

IN THE MATTER OF

JAMES R. WYATT

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3511. Complaint, July 27, 1994--Decision, July 27, 1994*

This consent order prohibits, among other things, the owner of the Wyatt Marketing Corporation from distributing an infomercial, from making false claims regarding a book on the availability of government grants and loans, and from making or selling any commercial that misrepresents it as an independent program, rather than a paid advertisement. The respondent is required to have a disclosure statement for any commercial 15 minutes or longer, and to have substantiation for future claims regarding the availability of grants, loans or other benefits from any source, the terms or conditions of getting government loans or grants, and methods for starting or operating a business.

Appearances

For the Commission: *Michael J. Bloom* and *Donald G. D'Amato*.

For the respondent: *Glenn W. Peterman, McDonough, Holland & Allen*, Sacramento, CA.

COMPLAINT

The Federal Trade Commission, having reason to believe that Wyatt Marketing Corporation, Inc., a corporation, and James R. Wyatt, individually and as an officer and director of said corporation, (hereinafter, collectively, "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 Wyatt Marketing Corporation, Inc. (formerly doing business as James R. Wyatt & Associates, Inc. and Cornerstone Publishing) is a California corporation that has had its principal office or place of business at 4231 Pacific Street, Suite 4, Rocklin, California.

PAR. 2. Respondent James R. Wyatt, at all times pertinent herein, has been an officer and director of respondent Wyatt

Marketing Corporation, Inc. Individually or in concert with others, he has formulated, directed, and controlled the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint. His principal office or place of business has been the same as that of the corporate respondent.

PAR. 3. Respondents have manufactured, advertised, labeled, offered for sale, sold, and distributed various materials that are represented to feature information on obtaining government benefits to start a new business, to obtain money for college, or to save on taxes including but not necessarily limited to a book, entitled 101 Ways to Get Cash From the Government (hereinafter also referred to as the "Government Benefits Book."

PAR. 4. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

COUNT I

PAR. 5. Respondents have disseminated or have caused to be disseminated advertisements for the Government Benefits Book, including but not necessarily limited to a 30-minute advertisement that appears in the form of a talk show entitled "Focus on Success" (hereinafter also referred to as the "Government Benefits Infomercial"), a complete transcript of which is attached hereto as Exhibit A. These advertisements contain the following statements:

[James Wyatt]

". . . there's a program called, through the United States Department of Agriculture, through what they call their Farmers Home Administration agency and they've got a program to where you can qualify for a house for 0 down and 1 percent interest, and I as a general contractor have built 3,000 of those homes and sold them to people back in America. Zero percent down and 1 percent interest. So it's not a fluke. As a matter of fact, this year, I think the government, in that particular agency, the Farmers Home Administration, has a \$5.7 billion program strictly for housing of people. You can buy a single family home as well as apartments."

[George Reading]

"So its not a fluke?"

[James Wyatt]

"No."

[George Reading]

"I heard you right - 0 percent down; 1 percent interest?"

[James Wyatt]

"For 32 years, 31 days."

(Exhibit A)

PAR. 6. Through the use of the statements contained in the advertisements referred to in paragraph five, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that the Farmers Home Administration had \$5.7 billion in loan money available for individuals for the purchase of single family homes and apartments.

PAR. 7. In truth and in fact, the Farmers Home Administration did not have \$5.7 billion in loan money available for individuals for the purchase of single family homes and apartments. During the time period that respondents disseminated or caused to be disseminated the Government Benefits Infomercial, the loan money available for individuals from the Farmers Home Administration for the purchase of single family homes and apartments totaled approximately \$1.3 billion per federal fiscal year. Therefore, the representation set forth in paragraph six was false and misleading.

COUNT II

PAR. 8. Respondents have disseminated or have caused to be disseminated advertisements for the Government Benefits Book, including but not necessarily limited to the Government Benefits Infomercial. These advertisements contain the following statements:

[George Reading]	"It gets even better, doesn't it? Here's one that says 'How You May Be Entitled To A \$10,000 Refund.'"
[James Wyatt]	"Yep. Do you know how many people in America that overpay might be entitled to that? Might and I put might because not everybody is, but one out of every three taxpayers in the United States is overpaid in this Social Security Administration system. We give you the telephone number and address of the agency to call. They will send out and tell you, in fact, whether you're in fact owed money back. \$10,000 bucks. They will look it up--they tell you--it's simply done by a telephone call and simple signature on a form and they'll show you how to do it."

(Exhibit A)

PAR. 9. Through the use of the statements contained in the advertisements referred to in paragraph eight, including but not necessarily limited to the advertisement attached as Exhibit A,

respondents have represented, directly or by implication, that the Government Benefits Book gives the reader a telephone number to call to find out whether she or he has overpaid into the Social Security System and to determine whether she or he is entitled to a refund from the Social Security Administration.

PAR. 10. In truth and in fact, the Government Benefits Book does not give the reader a telephone number to call to find out whether she or he has overpaid into the Social Security System and to determine whether she or he is entitled to a refund from the Social Security Administration. Therefore, the representation set forth in paragraph nine was false and misleading.

COUNT III

PAR. 11. Respondents have disseminated or have caused to be disseminated advertisements for the Government Benefits Book, including but not necessarily limited to the Government Benefits Infomercial. These advertisements contain the following statements:

[George Reading]	"All right. 'Collect Social Security Before Age 65.'"
[James Wyatt]	"That's exactly right."
[George Reading]	"Full benefits?"
[James Wyatt]	"That's right. Full benefits before age 65. You didn't know that, did you?"
[George Reading]	"No I didn't know that. I suspect a lot of people didn't know that."
[James Wyatt]	"No, most people in America don't know that."
[George Reading]	"How do you do that short of being disabled?"
[James Wyatt]	"You ask. You ask, George. I mean I know it sounds too good to be true, but we tell you the agency to call up and say this is what I'm going to do and they will even tell you back, George. They'll tell you how and when you can retire to make the type of income levels you want to."

(Exhibit A)

PAR. 12. Through the use of the statements contained in the advertisements referred to in paragraph eleven, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that individuals could retire before age 65 and still collect full social security retirement benefits.

PAR. 13. In truth and in fact, individuals could not retire before age 65 and still collect full Social Security retirement benefits. Under the Social Security Act, retirement insurance benefits are permanently reduced by 5/9 of 1 percent for each month before age 65 that an individual is entitled to such benefit. Therefore, the representation set forth in paragraph twelve was false and misleading.

COUNT IV

PAR. 14. Respondents have disseminated or have caused to be disseminated advertisements for the Government Benefits Book, including but not necessarily limited to the Government Benefits Infomercial. These advertisements contain the following statements:

[George Reading]	"Pretty fascinating. 'How to Get Up To \$5 Million To Start A Business'."
[James Wyatt]	"Yes, that's right. It's true. It's for a person who wants to start a business or expand an existing business that they have."
[George Reading]	"What kind of money do you need to get into that?"
[James Wyatt]	"It doesn't cost you a dime. You go in and apply through what is called a business plan, George. Okay, you take a business plan into this government agency and they will approve your business plan and give you the money or say no you need have to clean it up, you're missing it over here and they even give you the consulting services for free."
[George Reading]	"How long does it take you?"
[James Wyatt]	"Okay, it takes 47 days. Interest rate is 3 percent to 7.5 percent."
[James Wyatt]	"... And anybody here in the TV audience who has a good idea for business can go in and get that money."

(Exhibit A)

PAR. 15. Through the use of the statements contained in the advertisements referred to in paragraph fourteen, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that there was a federal agency that would loan an individual with a good idea for a business up to \$5 million to start a business or expand an existing small business at terms of 3 percent to 7.5 percent interest.

PAR. 16. In truth and in fact, there was not a federal agency that would loan an individual with a good idea for a business up to \$5

million to start a business or expand an existing small business at terms of 3 percent to 7.5 percent interest. The United States Small Business Administration, with few exceptions, only guarantees loans to small businesses. Those federal agencies that do loan money for business do so for very specific types of enterprises, such loans do not approach \$5 million, and, in many instances, the interest rates for these loans are not 3 percent to 7.5 percent. Therefore, the representation set forth in paragraph fifteen was false and misleading.

COUNT V

PAR. 17. Respondents have disseminated or have caused to be disseminated advertisements for the Government Benefits Book, including but not necessarily limited to the Government Benefits Infomercial. These advertisements contain the following statements:

[James Wyatt]

"In the second chapter we talk about educational services that are available. All the way from preschool, all the way to getting your doctorate degree or becoming even a medical doctor. You've got 4 different programs to choose from. One of them is called a grant where you can get up to \$11,000 a year to go to school per year and you never have to pay the money back at all. Then there's another one where there's a student loan at 3% interest. Then there's another one at 7% interest and even if you have payments you don't get a grant to go to school--you don't have to pay any payments at all until you've graduated and you have up to 10 years to repay the loan. So anyone who wants to go to school it's there. The problem is nobody came in and applied for the money, therefore, the budget was cut and then nobody came in and everybody was being told in the newspapers there's no college money so nobody even came in and applied for more money. So there's about 1.3 billion dollars of unused money just last year alone strictly because of media hype."

[George Reading]

"How can you know where you can qualify for a grant or a loan?"

[James Wyatt]

"You just got to go in and ask George. It's based upon need. It's based strictly upon need--how much is it going to cost you to go to school, how beneficial will your education be to society and it's just going and asking the questions. See the problem is George is nobody in America knows which agency to go to get it."

That's what the book talks about. It's not a get rich quick book. What it is a resource book. It tells you which agency to go to, then you go in and ask the information. What you get in those agencies it is their responsibility to give you the money and that's what they do."

(Exhibit A)

PAR. 18. Through the use of the statements contained in the advertisements referred to in paragraph seventeen, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that the Government Benefits Book contains information concerning:

A. The availability of a federal government grant program for college educational purposes under which a student may or could obtain up to \$11,000 annually.

B. The availability of a government student loan with a 3 percent interest rate.

PAR. 19. In truth and in fact:

A. The Government Benefits Book does not contain information concerning the availability of a federal government grant program for college educational purposes under which a student may or could obtain up to \$11,000 annually. During the time period of the airing of the Government Benefits Infomercial, even those students with exceptional financial need could have only obtained just over \$6,000 in government grants for college educational purposes.

B. The Government Benefits Book does not contain information concerning the availability of a government student loan with a 3 percent interest rate. During the time period of the airing of the Government Benefits Infomercial, the lowest interest rate for a government student loan was 5 percent.

Therefore, the representations set forth in paragraph eighteen were false and misleading.

COUNT VI

PAR. 20. Respondents have disseminated or have caused to be disseminated advertisements for the Government Benefits Book, including but not necessarily limited to the Government Benefits Infomercial. These advertisements contain the following statements:

[Question from the audience]

"I am a part-time student and I work part-time also and I heard you mention something about getting a home for \$1. I'd really be interested in purchasing a home for \$1, but I can't come up with a down payment right now. Who would I get in touch with to find out about HUD -- is that what you call that?"

[James Wyatt]

"That's one agency. The Housing and Urban Development--that's known as HUD. The book gives you seven ways to buy a house for nothing down. With programs sponsored by the United States government 0 down 1 percent interest. Urban Homesteading -- \$1 to totally buy the house. We got a variety of other programs that are in there that require nothing down. Now, see I know that people laugh about this, but I've built 3,000 houses for people in America where their total down payment was \$0 down and their interest payment was 1 percent. On a \$60,000 house -- principal, interest, taxes and insurance your monthly payments are 127 bucks. That's cheaper than rent and so anybody in America that sits back and says I can't afford a house is nonsense. What you can't afford to do is not to buy the book. I'm sorry but that's the truth."

(Exhibit A)

PAR. 21. Through the use of the statements contained in the advertisements referred to in paragraph twenty, including but not necessarily limited to the advertisement attached as Exhibit A, respondents have represented, directly or by implication, that the Government Benefits Book contains information on seven different federally sponsored programs that allow individuals to buy a house with \$0 down and at loan terms of 1 percent annual interest.

PAR. 22. In truth and in fact, the Government Benefits Book does not contain information on seven different federally sponsored programs that allow individuals to buy a house with \$0 down and at loan terms of 1 percent annual interest. The Government Benefits Book only contains information about a federal program available through the United States Department of Agriculture's Farmers Home

