

## Commission Enforcement Actions Involving the Internet and Online Services

### *The Commission's first "Internet" case*

1. **FTC v. Corzine**, CIV-S-94-1446 (E.D. Cal. filed Sept. 12, 1994)

! Defendant: Brian Corzine, a/k/a Brian Chase, d/b/a Chase Consulting. (1)

! Defendant ran advertisements on America Online, offering a credit repair kit. He represented that purchasers of his credit repair kit could legally establish a new credit file. The credit repair kit sold for \$99.

! On September 12, 1994, the FTC filed a complaint, charging defendant with misrepresentations in violation of § 5 of the FTC Act. The Court entered an *ex parte* Temporary Restraining Order, including a freeze of defendant's assets. On November 21, 1994, the Court entered a Consent Decree, enjoining defendant against making misrepresentations concerning credit repair programs and requiring the payment of \$1,917 in consumer redress.

<http://www.ftc.gov/opa/predawn/F95/chaseconsultin.htm> (press release - complaint/TRO)

### *The Commission's first online sweep: Chicago Regional Office's cases*

#### *Credit repair*

2. **Martha Clark**, Docket No. C-3667 (final consent June 10, 1996)

! Respondent: Martha Clark, d/b/a Simplex Services. (2)

! Respondent maintained a site on the World Wide Web, offering a credit repair kit. The FTC alleged she falsely represented that purchasers of her credit repair kit could remove accurate, non-obsolete information from their credit reports. Her program sold for \$39.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 10, 1996. The order requires respondent to cease and desist from making misrepresentations concerning methods of removing adverse information from a credit report.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp37.htm> (press release - final consent)

**3. Brian Coryat**, Docket No. C-3666 (final consent June 10, 1996)

! Respondent: Brian Coryat, d/b/a Enterprising Solutions. (3)

! Respondent maintained a site on the World Wide Web, offering a credit repair kit and a credit repair agency business opportunity. The FTC alleged he falsely represented that purchasers of his credit repair kit could remove accurate, non-obsolete information from their credit reports, and that purchasers of the business opportunity could earn over \$1000 a day. The credit repair kit sold for \$24.95, and the business opportunity for \$49.95.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 10, 1996. The order requires respondent to cease and desist from misrepresenting methods of removing adverse information from a credit report, and concerning the earnings potential of business opportunities.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)  
<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

**4. Lyle R. Larson**, Docket No. C-3672 (final consent June 12, 1996)

! Respondent: Lyle R. Larson, d/b/a Momentum. (4)

! Respondent placed advertisements on the Internet offering a credit repair kit. The FTC alleged he falsely represented that purchasers of his credit repair kit could remove accurate, non-obsolete information from their credit reports, and that they could legally establish a new credit file. The credit repair kit sold for \$75 to \$100.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 12, 1996. The order requires respondent to cease and desist from misrepresenting methods of removing adverse information from a credit report, and the legality of credit repair products.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)  
<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

**5. Rick A. Rahim**, Docket No. C-3671 (final consent June 12, 1996)

! Respondent: Rick A. Rahim, d/b/a NBDC Credit Resource Publishing. (5)

! Respondent placed classified advertisements on America Online and CompuServe, offering a credit repair kit. The FTC alleged he falsely represented that purchasers of his credit repair kit could legally establish a new credit file. The credit repair kit sold for \$19.

On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 12, 1996. The order requires respondent to cease and desist from misrepresenting the legality of credit repair products.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)  
<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

### ***Business opportunities***

#### **6. Timothy R. Bean, Docket No. C-3665 (final consent June 10, 1996)**

**! Respondent: Timothy R. Bean, d/b/a D.C. Publishing Group. (6)**

**! Respondent maintained a World Wide Web site offering a publishing and printing home business opportunity. The FTC alleged he falsely represented that purchasers of the business opportunity could earn \$4,000 or more per month, as well as other earnings amounts. His program sold for \$9.95 to \$19.95.**

**! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 10, 1996. The order requires respondent to cease and desist from misrepresenting the earnings potential of business opportunities.**

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)  
<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

#### **7. Robert Serviss, Docket No. C-3669 (final consent June 12, 1996)**

**! Respondent: Robert Serviss, d/b/a Excel Communications. (7)**

**! Respondent placed classified advertisements on America Online and CompuServe, offering a business opportunity consisting of sales of “business reports.” The FTC alleged he falsely represented that purchasers of the business opportunity could make up to \$100,000 per month. The business opportunity sold for \$97 to \$147.**

**! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 12, 1996. The order requires respondent to cease and desist from misrepresenting earnings potential of business opportunities.**

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)  
<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

#### **8. Sherman G. Smith, Docket No. C-3668 (final consent June 12, 1996)**

**! Respondent: Sherman G. Smith, d/b/a Starr Communications. (8)**

! Respondent placed classified advertisements on America Online, offering a business opportunity consisting of locating people who are entitled to a refund from the FHA on their mortgage insurance. The FTC alleged he falsely represented that purchasers of the business opportunity could make more than \$5,000 per month. The business opportunity sold for \$42.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 12, 1996. The order requires respondent to cease and desist from misrepresenting the earnings potential of business opportunities.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

### ***Cash grants***

#### **9. Randolph D. Albertson, Docket No. C-3670 (final consent June 12, 1996)**

! Respondent: Randolph D. Albertson, d/b/a Wolverine Capital (9)

! Respondent placed classified advertisements on America Online, offering a cash grant matching service, for a fee of \$19.95. The FTC alleged he falsely represented that most of his customers are approved for cash grants.

! On April 1, 1996, the FTC placed a proposed administrative consent order on the public record for comment. The consent order became final on June 12, 1996. The order requires respondent to cease and desist from making misrepresentations in connection with cash grant assistance programs.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9606/petapp36.htm> (press release - final consent)

### ***Goods advertised but not furnished***

#### **10. FTC v. Brandzel, 96 C. 1440 (N.D. Ill. filed Mar. 13, 1996)**

! Defendants: Robert A. Brandzel and U.S. Telemedia, Inc. (11)

! Defendants offered computer memory chips for sale, posting advertisements in a Usenet newsgroup. Defendants received money from consumers who ordered the chips, but almost never shipped any product or returned the money, the FTC alleged.

! On March 13, 1996, the FTC filed a complaint, charging defendants with violations of § 5 of the FTC Act and the Mail Order Rule. On the same day, the Court entered an *ex parte* Temporary Restraining Order, including a freeze of defendants' assets. The Court entered a stipulated Preliminary Injunction on March 29, 1996.

! On Sept. 24, 1996, the FTC announced a settlement with the defendants, under which they will pay \$5,500 in consumer redress. The order prohibits defendants from misrepresenting the time within which their merchandise will be shipped, and requires compliance with the Mail Order Rule.

<http://www.ftc.gov/opa/1996/9603/netsc.htm> (press release - sweep)

<http://www.ftc.gov/opa/1996/9609/telemed.htm> (press release - settlement)

### *Another credit repair case*

#### **11. FTC v. Consumer Credit Advocates**, 96 Civ. 1990 (S.D.N.Y. filed Mar. 19, 1996)

! Defendants: Consumer Credit Advocates, P.C.; Consumer Credit and Legal Services, P.C.; John E. Petiton; and David B. Markowitz. (15)

! Defendants posted an advertisement in approximately three thousand Usenet News groups, offering credit repair services. The FTC alleged defendants falsely represented that they could remove accurate, non-obsolete adverse information from credit reports. They charged a minimum retainer of \$500, and an additional fee per disputed item of \$125 to \$750.

! On March 19, 1996, the FTC filed a § 13(b) complaint and consent order. The order enjoins defendants from misrepresenting various aspects of their credit repair services, and requires them to make affirmative disclosures to consumers concerning the efficacy of credit repair services. Defendants were also required to pay \$17,500 in consumer redress.

<http://www.ftc.gov/opa/1996/9603/consum.htm> (press release - complaint/settlement)

### *The Commission's first big Internet case*

#### **12. FTC v. Fortuna Alliance, L.L.C., et al.**, Civ. No. C96-799M (W.D. Wash. filed May 23, 1996).

! Defendants: Fortuna Alliance, L.L.C.; Augustine Delgado; Libby Gustine Welch; Donald R. Grant; and Monique Delgado. (20)

! Defendants marketed a pyramid investment scheme through a Web site and through word-of-mouth. They represented that consumers would receive an income of \$5,000 per month for each \$250 invested. In addition, defendants encouraged investors to set up their own Web sites in order to propagate the scheme, and provided them with advice and promotional materials to help them do so. Although defendants dressed up the investment scheme in New Age vestments, the FTC alleged it was nothing but a high-tech chain letter, with certain losses for the great majority of investors and tremendous profits for the defendants. At least 25,000 consumers paid money into this scheme.

! On May 23, 1996, the FTC filed a complaint, charging defendants with violations of § 5 of the FTC Act. On May 24, the FTC obtained an *ex parte* Temporary Restraining Order freezing the defendants' assets, appointing a receiver to manage the company, and requiring defendants to repatriate company funds that were transferred to overseas accounts. The TRO also directed that promotional materials be removed from Fortuna's Web site and be replaced with a notice advising of the FTC's action and a hypertext link to a page on the FTC's Web site containing additional information and documents from the lawsuit. On June 10, the Court entered a Preliminary Injunction and held defendants in contempt for failure to comply with the requirement to repatriate assets. On June 27, with the funds still not repatriated, the Court issued civil arrest warrants against three individual defendants whom the FTC served process on in Belize.

! The scheme allegedly took in more than \$11 million from consumers. Defendants systematically transferred the bulk of their profits — over \$5 million — to offshore bank accounts. Most of the money went to an account at a bank located in Antigua. At FTC's request, the Department of Justice's Office of Foreign Litigation brought an action for a *Mareva* injunction in an Antiguan court. The action was successful in freezing defendants' funds held in the bank pending development of the FTC action.

! On February 24, 1997, the district court entered a stipulated final judgment. The judgment requires defendants to offer full refunds to all Fortuna members. Payment of redress is secured by a letter of credit for \$2.8 million, drawing on the funds in the Antiguan bank account, as well as additional funds still frozen in the U.S. In addition, during the course of the proceeding, the district court entered an order directing the receiver to return to consumers approximately \$2 million, in the form of checks that defendants had received but not deposited.

! On October 30, 1997, the FTC filed another contempt action against Fortuna and all of the individual defendants except Monique Delgado. The FTC alleged that these defendants had failed to pay the additional \$2 million required for consumer redress, and that they had failed to provide copies of on-going solicitations, as required. The FTC also alleged that the defendants and their lawyer had misrepresented the effect of the prior consent agreement, stating that Fortuna's prior solicitations had been legal. Hearings on the contempt action were held on Dec. 4 and 17, 1997, and defendants were ordered to comply with the final order and make additional redress payments.

! On June 5, 1998, the Court entered a final contempt order, banning defendants from promoting any marketing program until their \$2.2 million deficiency was paid. The FTC's redress administrator made partial payments to remaining consumers. Overall, 15,622 consumers from the U.S. and 70 foreign countries received approximately \$5.5 million in refunds.

<http://www.ftc.gov/opa/1996/9605/fortuna.htm> (press release - complaint/TRO)  
<http://www.ftc.gov/opa/1997/9710/cntmpt1.htm> (press release - contempt)  
<http://www.ftc.gov/opa/1997/9702/fortuna4.htm> (press release - settlement)  
<http://www.ftc.gov/opa/1998/9807/fortunar.htm> (press release - contempt, redress)  
<http://www.ftc.gov/ro/fortuna.htm> (web site - summary of actions)

*Cases with multiple forms of advertising, including online solicitations*

**13. FTC v. Chappie (Infinity Multimedia)**, No. 96-6671-CIV-Gonzalez (S.D. Fla. filed June 24, 1996)

! Defendants: William B. Chappie; Joseph A. Wentz; Quality Marketing Associates, Inc.; and Infinity Multimedia, Inc. (24)

! Defendants promoted a CD-ROM display rack business opportunity at franchise and business opportunity shows, in newspaper advertisements, and through a site on the World Wide Web. An *ex parte* complaint charged violations of § 5 of the FTC Act and the Franchise Rule.

! On June 25, 1996, the Court entered an *ex parte* TRO against the defendants, including an asset freeze and the appointment of a receiver. On July 2, 1996, the receiver placed a notice on Infinity's home page, advising of the FTC's action and linking to further information on the FTC's Web site.

! On January 15, 1997, the Court entered a stipulated permanent injunction that provided \$340,000 for consumer redress, dissolved the two corporate defendants, and barred Joseph Wentz from engaging in the sale of any future franchise or business opportunity. On Nov. 7, 1998, the FTC announced a settlement with remaining defendant William Chappie. The settlement required Chappie to pay \$70,000 in consumer redress and permanently banned him from selling or assisting others in selling business ventures in the future.

<http://www.ftc.gov/opa/1996/9606/infinity.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1996/9609/infini3.htm> (press release - settlement Infinity, Quality, Wentz)

<http://www.ftc.gov/opa/1998/9811/chappie.htm> (press release - settlement Chappie)

**14. Zygon International, Inc.**, Docket No. C-3686 (consent finalized Sept. 24, 1996)

! Respondents: Zygon International, Inc. and Dane Spotts. (26)

! Respondents marketed consumer products such as the "Learning Machine" and the "SuperMind," which purportedly accelerated learning and enabled users to lose weight, quit smoking, increase their I.Q., and learn foreign languages overnight. Respondents advertised through national publications, a mail-order catalog, and a home page on the Internet.

! The FTC alleged that the respondents lacked substantiation for their product claims. The Commission's action was the result of a coordinated investigation by the FTC, the Attorneys General of Illinois, Pennsylvania, Texas, and Washington, and the District Attorney of Napa County, California.

! On September 24, 1996, the Commission finalized an administrative consent order in which Zygon agreed to pay \$195,000 in redress and refrain from making unsubstantiated health claims.

<http://www.ftc.gov/opa/1996/9604/zygon.htm> (press release - proposed consent)  
<http://www.ftc.gov/opa/1996/9609/petapp56.htm> (press release - final consent)

***Internet cases from Operation Missed Fortune***

**15. FTC v. The Mentor Network, Inc.**, Civ. No. SACV96-1104 LHM (EEEx) (C.D. Cal. filed Nov. 5, 1996)

! Defendants: The Mentor Network, Inc. and Parviz Firouzgar. (28)

! Starting in July 1995, defendants operated an alleged pyramid scheme. Consumers paid \$24 to join, and \$30 a month thereafter (for a minimum of one year), of which \$7.50 was to be paid to a bona fide charitable organization that assists needy children in foreign countries and \$15 was to be paid to consumers as recruitment bonuses. Defendants' stated that consumers who recruited only three new members could earn thousands of dollars per month. Defendants marketed their program through participants' Web pages, as well as through other means. At least 2,300 consumers subscribed, paying over \$110,000 per month.

! On November 5, 1996, the FTC filed an action against defendants, alleging violations of § 5 of the FTC Act. The complaint alleged that defendants' misrepresented that consumers would receive a high level of income from participating in their program, and that defendants provided participants with the means and instrumentalities of deception, in the form of promotional materials used in recruiting new participants. On November 6, the Court granted an *ex parte* Temporary Restraining Order freezing the defendants' assets and appointing a temporary receiver to manage the company. On December 4, the parties stipulated to issuance of a preliminary injunction and appointment of a permanent receiver.

! On January 22, 1997, staff reached a settlement with defendants, which prohibited them from operating a chain or pyramid program, prohibit making false earnings claims and required payment of \$75,000 for consumer redress. Following approval by the Commission, the settlement was filed on March 17, and entered by the Court on March 25, 1997.

<http://www.ftc.gov/opa/1996/9611/misdfort.htm> (press release - sweep)  
<http://www.ftc.gov/opa/1997/9703/mentor2.htm> (press release - settlement)

**16. FTC v. Global Assistance Network for Charities**, Civ. No. 96-02494 PHX RCB (D. Ariz. filed Nov. 5, 1996)

! Defendants: Global Assistance Network for Charities, aka GANC; Eileen Belcar; and Cedrick Robles. (31)

! Starting in March 1996, defendants allegedly operated a pyramid scheme that purported to raise money for charities. Consumers paid an initial fee of \$70, and \$50 a month thereafter for



membership. Defendants' promotional materials claimed that consumers would receive over \$89,000 per month once their matrix was filled. Defendants also claimed that 10% to 100% of the earnings would be donated to charities. Defendants marketed their program on a Web site as well as through other media. In October 1996, defendants estimated membership at 200 people.

! On November 5, 1996, the FTC filed an action against defendants, alleging violations of § 5 of the FTC Act. The complaint alleges that defendants' representations that consumers would receive over \$89,000 per month, and that consumers would receive a full refund if they did not make a profit, were deceptive. On the same day, the Court granted an *ex parte* Temporary Restraining Order, which among other things, prohibited the defendants from continuing to market GANC, froze the defendants' assets and required the defendants to provide access to their business records. On November 14, 1996, the Court issued a preliminary injunction order which extended relief similar to that contained in the TRO for the duration of the action.

! On April 24, 1997, the Court entered a stipulated final order, requiring defendants to pay \$4,900 in consumer redress.

<http://www.ftc.gov/opa/1996/9611/misdfort.htm> (press release - sweep)  
<http://www.ftc.gov/opa/1997/9705/ganc.htm> (press release - settlement)

### ***The cases of the hijacked modem***

#### **17. FTC v. Audiotex Connection, Inc., CV-97-0726 (E.D.N.Y. filed Feb. 13, 1997)**

! Defendants: Audiotex Connection, Inc.; Promo Line, Inc.; Internet Girls, Inc.; William Gannon; and David Zeng. (36)

! Defendants maintained adult entertainment sites at [www.beavisbutthead.com](http://www.beavisbutthead.com), [www.sexygirls.com](http://www.sexygirls.com), and [www.1adult.com](http://www.1adult.com). The Commission alleged that consumers who visited one of these sites were solicited to download a viewer program, called "david.exe," in order to view "free" images. Once downloaded and executed, the program disconnected the computer from the consumer's own access provider, turned off the consumers' modem speakers, dialed an international telephone number and reconnected the computer to a remote foreign site. The international call was charged to consumers at more than \$2 per minute, and charges kept accruing until the consumer shut down his computer entirely. Consumers received telephone bills for calls purported made to Moldova, when those calls actually went only as far as Canada.

! On February 13, 1997, the FTC filed a complaint against defendants, alleging violations of § 5 of the FTC Act. The Court entered an *ex parte* Temporary Restraining Order with a freeze over defendants' assets. On February 21, defendants stipulated to a preliminary injunction and placed \$1 million in escrow for potential redress.

! The defendants agreed to settle the suit, and the Commission filed an amended complaint and a proposed consent agreement with the Court on November 4, 1997. The amended complaint added

Internet Girls, Inc. as a defendant and dropped Anna M. Grella, the estranged wife of William Gannon.

! The Court signed the proposed settlement agreement on November 13, 1997. The order barred the defendants from misrepresenting that consumers can use certain software programs to view computer images for free, from offering calls connected through the Internet without posting specific disclosures, and from causing consumers to be billed for calls to destinations other than those listed on their telephone bills. The order required the defendants to receive written or contractual assurances from third parties that consumers' calls will go to the destinations billed. The order also provided for most consumers to receive telephone credits through AT&T or MCI. The defendants (together with the Beylen respondents listed below) paid the two long-distance carriers approximately \$760,000 to administer a redress program, in addition to paying the FTC \$40,000 to refund losses incurred by non-AT&T or non-MCI customers. In this case and *Beylen Telecom, Ltd.*, described below over 27,000 victims who could be identified received back full redress totaling \$2.14 million.

<http://www.ftc.gov/opa/1997/9702/audiotex.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1997/9711/audiot-2.htm> (press release -settlement)

**18. Beylen Telecom, Ltd.** Docket No. C-3782 (final consent Jan. 23, 1998)

! Respondents: Beylen Telecom, Ltd., NiteLine Telemedia, Inc. and Ron Tan (39)

! In a companion case to *FTC v. Audiotex Connection, Inc.*, respondents maintained adult entertainment Web sites at [www.erotic2000.com](http://www.erotic2000.com) or [erotica2000.com](http://erotica2000.com). According to the Commission, consumers who visited one of these sites were solicited to download a viewer program "david.exe" in order to "free" images. Again, the program disconnected the computer from the consumer's own access provider, turned off the consumers' modem speakers, dialed an international telephone number and reconnected the computer to a remote foreign site. The international call was charged to consumers at more than \$2 per minute, and consumers received telephone bills for calls purported made to Moldova, when those calls actually went only as far as Canada.

! The respondents settled the action through an administrative consent order containing terms substantially similar to those in the *Audiotex* order. On Nov. 4, 1997, the Commission issued a proposed settlement and after a public comment period, the Commission issued a final complaint and consent order on January 23, 1998.

<http://www.ftc.gov/opa/1997/9711/audiot-2.htm> (press release -proposed consent)

<http://www.ftc.gov/opa/1998/9802/petapp8.htm> (press release -final consent)

*Cases involving Commercial On-line Services: deceptive advertising and billing practices*

19. **America Online, Inc.**, FTC File No. 952-3331 (final consent Mar. 28, 1998)
20. **CompuServ, Inc.**, FTC File No. 962-3096 (final consent Mar. 28, 1998)
21. **Prodigy Services Corp.**, FTC File No. 952-3332 (final consent Mar. 28, 1998)

! Respondents: America Online, Inc. (AOL), CompuServ, Inc., and Prodigy Services Corp. (42)

! Respondents made “free trial” offers to consumers, but according to the FTC, did not adequately disclose that consumers would automatically be charged if they did not affirmatively cancel before the end of the trial period. Respondents also allegedly debited consumers’ bank accounts without proper authorization.

! On May 1, 1997, the Commission approved for public comment separate consent agreements with the companies. On March 28, 1998, the Commission finalized these consent orders. The orders prohibit the respondents from misrepresenting the terms and conditions of any online service trial offer. The consent order with AOL also requires clear disclosures regarding any electronic fund transfers from consumers’ accounts.

<http://www.ftc.gov/opa/1997/9705/online.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1998/9803/petapp17.htm> (press release - final consent)

*Cases from Project Field of Schemes*

22. **FTC v. JewelWay International, Inc.**, Action No. CV97-383 TUC JMR (D. Ariz. filed June 24, 1997)

! Defendants: JewelWay International, Inc., Bruce A. Caruth, Robert J. Charette, Jr., Donilyn A. Walden, Greg G. Stewart, and two relief defendants. (47)

! Defendants ran an alleged pyramid scheme via a Web site and through group presentations, offering consumers the chance to earn up to \$2,250 a week plus bonuses for the purchase of expensive homes, automobiles, and vacations, by participating in a purported multi-level marketing scheme to sell fine jewelry. Consumers paid \$250 to \$2,750 or more and then had to recruit at least two new JewelWay representatives.

! On June 24, 1997, the FTC filed a complaint alleging the pyramid scheme was deceptive, in violation of the FTC Act, and the Court entered an ex parte TRO and appointed a receiver. Defendants stipulated to a preliminary injunction.

! On November 17, 1997, the Court approved a stipulated permanent injunction and final order. The order requires a payment of \$5 million in redress for approximately 150,000 investors. The order prohibits all defendants and JewelWay representatives from operating any pyramid schemes and requires the defendants to establish a product re-purchasing program.

<http://www.ftc.gov/opa/1997/9707/field.htm> (press release - sweep)  
<http://www.ftc.gov/opa/1997/9707/field2.htm> (case digest -sweep)  
<http://www.ftc.gov/opa/1997/9711/jewel-2.htm> (press release - settlement)

**23. FTC v. Rocky Mountain International Silver and Gold, Inc.,** Action No. 97-WY-1296  
(D. Colo. filed June 23, 1997)

! Defendants: Steve Lucas and Jansey Lynn Lucas, d/b/a Rocky Mountain International Silver and Gold. (49)

! According to the FTC, defendants ran a pyramid scheme via a Web site and through group presentations, offering consumers the chance to “put as much silver, gold, platinum and cash in your pocket in the shortest amount of time as is humanly possible!” and promising high incomes and money-back guaranteed success. In fact, members earn income solely by recruiting others, not by selling silver coins, and they cannot obtain refunds upon request.

! On June 23, 1997, the FTC filed a complaint alleging the pyramid scheme was deceptive, in violation of the FTC Act. The Court entered an *ex parte* TRO and appointed a receiver. Defendants stipulated to a preliminary injunction. Discovery and litigation continues.

<http://www.ftc.gov/opa/1997/9707/field.htm> (press release - sweep)  
<http://www.ftc.gov/opa/1997/9707/field2.htm> (case digest -sweep)

**24. FTC v. Dayton Family Productions, Inc.** CV-S-97-00750-PMP (LRL)  
(D. Nev. filed June 27, 1997)

! Defendants: Dayton Family Productions, Inc., J. J. Dayton Associates, Inc., High Voltage Pictures, Inc. aka High Voltage Entertainment, John Rubbico, John Iavarone, Glen Burke, Ignacio Jimenez, Kevin Roy, Fred Davidson, American Family Productions, Inc., American Family Consultants, Inc., Reunion Management, Inc., Icon Management Services, Inc., Aztec Escrow, Inc., Raymond Filosi, and Richard S. Hart. (65)

! Through telemarketing, an Internet Web site, and other promotions, defendants allegedly solicited consumers to invest in two general partnerships that would fund low-budget, family films being produced by Lyman Dayton. According to the FTC, defendants diluted each investor’s promised stake by raising more money than they represented. Also, defendants allegedly misrepresented that could expect a 500 percent return and that Dayton had previously won several specified awards.

! On June 27, 1997, the FTC filed suit alleging violations of the FTC Act and the Telemarketing Sales Rule and the Court granted the FTC’s motion for an *ex parte* Temporary Restraining Order with an asset freeze. In July 1997 the Commission filed an amended complaint, naming additional defendants, and obtained litigated or stipulated preliminary injunctions against all defendants.

! The Commission obtained default judgments against Rubbico, Hart, and Davidson, and a settlement with defendant Filosi, prohibiting him from making future misrepresentations about investments. On Oct. 1, 1998, the Court approved a stipulated final judgment against High Voltage Pictures, Inc., High Voltage Entertainment, Inc., J.J. Dayton Associates, Inc., and Aztec Escrow, Inc. and four individuals. The order bans the individuals — Iavarone, Burke, Jimenez, and Roy — from future telemarketing activity. It also prohibits the sale of any customer lists and requires payment of \$19,500 in disgorgement, subject to a \$1 million avalanche clause if defendants materially misrepresented their financial condition. On Apr. 10, the Court approved the Commission’s motion to dismiss American Family Consultants, Inc. and Reunion Management Partners, Inc. as defendants.

<http://www.ftc.gov/opa/1997/9707/field2.htm> (press release - sweep)

<http://www.ftc.gov/opa/1998/9810/dayton-2.htm> (press release - settlement)

**25. FTC v. Intellicom Services, Inc.,** Action No. 97-4572 TJH (Mcx)(C.D. Cal. filed June 23, 1997)

! Defendants: Intellicom Services, Inc. d/b/a Intellicom Group, Connectkom Services, Inc., Enternet 2000, Inc., World Net Development Group, Inc., Riviera Consulting, Inc., Granite Consulting, Inc., Brookside Management, Inc., Mediatech, Inc., American Long Distance Corp., Networld Consulting, Inc., Perspective Consulting, Inc., All Administrative Services, Inc., Prostaff Administrators, Inc., Support Staff Administrators, Inc., Frontline Consulting, Inc., Marc D. Levine, Ira Itskowitz, Mark Ericson, Paul Perelman d/b/a Connectkom Group, Mark V. Nachamkin a/k/a Mark Nash and d/b/a Enternet Communications, James C. Q. Slaton d/b/a Home Net Partners, Timothy D. Grayson, David Z. Diamand, Eugene Evangelist, Kent Bollenbach, Brent Morris, and Erica Llanos. (92)

Relief Defendants: Dixon Capital Corporation; Greg Harrington; Chad Harrington; T.L. Laidlaw; and James M. Leonard.

! Defendants purportedly ran a fraudulent scheme promoting and selling general partnership interests in high-technology businesses, promising enormous profits in ventures such as Internet access and Internet shopping malls.

! On June 23, 1997, the FTC filed a complaint against twelve individual defendants and numerous corporations. The Court entered an *ex parte* TRO and appointed a receiver. The Court granted a preliminary injunction against eleven of the individual defendants on July 14 and against the twelfth on July 21, 1997.

! From Dec. 1998 through Feb. 1999, the Commission approved settlements with most of the individual defendants. These final settlements included over \$24 million in monetary judgements, separately assessed as follows: Mark Levine & Ira Itskowitz, \$11.178 million jointly and

severally; Mark Ericson \$834,147; Mark Nachamkin \$4,550,426; Paul Perelman \$1,305,598; Eugene Evangelist \$1,556,000; Timothy Grayson \$1,825,800; Brent Morris \$2,258,000; Erica Llanos \$76,811; David Diamand \$521,549; James Slaton \$90,000. The Commission also settled its action with Frontline Consulting. The settlements listed above included telemarketing bans against Frontline and all of the individuals defendants except David Diamand. Diamand stipulated to a complete ban on investment sales. The Commission moved to dismiss two relief defendants and settled its suit with three other relief defendants. The Commission's motion for summary judgment is still pending against one individual, Kent Bollenbach, and motions for default judgment are pending against the fourteen remaining corporate defendants.

<http://www.ftc.gov/opa/1997/9707/field.htm> (press release - sweep)

<http://www.ftc.gov/opa/1997/9707/field2.htm> (case digest -sweep)

<http://www.ftc.gov/opa/1999/9901/intell.htm> (press release - settlement)

### ***Coordinated U.S./Australian action against deceptive domain name registrar***

#### **26. Internic.com**

Australian Defendants: Internic Technology Pty Ltd and Peter Zmijewski (94)

! Defendants operated a Web site that allegedly misled consumers into thinking they were using the official domain name registration service "InterNIC," at [www.internic.net](http://www.internic.net). The *bona fide* InterNIC was operated by Network Solutions, which had an exclusive contract with the U.S. government to issue Internet domain names. Australia-based Internic Technology Pty Ltd and Peter Zmijewski allegedly operated a copy-cat Internet site at [www.internic.com](http://www.internic.com). As many as 13,000 consumers in 9 countries signed up for their domain names with the copy-cat site, paying \$250 instead of the \$100 normally charged for Internet registrations. The defendants allegedly forwarded \$100 to Network Solutions and pocketed the difference.

! On August 27, 1997, FTC staff issued an advisory opinion stating that the practices of Internic.com likely violated the FTC Act. The staff referred the case to the Australian Competition and Consumer Commission, which filed charges in Federal Court in Australia on May 1, 1998 alleging deceptive and misleading conduct. The ACCC charged that consumers who used the copy-cat site were deceived into believing they were using the services provided by InterNIC.

! In June 1999, the ACCC and the defendants reached a settlement that set up a compensation trust fund containing \$A250,000 (approximately \$161,000 U.S.) for consumer redress and barred the Australia-based company from using the internic name.

<http://www.ftc.gov/opa/1997/9708/internic.pr3.htm> (press release -advisory letter)

<http://www.ftc.gov/opa/1998/9805/accc.htm> (press release - ACCC complaint)

<http://www.ftc.gov/opa/1999/9906/interni1.htm> (press release -ACCC settlement)

***Deceptive promotion of a health product with a natural "high"***

**27. Global World Media Corp. and Sean Shayan**, Docket No. C-3772 (consent finalized Oct. 9, 1997)

! Respondents: Global World Media Corp. and Sean Shayan. (96)

! Respondents marketed Herbal Ecstasy, a dietary supplement product promoted as a natural herbal "high," in media, including the Internet, with large youth audiences. Respondents allegedly made false claims about the product's safety, used endorsements of a fictitious doctor, and failed to disclose other health and safety risks.

! On October 9, 1997, the Commission issued a final consent order, barring respondents from making false or unsubstantiated claims about food, drugs, or dietary supplements and requiring the respondents to disclose certain warnings.

<http://www.ftc.gov/opa/1997/9707/ecstasy.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1997/9710/petapp54.htm> (press release - final consent)

***Another Internet pyramid scam, this time with "spam"***

**28. FTC v. Nia Cano, et al.**, Civil No. 97-7947-CAS-(AJWx) (C.D. Cal. filed Oct. 29, 1997)

! Defendants: Nia Cano d/b/a Credit Development Int'l and Drivers Seat Network; Charles Johnson, Jaime Martinez, Jelena Tkalec, Robert Larson, David Lewis, and Bryan McCord. (103)

Relief Defendant: Leaders Alliance, Inc.

! The FTC alleged that defendants ran a pyramid scheme and falsely promised consumers an unsecured VISA or MasterCard and the opportunity to receive \$18,000 in monthly income. The defendants purportedly recruited new members at live sales presentations. Many participants built their downline through unsolicited bulk e-mail ("spam").

! On October 29, 1997, the FTC filed a complaint against the defendants. The Court entered an *ex parte* TRO, ordered a freeze on the defendants' assets, and appointed a receiver to oversee the defendants' business. On November 20, 1997, the Court held a contested hearing to determine whether a Preliminary Injunction should issue. The Court found that a Preliminary Injunction should issue and that the asset freeze and receivership should remain in place.

! In April 1998, the Commission asked leave to file an amended complaint, adding Jelena Tkalec, Robert Larson, Bryan McCord and David Lewis as defendants.

! On June 26, 1998, the Court approved proposed settlements between the Commission and the corporate defendants and individual defendants Nia Cano, Charles Johnson, and Bryan McCord.

The settlements provide nearly \$2 million in consumer redress, enjoin the defendants from operating pyramid or Ponzi schemes, and liquidate the businesses involved in the alleged scheme. The Court approved settlements with individuals Tkalec and Lewis on Oct. 14, 1998 and on March 17, 1999, the Court approved the Receiver's redress plan.

<http://www.ftc.gov/opa/1997/9711/cdi.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1998/9804/petapp24.htm> (press release - amended complaint)

<http://www.ftc.gov/opa/1998/9806/cano2.htm> (press release - settlement Cano, Johnson, McCord)

### ***The first action targeting deceptive “spam”***

**29. FTC v. Internet Business Broadcasting, Inc., et al.**, Civil No. WMN-98-495 (D. Md. filed February 19, 1998)

! Defendants: Thomas Maher, Dorian Reed, Audrey Reed, Internet Bus. Broadcasting, Inc. (107)

! Defendants’ spam messages and Internet home page allegedly contained false and misleading income claims for their business opportunity to resell advertising space on their “City Edition” Internet newspaper sites. Defendants also allegedly failed to give disclosures to investors, as required by the Franchise Rule.

! On February 19, 1998, the FTC filed its complaint against the defendants and requested permanent injunctive relief and consumer redress.

! On April 19, 1999, the Court entered a default judgment against defendants Dorian and Audrey Reed in the amount of \$613,110. The Court approved the FTC’s voluntary dismissal, without prejudice, of allegations against defendant Thomas Maher. (Staff was unable to locate Maher to effectuate personal service, and service by publication was not feasible).

<http://www.ftc.gov/opa/1998/9803/ibb.htm> (press release- complaint/TRO)

### ***A credit repair scam, with “spam”***

**30. FTC v. Dixie Cooley, d/b/a DWC**, Civil No. CIV-98-0373-PHX-RGS (D. Ariz. filed March 4, 1998)

! Defendant: Dixie Cooley. (108)

! Defendant sent out spam promoting a credit repair service, which the Commission alleged violated the FTC Act and the Credit Repair Organizations Act (“CROA”).

! On July 22, 1998, the Commission moved for a default judgement, and the Court entered a final order on August 19, 1998. The order permanently bans Ms. Cooley from engaging in or assisting others engaged in the business of credit repair services and prohibits her from violating CROA and



misrepresenting any fact concerning her ability to perform or provide any credit-related services or products for consumers, including debt consolidation, obtaining or arranging loans, or arranging any extension of credit, and from misrepresenting any fact material to a consumer's decision to purchase any product or service. Dixie Cooley was ordered to pay \$15,451.75 in redress.

<http://www.ftc.gov/opa/1998/9810/operasetl-3.htm> (press release- final judgment)

***Project Net Opp: Internet-related business opportunity scams***

**31. FTC v. Hart Marketing Enterprises Ltd., Inc., et al.,** Civil No. 98-222-CIV-T-23E  
(M.D. Fla. filed February 2, 1998)

! Defendants: Hart Marketing Enterprises Ltd., Inc., Internet Space Station, Four Seasons Distributing, Inc., James Weems, Robert Lemcke aka Mark Walker, and Edward Patrick Evans aka Patrick Evans aka Edward Adams, and Bruce Blaire. (115)

! Defendants promoted and sold free-standing computer kiosks with cash acceptors designed to allow customers to access the Internet, for a fee, from public locations such as hotels, airports or bookstores. Defendants allegedly made false earnings claims and gave phony references, in violation of the FTC Act, and allegedly failed to give disclosures in violation of the Franchise Rule.

! On February 3, 1998, the Court entered an ex parte TRO, and on March 20, 1998, the Court entered a stipulated preliminary injunction.

! On August 26th, 1998, the Court entered a default judgment against defendants Hart Marketing, Internet Space Station, and Four Seasons Distributing in the amount of \$872,882.95. On December 17, 1998, the Court entered a default judgment against defendant Lemcke in the amount of \$872,882.95. On January 13, 1999, the Court entered stipulated final judgments against defendants James Weems, Bruce Blair, and Patrick Evans.

<http://www.ftc.gov/opa/1998/9803/netopp.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1999/9901/hart2.htm> (press release - final orders)

**32. FTC v. TouchNet, et al.,** Civil No. 98-0176 R (W.D. Wash. filed February 11, 1998)

! Defendants: TouchNet, Inc., Touchstone Telecommunications & Advertising, Inc., Eric Carino, and Malissa Carino. (119)

! Defendants allegedly promised investors \$15,000 a month as an "Internet Consultant," designing Web pages for businesses to appear in defendants' "World Virtual City." Defendants previously sold allegedly deceptive 900 number and prepaid phone card business ventures.

! On February 18, 1998, the Court entered a stipulated temporary restraining order. On June 29, 1998, the Court entered a stipulated permanent injunction, banning defendants from operating any business opportunity, franchise or business venture; enjoining collection of any amounts due from purchasers; and requiring defendants to notify them that their contracts are rescinded.

<http://www.ftc.gov/opa/1998/9803/netopp.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1999/9901/hart2.htm> (press release - settlement)

**33. FTC v. FutureNet, et al.,** Civil No. 98-1113GHK (AIJx) (Filed February 17, 1998)

! Defendants: FutureNet, Inc., FutureNet Online, Inc., Alan J. Setlin, Robert DePew, Larry Stephen Huff, Chris Lobato, and David Soto. (126)

! Defendants claimed recruits could earn substantial incomes by joining a multilevel marketing program selling Internet access devices, but according to the Commission, defendants ran an illegal pyramid, where income was dependent not on product sales but on recruitment of paying members “downline.”

! On February 23, 1998, the Court issued a temporary restraining order freezing defendants’ assets and appointing a receiver for the corporate defendants. On March 6, 1998, the Court issued a preliminary injunction continuing the TRO’s provisions.

! On April 8, 1998, a stipulated final judgment was filed, banning the corporate defendants and two individual defendants from operating pyramid schemes and selling distributorships through multi-level marketing; ordering payment of \$1,000,000 in consumer redress, and requiring a bond of \$100,000 to \$1,000,000, to escalate as sales grow, before engaging in any multi-level marketing.

! On Nov. 24, 1998, Larry Stephen Huff agreed to settle allegations against him. The proposed settlement would bar him from participating in future pyramid schemes and *any* form of multi-level marketing. Based on Mr. Huff’s financial disclosures, no consumer redress was ordered. However, should those financial disclosure statements prove to be false, an avalanche clause would make Huff liable for \$21 million in consumer redress.

! On Dec. 22, 1998, the Commission announced settlements with the two remaining defendants, Robert De Pew and David Soto. The settlements bar them from: participating in any future pyramid schemes; misrepresenting sales, earnings or other material facts about products or services they sell; selling electric power or other energy services without meeting licensing and registration requirements; and participating in any multi-level marketing program owned, operated or controlled by the other FutureNet principals. Both defendants also are required to obtain \$1 million performance bonds before engaging in future multi-level marketing. If their financial disclosure statements are shown to be false, they also will face a \$21 million judgment.

<http://www.ftc.gov/opa/1998/9803/netopp.htm> (press release - complaint/TRO)

<http://www.ftc.gov/opa/1998/9804/futurenet.htm> (press release - settlement w FutureNet)  
<http://www.ftc.gov/opa/1998/9811/huff.htm> (press release - settlement w Huff)  
<http://www.ftc.gov/opa/1998/9812/depew.htm> (press release - settlement w DePew, DeSoto)

**34. FTC v. Inetintl.com, Inc., et al.,** Civil No. CV 98-2140 CAS (CWx) (C.D. Cal. filed March 25, 1998)

! Defendants: Inetintl.com, Inc. aka Inet International, Craig A. Lawson aka Bob Bryan, Erik R. Arnesen, and Stanley R. Goldberg aka Geoff Stevens. (130)

! Defendants ran an Internet access business opportunity, in which investors sold Internet access and other computer-related products and services to the public. Defendants allegedly made false earnings claims and used phony references, in violation of Section 5, and allegedly failed to make disclosures required by the Franchise Rule.

! On March 26, 1998, the Court issued a temporary restraining order freezing defendants' assets and appointing a receiver over the corporation and defendant Lawson.

! The FTC moved for summary judgment against the defendants, and on May 11, 1999 announced that the Court had found in favor of the Commission. The Court barred Inet, Goldberg, and Lawson for life from offering for sale any business venture, franchise or investment opportunity. The Court ordered Arneson to post a performance bond in the amount of \$250,000 before advertising, promoting, or selling franchises, business ventures, or investment opportunities in the future. The Court also ordered total consumer redress of \$1.76 million, \$478,088 of which is to be paid by Goldberg. Goldberg has appealed the Court's decision. Lawson is a fugitive and a warrant has been issued for his arrest.

<http://www.ftc.gov/opa/1998/9804/inet.htm> (press release - complaint/prelim inj)  
<http://www.ftc.gov/opa/1999/9905/inet12.htm> (press release final judgment)

**35. FTC v. GreenHorse Communications, Inc.,** Civil No. CV-98-245-M (D.N.H. filed May 4, 1998)

! Defendants: GreenHorse Communications, Inc. and Lynn Haberstroh. (132)

! Defendants represented that investors who paid \$14,000 to \$15,000 could earn as much as \$134,992 within their first year of operating an Internet Web site development business.

! Defendants allegedly failed to provide prospective franchisees with the disclosure documents required by the Franchise Rule and failed to substantiate earnings claims.

! On May 4, 1998, the Court approved a settlement which bars defendants from future violations of the Franchise Rule; requires them to offer refunds and contract cancellation to any investor in

the business opportunity; and bars them from selling, renting or transferring their customer lists or information about their customers.

<http://www.ftc.gov/opa/1998/9805/greenhorse.htm> (press release - complaint/settlement)

***The first action against an online auction seller***

**36. FTC v. Craig Hare**, Civil No. 98-8194 CIV HURLEY (M.D. Fla. filed March 30, 1998)

! Defendants: Craig Lee Hare aka Danny Hare, dba Experienced Designed Computers and C&H Computer Services (133)

Relief defendant: Stephanie J. Herter aka Stephanie Branham.

! Defendant Hare ran an online auction where the winning bidders paid for, but allegedly never received, their goods from Hare; relief defendant deposited checks endorsed by Hare.

! On April 2, 1998, the Court issued a temporary restraining order with asset freeze. On June 16, 1998, the Court approved the parties' stipulation to an extended, modified TRO.

! On October 12, 1998, the Court approved a stipulated final order, permanently banning defendant Hare from engaging in Internet commerce.

! The FTC referred the Hare case to the FBI in West Palm Beach Florida and the U.S. Attorney for the Southern District of Florida. On February 12, 1999, after pleading guilty to one count of criminal wire fraud, Hare was ordered to pay \$22,000 in restitution and sentenced to six months home detention and three years probation.

<http://www.ftc.gov/opa/1998/9804/hare.htm> (press release - complaint/TRO)  
<http://www.ftc.gov/opa/1999/9902/hare3.htm> (press release - criminal plea)

***"Spam" advertising a high-tech chain letter (pyramid)***

**37. Calvin P. Schmidt**, Docket No. C-3834 (final consent Nov. 16, 1998)

! Respondent: Calvin P. Schmidt d/b/a DKS Enterprises, DS Productions, DES Enterprises, [www.mkt-america.com](http://www.mkt-america.com), and [www.mkt-usa.com](http://www.mkt-usa.com). (134)

! Respondent's Web sites and "spam" e-mail messages promoted "Mega\$Nets" and "Megaresource," According to the Commission these were high-tech chain letter software programs, whereby a consumer who sent money to persons on the top of a list of names would receive "access codes" from those persons, enabling the consumer to "unlock" the software, delete the last name on the list, add the consumer's own name to the top, and duplicate the software.

! Respondent allegedly made false and unsubstantiated earnings claims through this pyramid or chain marketing program, in which most participants typically lose money, and also allegedly provided others with the means and instrumentalities to perpetuate this unlawful scheme.

! On November 16, 1998, a consent agreement with respondent became final. The consent order bars him from participating in electronic chain letters, pyramid programs, or Ponzi schemes, assisting or providing others the means to do so, or making earnings claims without substantiation.

<http://www.ftc.gov/opa/1998/9807/meganet.htm> (press release - final consent)

### *A fake government agency*

#### **38. U.S. Consumer Protection Agency, Civil No. 5:98cv00160 (N.D. Fla. filed June 8, 1998)**

! Defendant: Robert M. Oliver, d/b/a U.S. Consumer Protection Agency and Consumer Protection Agency of Bay County. (135)

! Defendant allegedly violated Section 5 of the FTC Act by falsely representing earnings to individuals interested in owning and operating a local consumer protection agency franchise. Defendants also allegedly violated the law by claiming their franchise was a government agency, and by failing to make disclosures required by the Franchise Rule.

! In a stipulated final judgment signed on November 25, 1998 by the Court, Robert Oliver was permanently enjoined from violating the FTC Act in connection with the offering, promotion, and sale of franchises and in connection with the sale of "consumer protection" services. The order also permanently enjoins Oliver from violating the Franchise Rule.

<http://www.ftc.gov/opa/1998/9812/oliver.htm> (press release - complaint/settlement)

### *An investment scam from Project Risky Business*

#### **39. World Interactive Gaming Corp., Civil Action No. CV 98 5115 (E.D.N.Y. filed August 11, 1998).**

! Defendants: World Interactive Gaming Corp., Jeffrey Burton, and Lawrence Blocker, d/b/a James Lawrence and Associates, and Gregory Flemming. (139)

! Defendants telemarketed shares in an Internet gambling casino, Golden Chips Casino, telling investors profitability would mimic "Microsoft, Netscape and Yahoo." The FTC alleged that they misled consumers by claiming that World Interactive should 'conservatively' earn \$100 million in its first year and that investors could expect to make \$150,000 or more in one year from their \$10,000 investment.

! On August 17, 1998, the Court heard the FTC's request for a temporary restraining order. On September 23, 1998 the FTC amended its complaint adding Gregory Flemming as a defendant. Defendants entered into a stipulated preliminary injunction on Sept. 9, 1998. In December 1998, the Commission filed a motion for contempt.

<http://www.ftc.gov/opa/1998/9808/risky.htm> (press release - complaint/TRO)  
<http://www.ftc.gov/opa/1998/9809/petapp5198.htm> (press release - amended complaint)

### *The first Internet privacy case*

**40. Geocities**, Docket No. C-3849 (final consent Feb. 12, 1999).

! Respondent: GeoCities (140)

! GeoCities, one of the most popular sites on the World Wide Web, agreed to settle Federal Trade Commission charges that it misrepresented the purposes for which it was collecting personal identifying information from children and adults, in the first FTC case involving Internet privacy.

! Under the settlement, GeoCities has agreed to post on its site a clear and prominent Privacy Notice, telling consumers what information is being collected and for what purpose, to whom it will be disclosed, and how consumers can access and remove the information. To ensure parental control, GeoCities also will have to obtain parental consent before collecting information from children 12 and under.

<http://www.ftc.gov/opa/1998/9808/geocitie.htm> (press release - proposed consent)  
<http://www.ftc.gov/opa/1999/9902/petapp4.99.htm> (press release - final consent)

### *Another deceptive business opportunity*

**41. United States v. PVI, Inc.**, Civ. No. 98-6935 (S.D. Fla., filed Sept. 1, 1998)

! Defendant: PVI, Inc., d/b/a Photo Vend International (141)

! PVI sold business opportunities involving digital photo sticker vending machines. PVI solicited investors via e-mail, telephone presentations and written promotional materials and allegedly violated the Franchise Rule by: (1) failing to provide prospective buyers with timely, accurate and complete disclosure documents as required by the Franchise Rule; and (2) making earnings representations without providing prospective buyers with the required earnings claim document.

! The Department of Justice filed a complaint on behalf of the FTC on Sept. 1, 1998. On September 10, 1999, the court approved a stipulated final order filed by the parties. The order required the defendant to pay a civil penalty of \$11,000 and prohibited the company from future violations of the Franchise Rule and from making any false or misleading statement or

representation of material fact, including representations relating to the income, profit, or sales volume of a franchise.

<http://www.ftc.gov/opa/1998/9809/vendup2.htm> (press release - complaint)

<http://www.ftc.gov/opa/1999/9909/photo-vend2.htm> (press release - final order)

### ***More deceptive health claims***

**42. American Urological Clinic, et al.,** Civil No. 1:98-CV-2199 (JOS) (N.D. Ga. filed August 6, 1998).

! Respondents: David A. Brady, American Urological Corporation, The Institute of Sexual Research, Inc., The Clinic for Natural Solutions, Inc., Old Well Corporation (Texas), The Institute of Sexual Research, Ltd., and Old Well Corporation (North Carolina). (148)

! Respondents used Internet Web sites and direct mail to market Viagra-like products for \$39.45 to \$98.95. They sold their products under the names "Alprostaglandin®," "The Celldenaphil-pc System," "Renak-pc." "Oral Phentalomil®," "Prosta-Gen©," "Testosterone-21," "Väegra®," "Urophil," and "VasoGenitine." According to the Commission, the defendants misrepresented that their products had been developed by legitimate medical enterprises and that clinical studies proved that the products effectively eliminated impotence in 68 to 94 percent of men.

! The Commission filed its case on August 3, 1998, and the U.S. District Court for the Northern District of Georgia (in Atlanta) granted the Commission's motion for a TRO and a freeze over the assets of Brady and his companies

! On April 29, 1999, the Court approved a final stipulated order against the defendants. The settlement imposes an \$18.5 million judgment on the defendants for consumer redress, which they will satisfy by giving up more than \$2 million in frozen assets. The Order prevents them from selling their customer lists and requires Brady to obtain a \$6 million bond before promoting, offering for sale, and selling any impotence treatment product. It also requires him to post a \$1 million performance bond for the first five years if he makes claims about the performance, safety, efficacy or health benefits of a food, dietary supplement, or drug other than a product to treat impotence. The performance bond would decrease after five years and be eliminated in the tenth year. Finally, the Order prohibits the defendants from 1) misrepresenting whether certain organizations have reviewed or approved any product or ingredient, 2) misrepresenting the nature or extent of the scientific evidence concerning any impotence treatment product, and 3) making unsubstantiated claims about the performance, safety, efficacy, approval or health benefits of any food, dietary supplement, or drug.

<http://www.ftc.gov/opa/1998/9808/brady.htm> (press release - complaint)

<http://www.ftc.gov/opa/1999/9905/brady2.htm> (press release - settlement)

**43. TrendMark International, Inc.,** Docket No. C-3829 (final consent Oct. 6, 1998).

! Respondents: TrendMark Inc. dba TrendMark International, William McCormack and E. Robert Gates. (151)

! Respondents allegedly made a host of unsubstantiated weight loss and health-related claims about their "THIN-THIN" Diet™ program. Respondents advertised the program in unsolicited commercial e-mail sent to users of America OnLine (AOL) and on its Web site.

! On June 25, 1993 the Commission approved a proposed consent with the respondents and gave its final approval on October 6, 1998. The consent order prohibits the respondents from making claims about the health benefits, performance or efficacy of its NEURO-THIN and LIPO-THIN products, or any food, drug or device without competent and reliable scientific substantiation. The agreement also prohibits respondents from misrepresenting the results of any test, study or research, and requires them to disclose clearly and prominently any material connection between a product endorser and the respondents. The consent agreement allows the respondents to use certain claims that are approved for labels by the Food and Drug Administration's Nutrition Labeling and Education Act of 1990.

<http://www.ftc.gov/opa/1998/9806/trendmrk.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1998/9810/petapp5298.htm> (press release - final consent)

**44. American College For Advancement in Medicine,** Docket No. C-3882 (final consent July 13, 1999).

! Respondent: American College for Advancement in Medicine (ACAM) (152)

! ACAM advertised and promoted its non-surgical EDTA "chelation therapy" online. ACAM allegedly made false and unsubstantiated claims that its therapy was effective in treating atherosclerosis.

! On July 13, 1999, the Commission announced its final approval of an administrative settlement with respondents. Under this consent agreement, ACAM is prohibited from representing -- absent competent and reliable scientific information -- that chelation therapy is effective in treating atherosclerosis or any human circulatory disease.

<http://www.ftc.gov/opa/1998/9812/acam.htm> (press release - proposed consent)

<http://www.ftc.gov/opa/1999/9907/bpamoco2-3.htm> (press release - final consent)

***Failure to provide rebates on computer equipment.***

**45. U.S. v. Iomega Corp.,** Civil Action No: 1:98CV00141C (D. Utah, complaint and consent filed Dec. 9, 1998).



! Defendant: Iomega Corp. (153)

! Iomega is the world's leading manufacturer of portable data storage products, including the "Zip Drive," the "Ditto Drive," the "Jazz Drive," and "Zip Disks." In promoting these products, Iomega allegedly violated the Mail Order Rule by failing to send a cash rebate, merchandise premium, or both within the times stated in the advertisements, or, where no time was stated in the advertisements, within a reasonable period of time.

! Iomega agreed to settle the charges against it and pay a \$900,000 civil penalty – the largest penalty ever obtained for non-fraudulent violations of the Mail Order Rule. A complaint and consent were filed in federal court on Dec. 9, 1998.

<http://www.ftc.gov/opa/1998/9812/iomega2.htm> (press release - complaint/settlement)

### ***Internet "cramming"***

**46. FTC v. J.K. Publications, Inc., et al (aka Netfill), Docket No. CV-990004 ABC (AJWx)(C.D. Cal., filed Jan 5. 1999).**

! Defendants: J.K. Publications, MJD Service Corp., Kenneth H. Taves (also d/b/a Netfill, netfill.com, xbc.com, –Bill, Online Billing, Assist Online, Herbal Care, Discreet Bill, KULM Consulting Group, TAL Services), Teresa Callei Taves (also d/b/a Netfill, netfill.com –Bill, Herbal Care), Gary Neal Mittman (also d/b/a Adult Bank, netfill.com, adultbank.com), Dennis Rappaport (also d/b/a Adult Bank), Maurice O'Bannon (also d/b/a MJD Enterprises and Adult Bank), TAL Services, Inc., Discreet Bill, Inc., Adult Banc, Inc., and Herbal Care, Inc. (164)

! Defendants allegedly charged consumers for Internet services that consumers had never ordered, authorized, or even heard of. Consumers received monthly credit card or debit card statements with charges of \$19.95 alongside the names N-Bill, Netfill, MJD Service Corp., and Webtel. When consumers asked their banks about these charges, consumers were told they are for "Internet services" or "adult Internet services," even though some of these consumers reported that they did not own computers. Consumers had difficulty challenging these charges, and if consumers called defendants' toll-free number and got through at all, consumers received a voice recording telling them to input their credit card number for customer assistance. Customers who reached a real person and managed to obtain a credit often found similar charges reappearing on later statements.

! On Jan. 5, 1999, the FTC filed a complaint with a motion for an *ex parte* TRO. On Jan. 6th, the Court granted the FTC's motion and prohibited further unauthorized charges, froze the defendants' assets, and appointed a receiver over J.K. Publications and MJD Service Corp. On January 20, the Commission filed an amended complaint, dismissing Net Options, Inc. and naming Dennis Rappaport, Maurice O'Bannon, TAL Services, Inc., Discreet Bill, Inc., Adult Banc, Inc., and Herbal Care, Inc. as additional defendants. The parties agreed to an initial extension of the TRO and the Court extend it again on Feb. 11, 1999.

! After hearing argument, the Court issued a preliminary injunction, continuing the TRO's conduct prohibitions, asset freeze, and receivership. The Court released assets for attorneys fees but extended the receivership estate to include several named affiliates and the assets and business records of individual defendants Ken and Theresa Taves.

! In April, the Court held a hearing to determine whether Ken and Teresa Taves were in contempt for transferring and failing to disclose a Malibu residence worth approximately \$2 million. The Court heard a second contempt motion over the Taves' failure to disclose and repatriate \$6.2 million held in the Cayman Islands. The Court found the Taves in civil contempt on both motions. The U.S. Attorneys' office for Los Angeles moved for criminal contempt, and Ken Taves was incarcerated. The FTC's civil trial has tentatively been set for January 2000.

<http://www.ftc.gov/opa/1999/9901/netfill.htm> (press release - complaint/TRO)

***Operation New ID -- Bad Idea: online promises of a new credit identity.***

47. **FTC v. Mehmet Akca a/k/a Matt Akca also d/b/a AKCA**, Civil Action No. 99-S-204 (D. Colo.)
48. **FTC v. All About Communications USA, Inc.**, 99-6122-CIV-FERGUSON, (S.D. Fla., filed Feb. 1, 1999).
49. **FTC v. Cliff Cross and d/b/a Build-It-Fast**, Civ. No. M099CA018 (W.D. Tex., filed Feb. 1, 1999).
50. **FTC v. Kevin Drake d/b/a New Credit '98**, 3-99 CVO213-R (N.D. Tex., filed Feb. 2, 1999).
51. **FTC v. David E. Dunn d/b/a Pro Se Publications**, 3-99 CVO 211-G (N.D. Tex., filed Feb. 1, 1999).
52. **FTC v. Edward Lane d/b/a Edward Lane & Associates**, Civ. No. CY-99-3005-WFN (E.D. Wash., Jan. 29, 1999).
53. **FTC v. Ross Sanford Leiss, d/b/a RLeiss & Associates**, Civ. No. 99-102-A (E.D. Va. Jan. 29, 1999).
54. **FTC v. Michael Lyons d/b/a Lyons Publishing**, 99 CV 6049 (W.D.N.Y. filed Jan. 29, 1999).
55. **FTC v. Ralph Lewis Mitchell, Jr.**, CV 99-984 TJH (BQRx) (C.D. Cal., filed Jan. 29, 1999).
56. **FTC v. Frank Muniz**, No. 4:99-CV-34-RD (N.D. Fla. filed Feb. 1, 1999).
57. **FTC v. Philip D. Miller d/b/a New Start**, Civ. No. WMN 99-251 (D. Md., filed Jan. 29, 1999).
58. **FTC v. Patrick R. Kelly d/b/a Patrick R. Kelly Enterprises and P.R.K. Enterprises**, 99 CIV 562 (E.D.N.Y. filed Jan. 29, 1999).
59. **FTC v. Steve Neizianya d/b/a Standard Business Services**, 3-99 CV0214-L (N.D. Tex., filed Feb. 2, 1999).
60. **U.S. v. A. James Black**, Civ. No. 99-113 (M.D. Fla., filed Feb. 2, 1999).

! Defendants: Mehmet Akca, All About USA, Inc., Michael Cilone, and Rachel Cilone, Cliff Cross, Kevin Drake, David E. Dunn, Edward Lane, Ross Sanford Leiss, Michael Lyons, Ralph Lewis Mitchell, Jr., Frank Muniz, Philip D. Miller, Patrick R. Kelly, Steve Neizianya, and A. James Black. (180)

! Defendants offered a variety of credit kits, ranging in price from \$19.95 kit to \$59.95. Their Web site or e-mail solicitations made claims including promises of “a TOTALLY NEW-CLEAN credit file,” “a brand new credit file in less than 30 days,” “A COMPLETELY NEW CREDIT FILE -- LEGALLY, and totally separate from your present credit file.”

! The Commission (and in one case, the Department of Justice) filed complaints in federal court during late January or early February 1999, alleging violations of Section 5 of the FTC Act and Section 404(a)(2) of the Credit Repair Organizations Act “CROA.” The government has sought injunctive relief and redress for consumers.

<http://www.ftc.gov/opa/1999/9902/consumerweek2.htm> (press release - sweep)

***“Dream Car” pyramid, the 1<sup>st</sup> case in the Rolling Internet Pyramid Sweep***

**61. FTC v. Five Star Auto Club, Inc., et al.,** Civil No. 99-1693 (S.D.N.Y. filed March 8, 1999).

! Defendants: Five Star Auto Club, Inc., Michael R. Sullivan, Angela C. Sullivan, Advance Funding Inc., Thomas Lee Bewley, and Judy L. Bewley. (186)

! The Commission alleged that Defendants operated an illegal pyramid scheme that purported to allow members to “drive their dream vehicle for free” while earning large monthly commissions. The FTC contended that the vast majority of participants could never qualify for free automobile leases and were destined to lose money in the scheme. Defendants, as well as a number of Five Star participants, made extensive use of the Internet to recruit new entrants into the scheme.

! On March 8, 1999, the U.S. District Court in White Plains, New York, froze the assets of Five Star Auto Club, Inc. and the Sullivans, appointed a receiver to run the corporate defendant, and enjoined the defendants from making further misrepresentations. On April 5, 1999, the same parties stipulated to a preliminary injunction. On April 8, 1999, the FTC filed an amended complaint naming Advance Funding, Inc., Thomas Lee Bewley, and Judy L. Bewley as defendants. The FTC is seeking a permanent injunction prohibiting future misrepresentations and providing redress for consumers.

<http://www.ftc.gov/opa/1999/9903/nasaarelease.htm> (press release - sweep)

***Mislabeled clothes in online catalogs***

**62. Wal-Mart Stores, Inc.** File No. 992 3007

- 63. **Burlington Coat Factory Warehouse Corp.** File No. 992 3002
- 64. **Delia's Inc.,** File No. 992 3008
- 65. **Woolrich, Inc.,** File No. 992 3003
- 66. **Gottschalks, Inc.,** File No. 992 3004
- 67. **Bugle Boy Industries, Inc.,** File No. 992 3009

! Respondents: Wal-Mart Stores, Inc., Burlington Coat Factory Warehouse Corp., Delia's Inc., Woolrich, Inc., Gottschalks, Inc., Bugle Boy Industries, Inc. (192)

! The above respondents agreed to settle FTC allegations that they violated the Textile Fiber Products Identification Act and/or the Wool Products Labeling Act and Commission rules under those Acts. The FTC alleged that the respondents failed, in their online promotional materials, to clearly and conspicuously state that each textile or wool item advertised or offered for sale was either imported, made in the USA, or a combination of both as required by law.

! In February 1998, the Commission adopted various streamlining amendments to the Textile and Wool Rules. It also revised definitions of mail order catalog and mail order promotional materials to include materials disseminated electronically via the Internet. Six months after the amendments were announced, the FTC surfed more than 200 sites to determine whether on-line sellers of textile products were complying with the origin disclosure requirements. These cases arose from the FTC's compliance surf.

! On March 16, 1999, the Commission voted to accept the proposed consents in these cases. After a public comment period, the Commission announced its final approval on June 10, 1999.

<http://www.ftc.gov/opa/1999/9903/musatex.htm> (press release - proposed consents)  
<http://www.ftc.gov/opa/1999/9906/fyi17-99.htm> (press release - final consent)

### ***Deceptive Internet mall promotions***

- 68. **iMall,** File No. 972-3224 (stipulated final judgement approved Apr. 15, 1999)

! Respondents: iMall, Carl R. Pickering, and Mark R. Commer. (195)

! The Commission alleged that, between July 1995 and August 1998, iMall used direct mail, radio ads, television informercials, a promotional cassette, and telemarketing calls to promote free seminars where consumers would hear about two Internet-related business opportunity programs. The iMall Opportunity Program offered investors the opportunity to become "consultants" and make money selling Web pages on the iMall site. The Internet Yellow Pages (IYP) program offered investors the opportunity to make money selling advertising space on the IYP Web site contained within the iMall site. The Commission alleged that, at these seminars, the respondents made false earnings claims for their Internet-based businesses and that they violated the Franchise Rule.

! On April 15, 1999, the Commission announced a \$4 million settlement with the respondents. The Stipulated Final Judgment and Order bars Craig R. Pickering and Mark R. Comer for life from selling any Internet or pay-per-call business opportunity; bars them for 10 years from selling franchises; requires a \$500,000 bond before selling certain types of business opportunities; and bars future violations the Franchise Rule. iMall is permanently barred from violating the Franchise Rule and from misrepresenting material facts about any business opportunity it promotes. The Order calls for iMall to pay \$750,000 and Pickering and Comer to pay \$3.25 million in consumer redress.

<http://www.ftc.gov/opa/1999/9904/imall1.htm> (press release - consent)

### ***False claims for "Vitamin O"***

#### **69. Rose Creek Health Products, Inc.,** (E.D. Wa. filed March 11, 1999)

! Defendants: Rose Creek Health Products, Inc., the Staff of Life, Inc., and Donald L. Smyth (198)

! Defendants sold 2 ounce bottles of Vitamin O for \$20 to \$25, claiming that it enriched the bloodstream with supplemental oxygen. The defendants' ads -- which appeared in USA Today and in other newspapers, and on the Internet -- also claimed that Vitamin O could cure or prevent serious diseases such as cancer, heart disease, and lung disease.

! The FTC filed suit in federal court, alleging that the defendants made false and unsubstantiated claims for a product that appears to be nothing more than saltwater. The Commission obtained a stipulated preliminary injunction from defendants and is seeking a permanent injunction.

<http://www.ftc.gov/opa/1999/9903/rosecreek.htm> (press release - proposed consent)

### ***More "spam" scammers***

#### **70. LS Enterprises,** Docket No. C-3884 (final consent Aug. 2, 1999).

! Respondents: LS Enterprises, LLC, Internet Promotions, LLC, and Louis Salatto (201)

! The Commission charged an online entrepreneur with making false and unsubstantiated claims in bulk e-mail messages. The respondents allegedly used spam to promote its bulk-e-mail program and other work-at-home business opportunities, and made false claims about their experience and ability to provide products or services, as well as false claims about free merchandise and potential income for purchasers.

! Following a public comment period, on August 2, 1999 the Commission announced its final approval of a settlement with respondents that bars them from making deceptive claims in future bulk e-mail and requires them to substantiate claims for the programs they promote. They also must post a \$100,000 bond before sending unsolicited commercial e-mail in the future.

<http://www.ftc.gov/opa/1999/9904/spam2.htm> (press release - proposed consent)  
<http://www.ftc.gov/opa/1999/9908/FYI-20.99.htm> (press release - final consent)

### ***Deceptive laundry products***

**71. FTC v. TradeNet Marketing, Inc.**, Civil Action No. 99-944-CIV-T-24B (M.D. Fla. stipulated judgements filed April 21, 1999)

! Defendants: L.W. Cooper and TradeNet Marketing, Erwin Richard Annau and Top Marketing Business Consulting, and Alberto Guerrero (206)

! According to the FTC, the defendants falsely touted "The Laundry Solution" and "The SuperGlobe" as effective substitutes for laundry detergents. They allegedly claimed that these liquid-filled plastic balls would clean laundry without polluting the earth's waterways by emitting a negative charge or by means of "structured water" or "IE crystals."

! In three separate agreements reached with the defendants, the defendants are barred from claiming their laundry balls or any similar product cleans as well as conventional laundry detergent. The agreements also required the defendants to pay \$155,000 in satisfaction of monetary judgments. These funds are to be divided equally among the FTC and eleven states that participated in this action: Arizona, Arkansas, Hawaii, Idaho, Illinois, Michigan, Missouri, Nebraska, Nevada, New York, and Oklahoma.

<http://www.ftc.gov/opa/1999/9904/tradenet.htm> (press release - complaint/settlement)

### ***Deceptive "pretexting" by online information broker***

**72. FTC v. James J. Rapp, et al ("Touch Tone")**, Civil Action No. 99-WM-783 (D. Colo. filed April 21, 1999).

! Defendants: James J. Rapp and Regana L. Rapp, individually and doing business as Touch Tone Information, Inc. (208)

! Touch Tone is an information broker that offers current bank numbers, brokerage account numbers, specific balances, and other personal information about individuals through its Web site at: <http://pidirectory.com/touchtone>

! On April 21, 1999, the FTC filed suit in federal court, alleging that the defendants engaged in illegal "pretext" calling, posing as consumers and calling banks and using deceptive means to obtain consumers' private financial information. The FTC's complaint alleges that Touch Tone engages in "deceptive" practices, in violation of Section 5 of the FTC Act, and that pretexting without a without consumers' knowledge or consent is also an "unfair" act practice in violation of the statute. Litigation is ongoing.

***Operation New ID -- Bad Idea II – more promises of a new credit identity***

- 73. FTC v. Donna Payne, d/b/a Strategic Information Services, (N.D. Ohio)**  
**74. FTC v. Frederick P. Ray, d/b/a F.P.R., Civil Action No. 99-04703SVW (RNBx)**  
(C.D. Cal.)  
**75. FTC v. James Fite, d/b/a Internet Publications Civil Action No. 99-04706JSL (BQRx)**  
(C.D. Cal.)  
**76. United States of America v. David Story, d/b/a Network Publications (N.D. Tex.)**  
**77. FTC v. John Williams, d/b/a Speed Credit (S.D. Tex.)**  
**78. FTC v. Eric Volkert and Cynthia Volkert, d/b/a Fresh Start Publication, Civil Action No. H-99-1326 (S.D. Tex.)**  
**79. FTC v. West Coast Publications, LLC. (C.D. Cal.)**

! Defendants: Donna Payne, Frederick P. Ray, James Fite, David Story, John Williams, Eric Volkert and Cynthia Volkert, West Coast Publications, LLC. and Gilberto Lopez. (217)

! Defendants offer credit repair kits for \$21.95 to \$129.95 through Internet Web sites and e-mail. They promise to give consumers a new credit identity, saying:

"Anyone can have a New Credit File virtually overnight. . . .";  
"WIPE OUT ALL OF THE OLD BAD CREDIT ON YOUR OLD FILE. . . ."; and  
"Credit Start Over. There's a way to obtain a new Social Security No. . . ."

! In its second crack-down against credit schemes in 1999, the Commission (and in one case the Dept. of Justice) filed suit alleging violations of Section 5 of the FTC Act and Section 404(a)(2) of the Credit Repair Organizations Act "CROA." The government has sought injunctive relief and redress for consumers.

***Financial information unfairly collected from children***

- 80. Liberty Financial Companies, Inc., FTC File No. 982 3522 (consent announced May 6, 1999)**

! Respondent: Liberty Financial Companies, Inc. (218)

! Respondent operates The Young Investor Web site, an Internet site directed at children and teens focusing on issues relating to money and investing. The Commission alleged that the site falsely represented that personal information collected from children in a survey would be maintained anonymously, and that participants would be sent an e-mail newsletter as well as prizes.

! The Commission reached a proposed consent that prohibits such misrepresentations in the future and would require Liberty Financial to post a privacy notice on its children's sites and obtain verifiable parental consent before collecting personal identifying information from children. The proposed consent has been published for public comment.

<http://www.ftc.gov/opa/1999/9905/younginvestor.htm> (press release - proposed consent)

### *Deceptive exercise equipment claims*

**81. Fitness Quest, Inc.** Docket No. C-3886 (final consent Aug. 6, 1999)

! Respondents: Fitness Quest, Inc. and Robert R. Schnabel, Jr. (220)

! Fitness Quest sold three exercise gliders -- Gazelle Glider, SkyTrek, and Airofit and two abdominal devices -- Abs Only Machine and Ab Isolator directly to consumers through infomercials, on the Internet and also through retailers. The FTC alleged that Fitness Quest made unsubstantiated claims that, under ordinary use, their exercise gliders would allow consumers to burn up to 1,000 calories an hour or, as in their ads for the abdominal exercisers, that the Ab Isolator and Abs Only Machine were twice as effective as regular sit-ups.

! A proposed consent was announced on May 12, 1999. After a public comment period, the Commission announced its final approval on August 6, 1999. The consent with the respondents prohibits them from making a variety of weight-loss and related claims for their exercise equipment and weight-loss products without competent and reliable evidence.

<http://www.ftc.gov/opa/1999/9905/fitness.htm> (press release - proposed consent)  
<http://www.ftc.gov/opa/1999/9908/fyi-21.99.htm>

### *Inconspicuous computer leasing terms*

**82. Dell Computer Corporation,** Docket No. C-3888 (final consent Aug. 6, 1999)

**83. Micron Electronics, Inc.,** Docket No. C-3887 (final consent Aug. 6, 1999)

! Respondents: Dell Computer Corporation, Micron Electronics, Inc. (232)

! Dell and Micron design, manufacture, and market computer systems for consumers and businesses. According to the FTC, the companies disseminated misleading leasing ads through television, print, or the Internet. The FTC alleged that the Dell and Micron placed material cost information in inconspicuous or unreadable fine print or omitted such information altogether.

! The Commission's settlements with Dell and Micron would require the companies to provide consumers with clear, readable, and understandable information in their lease advertising.



<http://www.ftc.gov/opa/1999/9905/dell.htm> (press release - proposed consent)  
<http://www.ftc.gov/opa/1999/9908/fyi-21.99.htm> (press release - final consent)

***The FTC's first action against unnamed defendants***

**84. FTC v. Benoit (aka One or More Unknown Parties), Civil Action No. 3:99 CV 181 (W.D.N.C. filed May 11, 1999)**

! Defendant(s): Andrew Wells Benoit, Susan Carroll, WorldNet, Inc. (235)

! Defendants allegedly sent consumers a deceptive e-mail message in order to get them to place expensive overseas calls. According to the FTC, the defendants sent consumers an e-mail informing them that their "order" had been received and processed and that their credit card would be billed \$250 to \$899. The e-mail advised consumers that if they had questions about their "order," they should call a telephone number in the 767 area code. Consumers didn't know the area code was in a foreign country, Dominica, West Indies, and rather than reaching a customer "representative," consumers were connected to an audiotext entertainment service with sexual content. Consumers incurred expensive telephone charges for this unhelpful international, long-distance call.

! In its first ever "John Doe" complaint, the FTC charged the defendants with violating Section 5 of the FTC Act. On May 11, 1999, the Commission sought and obtained an asset freeze from the Court, thereby stopping any flow of money to the defendants through the telephone payment system. Staff continues to conduct discovery in order to learn who perpetrated this scheme.

<http://www.ftc.gov/opa/1999/9905/audiot10.htm> (press release - complaint/TRO)

***Modeling scheme***

**85. FTC v. Screen Test U.S.A., Inc., Civil Action No. 99-2371 (WGB) (D.N.J. filed May 24, 1999)**

! Defendants: Screen Test U.S.A., Inc., Fred Vanore d/b/a Vanore Productions, World Wide Casting, Inc., American Child Actor and Modeling Association, Inc., Premier Marketing, Inc. d/b/a Screen Test U.S.A., Alice B. McManus, R. J. Ims Corp. d/b/a Screen Test U.S.A., Richard J. Ims, Jr., Premier Marketing, Inc. d/b/a Screen Test U.S.A., Showbiz Central of Westchester, Inc. d/b/a Screen Test U.S.A., John T. Yannielli, Tomorrow's Stars, Inc., Edward J. Bauer, and Helen J. Bauer. (248)

! The Commission alleges that, via television, radio, Internet and newspaper ads, Screen Test U.S.A. deceptively markets a \$45 "screen test" and other services to consumers. To add credibility to their activities, Screen Test U.S.A. encourages parents to check the company out with the American Child Actor and Modeling Association (ACAMA) -- a purported non-profit organization

at [www.acama.com](http://www.acama.com). According to the FTC, ACAMA is actually a shell corporation of the owner of Screen Test U.S.A., Fred Vanore.

! On May 24, 1999 the FTC filed suit under Section 5 of the FTC Act alleging that defendants have misrepresented the objective or professional quality of their “screen tests” and pictures, customers’ rates of success, and the independent status of ACAMA. The FTC also alleged violations of the Cooling-Off Rule, 16 C.F.R. Part 429.

! The Court granted the FTC’s motion for and *ex parte* TRO, with an asset freeze and appointment of a receiver, and approved stipulated preliminary injunctions against all defendants. The New York City Department of Consumer Affairs, the Connecticut Department of Consumer Protection, and the Attorneys General for Pennsylvania, New Jersey and Florida also filed separate lawsuits against the defendants and provided tremendous assistance to the FTC.

<http://www.ftc.gov/opa/1999/9905/screen.htm> (press release - complaint/TRO)

### ***Small Business Sweep – Web site “cramming” cases***

- 86. FTC v. Shared Network Services, LLC, et al.** CIV. S-99-1087 WBS JFM (E.D. Cal. filed June 2, 1999).
- 87. FTC v. WebViper, LLC, et al.**, 99-T-589-N (M.D. Ala. filed June 9, 1999).
- 88. FTC v. Wazzu Corporation, et al.**, SACV-99-762-AHS (C.D. Cal. filed June 7, 1999).

! Defendants: Shared Network Services d/b/a First Page, Peter Westbrook, WebViper, LLC d/b/a Yellow Web Services, Tigerhawk, LLC d/b/a Yellow Web Services, Thomas J. Counts, Patrick C. Taylor, Richard M. Bagdonas, Wazzu Corp., Jayme Amirie, Kenneth Gharib, and Kirk Waldfogel. (259)

! The defendants allegedly charged small businesses for “free” Web site services. According to the Commission, the defendants offered small businesses Web sites for a free 30-day trial period. Small businesses allegedly were told that they would have 30 days to cancel, that they would have a free period of time to review a sample Web site or written materials, or that they could sign up for 30 days without any obligation whatsoever. In each case, however, the Commission charged that small businesses had unauthorized fees “crammed” onto their phone bills (Shared Network and Wazzu) or direct invoices (WebViper).

! The Commission filed three separate lawsuits in early June 1999, alleging that the defendants had deceived small businesses through their telemarketing solicitations and billing practices, in violation of Section 5 of the FTC Act.

<http://www.ftc.gov/opa/1999/9906/small9.htm> (press release - complaints)

*Operation Cure.all cases*

- 89. **Magnetic Therapeutic Technologies, Inc.**, 982-3150
- 90. **Pain Stops Here!, Inc.**, File No. 982-3175
- 91. **Melinda R. Sneed and John L. Sneed d/b/a Arthritis Pain Care Ctr**, File No. 982-3182
- 92. **Body Systems Technology, Inc.**, File No. 982-3177

! Respondents: Magnetic Therapeutic Technologies, Inc., Jim B. Richardson, Pain Stops Here! Inc., Sande R. Caplin, Melinda R. Sneed and John L. Sneed d/b/a Arthritis Pain Care Center; Body Systems Technology, Inc., William E. Chace, and James D. Davis. (268)

! The Commission announced four cases that resulted from the agency's previous "Health Claims Surf Days" – law enforcement surveillance sweeps in 1997 and 1998 by officials in over 25 countries. The cases involved settlements with companies and individuals that allegedly used the Internet to make deceptive and unsubstantiated health claims concerning "miracle cures" for serious illnesses -- including cancer, arthritis, heart disease, and liver disease.

! *Magnetic Therapeutic Technologies, Inc.* (MTT) and *Pain Stops Here!, Inc.*, (PSH) allegedly made unsubstantiated health claims about their magnetic therapy products. MTT allegedly represented that its products could treat cancers, HIV, high blood pressure, and other conditions, while PSH. allegedly represented that its devices could effectively treat cancer, liver disease, arthritis, and other ailments. The consent order prohibits MTT and PSH from making unsubstantiated health claims in the future.

! *John Sneed and Melinda Sneed d/b/a Arthritis Pain Care Center* (APCC) marketed CMO, a fatty acid from beef tallow, and allegedly claimed that it could cure most forms of arthritis and treat numerous other diseases. The FTC charged that APCC's efficacy claims were unsubstantiated and that its claims about NIH and other scientific studies were false. The settlement prohibits APCC from making unsubstantiated claims for any food, drug, dietary supplement or program.

! *Body Systems Technology, Inc.* (BST) allegedly sold shark cartilage capsules as well as capsules and liquid containing a Peruvian plant derivative called Cat's Claw. The allegedly promoted these products as scientifically-proven treatments for cancer, HIV/AIDS, and arthritis. The FTC charged that BST's claims were unsubstantiated. The consent order prohibits BST from making unsubstantiated health claims for any food, drug, dietary supplement or program. Also, the order requires BST to identify and make refunds to purchasers of their products.

! All four proposed settlements were announced on June 24, 1999. After a public comment period, the Commission gave final approval to these settlements on Sept. 20, 1999.

<http://www.ftc.gov/opa/1999/9906/opcureall.htm> (press release - proposed consents)

<http://www.ftc.gov/opa/1999/9909/fyi990920.htm> (press release - final consent)

*Another deceptive laundry product*

**93. FTC v. OneSource Worldwide Network, Inc.** 3-99 CV1494-L (N.D. Tex. complaint and stipulated final judgment filed July 1, 1999).

! Defendants: OneSource Worldwide Network, Inc. and James Michael Fobair. (270)

! Defendants marketed The EarthSmart Laundry CD for \$80 on the Internet and elsewhere. The CD is a plastic disc -- purportedly filled with "structured water" -- to be used in washing machines instead of conventional detergents. The FTC alleged that defendants misrepresented that the Laundry CD cleans as well as conventional detergents. The FTC also alleged that the defendants made other false or unsubstantiated scientific, environmental and efficacy claims and that their testimonials did not reflect consumers' typical or ordinary experience.

! A proposed settlement filed in federal court on July 1, 1999 would prohibit defendants from claiming that the Laundry CD or any similar product cleans as well as conventional laundry detergent and would require them to pay \$50,000 in disgorgement. These funds are to be divided equally among the FTC and six states that participated in this action: Arkansas, Illinois, Michigan, Missouri, Nevada and Texas. The order would prohibit the defendants from making unsubstantiated claims or misleading testimonials, and provides an avalanche clause of \$7.5 million in the event the defendants are found to have given false financial data to the FTC.

<http://www.ftc.gov/opa/1999/9907/onesource.htm> (press release - complaint/settlement)

**94. FTC v. David Martinelli, Jr.**, 3:99 CV 1272 (CFD) (D. Conn. 1999)

! Defendants: DP Marketing, David Martinelli, Jr. (a/k/a David Martin) and Deana Plourde (273)

! Defendants allegedly sent consumers unsolicited e-mail or "spam" and represented that consumers could make \$13.50/hr working at home processing applications for credit, loans or employment, and as a consumer service representative. Defendants sold a "how to" kit for 9.95 to \$28.72, but it allegedly only included instructions to place advertisements identical to the ones they had responded to. Consumer allegedly could only earn money by recruiting others to pay for the same information. The FTC alleged that defendants violated federal law by making false earnings claims, by failing to disclose that they were offering a pyramid work-at-home scheme; and by providing the "means and instrumentalities" to others to commit deceptive acts.

! The defendants agreed to a stipulated preliminary injunction, which was filed with the Court on Aug. 3, 1999. The Order prohibits further misrepresentations, pending a full trial.

<http://www.ftc.gov/opa/1999/9907/dpmarket.htm> (press release - complaint)

*Another Web site "cramming" case - part of Small Business Sweep*

**95. FTC v. Web Valley, Inc. et al**, Civil Action No. 99-1071 DSD/JMM (D. Minn. filed July 14, 1999)

! Defendants: Web Valley, Inc., Profile National Business Directory, Inc., Protel Advantage, Inc., U.S. Protel, Inc., Satya P. Garg, Blaine C. Christofferson, and Scott D. Lee. (280)

! Defendants, through their telemarketing operations, called consumers touting the business benefits of having an Internet presence and offered to design and host an Internet Web site for a "free" 30-day trial period. The FTC charged that the telemarketers failed to disclose to consumers that, unless consumers initiated contact to cancel the service, the defendants would automatically charge consumers monthly fees of \$19.95 or \$24.95. Consumers allegedly were never told that these charges would be added to their local phone bills. The agency alleges that the scheme took in up to \$9 million for unordered services.

! The FTC filed suit on June 14, 1999 and obtained an *ex parte* TRO with a receiver and a freeze over the defendants' assets. On July 22nd, the Court granted a preliminary injunction against the defendants, without a receiver or an asset freeze.

<http://www.ftc.gov/opa/1999/9907/webvalley.htm> (press release - complaint/TRO)

#### ***Operation Trip Trap – Online travel scams***

**96. FTC v. American Int'l Travel Serv., Inc.**, Civil Action No. (S.D. Fla. 1999)

! Defendants: American International Travel Services, Inc. d/b/a Magic World Tour & Travel, Silver Lake Resort, Ltd., Alfred H. Jugo, A.J. Stanton, Jr., and Lawrence S. Gilbert. (285)

! Defendants initially solicited consumers via the Internet, direct mail, and out-bound telephone calls. These initial contacts led to a telemarketing solicitation in which the defendants allegedly told consumers that they had won or been specially selected to receive vacations to Florida, the Bahamas, or other destinations.

! The FTC alleged that defendants operated a common enterprise to deceive consumers, in violation of the FTC Act and the Telemarketing Sales Rule (TSR). The defendants allegedly misrepresented the nature of the vacation packages offered and failed to disclose restrictions and conditions on the packages, including the requirement that consumers attend one-- and sometimes two--sales pitch seminars for a timeshare purchase during their trip. Defendants also allegedly failed to disclose their refund policies and material aspects of their prize promotions.

<http://www.ftc.gov/opa/1999/9908/triptrap.htm> (press release - complaint/TRO)

**97. FTC v. Cerkenik-Anderson Travel, Inc., d/b/a College Tours, Student Tours, and Mexico Tours** Civ. Action No. (D. Ariz. filed July 1999)

! Defendants: Cerkvenik-Anderson Travel, Inc. d/b/a College Tours, Student Tours and Mexico Tours, and Andy Anderson. (287)

! The FTC filed suit in federal court alleging that defendants violated the FTC Act by misrepresenting the nature of spring break and post-graduation vacations to college students and their parents. The defendants allegedly misled purchasers about the quality of accommodations offered and the cost or value of various benefits and activities they arranged.

<http://www.ftc.gov/opa/1999/9908/triptrap.htm> (press release - complaint)

***Rolling Internet Pyramid Sweep - large pyramid promoting environmental and health products***

**98. FTC v. Equinox Int'l Corp. et al**, Civil Action No. CV-S-99-0969-JBR-RLH (D. Nev. filed Aug. 3, 1999)

! Defendants: Equinox International Corporation, Advanced Marketing Seminars, Inc., BG Enterprises, Inc., and William Gould. (291)

! Defendants allegedly operated a multi-level marketing company which offered distributorships for products including water filters, vitamins, nutritional supplements, and skin care products. Equinox distributors ran classified ads in the "Help Wanted" sections of newspapers which implied that a salaried position was being offered. Persons who responded to the ads allegedly were given a sales presentation designed to recruit new distributors. Equinox also advertised and communicated with distributors through its Web site at [www.equinoxinternational.com](http://www.equinoxinternational.com). This site contained several testimonials and information about distributorships, Equinox products and payout plans.

! The FTC and 5 states (Hawaii, Maryland, Nevada, North Carolina, Pennsylvania and South Carolina) filed a joint action on Aug. 3, 1999, alleging that the defendants operated a pyramid scheme, made false earnings claims, failed to disclose material information, and violated the FTC Act as well as state securities laws, deceptive trade practices laws, false advertising laws, pyramid laws, and licensing requirements. The Court granted the FTC and states' request for an *ex parte* TRO and imposed a freeze on the defendants' assets and a receivership over their business.

! On Sept. 14, 1999, after a full hearing, the Court issued a modified preliminary injunction against the defendants. Pending a full trial, the Order prohibits any pyramid activity or misrepresentations about earnings. It requires defendants to modify their business terms and keeps a receiver in place to monitor defendants' business and prevent the dissipation of assets.

<http://www.ftc.gov/opa/1999/9908/equinox1.htm> (press release - complaint/TRO)

***“Guaranteed” credit cards***

**99. FTC v. Credit National, et al**, 99 CV 07989 (C.D. Cal. filed Aug. 5, 1999)

! Defendants: Credit National, Inc. and Mark Wolf, d/b/a Credit America (293)

! Defendants allegedly marketed "guaranteed approved" credit cards and lines of credit to consumers in print, direct mail, and Internet ads and invited consumers to call an "800" number. Consumers who called the number were sent a packet of materials containing written guarantees of unsecured credit cards regardless of past credit history, along with applications requiring a \$28 fee. Consumers who paid the fee received various credit card applications or nothing at all, rather than the promised credit cards.

! The FTC filed suit in federal court alleging violations of the FTC Act and the Telemarketing Sales Rule. At the same time, the Court granted the Commission's motion for an *ex parte* Temporary Restraining Order with an asset freeze and the appointment of a receiver.

<http://www.ftc.gov/opa/1999/9908/operationafl.htm> (press release-sweep/complaint)

***The FTC's 100<sup>th</sup> Case: cross-national action against page jacking and mouse trapping***

**100. FTC v. Carlos Pereira d/b/a atariz.com**, Civil Action No. 99-1367-A (E.D. Va. filed Sept. 14, 1999)

! Defendants: Carlos Pereira, WTFRC, Pty Ltd., and Guiseppe Nirta (296)

! Defendants allegedly engaged in "pagejacking" and "mouse trapping" to drive unsuspecting consumers to adult sites and hold them there. According to the FTC, defendants first captured and made counterfeit copies of over 25 million Web pages. They then inserted a "redirect" command in these counterfeit pages and placed them under defendants' Web site, usually at [www.atariz.com](http://www.atariz.com). When consumers used a search engine to look up information on the Internet, they sometimes pulled up listings for defendants' counterfeit sites. Though these listings described pages devoted to recipes, kids games, automobiles or other everyday topics, if a consumer clicked on the listing for a counterfeit site, he was taken immediately to sexually explicit adult Web sites operated by defendants. Once there, a consumer could not easily leave because defendants disabled a consumer's normal browser functions. If he tried to escape by hitting the "back" or "close it" buttons on his browser, the consumer would just receive more pages of graphic sexual content.

! On September 14, 1999, the Commission filed suit and alleged that defendants had violated Section 5 of the FTC Act. The FTC alleged that defendants had deceived consumers by pagejacking Web sites and misleading consumers about where they were going. The FTC also alleged that defendants had engaged in illegal and unfair practices when the mouse trapped consumers and preventing them from leaving defendants' sites. The Court granted the FTC's motion for an *ex parte* Temporary Restraining Order with a provision to suspend several of

defendants' domain name registrations. On September 21, 1999, the Court issued a Preliminary Injunction and continued these suspensions.

! The FTC has cooperated closely with the Australian Competition and Consumer Commission in this case. The ACCC has executed search warrants on the business premises of the Australian defendants and continues to pursue possible criminal or civil actions in that country.

<http://www.ftc.gov/opa/1999/9909/atariz.htm> (press release - complaint/TRO)

***Another large Web site cramming case - part of Small Business Sweep***

**101. FTC v. U.S. Republic Communications, Inc.,** Civil Action No. H-99-3657 (S.D. Texas filed Oct. 21, 1999).

! Defendants: U.S. Republic Communications, Inc. and T. Gary Remy (298)

! Remy and U.S. Republic allegedly used telemarketers to target small businesses, offering to design and host Web sites on a free trial basis. They claimed their service included "registering" the small businesses' Web sites with major Internet search engines to drive potential customers to the sites. The small businesses allegedly were told that they would receive paperwork about the Web site and that no charges would be incurred unless the business ordered the Web site on a permanent basis. Despite their claims, U.S. Republic added charges of \$25 a month to the telephone bills of small businesses, often when the defendants had not sent a sample Web site design or when the small businesses had rejected the offer. Many times the defendants continued to charge small businesses even after they stated they had "canceled."

! The FTC alleged violations of Section 5, and the defendants entered into a Stipulated Final Order to settle these allegations. The order bars the defendants from misrepresenting their Web site services and from misrepresenting that consumers are under no obligation and will not be charged during a trial period. The Order requires defendants to disclose, in certain instances, that they cannot guarantee that a Web site will be indexed or listed by major search engines. The Order also requires that approximately 124,000 small businesses be notified that they may have a right to cancel their Web site and collect redress.

! The Commission's complaint and the Stipulated Final Order were filed on Oct. 21, 1999 in federal district court for the Southern District of Texas.

<http://www.ftc.gov/opa/1999/9910/republic2.htm> (press release - complaint/stipulated final order)

***Unsubstantiated body-building supplement claims***

**102. FTC v. AST Nutritional Concepts & Research, Inc., et al,** Civ. No. 99-WI-2197 (D. Colo. filed Nov. 15, 1999)



**103. FTC v. MET-RX USA, Inc., et al.** Civil Action No. SAC V-99-1407

(C.D. Cal. filed Nov. 15, 1999)

! Defendants: AST Nutritional Concepts & Research, Inc. and Paul Delia; Met-RX USA, Inc. and Met-RX Substrate Technology, Inc. (302)

! On their Web sites and through direct sales, magazines and retail stores, defendants allegedly advertised that their health supplements would increase strength and muscle mass "*safely and with minimal or no negative side effects.*" The companies' androgen products contained various combinations of the steroid hormones androstenedione, androstenediol, norandrostenedione, and/or norandrostenediol. These substances convert in the body to testosterone, estrogen, and/or other potent hormones, and allegedly could pose safety risks and unwanted side effects similar to those of more potent hormones.

! The FTC challenged the companies' lack of substantiation for the safety or lack of side effects of their products. Without admitting liability, the defendants entered into stipulated final orders which would prohibit them from making unsubstantiated efficacy, performance or safety claims about their products. The proposed orders also would require the following labeling and advertising disclosure for any androgen supplement for which any efficacy, performance, or safety claim is made:

**WARNING:** This product contains steroid hormones that may cause breast enlargement, testicle shrinkage, and infertility in males, and increased facial and body hair, voice deepening, and clitoral enlargement in females. Higher doses may increase these risks. If you are at risk for prostate or breast cancer you should not use this product.

Finally, the proposed orders also would require the following labeling and advertising disclosure for any androgen supplement containing ephedra (also known as ephedrine):

**WARNING:** This product contains ephedra. Taking more than the recommended serving may result in heart attack, stroke, seizure or death. Consult a health care practitioner prior to use if you have high blood pressure, heart or thyroid disease, diabetes, difficulty urinating, prostate enlargement, or glaucoma, or are using any prescription drug. Do not use if you are taking a MAO inhibitor or any allergy, asthma, or cold medication containing ephedrine, pseudoephedrine, or phenylpropanolamine. Discontinue use if dizziness, sleeplessness, loss of appetite, or nausea occurs.

<http://www.ftc.gov/opa/1999/9911/astmetrx.htm> (complaints/stipulated final orders)

! The Commission's complaints and the Stipulated Final Orders were filed on Nov. 15, 1999 in the federal district courts for the District of Colorado (AST) and the Central District of California (Met-Rx).

***Y2K investment scheme***

**104. FTC v. Selket Precious Metals, Inc., et al** (E.D. Cal. )

! Defendants: Selket Precious Metals Inc., and Paul H. Byus (304)

! The defendants promoted two types of investments through Internet promotions and follow-up telephone pitches: shares of stock in Selket and certificates redeemable for gold from the company's mine. Potential investors allegedly were assured that an investment in Selket stock would appreciate, because Y2K related concerns would drive up the price of gold, and that gold certificates purchased would be just like money in the chaos following January 1, 2000.

! The Commission alleged that defendants made false claims about short-term investment returns and risk. The company entered into a stipulated final judgment which bars Selket from making false representations about the potential risk and return of investments in its mining operations, that its mine will be operational in any given period of time, that the value of any ore deposits has been proven, or that a known quantity of ore will be mined. In addition, the proposed order broadly prohibits Selket from misrepresenting the risk, value or any other fact material to any investment or investment offering.

! The complaint and stipulated final judgment were filed in the United States District Court, Eastern District of California on November 16, 1999.

<http://www.ftc.gov/opa/1999/9911/selket.htm> (press release-complaint/final order)

### ***Defective HIV test kits***

**105. FTC v. Cyberlinx**, Civ.Act.#CV-S-99-1564-PMP-LRL (D. Nev. 1999)

! Defendants: Cyberlinx and Jeffrey Stein (306)

! Defendants marketed their EZ MEDTEST HIV Type I & II home kits on the Internet and claimed that the tests accurately detected HIV infection in humans. However, the FDA tested the kits sold by Cyberlinx using blood serum samples known to contain antibodies to HIV (HIV-positive) and found that the test kits failed to consistently detect the presence of antibodies to HIV. On July 8, 1999, the FDA notified Cyberlinx's customers about the inaccurate test kit results. According to the FDA notification letter, the test kits were labeled "HIV ½ STAT-PAK Ultra Fast."

! The Commission alleged that defendants falsely represented the accuracy of their HIV test kits. Cyberlinx and Stein entered a stipulated final order which imposed a lifetime ban on them from marketing or selling any HIV home test kit. The order also required Cyberlinx or Stein to post a \$500,000 bond, or a \$1,000,000 if acting jointly, in the event that they wished to market or sell any other medical device. Cyberlinx and Stein were required to pay the Commission money they received from the sale of their HIV home test kits, and the order prohibited the defendants from transferring, disclosing, or selling information regarding any person who paid any money to either of them in connection with the purchase of any HIV home test kit.

<http://www.ftc.gov/opa/1999/9911/cyberlinx.htm> (press release - complaint/final order)

**106. FTC v. David M. Rothbart d/b/a Medimax Inc.,** Case No. 99-1485-Civ-ORL-LSA (M.D. Fla. filed Nov. 22, 1999)

! Defendant: David M. Rothbart d/b/a Medimax Inc. (307)

! Rothbart's Web site, [www.medimaxrx.com](http://www.medimaxrx.com), offered several tests for a variety of diseases or conditions. The site prominently featured an HIV "rapid test" that was supposed to accurately detect HIV infection in human blood in 15 minutes. The FTC alleged that this HIV test was not approved for sale in the United States and that "nine of ten of Rothbart's HIV tests provided false negative results when tested with HIV-positive blood; the tenth test did not work at all."

! The Commission filed suit under seal on Nov. 22, alleging that Rothbart had violated Sections 5(a) and 12 of the FTC Act. The Court granted the FTC's motion for a Temporary Restraining Order, stopping him from engaging in the marketing or sale of HIV tests and freezing his assets.

<http://www.ftc.gov/opa/1999/9912/medimax.htm> (press release - complaint/final order)

***Rolling Internet Pyramid Sweep – another pyramid promoting health products***

**107. FTC v. John T. Polk,** Civil Action No. JFM 99CV 3679 (D. Md. filed Dec. 9, 1999)

! Defendants: John T. Polk, Patrick Farah, Peter Hirsch, USAsurance Group, Inc., AKAHI Corp., AKAHI.COM, Inc., 2XTREME Performance International, LLC., and AFEW, Inc. (315)

! Defendants allegedly used Web sites, direct mail, infomercials, telemarketing and seminars to convince consumers they could make substantial income by investing in their multi-level marketing scheme, which marketed nutritional supplements, beauty, weight-loss and other products. Defendants also allegedly claimed their recruiting tools -- called "Businesses in a Box"-- would generate a specific level of earnings and help develop an investor's "downline."

! The FTC alleged that defendants' earnings claims were false, that 2Xtreme was actually a pyramid scheme, and that 2Xtreme provided deceptive promotional materials and other 'means and instrumentalities' to violate federal law. The FTC asked the court to issue a preliminary injunction and freeze the defendants' assets, pending trial.

<http://www.ftc.gov/opa/1999/9912/2xtreme.htm> (press release-complaint)