

Complaint

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*It is further ordered,* That respondent shall forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered,* That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

*It is further ordered,* That the respondent herein shall within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

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IN THE MATTER OF

THE A & R AGENCY, ET AL.

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

*Docket C-2681. Complaint, July 14, 1975—Decision, July 14, 1975*

Consent order requiring a New York City advertising promoter, among other things to cease using misrepresentations to sell advertising in ethnic publications, and from placing and seeking payment for unauthorized advertisements.

*Appearances*

For the Commission: *Moira P. McDermott.*

For the respondents: *Richard C. Shadyac, Annandale, Va. and Stanley R. Stern, Brooklyn, N.Y.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said Act, the Federal Trade Commission having reason to believe The A & R Agency, a partnership doing business in its own name and as Daily Challenge, Spanish Newspaper Agency, Jewish Newspaper Agency, Scandanavian Newspaper Agency, Italian Newspaper Agency, Chinese Newspaper Agency, Catholic Newspaper Agency, German Newspaper Agency, Recorder Newspaper Agency, Caribbean Echo, Bronx Home Newspaper Agency, Polish Publication Agency, Hungarian Newspaper Agency, Greek Newspaper Agency, and Anthony Abraham individually and as a partner in said partnership and Anthony Clausi individually and as an

employee of said partnership, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereto would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent The A & R Agency is a partnership organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 350 Fifth Ave., New York, N.Y.

Respondent Anthony Abraham is an individual and is the only active partner in the partnership respondent. Respondent Anthony Clausi is an individual and is employed as manager of the partnership respondent. Said individual respondents formulate, direct and control the acts and practices of the partnership respondent, including the acts and practices hereinafter set forth. The address of respondent Anthony Abraham is 727 S. Alhambra Cir., Coral Gables, Fla., and the address of respondent Anthony Clausi is that of the partnership respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the solicitation of advertisements to be published in a number of newspapers, magazines, and other publications and in the collection of accounts arising out of their said business.

PAR. 3. In the course and conduct of their business, respondents engage in extensive commercial activities among the various States of the United States. By long distance telephone and other means, respondents contact prospective purchasers of advertising space in states other than the State of New York and seek to sell advertising space to such persons. Respondents transmit through the United States mails to such persons invoices, statements, letters and other business communications and receive from them bank checks, letters and other instruments of a commercial nature. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business respondents and their agents or representatives contact prospective purchasers of advertising space by telephone and other means and seek to induce them to purchase advertising space in many newspapers and periodicals among which are the Daily Challenge, El Tiempo and Menora.

In connection with such solicitations, respondents and respondents' agents and representatives, have made numerous statements regarding the character and volume of circulation of the individual publications.

Typical and illustrative of said statements and representations, but not all inclusive thereof, are the following:

That the Daily Challenge has a circulation of 10,000 subscribers in Wilmington, Del., or 350,000 circulation in New England, New York and Washington, D.C., or reaches hundreds of Black homes by mail or is the largest newspaper in the East serving the Black community; that El Tiempo has a circulation of 200,000 or 500,000; that Menora has a guaranteed paid circulation of 72,000, or is read by 50,000 Jewish families in the New York area, or has a general circulation of more than 100,000 or 250,000 or 100,000 readers in Long Island.

PAR. 5. In truth and in fact, the various statements and representations made by respondents and respondents' agents and representatives regarding the character and volume of said publications were and are false and exaggerated. The total circulation of the Daily Challenge is about 34,000; of El Tiempo 33,000 and of Menora 30,000.

Therefore, the statements and representations set forth in Paragraph Four hereof were, and are, false, misleading and deceptive.

PAR. 6. In the course and conduct of their business, respondents and their agents or representatives seek to induce prospects to purchase advertising space in various publications by representing that the readership of a publication is of a special type or class. For example: that the Daily Challenge's readers are Black professionals, and that Menora is the Jewish businessman's paper, is widely circulated among prominent Jewish doctors, lawyers, and professionals, and goes to Jewish investment houses.

PAR. 7. In truth and in fact, the various statements and representations made by respondents and respondents' agents and representatives regarding the type or class of subscribers or readers of the said publications were and are false and exaggerated. The Daily Challenge carries no news of special interest to Black professionals and the Menora is published in the Hungarian language and there is a limited number of American Jewish people who can read Hungarian.

Therefore, the statements and representations set forth in Paragraph six hereof, were, and are, false, misleading and deceptive.

PAR. 8. In the course and conduct of their business, respondents have also engaged in the practice of placing advertisements of various persons and firms in various publications without having received authorization from such persons or firms. Respondents have then sought to exact payment from said persons and firms for such unauthorized advertisements.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive practices as set forth in Paragraphs Four and Six has had, and now has, the capacity and tendency to mislead prospective advertisers into the purchase of advertising space by reason of said practices. The unfair and deceptive practice engaged in by respondents

of publishing wholly unauthorized advertisements as set forth in Paragraph Eight has subjected firms and individuals to harassment and unlawful demand for payment of nonexistent debts.

PAR. 10. In the course and conduct of their business, respondents have engaged in the following additional unfair, false, misleading and deceptive practices:

1. In a substantial number of instances, respondents have represented that advertisements will appear in special sections of a publication when in fact the publication is not divided into sections and does not segregate advertisements according to type but commingles advertisements.

2. In a substantial number of instances, respondents have represented that advertisements will appear in special editions of a publication when in fact there was no special edition of the publication.

3. In a substantial number of instances, respondents have placed advertisements on dates which are contrary to those selected by the advertisers and have not advised the advertisers of the change or the reason therefor.

4. In a substantial number of instances, respondents' agents engaged in the solicitation of advertisements have represented themselves as employees of the publication for which the advertisement is being solicited.

PAR. 11. In the conduct of their business, and at all times mentioned herein respondents have been in substantial competition, in commerce, with corporations, firms and individuals engaged in the sale of advertising space in newspapers, magazines and other publications.

PAR. 12. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity or tendency to mislead prospective advertisers into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of substantial quantities of advertising space by reason of said erroneous and mistaken belief.

PAR. 13. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce, and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption

hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the New York Regional Office 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 of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that 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(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent The A & R Agency is a partnership 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 350 Fifth Ave., New York, N.Y.

Respondent Anthony Abraham is an individual and is the only active partner in the partnership respondent. His address is 727 S. Alhambra Cir., Coral Gables, Fla. Respondent Anthony Clausi is an individual and is employed as manager of the partnership respondent. His address is 40 Royal Park Terrace, Hillsdale, N.J. They formulate, direct and control the policies, acts and practices of said partnership, and their principal office and place of business is located at 350 Fifth Ave., New York, N.Y.

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

#### ORDER

*It is ordered,* That respondents The A & R Agency, a partnership, doing business in its own name and as Daily Challenge, Spanish Newspaper Agency, Jewish Newspaper Agency, Scandanavian Newspaper Agency, Italian Newspaper Agency, Chinese Newspaper Agen-

cy, Catholic Newspaper Agency, German Newspaper Agency, Recorder Newspaper Agency, Caribbean Echo, Bronx Home Newspaper Agency, Polish Publication Agency, Hungarian Newspaper Agency and Greek Newspaper Agency and Anthony Abraham individually and as a partner in said partnership and Anthony Clausi individually and as an employee of said partnership, and their successors and assigns, respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device in connection with the offering for sale or sale of advertising space in newspapers, magazines or any other publication, and in connection with the collection of or attempt to collect past due or allegedly past due accounts arising out of the publication of any advertisement, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that the circulation, whether paid or unpaid, of any newspaper, magazine or other publication is more than the circulation figures provided in writing by the publisher of said publication as stated in its certification or statements to governmental authorities or as verified by an accounting audit by independent certified public accountants and/or as they appear in the independent Audit Bureau of Circulation Reports.

2. Representing, directly or by implication, that the readership of any newspaper, magazine or other publication is more than twice the circulation figure provided for in Paragraph 1 of this order.

3. Representing, directly or by implication, that a publication for which an advertisement is being solicited is read by a certain type or class of subscriber or reader or covers a specified geographical area when such is not the fact; or misrepresenting in any manner the nature or type of reader or geographic area covered by such publication.

4. Placing, printing or publishing, or causing to be placed, printed, or published, any advertisement on behalf of any person, firm or corporation in any publication unless a prior authorization, order or agreement to purchase said advertisement has been received by respondents.

5. Sending or causing to be sent bills, collection letters or notices to any person, firm or corporation with regard to any advertisement which has been or is to be printed, inserted or published on behalf of said person, firm or corporation, or in any other manner seeking to exact payment for any advertisement, without a prior authorization, order or agreement to purchase such advertising, either orally or in writing.

6. Representing that advertisements placed by respondents for its customers will appear in special editions or in special sections of a

publication when in fact there is no such special edition of or special section in the publication for which the advertisement is solicited.

7. Placing orders for advertisements to appear on dates which differ from the dates selected by respondents' customers without advising such customers of the changes and the reasons therefor and without obtaining authorization for such changes.

*It is further ordered, That:*

A. Respondents' advertising solicitors or agents in making contact with any person, firm or corporation for the purpose of selling advertising clearly disclose that they are employed by The A & R Agency, or Daily Challenge, or Spanish Newspaper Agency, or Jewish Newspaper Agency, or Scandanavian Newspaper Agency, or Italian Newspaper Agency, or Chinese Newspaper Agency, or Catholic Newspaper Agency, or German Newspaper Agency, or Recorder Newspaper Agency, or Caribbean Echo, or Bronx Home Newspaper Agency, or Polish Publication Agency, or Hungarian Newspaper Agency, or Greek Newspaper Agency, to solicit advertisements for the named publication and disclose the correct and complete name of the publication for which advertising is being solicited and state the number of times a week the publication appears and the language in which the publication is printed.

B. The complete name of the publication and the dates the advertisements appeared be clearly stated on all respondents' invoices to their customers.

C. Respondents furnish tear sheets to their customers on request, for every issue in which the customers' advertisements appear and that such tear sheets show the name of the publication and the dates of publication.

D. Respondents retain all complaints from any source relating to the acts or practices prohibited by this order, for a period of two years after their receipt, and that these records be made available for examination and copying by a duly authorized agent of the Federal Trade Commission during the regular hours of the respondents' business.

E. Respondents notify the Commission at least thirty (30) days prior to any proposed change in the partnership respondent such as dissolution or the addition of partners or any other change in the partnership which may affect compliance obligations arising out of this order.

F. Respondents give written instructions which cover all the provisions of this order to all present and future employees, agents and representatives engaged in the offering for sale, or sale of advertising space in newspapers, magazines or any other media and engaged in the

collection of or attempt to collect past due or allegedly past due accounts arising out of the publication of any advertisement and that respondents secure a signed statement acknowledging receipt of said written instructions.

G. The individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which the individual is engaged as well as a description of his duties and responsibilities.

H. The partnership respondent distribute a copy of this order to each of its operating divisions or departments.

I. No provision of this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying with agreements, orders or directives of any kind obtained by any other agency or act as a defense to actions instituted by the municipal or state regulatory agencies. No provision of this order shall be construed to imply that any past or future conduct of respondents complies with the rules and regulations of or the statutes administered by the Federal Trade Commission.

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

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IN THE MATTER OF

CTC COLLECTIONS, INC., ET AL.

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

*Docket C-2682. Complaint, July 14, 1975-Decision, July 14, 1975*

Consent order requiring a West Orange, N.J., debt collection agency, among other things to cease using unfair and deceptive form letters in collecting consumer debts.

*Appearances*

For the Commission: *Elliot Feinberg.*

For the respondents: *Charles M. Schmidt, Long Branch, N.J.*

## COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that CTC Collections, Inc., a corporation, and Loretta Fusaro and Kathleen O'Connor, individually and as officers of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent CTC Collections, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its principal office and place of business located at 91 Main St., West Orange, N.J.

Respondents Loretta Fusaro and Kathleen O'Connor are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the practice of collecting or attempting to collect any and all kinds of alleged delinquent accounts.

PAR. 3. In the course and conduct of their business as aforesaid, respondents solicit and receive accounts for collection from businesses and professional people located in the State of New Jersey and in various other States of the United States, which accounts the respondents seek thereafter to collect from debtors in the State of New Jersey. In the further course and conduct of their business, respondents transmit collection messages from their place of business within the State of New Jersey to debtors and third parties located in the various other States of the United States. The respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, and at all times mentioned herein, respondents have been and now are, in competition in commerce with other corporations, firms and individuals in the attempted collection and collection of consumer debts on behalf of creditors.

PAR. 5. In the course and conduct of their business as aforesaid, and for the purpose of inducing consumers to pay allegedly delinquent accounts, respondents have transmitted and caused to be transmit-

ted, and are now transmitting and causing to be transmitted form letters, demands for payment and other printed material.

Typical and illustrative of the statements and representations made in said forms and printed materials, but not all inclusive thereof, are the following:

1. The account shown above has been put into our hands for immediate collection and with complete authority to enforce payment and to record this item on your credit history file and to report to such credit agencies as we deem appropriate.

2. Unless payment is received by immediate return mail, we will proceed with other legal means to collect this debt.

3. We know this account can now be collected and since you have not been in touch with us, we are going to proceed with every legal means available to us. This will be costly and time-consuming for you, and can only be avoided by your *immediate* remittance.

4. This is a legal five-day notice before the above creditor brings court suit for the purpose of attaching your pay, property and bank accounts to satisfy this debt.

Unless satisfactory arrangements are made with us for the payment of this debt before that time, you will be served with legal summons by a constable for appearance in court.

5. Therefore: If payment is not received on or before the ——— day of ——— A.D., 19——, proceedings may be taken against you by default.

PAR. 6. By and through the use of the aforesaid statements and representations, and others of similar import and meaning but not expressly set out herein, respondents represent and have represented, directly or by implication, that:

1. Respondents have unlimited authority to collect accounts placed with respondents for collection and are authorized to disclose information regarding these accounts to credit reporting agencies.

2. The failure to pay the amount claimed as owing within the time period(s) specified will result in legal action against the debtor.

3. The failure to agree to pay the amount claimed as owing will result in attachment proceedings against the property and wages of the debtor.

PAR. 7. In truth and in fact:

1. Respondents' authority to collect debts is limited and respondents do not have the authority to report on their accounts to credit reporting agencies.

2. The failure of a debtor to pay the amount claimed as owing within the time period(s) specified does not result in most instances in the institution of legal action to effect payment.

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3. The failure of a debtor to pay the amount claimed as owing within the time period(s) specified does not result in most instances in the institution of attachment proceedings to effect payment.

Therefore, the statements and representations set forth in Paragraphs Five and Six hereof were and are false, misleading, deceptive and unfair.

PAR. 8. In the course and conduct of their business as aforesaid, and for the purpose of inducing consumers to pay allegedly delinquent accounts, respondents have transmitted and caused to be transmitted, and are now transmitting and causing to be transmitted form letters, demands for payment and other printed material.

Typical and illustrative of respondents forms, but not all inclusive thereof, are the following:

## FINAL NOTICE

### Before Suit

State of New Jersey, )  
County of Essex ) ss.:

Creditor \_\_\_\_\_

Debtor \_\_\_\_\_

### To The Above Named Debtor

**Take Notice:** You are hereby notified that this is your final opportunity to pay your legal debt of \$\_\_\_\_\_ due the above named Creditor.

**Therefore:** If payment is not received on or before the \_\_\_\_\_ day of \_\_\_\_\_ A.D., 19\_\_\_\_, proceedings may be taken against you by default.

#### JUDGMENT WILL BE ASKED TO INCLUDE

- I. FULL PRINCIPAL DUE
- II. MAXIMUM LEGAL RATE OF INTEREST
- III. ALL COURT COSTS
- IV. ALL COSTS OF COLLECTION
- V. REASONABLE ATTORNEYS FEES

Executed this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 19\_\_\_\_, in the State and County aforesaid.

Signed \_\_\_\_\_

☞ MAKE PAYMENT TO CTC COLLECTIONS  
91 Main Street, West Orange, N. J. 07052

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# Final Notice Before Suit

Creditor \_\_\_\_\_

Debtor \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

**CTC** COLLECTIONS, INC.

P.O. Box 31 Town Center Branch  
91 Main Street  
West Orange, New Jersey 07052  
tel.: (201) 736-3964

BONDED

TO:

REGARDING YOUR ACCOUNT WITH:

BALANCE DUE:

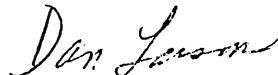
Regarding your account with:

Balance Due:

Your promise to have a payment in this office on the above account on \_\_\_\_\_ has not been kept.

We accepted this promise as being in good faith. We can have no patience with false or misleading promises. Unless payment is received by immediate return mail, we will proceed with other legal means to collect this debt.

We have been cooperative with you and we will not stand for being treated in this evasive manner. We have many means at our disposal to collect this money, all of them distasteful and expensive to you. Do yourself a favor and send the payment today. Save yourself a lot of unwanted difficulties.



SEND ALL PAYMENTS DIRECT TO THIS OFFICE ONLY

Return top portion with remittance.

PAR. 9. By and through the use of said forms and the statements and representations set forth therein and others of similar import and meaning but not expressly set out herein, respondents represent and have represented, directly or by implication, that:

1. Said "Final Notice" document in form and content is an official document duly issued or approved by a court of law.
2. Judgment may be entered against the debtor without further notice to the debtor.
3. The creditor has the post judgment rights stated in said forms.

PAR. 10. In truth and in fact:

1. Said "Final Notice" form is not an official document duly issued or approved by a court of law, but on the contrary is wholly private in origin.
2. Judgment may not be entered against the consumer without further notice to the consumer but on the contrary the debtor is entitled to notice and an opportunity to appear and defend himself in a court of law prior to the entry of a judgment.
3. The creditor's rights enumerated are incomplete, inaccurate and vague and are stated to intimidate the debtor rather than to inform him of the creditor's legal rights.

Therefore, the statements and representations as set forth in Paragraphs Eight and Nine hereof were and are false, misleading, deceptive and unfair.

PAR. 11. The use by respondents of the aforementioned false, misleading, deceptive and unfair statements, representations and forms has had, and now has, the tendency and capacity to deceive and mislead persons into the erroneous and mistaken belief that said statements and representations were and are true, and induce the recipients thereof to supply information which they otherwise would not have supplied and into the payment of accounts to respondents, by reason of said erroneous and mistaken belief.

PAR. 12. The aforesaid acts and practices of respondents, as herein alleged, are unethical, oppressive, exploitative and cause substantial injury to consumers, and constituted, and now constitute unfair acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

PAR. 13. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

## DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the New York Regional Office 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 of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that 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(b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent CTC Collections, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey, with its office and principal place of business located at 91 Main St., West Orange, N.J.

Respondents Loretta Fusaro and Kathleen O'Connor are officers of the aforementioned corporate respondent. They formulate, direct and control the acts and practices of said corporation and their address is the same as that of said corporation.

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

## ORDER

*It is ordered,* That respondent CTC Collections, Inc., a corporation, its successors and assigns, and its officers Loretta Fusaro and Kathleen O'Connor, individually and as officers of said corporation and respondents' agents, representatives and employees, directly or through any

corporation, subsidiary, division or other device, in connection with the collection of consumer debts, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing in any manner, directly or by implication, that respondents possess unlimited authority to collect accounts on behalf of their creditor-clients; or misrepresenting, in any manner, respondents' authority to collect debts on behalf of a creditor.

2. Representing in any manner, directly or by implication, that respondents possess the authority or intend to disclose information regarding debtors to a credit reporting agency.

3. Representing in any manner, directly or by implication, that legal action, including attachment or garnishment proceedings, has been initiated or is being initiated unless respondents have in fact instituted the legal action represented; or that such legal action will be initiated unless respondents are able to establish that at the time the representation was made respondents intended in good faith to institute the legal action represented.

4. Using any form to collect debts or debtor information which simulates a judicial document or is represented by any means to be a document authorized, issued, or approved by a court of law or any other official or legally constituted judicial authority; or misrepresenting, in any manner, the official nature of any document utilized in the collection of debts.

5. Representing in any manner, directly or by implication, that judgment may be entered against a debtor without the debtor having notice of the legal action and an opportunity to appear and defend himself in a court of law.

6. Informing a debtor of a creditor's right after judgment without disclosing at the same time that no judgment may be entered against the debtor unless the debtor has first been given notice and an opportunity to appear and defend himself in a court of law.

7. Representing in any manner, directly or by implication, the post judgment rights of a creditor unless said rights are in fact as specifically represented in the jurisdiction in which collection is sought; or misrepresenting in any manner, directly or by implication, the post judgment rights of a creditor.

*It is further ordered,* That respondents shall maintain for a period of two years with respect to each delinquent debtor, records which shall consist of copies of all collection letters, dunning notices, requests for information and similar correspondence delivered to such debtor or third parties or an indication of what form items were sent; a record or tabulation of all telephone calls made to or about the debtor showing the identity of the caller, the date and time of the call, the identity of

the recipient of the call, the telephone number called, the purpose and result of the call; and copies of all documents pertaining to collection efforts such as referrals to lawyers or other agencies and legal documents utilized in collection efforts.

*It is further ordered,* That the respondents shall forthwith distribute a copy of this order to each of their operating divisions, collection managers and to all personnel or other parties including attorneys and collection agencies responsible for or engaged in collection of consumer debts.

*It is further ordered,* That respondents notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or corporations, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

*It is further ordered,* That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

*It is further ordered,* That no provision of this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying with agreements, orders or directives of any kind obtained by any other agency or act as a defense to actions instituted by municipal or State regulatory agencies. No provision of this order shall be construed to imply that any past or future conduct of respondents complies with the rules and regulations of, or the statutes administered by the Federal Trade Commission.

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

IN THE MATTER OF  
BENEFICIAL CORPORATION, ET AL.

ORDER, OPINION, ETC., IN REGARD TO ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT

*Docket 8922. Complaint, Apr. 10, 1973 - Decision, July 15, 1975*

Order requiring a Wilmington, Del., seller of personal income tax preparation services and its wholly-owned subsidiary located in Morristown, N.J., among other things to cease misrepresenting the terms and conditions of its guarantees, using the term "instant tax refund," and misusing confidential information obtained from taxpayer customers.

*Appearances*

For the Commission: *David C. Fix* and *Robert D. Friedman*.

For the respondents: *Edgar T. Higgins*, Morristown, N.J., *Hogan & Hartson*, Wash., 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, having reason to believe that Beneficial Corporation and Beneficial Management Corporation, corporations, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Beneficial 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 and place of business located at 1300 Market St. in the city of Wilmington, State of Delaware.

Respondent Beneficial Management Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its principal office and place of business located at 200 South St., in the city of Morristown, State of New Jersey. It is a wholly-owned subsidiary of, and is managed, directed and controlled by, respondent Beneficial Corporation.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale and sale of personal income tax preparation services and the extension of consumer credit to the general public.

Respondents sell their aforesaid products and services directly and

through various corporate subsidiaries and affiliates, hereinafter referred to for convenience as respondents' representatives.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, monies, contracts, business forms and other commercial paper and printed materials in connection with said income tax preparation and personal loan and consumer financing services to be sent by United States mail from respondents' place of business in the State of New Jersey to their local offices and subsidiaries and purchasers of respondents products and services located in various other States of the United States, and maintain and at all times mentioned herein have maintained a substantial course of trade in said services in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, respondents and their representatives have disseminated, and caused the dissemination of, certain advertisements concerning the said income tax preparation services by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said income tax preparation services and the extension of consumer credit.

PAR. 5. For the purpose of disseminating such advertisements, respondents and their representatives have employed television and radio commercial broadcasts, newspaper and periodical insertions, direct mail literature and point of sale promotional materials.

Typical of the statements and representations in said advertisements, but not all inclusive thereof, are the following:

1. Radio and Television:

a) This year have your tax returns prepared a better way \* \* \* by computer \* \* \* at Beneficial Finance. With Beneficial's Income Tax Service for as little as \$5 \* \* \* you get maximum deductions \* \* \* 100% accuracy \* \* \* Plus you can get an Instant "Tax Refund." The instant you qualify for a loan-you get your refund \* \* \* in cash-instantly. So have your taxes done at Beneficial Finance. and get your Instant "Tax Refund."

b) Where are the smart people having their tax returns prepared this year? At Beneficial Finance. That's right, Beneficial Finance — with its new, fully computerized Income Tax Service. You get all the deductions you're entitled to — and since your return is figured by computer, it's guaranteed accurate. Now \* \* \* here's the big news: At Beneficial, and only at Beneficial, you can get an Instant "Tax Refund." The instant you sign your return and qualify for an on-the-spot loan, Beneficial advances you the full amount of your refund. So there's no waiting all those weeks and weeks for your check from the Government. It's the Instant "Tax Refund"—at Beneficial Finance.

c) If you haven't done your income taxes yet \* \* \* if you're worried about all those new forms and regulations \* \* \* if like so many of us you just can't get down to all that figure work on your tax return—let Beneficial Finance take the load off your mind! For as little as \$5, Beneficial's Income Tax Service will do your return by computer. It couldn't be simpler: Beneficial's computer figures out your maximum deductions and prepares your return with 100% accuracy. And, if you have a refund coming, you can get

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it right away with Beneficial's Instant "Tax Refund" the instant you qualify for a loan, you get your refund—in cash—instantly! Just look in the white pages of your phone book for the Beneficial office near you. And, call up or come in \* \* \* today

## 2. Newspaper and direct mail.

a) New Income Tax Service offers INSTANT "TAX REFUND"\*

Beneficial Finance offers a complete tax preparation service, fully computerized to give you maximum deductions. Accuracy is 100% guaranteed. (Beneficial pays any penalty or interest if it makes an error!)

\* If you have a refund coming, you don't have to wait weeks for a Government check. The instant you sign your return and qualify for an on-the-spot loan, you get your refund-in cash-instantly. Only at Beneficial.

\* \* \* \* \*

This year, let Beneficial prepare your tax returns! \$5 and up.

\* \* \* \* \*

And if you want cash to pay your taxes, or for any good reason, remember: your're good for more at Beneficial. Offices everywhere \* \* \* open all year. Phone or come in \* \* \* now! Avoid the rush.

b) It's a fact: 7 out of every 10 taxpayers who have their returns prepared by Beneficial's Income Tax Service get refunds.

c) BENEFICIAL INCOME TAX SERVICE \* \* \* for as little as \$5

\* \* \* fully computerized to give you maximum deductions and guaranteed 100% accuracy. \* \* \* especially designed for the typical American family.

\* \* \* \* \*

Then, there are the pitfalls, hazards, and worries about overpayment; underpayment; delays in getting refunds; being questioned or audited, making mistakes; the Internal Revenue Service computer; adding, subtracting, multiplying, and dividing, misunderstanding complicated instructions, and coming to grips with the problem itself. That's why smart people-smart taxpayers-will rely on tax experts to prepare their income tax returns this year. And foremost among tax experts are the men at Beneficial.

\* \* \* \* \*

Beneficial is completely familiar with—and understands—the new tax forms and tax requirements. Beneficial's Managers-experts in money matters — are accustomed to extremely accurate figure work and are therefore, exceptionally competent with tax returns.

\* \* \* \* \*

Beneficial stands behind and guarantees the accuracy of every tax return it prepares. If Beneficial makes any errors that cost you penalty or interest of any kind, we will pay the penalty or interest.

PAR. 6. By and through the use of the above-quoted statements and representations, and others of similar import and meaning, but not expressly set out herein, respondents and their representatives have represented, and are now representing, directly or by implication, that:

1. Respondents will provide taxpayers who have their returns prepared by respondents and to whom a refund is owed by the Internal

Revenue Service with an "instant refund" at the time their returns are prepared.

2. Respondents will reimburse the taxpayer for any payments the taxpayer may be required to make in addition to his initial tax payment, if such additional payments result from an error made by respondents and their representatives in the preparation of the tax return.

3. Respondents' and their representatives' tax preparing personnel are specially trained and unusually competent in the preparation of tax returns and the giving of tax advice, and that they have the ability and capacity to prepare and give advice concerning complex and detailed income tax returns.

4. The percentage of respondents' tax preparation customers who receive refunds is demonstrably greater than the percentage of the tax paying public at large who receive refunds.

PAR. 7. In truth and in fact:

1. Respondents' "instant tax refund" is not a refund but a personal loan and the recipient of the loan is required to pay finance charges and other costs for such loan.

2. Respondents and their representatives do not reimburse the taxpayer for all payments he is required to make in addition to his initial tax payment if such additional payments result from an error made by respondents and their representatives in the preparation of the tax return.

3. Respondents' and their representatives' tax preparing personnel are not specially trained and unusually competent in the preparation of tax returns and the giving of tax advice, and they do not have the ability and capacity to prepare and give advice concerning complex and detailed income tax returns.

4. The percentage of respondents' tax preparation customers who receive refunds is not demonstrably greater than the percentage of the taxpaying public at large who receive refunds.

Therefore, the statements and representations set forth in Paragraphs Five and Six hereof were, and are, false, misleading and deceptive.

PAR. 8. In the further course and conduct of their business respondents and their representatives enter into a relationship with their tax preparation customers which is impliedly represented as, and is inherently, confidential and private in nature. As a result of the aforesaid relationship, respondents and their representatives are provided and receive certain information from their tax preparation customers. Respondents and their representatives retain a copy of each income tax return prepared by them and a copy of a financial profile which is filled out for each customer on the basis of information

provided by the customer ostensibly for respondents' use in the preparation of the customer's tax return.

Both the aforesaid copy of the tax return and the financial profile contain private and confidential data of both a personal and financial nature for each of respondents' tax preparation customers.

During the initial interview with the customer and at various times subsequent thereto, respondents and their representatives review the information on the retained copy of the customer's tax return and financial profile, and make a determination as to whether to solicit the customer for some type of consumer financing offered by respondents. On the basis of such determination, respondents and their representatives solicit the tax preparation customer, either orally and in person or by mail or telephone, for the purpose of inducing the customer to accept an extension of consumer credit in the nature of a personal loan or otherwise.

Respondents use, and have used, the aforesaid information gathered as a result of the preparation by respondents and their representatives of their customers' income tax returns in the manner hereinabove described without the prior knowledge and consent of said customers, and respondents have failed to disclose such use and intended use to their customers.

PAR. 9. The aforesaid acts and practices of respondents, and the special relationship created by respondents with their customers as described in Paragraph Eight hereof, has had, and now has, the capacity and tendency to mislead respondents' customers into the erroneous and mistaken belief that the information they provided respondents will only be used for the purpose of preparation of their income tax returns and will remain confidential.

Therefore, the respondents' failure to disclose the use of the aforesaid information for purposes other than the preparation of their customers' tax returns is false, misleading and deceptive.

Furthermore, respondents' use of the aforesaid information for purposes other than the preparation of their customers' tax returns without the prior knowledge and consent of their customers is contrary to, and in substantial disregard of, the special relationship between respondents and their customers as described in Paragraph Eight, hereof, and is, and was, unfair.

PAR. 10. In the course and conduct of their business, and at all times mentioned herein, respondents and their representatives have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of income tax preparation services of the same general kind and nature.

PAR. 11. The use by respondents and their representatives of the

aforesaid false, misleading and deceptive statements and representations, and unfair acts and practices, has had, and now has, the capacity and tendency to mislead members of the public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of respondents' and their representatives' income tax preparation services by reason of said erroneous and mistaken belief.

PAR. 12. The aforesaid acts and practices of respondents and their representatives as herein alleged, were and are all to the prejudice and injury of the public and of respondents' and their representatives' competitors and constituted and now constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

INITIAL DECISION BY MONTGOMERY K. HYUN,  
ADMINISTRATIVE LAW JUDGE

OCTOBER 21, 1974

PRELIMINARY STATEMENT

On Apr. 10, 1973, the Federal Trade Commission issued a complaint charging Beneficial Corporation and Beneficial Management Corporation with a violation of Section 5 of the Federal Trade Commission Act (15 U.S.C. §45) by engaging in certain acts and practices in connection with their income tax preparation business. Paragraphs Four through Seven of the complaint allege that certain advertising claims made by respondents in connection with their income tax preparation business are false, misleading and deceptive. Paragraphs Eight and Nine of the complaint allege that respondents have used income tax information obtained from their tax preparation customers to solicit the latter for consumer loans and that these practices are deceptive and unfair to the consumer. By answer duly filed, respondents denied that any of their challenged acts or practices violated Section 5 of the Federal Trade Commission Act.

Prehearing procedures commenced in May 1973. In January 1974, the case was reassigned to the present administrative law judge. Respondents' two motions to withdraw the matter from adjudication, duly certified to the Commission by the administrative law judges, were denied by the Commission in August 1973 and April 1974. In November 1973, counsel for the parties entered into a Stipulation For Partial Adjudicated Settlement, which was filed on Dec. 3, 1973. As a result, all of the advertising issues in the complaint, except Paragraph Six (1) and

Paragraph Seven (1) dealing with respondents' "Instant Tax Refund" advertising claims, were settled. Evidentiary hearings with respect to the remaining issues were held in April, May and June 1974, in Washington, D.C. Following reception of further evidence upon a motion by respondents, the evidentiary record was closed on July 23, 1974, and the parties filed their respective proposed findings and orders, and briefs on Aug. 23, 1974.

Any motions not heretofore or herein ruled on specifically or indirectly by necessary effect of the conclusions of this initial decision are hereby denied.

The proposed findings, conclusions and briefs of the parties have been given careful consideration, and to the extent not adopted in this initial decision in the form proposed or in substance, they are rejected as not supported by the evidence or as immaterial.

Having considered the entire record in this proceeding and the demeanor of the witnesses, together with the proposed findings, conclusions and orders and briefs submitted by the parties, the administrative law judge makes the following findings of fact.<sup>1</sup>

#### FINDINGS OF FACT

##### I. Respondents and Their Business

1. Respondent Beneficial 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 and place of business located at 1300 Market St., in the city of Wilmington, State of Delaware (Ans., par. 1).

2. Respondent Beneficial Corporation wholly owns subsidiaries engaged in the consumer loan business; many of those subsidiaries also operate a tax preparation business. In addition, Beneficial Corporation wholly owns Western Auto Supply Company (a nationwide merchandising company), Spiegel, Inc. (a mail order merchandising company), and various other companies engaged principally in the sales finance and creditor insurance business (CX 18 at p. 3). In 1972, Beneficial Corporation had a net income of approximately \$82 million (CX 18 at p. 6).

3. Respondent Beneficial Management Corporation is a corporation organized, existing and doing business under and by virtue of the laws

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<sup>1</sup> References to the record are made in parenthesis, using the following abbreviations:

CX - Commission Exhibit

RX - Respondents' Exhibit

Tr. - Transcript of the testimony

CPF - Complaint Counsel's Proposed Findings

RPF - Respondents' Proposed Findings

CB - Complaint Counsel's Brief

RB - Respondents' Brief.

of the State of Delaware, with its principal office and place of business located at 200 South Street, in the city of Morristown, State of New Jersey. It is a wholly-owned subsidiary of respondent Beneficial Corporation and provides various accounting, auditing, management services, including the formulation of advertising and sales policies, for the subsidiaries of Beneficial Corporation who operate the local loan and tax preparation offices (Ans. pars. 1, 2; Higgins, Tr. 204).

4. Respondent Beneficial Corporation through its subsidiaries has for many years been engaged in the consumer loan business and more recently in the tax preparation business. Its subsidiaries, including respondent Beneficial Management Corporation, have formulated and caused the dissemination of advertisements concerning income tax preparation services throughout the United States. Respondents have maintained a substantial course of trade in the offering of consumer loans and income tax preparation services in commerce, as "commerce" is defined in the Federal Trade Commission Act. At all times mentioned in the complaint, respondents have been, and now are, in substantial competition with individuals, firms and corporations engaged in the offering of consumer loans and income tax preparation services of the same general kind and nature as offered by respondents (Ans., pars. 1-5; CX 18, 33, 137; Snyder, Tr. 8).

#### II. Liability of Respondents

5. Beneficial Corporation is a conglomerate primarily composed of the Beneficial Finance System (a general term used to refer to the Beneficial Corporation subsidiaries which engage in the loan and finance business), Spiegel, Inc., and Western Auto Supply Company (CX at p. 3; Higgins, Tr. 178; finding 2).

6. On Dec. 31, 1972, there were approximately 1800 subsidiaries in the Beneficial Finance System, 1505 of these in the United States. Each of these U.S. local loan offices are owned and operated by a separate subsidiary of Beneficial Corporation [hereinafter local loan subsidiaries]. Approximately 1300 of these offices offer tax preparation services. With the exception of a few shares of a few subsidiaries, Beneficial wholly owns all of the stock of the local loan subsidiaries in the United States (CX 18 at pp. 8-9; Higgins, Tr. 179, 152). Beneficial Management Corporation, also a wholly-owned subsidiary of Beneficial Corporation, furnishes services at cost to the local loan subsidiaries (Ans., par. 2; Higgins, Tr. 204-05).

7. Beneficial Management Corporation of America is a wholly owned subsidiary of Beneficial Corporation. It employs regional and field supervisors throughout the country and is responsible for implementing the procedures which are established by Beneficial Management Corporation (Higgins, Tr. 205-06).

8. Beneficial Management Corporation formulated and approved all the advertising challenged in the complaint and in conjunction with the local loan subsidiaries caused its dissemination to members of the general public (Ans., par. 2; Snyder, Tr. 6-22; findings 36-38, *infra*).

9. Beneficial Management Corporation prepared and disseminated to the local loan subsidiaries various memoranda, directives, and other documents containing instructions on the use of tax information at issue in this case (CX 19-34, 35, 38, 41; Ans. to Requests for Admissions 1, 3, 4; Snyder, Tr. 24-25, 27).

10. Beneficial Corporation's local loan subsidiaries disseminated various point of sale and direct mail advertising pieces which were prepared by Beneficial Management Corporation. The local loan subsidiaries pay for the cost of this advertising (finding 38, *infra*; CX 99-111, 124, 125, 162, 163, 164, 165; Snyder, Tr. 19).

11. Telephone directory advertising is often placed at the request of the local loan subsidiary and is generally paid for by that subsidiary (Snyder, Tr. 18; findings 36-41, *infra*).

12. The acts and practices relating to use of tax information which are alleged to be unfair and deceptive in Paragraphs Eight and Nine of the complaint were actually committed by employees of the local loan subsidiaries (CX 25-27, 29, 34, 35, 38(a)) (findings 59-64, *infra*).

13. Respondent Beneficial Corporation's wholly-owned local loan subsidiaries committed the unfair and deceptive acts and practices alleged in the complaint (findings 9-12, *supra*).

14. Respondent Beneficial Corporation is the sole stockholder of the local loan subsidiaries and either its board of directors or executive committee select who are to be on the board of directors of the local loan subsidiaries (Higgins, Tr. 196-97).

15. The officers of each of the 1143 local loan subsidiaries are identical, except for the president who is, in each region, the regional vice president of Beneficial Management Corporation. This pattern existed throughout the period 1969 through 1974 (CX 145(a); Donohue, Tr. 225-27).

16. All of the officers and directors of the non-New York local loan subsidiaries are employees of either Beneficial Management Corporation or Beneficial Management Corporation of America, both wholly-owned subsidiaries of Beneficial Corporation (Higgins, Tr. 198-201; Findings 3, 6, 7, *supra*).

17. Beneficial Management Corporation of America employs between 75 and 100 persons. Its principal offices are located in the same building as are those of respondent Beneficial Corporation, in Wilmington, Del. It employs various field supervisors and auditors, and regional personnel and promotional supervisors throughout the coun-

try. Its only function is to provide supervision over, and service to, the local loan subsidiaries. It receives all of the funds necessary for its operations from Beneficial Corporation, and generally does not make a profit (Higgins, Tr. 205-20; Donohue, Tr. 245).

18. Mr. Carroll Donohue, who serves as director and vice president and secretary of all the local loan subsidiaries, is not paid a salary by the local loan subsidiaries for performing these services, but is paid by Beneficial Corporation, though he is neither an officer nor director thereof (Donohue, Tr. 220-21, 245).

19. All of the local loan subsidiaries rely solely on Beneficial Corporation for the money that they use in the operations. Funds are advanced to the local loan subsidiaries initially as capital contributions, or as loans. When a local loan subsidiary needs additional loans, it contacts the treasurer's department of Beneficial Corporation to arrange for the needed financing. The decision whether to advance funds in the form of additional capital contribution or loans is made by the treasurer and comptroller of Beneficial Corporation (Higgins, Tr. 192-93; CX 18 at p. 9; CX 150(Z) (34-50)).

20. The accounting for the local loan subsidiaries in the Beneficial Finance System is handled largely by computer. Beneficial Data Processing Company, a wholly-owned subsidiary of Beneficial Corporation, provides the computer service to handle the basic data relating to the loan and finance business. It operates a terminal and computer system in Morristown, N.J., which has a terminal in every local loan office. It obtains all the funds needed for its operation from Beneficial Corporation (Higgins, Tr. 207-08).

21. Beneficial Corporation in effect provides all the financing needed by the local loan subsidiaries for their operations and maintains a close watch over the financial operations of those subsidiaries (findings 19-20, *supra*).

22. Beneficial Corporation operates various plans for the benefit of the employees of the local loan subsidiaries (Higgins, Tr. 208-11; CX 150(n), (Z)(57), (Z) (67), (Z)(2), (Z)(24), 150(m), 150(c); (Z)(13)).

23. Respondent Beneficial Corporation owns and effectively controls the local loan subsidiary corporations (Findings 10-21).

24. Respondents obviously endeavor to have the local loan subsidiaries identified in the public mind as part of the "Beneficial Finance System." All of the local loan subsidiaries are called "Beneficial Finance Company of \_\_\_\_\_" (the name of the town in which they are located) (CX 18 at p. 3; finding 5, *supra*; Higgins, Tr. 178-79). The name "Beneficial Finance" is displayed on the outside of most of the local loan offices. All of the advertising for respondents' tax service uses the terms "Beneficial" or "Beneficial Finance" (findings 33-47, *infra*), and

stresses the fact that a large nationwide organization is the entity offering the income tax preparation service. The tax service is referred to as the "Beneficial Income Tax Service." For example, CX 165(b) states: "Beneficial Income Tax Service — A Service of Beneficial Finance System — over 1700 loan and finance offices coast to coast."

25. There is evidence in the record that consumers are of the belief that they are dealing with a large nationwide company when they patronize a Beneficial local loan subsidiary and that such belief is one of the reasons they choose to have their taxes prepared at Beneficial (Deveny, Tr. 375; McIntire, Tr. 426).

26. The combined effect of respondents' advertising and the names of the local loan subsidiaries is to create the reasonable impression that the local subsidiaries are local representatives of some nationwide controlling "Beneficial" entity. That entity is in fact Beneficial Corporation (findings 24-25).

27. Beneficial Management Corporation functions as a service organization for the local loan subsidiaries of the Beneficial Finance System. Beneficial Management Corporation does not directly engage in loan or income tax preparation business. Among the services it provides are supervision, audit, accounting, advertising, and legal services. It provides these services to the local loan subsidiaries at cost and does not make a profit. All of the funds for its operation come from Beneficial Corporation, through capitalization and advances of money as needed. Beneficial Management Corporation has never utilized outside sources of capital (Snyder, Tr. 6; Higgins, Tr. 204-05).

28. Some of respondents' "Instant Tax Refund" advertisements have been copyrighted. These copyrights are held by Beneficial Corporation (CX 113-20).

29. On Apr. 26, 1972, there were 17 members of the board of directors of Beneficial Corporation. Of these 17 members, six worked for Beneficial Corporation or its subsidiaries: Messrs. Benadom, Bowes, Burd, Fultz, Higgins and Tucker. The remaining directors were outside directors (Higgins, Tr. 189-90).

30. Beneficial Corporation exercises control over Beneficial Management Corporation primarily through three men who hold key positions in both companies: Edgar T. Higgins, Cecil M. Benadom and Robert A. Tucker (CX 150).

31. The significance of the overlap demonstrated in finding 30, *supra*, lies in the fact that during most of the time period relevant to this case, these individuals constituted a majority of the executive and finance committees of Beneficial Corporation and were the entire executive committee of Beneficial Management Corporation. Much of the formal decision-making responsibility of both corporations is

