

the agreement and proposed order, or to modify any of their terms.

Donald S. Clark,

Secretary.

[FR Doc. 96-12818 Filed 5-21-96; 8:45 am]

BILLING CODE 6750-01-M

[File No. 931-0052]

The Loewen Group, Inc.; Loewen Group International, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In the settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the Covington, Kentucky-based company to divest one of its three funeral homes in Brownsville, Texas and divest a large funeral home in San Benito, Texas or two smaller funeral homes in Harlingen, Texas. The Consent Agreement settles allegations that Loewen's acquisition of certain funeral homes in the Brownsville area and the Harlingen/San Benito area of Cameron County, Texas would decrease competition and increase the likelihood of collusion in those markets.

DATES: Comments must be received on or before July 22, 1996.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Thomas B. Carter, Dallas Regional Office, Federal Trade Commission, 100 N. Central Expressway, Suite 500, Dallas, TX 75201. (214) 767-5518.

Gary D. Kennedy, Dallas Regional Office, Federal Trade Commission, 100 N. Central Expressway, Suite 500, Dallas, TX 75201. (214) 767-5512.

James R. Golder, Dallas Regional Office, Federal Trade Commission, 100 N. Central Expressway, Suite 500, Dallas, TX 75201. (214) 767-5512.

James R. Golder, Dallas Regional Office, Federal Trade Commission, 100 N. Central Expressway, Suite 500, Dallas, TX 75201. (214) 767-5508.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent

order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Agreement Containing Consent Order

The Federal Trade Commission ("Commission") having initiated an investigation of the acquisition of the assets of Garza Memorial Funeral Home, Inc. and Thomae-Garza Funeral Directors, Inc. by the Loewen Group Inc., a corporation, and Loewen Group International, Inc., a corporation (hereinafter collectively referred to as "Loewen"), and it now appearing that Loewen is willing to enter into an agreement containing an order to divest certain assets, and to cease and desist from certain acts,

It is hereby agreed by and between Loewen, its duly authorized officers and attorneys, and counsel for the Commission that:

1. Proposed respondent The Loewen Group Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the province of British Columbia, Canada, with its office and principal place of business located at 4126 Norland Avenue, Burnaby, British Columbia, Canada V5G 3S8.

2. Proposed respondent Loewen Group International, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 50 East River Center Boulevard, Covington, Kentucky 41011. Proposed respondent Loewen Group International, Inc. is a wholly-owned subsidiary of The Loewen Group Inc.

3. Loewen admits all the jurisdictional facts set forth in the draft of complaint.

4. Loewen waives:

- a. Any further procedural steps;
- b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;
- c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and
- d. Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is

accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify Loewen, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by Loewen that the law has been violated as alleged in the draft of complaint here, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to Loewen, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to divest and to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to divest and to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to Loewen's address as stated in this agreement shall constitute service. Loewen waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Loewen has read the proposed complaint and order contemplated hereby. It understands that, once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Loewen further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

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

A. "Loewen" means The Loewen Group Inc. and Loewen Group International, Inc., their directors, officers, employees, agents and representatives, predecessors, successors and assigns, their subsidiaries, divisions, groups and affiliates controlled by Loewen, and the respective directors, officers, employees, agents, representatives, successors and assigns of each.

B. "Funeral" means a group of services provided at the death of an individual, the focus of which is some form of commemorative ceremony of the life of the deceased at which ceremony the body is present; this group of services ordinarily includes, but is not limited to: the removal of the body from the place of death; its embalming or other preparation; making available a place for visitation and viewing, for the conduct of a funeral service, and for the display of caskets and outside cases; and the arrangement for and conveyance of the body to a cemetery or crematory for final disposition.

C. "Funeral establishment" means any facility that provides funerals.

D. "Properties to be Divested" means all of the assets, properties, business and goodwill, tangible and intangible, utilized by: (a) either Thomae-Garza Funeral Directors, Inc. or both Pitts, Kriedler-Ashcraft Funeral Directors, Inc. and Garza-Elizondo Funeral Directors in Cameron County, Texas; and (b) either Garza Memorial Funeral Home, Inc., Paragon Trevino Funeral Home, Inc., or Darling-Mouser Funeral Home, Inc. in Cameron County, Texas; including, but not limited to:

1. All right, title and interest in and to owned or leased real property, together with appurtenances, licenses and permits;
2. All machinery, fixtures, equipment, furniture, tools and other tangible personal property;
3. All right, title and interest in the trade name of any funeral establishment;
4. All right, title and interest in the books, records and files pertinent to the Properties to be Divested;
5. Vendor lists, management information systems, software, catalogs, sales promotion literature, and advertising materials; and
6. All right, title, and interest in and to the contracts entered into in the ordinary course of business with customers (together with associated bids

and performance bonds), suppliers, sales representatives, distributors, agents, personal property lessors, personal property lessees, licensors, licensees, consignors, and consignees.

II

It is further ordered that:

A. Within twelve (12) months after the date this order becomes final, Loewen shall divest, absolutely and in good faith, the Properties to be Divested. The Properties to be Divested are to be Divested only to an acquirer or acquirers 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 divestitures required by this order is to ensure the continued use of the Properties to be Divested as ongoing viable enterprises providing funerals and to remedy the lessening of competition alleged in the Commission's complaint.

B. Pending divestiture of the Properties to be Divested, Loewen shall maintain the viability and marketability of the Properties to be Divested and shall not cause or permit the destruction, removal, or impairment of any assets or business of the Properties to be Divested, except in the ordinary course of business and except for ordinary wear and tear.

III

It is further ordered that:

A. If Loewen has not divested, absolutely and in good faith and with the Commission's prior approval, the Properties to be Divested as required by Paragraph II of this order within twelve (12) months after the date this order becomes final, the Commission may appoint a trustee to divest the Properties to be Divested. In the event the Commission or the Attorney General brings an action pursuant to Section 5(1) of the Federal Trade Commission Act, 15 U.S.C. § 45(1), or any other statute enforced by the Commission, Loewen 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(1) of the Federal Trade Commission Act, or any other statute enforced by the Commission, for any failure by Loewen to comply with this order.

B. If a trustee is appointed by the Commission or a court pursuant to Paragraph III.A. of this order, Loewen 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 the consent of Loewen, which consent shall not be unreasonably withheld. The trustee shall be a person with experience and expertise in acquisitions and divestitures. If Loewen has not opposed, in writing, the selection of any proposed trustee within ten (10) days after notice by the staff of the Commission to Loewen of the identity of any proposed trustee, Loewen shall be deemed to have consented to the selection of the proposed trustee.

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

3. The trustee shall have the power and authority to abrogate any contract or agreement between Loewen and any individual which restricts, limits or otherwise impairs the ability of such individual to purchase the Properties to be Divested or to become a director, officer, employee, agent or representative of any acquirer of the Properties to be Divested.

4. Within ten (10) days after appointment of the trustee, and subject to the prior approval of the Commission and, in the case of a court-appointed trustee, of the court, Loewen shall 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.

5. The trustee shall have twelve (12) months from the date the Commission approves the trust agreement described in Paragraph III.B.4 to accomplish the divestitures, which shall be subject to the prior approval of the Commission. If, however, at the end of the twelve-month period the trustee has submitted a plan of divestiture or believes that divestiture can be accomplished within a reasonable time, the divestiture period may be extended by the Commission, or in the case of a court-appointed trustee, by the court; *provided, however*, that the Commission may extend the divestiture period only two (2) times.

6. The trustee shall have full and complete access to the personnel, books, records and facilities relating to the Properties to be Divested, or any other relevant information, as the trustee may request. Loewen shall develop such financial or other information as such trustee may request and shall cooperate with the trustee. Loewen shall take no action to interfere with or impede the trustee's accomplishment of the divestitures. Any delays in divestiture caused by Loewen shall extend the time

for divestiture under this Paragraph in an amount equal to the delay, as determined by the Commission or for a court-appointed trustee, the court.

7. The trustee shall use his or her best efforts to negotiate the most favorable price and terms available in each contract that is submitted to the Commission, subject to Loewen's absolute and unconditional obligation to divest at no minimum price. The divestitures shall be made in the manner and to the acquirer or acquirers as set out in Paragraph II of this order; provided, however, if the trustee receives bona fide offers from more than one acquiring entity, 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 Loewen from among those approved by the Commission.

8. The trustee shall serve, without bond or other security, at the cost and expense of Loewen, on such reasonable and customary terms and conditions as the Commission or the court may set. The trustee shall have authority to employ, at the cost and expense of Loewen, 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 Loewen and the trustee's power shall be terminated. The trustee's compensation shall be based at least in a significant part on a commission arrangement contingent on the trustee's divesting the Properties to be Divested.

9. Loewen shall indemnify the trustee and hold the trustee harmless against any losses, claims, damages, liabilities, or expenses arising out of, or in connection with, the performance of the trustee's duties, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for, or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, losses, damages, claims, or expenses result from misfeasance, gross negligence, willful or wanton acts, or bad faith by the trustee.

10. If the trustee ceases to act or fails to act diligently, a substitute trustee shall be appointed in the same manner

as provided in Paragraph III.A. of this order.

11. The Commission or, 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 Properties to be Divested.

13. The trustee shall report in writing to Loewen and to the Commission every sixty (60) days concerning the trustee's efforts to accomplish divestiture.

IV

It is further ordered that, for a period of ten (10) years from the date this order becomes final, Loewen shall not, without providing advance written notification to the Commission, directly or indirectly, through subsidiaries, partnerships, or otherwise:

A. Acquire any stock, share capital, equity, or other interest in any concern, corporate or non-corporate, engaged at the time of such acquisition, or within the two years preceding such acquisition, in the provision of funerals in Cameron County, Texas or within fifteen (15) miles of the Cameron County, Texas line; or

B. Acquire any assets used for or used in the previous two years for (and still suitable for use for) funeral establishments in Cameron County, Texas or within fifteen (15) miles of the Cameron County, Texas line.

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"), and shall be prepared and transmitted in accordance with the requirements of that part, except that no filing fee will be required for any such notification, notification shall be filed with the Office of the Secretary of the Commission, notification need not be made to the United States Department of Justice, and notification is required only of Loewen and not of any other party to the transaction. Loewen shall provide the Notification to the Commission at least thirty (30) days prior to acquiring any such interest (hereinafter referred to as the "first waiting period"). If, within the first waiting period, representatives of the Commission make a written request for additional information, Loewen shall not consummate the acquisition until twenty (20) days after substantially complying with such request for additional information. Early termination of the waiting periods in

this paragraph may be requested and, where appropriate, granted by letter from the Commission's Bureau of Competition.

Provided, however, that prior notification shall not be required by this Paragraph IV of this Order for:

1. the construction or development by Loewen of a new funeral establishment; or

2. any transaction for which notification is required to be made, and has been made, pursuant to Section 7A of the Clayton Act, 15 U.S.C. § 18a.

V

It is further ordered that:

A. Within sixty (60) days after the date this order becomes final and every sixty (60) days thereafter until Loewen has fully complied with the provisions of Paragraphs II or III of this order, Loewen 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, and has complied with Paragraphs II and III of this order. Loewen shall include in its compliance reports, among other things that are required from time to time, a full description of the efforts being made to comply with Paragraphs II and III of the order, including a description of all substantive contacts or negotiations for the divestitures and the identity of all parties contacted. Loewen shall include in its compliance reports copies of all written communications to and from such parties, all internal memoranda, and all reports and recommendations concerning divestiture.

B. One (1) year from the date this order becomes final, annually for the next nine (9) years on the anniversary of the date this order becomes final, and at other times as the Commission may require, Loewen shall file a verified written report with the Commission setting forth in detail the manner and form in which it has complied and is complying with Paragraph IV of this order. Such reports shall include, but not be limited to, a listing by name and location of all acquisitions of funeral establishments in the United States located within forty (40) miles of a funeral establishment owned by Loewen at the time of the acquisition, including but not limited to acquisitions due to default, foreclosure proceedings or purchases in foreclosure, made by Loewen during the twelve (12) months preceding the date of the report.

VI

It is further ordered that, for a period of ten (10) years from the date this order becomes final, Loewen shall notify the

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

VII

It is further ordered that, for the purpose of determining or securing compliance with this order, subject to any legally recognized privilege, and upon written request with reasonable notice to Loewen made to its principal offices, Loewen shall permit any duly authorized representative or representatives of the Commission:

A. Access, during the office hours of Loewen 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 Loewen relating to any matters contained in this order; and

B. Upon five (5) days' notice to Loewen and without restraint or interference therefrom, to interview officers or employees of Loewen, who may have counsel present, regarding such matters.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from The Loewen Group Inc. and Loewen Group International, Inc. (hereinafter collectively referred to as "Loewen").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments from interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether to withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint in this matter charges Loewen with violating Section 5 of the Federal Trade Commission Act, as amended, and Section 7 of the Clayton Act, as amended, in connection with Loewen's acquisitions of Garza Memorial Funeral Home, Inc., in Brownsville, Texas, and

Thomae-Garza Funeral Directors, Inc., in San Benito, Texas.

The consent order contains provisions designed to remedy the alleged violations.

Part I of the order contains the definitions of terms that are used in the order.

Part II of the order requires that within twelve (12) months of the date that the order becomes final, Loewen must divest: (1) either Thomae-Garza Funeral Directors, Inc., or both Pitts, Kriedler-Ashcraft Funeral Directors, Inc., and Garza-Elizondo Funeral Directors; and (2) Garza Memorial Funeral Home, Inc., or Paragon Trevino Funeral Home, Inc., or Darling-Mouser Funeral Home, Inc.

Part III of the order provides for the appointment of a trustee to accomplish the divestitures required by the order if Loewen fails to make timely divestitures.

Part IV of the order requires Loewen, for ten (10) years, to provide written notification to the Commission prior to acquiring any interest in a funeral home located in Cameron County, Texas, or within fifteen (15) miles of the Cameron County, Texas, line.

Part V of the order requires Loewen to provide periodic compliance reports until the divestitures are completed. Part V also requires Loewen, for ten (10) years, to provide annual compliance reports detailing how it is complying with Part IV of the order.

Part VI of the order requires Loewen, for ten (10) years, to notify the Commission of any changes in corporate structure that might affect compliance with the order.

Part VII of the order permits Commission representatives, for the purpose of determining or securing compliance with the order, to have access to Loewen's offices to inspect and copy documents and, upon five days' notice, to interview Loewen's officers and employees.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order, or to modify any of their terms.

Donald S. Clark,
Secretary.

[FR Doc. 96-12819 Filed 5-21-96; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Office of Transportation Audits; Stocking Change of an Optional Form

AGENCY: Federal Supply Service, General Services Administration.

ACTION: Notice.

SUMMARY: This notice announces the General Services Administration's intent to change the stocking requirement of OF 1121, Bill of Lading Accountability Record because of low user demand. This form is now authorized for local reproduction by all Federal agencies. You can obtain the camera copy in two ways:

On the internet. Address: <http://www.gsa.gov/forms>; or;

From CARM, Attn.: Barbara Williams, (202) 501-0581.

FOR FURTHER INFORMATION CONTACT:

Mr. James Fitzgerald, Director, Transportation Audit Division, Office of Transportation Audits, (202) 219-1494.

DATES: Effective May 22, 1996.

Dated: May 14, 1996.

Theodore D. Freed,
Standard and Optional Forms Management Officer.

[FR Doc. 96-12772 Filed 5-21-96; 8:45 am]

BILLING CODE 6820-BG-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request Proposed Projects

Title: At-Risk Child Care, Annual Report.

OMB No.: 0970-0126.

Description: Completing this form partially fulfills the reporting requirements of Section 402(i)(6)(B) of the Social Security Act (the Act) whereby the Secretary of DHHS must compile and report certain information annually that is pertinent to the At-Risk program. Additionally the report provides a means for each State to report subsequent period expenditure to determine the State's compliance with the non-supplantation provisions found at Section 402(i)(5)(D) of the Act.

Respondents: State Governments.