this complaint, the following definitions apply:

a. "*Alleghany*" means Alleghany Corporation, its directors, officers, employees and representatives, its successors and assigns, and its subsidiaries, divisions, groups and affiliates controlled by Alleghany, their respective directors, officers, employees and representatives, and their respective successors and assigns.

b. "*Title plant*" means a privately owned set of records regarding the ownership of and interests in real property that is maintained by obtaining information from the public records on a daily or regular basis, and is indexed, posted or otherwise organized to update data regarding specific land parcels.

c. "*Back plant*" means a privately owned set of records regarding the ownership of and interests in real property that is no longer being updated on a daily or regular basis.

d. "*Title plant information*" means information contained in or obtained from a title plant.

e. "*Back plant information*" means information contained in or obtained from a back plant.

II. ALLEGHANY CORPORATION

2. Alleghany is a corporation organized, existing and doing business under and by virtue of the laws of Delaware, with its principle office at Park Avenue Plaza, New York, New York.

3. Alleghany is the sole owner of Chicago Title & Trust Company, which is the sole owner of Chicago Title Insurance Company ("Chicago Title").

4. Alleghany is, and at all times relevant herein has been, a corporation whose business is in or affecting commerce as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, (15 U.S.C. 44).

III. THE ACQUISITION

5. On November 29, 1990, Chicago Title & Trust Company and Westwood Equities Corporation ("WEC"), a wholly owned subsidiary of New TC Holding Corporation, entered into an Acquisition Agreement by which Alleghany agreed to purchase most of the title insurance-related assets of WEC, including Ticor Title Insurance Company of California.

IV. TRADE AND COMMERCE

6. The relevant sections of the country are Imperial County,

California; Orange County, California; Riverside County, California; San Bernardino County, California; San Luis Obispo County, California; Santa Barbara County, California; Tulare County, California; Cook County, Illinois; Du Page County, Illinois; Lake County, Illinois; Will County, Illinois; Johnson County, Indiana; Lake County, Indiana; Marion County, Indiana; Porter County, Indiana; Davidson County, Tennessee; Benton County, Washington; and Franklin County, Washington.

7. The relevant lines of commerce are the production and/or sale of title plant information and the production and/or sale of back plant information.

8. There are no reasonable substitutes for access to title plant information in Imperial County, California; Du Page County, Illinois; Lake County, Illinois; Will County, Illinois; Johnson County, Indiana; Lake County, Indiana; Porter County, Indiana; Benton County, Washington; and Franklin County, Washington.

9. There are no reasonable substitutes for access to back plant information in Orange County, California; Riverside County, California; San Bernardino County, California; San Luis Obispo County, California; Santa Barbara County, California; Tulare County, California; Cook County, Illinois; Marion County, Indiana; and Davidson County, Tennessee.

10. There are substantial barriers to entry into the creation of title plants in Imperial County, California; Du Page County, Illinois; Lake County, Illinois; Will County, Illinois; Johnson County, Indiana; Lake County, Indiana; Porter County, Indiana; Benton County, Washington; and Franklin County, Washington.

11. There are substantial barriers to entry into the creation of back plants in Orange County, California; Riverside County, California; San Bernardino County, California; San Luis Obispo County, California; Santa Barbara County, California; Tulare County, California; Cook County, Illinois; Marion County, Indiana; and Davidson County, Tennessee.

12. Through their respective ownership interests, Chicago Title and WEC are significant competitors in the production and/or sale of title plant information in Imperial County, California; Du Page County, Illinois; Lake County, Illinois; Will County, Illinois; Johnson County, Indiana; Lake County, Indiana; Porter County, Indiana; Benton County, Washington; and Franklin County, Washington. The market for title plant information in each of these counties is highly concentrated.

13. Through their respective ownership interests, Chicago Title and WEC are significant competitors in the production and/or sale of back plant information in Orange County, California; Riverside County, California; San Bernardino County, California; San Luis Obispo County, California; Santa Barbara County, California; Tulare County, California; Cook County, Illinois; Marion County, Indiana; and Davidson County, Tennessee. The market for back plant information in each of these counties is highly concentrated.

V. EFFECTS

14. The effects of the acquisition may be substantially to lessen competition or tend to create a monopoly in the relevant lines of commerce in the following ways, among others:

(a) It will eliminate substantial actual competition between Chicago Title and WEC in the production and/or sale of title plant information in Imperial County, California; Du Page County, Illinois; Lake County, Illinois; Will County, Illinois; Johnson County, Indiana; Lake County, Indiana; Porter County, Indiana; Benton County, Washington; and Franklin County, Washington;

(b) It will eliminate substantial actual competition between Chicago Title and WEC in the production and/or sale of back plant information in Orange County, California; Riverside County, California; San Bernardino County, California; San Luis Obispo County, California; Santa Barbara County, California; Tulare County, California; Cook County, Illinois; Marion County, Indiana; and Davidson County, Tennessee; and

(c) It will deny customers of title plant information or back plant information the benefits of free and open competition in Imperial County, California; Orange County, California; Riverside County, California; San Bernardino County, California; San Luis Obispo County, California; Santa Barbara County, California; Tulare County, California; Cook County, Illinois; Du Page County, Illinois; Lake County, Illinois; Will County, Illinois; Johnson County, Indiana; Lake County, Indiana; Marion County, Indiana; Porter County, Indiana; Davidson County, Tennessee; Benton County, Washington; and Franklin County, Washington.

VI. VIOLATIONS CHARGED

15. The acquisition agreement described in paragraph 5 constitutes a violation of Section 5 of the Federal Trade Commission Act, as

amended, (15 U.S.C. 45), and the proposed acquisition, if consummated, would constitute a violation of Section 7 of the Clayton Act, as amended, (15 U.S.C. 18) and Section 5 of the Federal Trade Commission Act, as amended, (15 U.S.C. 45).

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof relating to the acquisition of certain stock or voting securities of Westwood Equities Corporation, and respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act and the Clayton Act; and

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

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

1. Alleghany Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office at Park Avenue Plaza, New York, New York.
2. Chicago Title and Trust Company, a wholly owned subsidiary of

Alleghany, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with its principal office at 111 West Washington Street, Chicago, Illinois.

3. Westwood Equities Corporation, ("Westwood"), a subsidiary of New TC Holding Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office at 6300 Wilshire Boulevard, Los Angeles, California.

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

ORDER

I.

It is hereby ordered, That as used in this order the following definitions shall apply:

A. "*Alleghany*" means Alleghany Corporation, its directors, officers, employees and representatives, its successors and assigns, and its subsidiaries, divisions, groups and affiliates controlled by Alleghany, their respective directors, officers, employees and representatives, and their respective successors and assigns.

B. "*Chicago Title and Trust*" means Chicago Title and Trust Company, its directors, officers, employees and representatives, its successors and assigns, and its subsidiaries, divisions, groups and affiliates controlled by Chicago Title and Trust, their respective directors, officers, employees and representatives, and their respective successors and assigns.

C. "*New TC*" means New TC Holding Corporation, its directors, officers, employees and representatives, its successors and assigns, and its subsidiaries, divisions, groups and affiliates controlled by New TC, their respective directors, officers, employees and representatives, and their respective successors and assigns.

D. "*Title plant*" means a privately owned set of records regarding the ownership of and interests in real property that is maintained by obtaining information from the public records on a daily or regular basis, and is indexed, posted or otherwise organized to update data regarding specific land parcels.

E. "*Back plant*" means a privately owned set of records regarding

the ownership of and interests in real property that is no longer being updated on a daily or regular basis.

F. "*Remaining Properties*" means all of the rights, title and interest in the properties required to be divested in paragraphs IIA and IIB that have not yet been divested by Alleghany.

II.

It is further ordered, That within twelve months from the date this order becomes final Alleghany shall divest or shall cause to be divested, absolutely and in good faith, all of its rights, title and interest in the properties described in paragraphs IIA and IIB. Divestiture shall be made only to a buyer or buyers that receive the prior approval of the Commission, and only in a manner that receives the prior approval of the Commission. The purpose of the divestiture is to ensure the continuation of the assets as ongoing, viable title plants and back plants engaged in the production and/or sale of title plant information, and to remedy the lessening of competition resulting from the acquisition as alleged in the Commission's complaint in this matter.

A. For each of the following counties, at the option of Alleghany, either New TC's title plant or Alleghany's title plant serving such county: Imperial County, California; Du Page County, Illinois; Lake County, Illinois; Will County, Illinois; Johnson County, Indiana; Lake County, Indiana; Porter County, Indiana; Benton County, Washington; and Franklin County, Washington. All user or access agreements pertaining to each divested title plant shall also be divested. At the buyer's option at the time of purchase, and at a commercially reasonable price, Alleghany shall continue to provide computer and other services provided for each divested plant by either New TC or Alleghany, for a period of up to three years from the date such title plant is divested and shall assist the buyer in transferring the computer and other services to any other provider of such services.

B. For each of the following counties, at the option of Alleghany, either New TC's back plant or Alleghany's back plant serving such county: Orange County, California; Riverside County, California; San Bernardino County, California; San Luis Obispo County, California; Santa Barbara County, California; Tulare County, California; Cook County, Illinois; Marion County, Indiana; and Davidson County, Tennessee. All user or access agreements pertaining to each divested

back plant shall also be divested. At the buyer's option at the time of purchase, and at a commercially reasonable price, Alleghany shall continue to provide services provided for each divested back plant by either New TC or Alleghany, for a period of up to three years from the date such back plant is divested and shall assist the buyer in transferring the services to any other provider of such services.

III.

It is further ordered, That:

A. If Alleghany has not divested all of its rights, title and interest in the properties required to be divested in paragraphs IIA and IIB within the twelve month period, Alleghany shall consent to the appointment by the Commission of a trustee to divest all of the Remaining Properties. In the event the Commission or the Attorney General brings an action pursuant to Section 5(l) of the Federal Trade Commission Act, 15 U.S.C. 45 (l), or any other statute enforced by the Commission, Alleghany shall consent to the appointment of a trustee in such action. Neither the appointment of a trustee nor a decision not to appoint a trustee under this paragraph shall preclude the Commission or the Attorney General from seeking civil penalties or any other relief available to it, including a court-appointed trustee, pursuant to Section 5(l) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Alleghany to comply with this order.

B. If a trustee is appointed by the Commission or a court pursuant to paragraph IIIA of the order, Alleghany shall consent to the following terms and conditions regarding the trustee's powers, authorities, duties and responsibilities:

1. The Commission shall select the trustee, subject to Alleghany's consent, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures.

2. Subject to the prior approval of the Commission, the trustee shall have the exclusive power and authority to divest the Remaining Properties.

3. The trustee shall have twelve months from the date of appointment to accomplish the divestiture of the Remaining Properties.

4. If at the end of the trustee's twelve month period the trustee has submitted a plan of divestiture or believes that divestiture can be achieved within a reasonable time, the divestiture period may be extended by the Commission or by the court for a court-appointed trustee.

5. The trustee shall have full and complete access to the personnel, books, records, and facilities relating to the Remaining Properties, or any other information, as the trustee may reasonably request. Alleghany shall develop such financial or other information relevant to the Remaining Properties as the trustee may reasonably request. Alleghany shall cooperate with the trustee and shall take no action to interfere with or impede the trustee's accomplishment of the divestitures. Any delays in divestiture caused by Alleghany shall extend the time for divestiture under this paragraph in an amount equal to the delay, as determined by the Commission or by the court for a court-appointed trustee.

6. Subject to Alleghany's absolute and unconditional obligation to divest at no minimum price and the purposes of the divestitures as stated in paragraph II of this order, the trustee shall use his or her best efforts to negotiate the most favorable price and terms available with each acquiring entity for the divestiture of the Remaining Properties. The divestitures shall be made in the manner set out in paragraph II; *provided, however*, that if the trustee receives bona fide offers from more than one acquiring entity or entities, and if the Commission determines to approve more than one such acquiring entity, the trustee shall divest to the acquiring entity or entities selected by Alleghany from among those approved by the Commission.

7. The trustee shall serve, without bond or other security, at the cost and expense of Alleghany on such reasonable and customary terms and conditions as the Commission or a court may set. The trustee shall have authority to employ, at the cost and expense of Alleghany, such consultants, accountants, attorneys, investment bankers, business brokers, appraisers, and other representatives and assistants as are reasonably necessary to carry out the trustee's duties and responsibilities. The trustee shall account for all monies derived from the divestitures and all expenses incurred. After approval by the Commission and, in the case of a court-appointed trustee, by the court, of the account of the trustee, including fees for his or her services, all remaining monies shall be paid at the direction of Alleghany and the

trustee's power shall be terminated. The trustee's compensation shall be based at least in significant part on a commission arrangement (percentage of price) that is contingent on the trustee divesting the Remaining Properties.

8. Alleghany shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, or liabilities arising in any manner out of, or in connection with, the trustee's duties under this order, except for cases of misfeasance, willful or wanton acts, or bad faith.

9. Within thirty days after appointment of the trustee, Alleghany shall, subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, and consistent with provisions of this order, execute a trust agreement that transfers to the trustee all rights and powers necessary to permit the trustee to effect the divestitures required by this order.

10. If the trustee ceases to act or fails to act diligently, the Commission may, on its own or by the request of Alleghany, appoint a substitute trustee in the same manner as provided in paragraph IIIA of this order.

11. The Commission and, in the case of a court-appointed trustee, the court may on its own initiative or at the request of the trustee issue such additional orders or directions as may be necessary or appropriate to accomplish the divestitures required by this order.

12. The trustee shall have no obligation or authority to operate or maintain the Remaining Properties.

13. The trustee shall report in writing to Alleghany and to the Commission every sixty days concerning the trustee's efforts to accomplish the divestitures.

IV.

It is further ordered, That Alleghany shall not cause or permit the wasting or deterioration of the assets and operations to be divested in accordance with paragraphs IIA and IIB of this order in any manner that impairs the marketability of such assets and operations or impairs in any manner the viability of the assets and operations as going concerns engaged in the production and/or sale of title plant or back plant information. In this regard:

A. Alleghany shall maintain the title plants and back plants listed in paragraphs IIA and IIB to the extent and in the manner maintained

by New TC and Alleghany prior to this acquisition, including but not limited to updating the records contained in the title plants on a daily or regular basis such that the title plants are as current as possible at all times.

B. Alleghany shall maintain in good faith all contracts for access to New TC's title plants and back plants and to Alleghany's title plants and back plants listed in paragraphs IIA and IIB subject to the terms, conditions and stipulations of those contracts, and will refrain from taking any action toward terminating those contracts other than that which would be commercially reasonable to New TC and Alleghany under the terms of those agreements.

C. For each county listed in paragraph IIA, Alleghany shall, at the option of the accessors, automatically continue to maintain in good faith on identical terms, conditions and stipulations all contracts for access to New TC's title plant and all contracts for access to Alleghany's title plant in such county that expire by their terms prior to divestiture of either New TC's or Alleghany's title plant for a period lasting until the closing date upon which such divestiture is completed, at which time Alleghany's obligations under such contracts shall cease.

D. For each county listed in paragraph IIB, Alleghany shall, at the option of the accessors, automatically continue to maintain in good faith on identical terms, conditions and stipulations all contracts for access to New TC's back plant and all contracts for access to Alleghany's back plant in such county that expire by their terms prior to divestiture of either New TC's or Alleghany's back plant for a period lasting until the closing date upon which such divestiture is completed, at which time Alleghany's obligations under such contracts shall cease.

V.

It is further ordered, That for a period of ten years from the date this order becomes final, Alleghany shall not acquire, directly or indirectly, any stock, share capital, equity interest, or assets in First American Title Insurance Company, Lawyers Title Insurance Corporation, Stewart Title Guaranty Company, Commonwealth Land Title Insurance Company, Title Insurance Company of Minnesota, TRW, Inc. or any of their successors or assigns, or in any concern, corporate or non-corporate, that has any direct or indirect ownership interest in

a title plant that services any county listed in paragraph IIA or in a back plant that services any county listed in paragraph IIB, or acquire from any concern, corporate or non-corporate, any assets (other than in the ordinary course of business) of, or ownership interest in, an existing title plant that services any county listed in paragraph IIA or a back plant that services any county listed in paragraph IIB, without the prior approval of the Federal Trade Commission.

VI.

It is further ordered, That for a period of ten years from the date this order becomes final, Alleghany shall not, directly or indirectly, acquire any stock, share capital, or equity interest in any concern, corporate or non-corporate, that in turn has any direct or indirect ownership interest in a title plant or back plant servicing any geographic area for which Alleghany at that time has any direct or indirect ownership interest in a title plant or back plant servicing the same area, or acquire from any concern, corporate or non-corporate, any assets (other than in the ordinary course of business) of, or ownership interest in, any existing title plant or back plant servicing any geographic area for which Alleghany at that time has any direct or indirect ownership interest in a title plant or back plant servicing the same area, without providing advance written notification to the Federal Trade Commission. Said notification shall be given on the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations as amended (hereinafter referred to as "the Notification"), except that for purposes of the Notification, Chicago Title and Trust, with the addition of any other subsidiary, division, group and affiliate of Alleghany engaged in, or having an interest in any other entity engaged in, the production and sale of title plant information or back plant information, shall be considered the ultimate parent entity as that term is defined in 16 CFR 801.1(a)(3). Alleghany shall provide to the Federal Trade Commission, at least thirty days prior to acquiring any such interest (hereinafter referred to as the "first waiting period"), both the Notification and supplemental information either in Alleghany's possession or reasonably available to Alleghany. Such supplemental information shall include a copy of the proposed acquisition agreement; the names of the principal representatives of Alleghany and of the firm Alleghany desires to acquire who negotiated the acquisition

agreement; any management or strategic plans discussing the proposed acquisition; and all documents relating to competition for the provision of title plant or back plant services in that particular county. If, within the first waiting period, representatives of the Federal Trade Commission make a written request for additional information, Alleghany shall not consummate the acquisition until twenty days after submitting such additional information. Early termination of the waiting periods in this paragraph may be requested and, where appropriate, granted in the same manner as is applicable under the requirements and provisions of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (15 U.S.C. 18A).

VII.

It is further ordered, That acquisitions resulting in an interest of not more than 3% of the outstanding voting securities of publicly traded companies, solely for the purpose of investment, are not subject to paragraphs V and VI of this order; acquisitions of voting securities of a publicly traded company shall not be subject to paragraphs V and VI of this order solely by reason of the ownership, directly or indirectly, by such publicly traded company of less than 5% of the outstanding voting securities of one of the companies named in paragraph V.

VIII.

It is further ordered, That:

A. Within sixty days after the order becomes final, and every sixty days thereafter until Alleghany has fully complied with paragraphs II, III and IV of this order, Alleghany shall file with the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, or has complied with this order. Such compliance reports shall include, in addition to any other information that the staff of the Federal Trade Commission may reasonably request, a full description of all contacts and negotiations with potential acquirers of the title plants and back plants to be divested under this order, the identity and address of all such potential acquirers, copies of all written communications to and from such potential acquirers, and all internal memoranda, reports and recommendations concerning divestiture.

B. On or before September 21, 1991, and annually for the next ten years, Alleghany shall submit to the Commission a verified written report setting forth in detail the manner and form in which it intends to comply, is complying, or has complied with this order.

IX.

It is further ordered, That, for the purposes of determining or securing compliance with this order, and subject to any legally recognized privilege, upon written request and on reasonable notice to Alleghany made to its principal office, Alleghany shall permit any duly authorized representatives of the Federal Trade Commission:

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

B. Upon five days notice to Alleghany and without restraint or interference from Alleghany, to interview officers or employees of Alleghany, who may have counsel present, regarding such matters.

X.

It is further ordered, That Alleghany shall notify the Commission at least thirty days prior to any proposed change in Alleghany such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation, dissolution or sale of subsidiaries or any other change in Alleghany that may affect compliance obligations arising out of this order.

IN THE MATTER OF
TELELINE, INC.

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

Docket C-3337. Complaint, July 24, 1991—Decision, July 24, 1991

This consent order prohibits, among other things, a California corporation, that markets "900" number information services to children, from making misrepresentations regarding free gifts or the number of calls required to receive a premium; requires a clear statement, or preamble, at the beginning of each children's message giving the child a chance to hang up without charge; and requires the company to provide a means for parents to prevent, or not be charged for, unauthorized calls by their children.

Appearances

For the Commission: *Toby M. Levin and Joel Winston.*

For the respondent: *Stephen Durchslag, Winston & Strawn,*
Chicago, IL.

COMPLAINT

The Federal Trade Commission, having reason to believe that Teleline, Inc., a corporation, has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Teleline, Inc. is a California corporation with its office and principal place of business located at 9777 Wilshire Boulevard, Suite 918, Beverly Hills, California.

PAR. 2. Respondent has advertised, offered for sale and has sold information services to consumers, including children. Accessed by the telephone through a "900" number exchange, respondent's information services for children have consisted of recorded stories or games featuring animated or fictional characters (such as Freddy Pumpkin and the Easter Bunny) along with recorded promotional messages. Advertisements designed to induce consumers to purchase these services have been broadcast on television across state lines.

