

IN THE MATTER OF
TRAVEL KING, INC., ET AL.

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

Docket 8949. Amended Complaint, May 17, 1974-Order, Sept. 30, 1975*

Order requiring four west coast travel agencies located in Seattle, Wash., and San Francisco, Calif., among other things to cease making false claims about "psychic surgery" and promoting tours for such surgery, which has been misrepresented as an actual surgical operation by which diseased tissue or disease-causing material is removed from the body using only the bare hands. The order further requires respondents to send notices to past purchasers and to those who inquire about such tours in the future warning them of the serious danger involved.

Appearances

For the Commission: *Gregory L. Colvin, Randall H. Brook, Barry E. Barnes and Rachel P. Goodisman.*

For the respondent: *David C. Stewart, DeGarmo, Leedy, Oles & Morrison, Seattle, Wash., Michael W. Palmer, Baker & McKenzie, San Francisco, Calif., Richard Kelleher and Douglas A. Baum, Kelleher, Murphy & Nelson, Jerry Kindinger, Ryan, Bush, Swanson & Hendel and Albert Hanan, Seattle, Wash.*

AMENDED COMPLAINT

The Federal Trade Commission, having reason to believe that Travel King, Inc., d/b/a Travel King, Inc. & Ramble Tours, Phil-Am Travel Agency, Inc., Gem Travel Service, Inc., and Ramble Travel and Tours, Inc., corporations; Yuda Galazan and Nyla Ford, individually and as officers and directors of Ramble Travel and Tours, Inc.; Ronald Brown, individually and as an officer of Travel King, Inc.; Adeline C. Heredia and Emile H. Heredia, individually and as officers of Phil-Am Travel Agency, Inc.; and Laurence C. Marquez and Marian E. Butterfield, individually and as officers of Gem Travel Service, Inc., hereinafter referred to as respondents, have violated the provisions of the Federal Trade Commission Act, and that a proceeding in respect thereof would be in the public interest, hereby issues this complaint:

PARAGRAPH 1. Travel King, Inc., d/b/a Travel King, Inc. & Ramble Tours (hereinafter "Travel King"), is a Washington corporation, with its corporate office at 1200 - 153rd N.E., Bellevue, Wash., and a branch office at 1401 Seattle Tower Bldg., Seattle, Wash.

* Reported as amended by order of May 31, 1974 of the administrative law judge.

Phil-Am Travel Agency, Inc. (hereinafter "Phil-Am") is a California corporation, with its corporate office at 210 Post St., Suite 205, San Francisco, Calif. and another place of business at 407 Alaska Bldg., Seattle, Wash.

Gem Travel Service, Inc. (hereinafter "Gem") is a California corporation, with its office and principal place of business at 703 Market St., Room 405, San Francisco, Calif.

Ramble Travel and Tours, Inc. (hereinafter "Ramble"), is a Washington Corporation, with its corporate office at 1401 Seattle Tower Bldg., Seattle, Wash. Ramble was formed in December 1973 to succeed Travel King in the operation of the business located at that address.

Yuda Galazan is an individual and is presently managing and purchasing the business of the Travel King branch office located at 1401 Seattle Tower Bldg. He also is an officer, director, and the sole shareholder of Ramble Travel and Tours, Inc. He formulates, directs and controls the policies, acts and practices of Ramble and the aforementioned Travel King branch office, including those hereinafter set forth, and his business address is 1401 Seattle Tower Bldg., Seattle, Wash.

Nyla Ford is an individual and a former officer and principal shareholder of Travel King, and a present officer and director of Ramble. Together with Yuda Galazan, she formulates, directs and controls the policies, acts and practices of Ramble and the Travel King branch office including those hereinafter set forth, and her business address is 1401 Seattle Tower Bldg., Seattle, Wash.

Ronald Brown is an individual and an officer and principal shareholder of Travel King. He formulates, directs and controls the policies, acts and practices of Travel King, including those hereinafter set forth. His business address is 1200 - 153rd N.E., Bellevue, Wash.

Adeline C. Heredia and Emile H. Heredia are individuals and officers and the principal shareholders of Phil-Am. They formulate, direct and control the policies, acts and practices of Phil-Am, including those hereinafter set forth, and their business address is 210 Post Street, Suite 205, San Francisco, Calif.

Laurence C. Marquez and Marian E. Butterfield are individuals and officers and principal shareholders of Gem Travel Service, Inc. They formulate, direct and control the policies, acts and practices of Gem, including those hereinafter set forth, and their business address is 703 Market St., Room 405, San Francisco, Calif.

PAR. 2. Respondents Travel King, Phil-Am, and Gem each operate a general travel agency business, including the sale or arrangement of transportation, accommodations, and other services for travelers.

Allegations below of respondents' present acts or practices include past acts or practices.

PAR. 3. In the course of their businesses, respondents make arrangements for residents of Washington and other states to travel to the Philippines on the tours described below. Promotional materials, letters, contracts, business correspondence, monies and other documents are transmitted between respondents' offices and agents who refer customers to them, customers, common carriers, and other business organizations located in various States of the United States and in other nations of the world. Accordingly, respondents are engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents Travel King, Phil-Am, and Gem advertise, offer for sale and sell to the general public package tours to the Philippines so that customers may undergo "psychic surgery," purported to be a treatment by which the body is entered without surgical instruments, using only the bare hands. The treatment is also known as "psychic healing," "faith healing," and "spiritual" or "spirit healing" and is performed by persons not licensed in the Philippines or elsewhere to practice medicine.

PAR. 5. Respondents engage in written, oral and visual representations which have the tendency and capacity, directly or by implication, to lead members of the general public to believe that the "psychic surgery" performed in the Philippines is an actual surgical operation, that the body is thereby opened, and that diseased tissue or disease-causing material is thereby removed from the human body. Respondents do so by using, or causing to be used, some means of promotion, including but not limited to one or more of the following:

A. Public dissemination of brochures prepared, printed and paid for with the assistance of certain major international airline companies, specifically Northwest Airlines, Inc. and Pan American World Airways, Inc.

B. Public dissemination of other materials.

C. Newspaper advertisements.

D. Showing of films at public meetings.

PAR. 6. In truth and in fact:

A. The so-called "psychic surgery" performed in the Philippines is not an actual surgical operation, the body is not thereby opened, and neither diseased tissue nor disease-causing material is thereby removed from the human body.

B. Respondents lack a reasonable basis for representations leading members of the general public to believe that the "psychic surgery" performed in the Philippines is an actual surgical operation, that the

body is thereby opened, and that diseased tissue or disease-causing material is thereby removed from the human body.

Therefore, the acts and practices referred to in Paragraphs Four and Five are deceptive and unfair.

PAR. 7. Persons suffering from many types of ailments, including cancer, heart disease, multiple sclerosis, blindness, deafness, paralysis, diabetes and arthritis may be led to believe by respondents' promotions that "psychic surgery" is an actual surgical operation, that the body is thereby opened, and that diseased tissue or disease-causing material is thereby removed from the human body. Thus, respondents' promotions of Philippine psychic surgery prey upon and exploit the frustrations and hopes of people who are seriously ill, and their families. Respondents are travel agents, not licensed physicians, and therefore are not qualified to diagnose, advise or select patients for any operation. Further, respondents disclaim responsibility for any medical consequences to their customers during their travel to the Philippine Islands or afterwards. People who are seriously ill, and their families, are vulnerable to the influence of respondents' promotions which hold out a tantalizing hope which the medical profession, by contrast, cannot offer. Therefore, the acts and practices referred to in Paragraphs Four and Five are unfair.

PAR. 8. The result of the respondents' aforesaid misleading, deceptive and unfair acts and practices is that people who are seriously ill may be and are induced to forego conventional medical treatment, thereby worsening their condition and, in some cases, hastening death. Further, the aforesaid acts and practices cause people who are seriously ill and their families to spend large amounts of money and be subjected to the inconvenience of traveling for a nonexistent "operation."

PAR. 9. The respondents' acts and practices are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

INITIAL DECISION BY DANIEL H. HANSCOM, ADMINISTRATIVE
LAW JUDGE

FEBRUARY 28, 1975

ALLEGATIONS OF COMPLAINT

An amended complaint issued May 17, 1974,¹ charging respondents with promoting, offering for sale and selling package tours to the

¹ The original complaint was issued Jan. 8, 1974, naming as respondents only the corporate travel agencies, Travel

(Continued)

Philippines so that customers could undergo "psychic surgery," purporting to be a treatment by which the body is entered without surgical instruments "using only the bare hands." According to the complaint, respondents engaged in written, oral and visual representations which had the tendency and capacity to lead members of the public to believe that "psychic surgery" performed in the Philippines is an actual surgical operation, that the body is opened, and that disease-causing material is thereby removed. The complaint further alleged that respondents had no reasonable basis for the representations made, and that persons suffering from many types of ailments including cancer, heart disease, multiple sclerosis, blindness, deafness, paralysis, diabetes and arthritis may be led to believe that "psychic surgery" is an actual surgical operation, that the body is opened and diseased tissue removed. According to the complaint, the frustrations and hopes of the seriously ill and their families were exploited, and the representations had the tendency and capacity to induce the seriously ill to forego conventional medical treatment worsening their condition and in some cases hastening death, or to cause them to spend large amounts of money and to undergo the inconvenience of traveling for a nonexistent "operation." The acts and practices of respondents were challenged as unfair, misleading and deceptive, and violative of Section 5 of the Federal Trade Commission Act.²

ANSWERS

The answers denied any violation of the Federal Trade Commission Act, denied the material allegations of the complaint, denied that respondents made any representations, directly or by implication, that "psychic surgery" was an actual surgical operation by which diseased tissue or disease-causing material was removed from the human body, and denied that respondents lacked a reasonable basis for any representations that were made. Most respondents raised affirmative defenses that the tours arranged to visit "psychic healers," "faith healers" or "spiritual healers" in the Philippines, insofar as the

King, Inc., Phil-Am Travel Agency, Inc., and Gem Travel Service, Inc. At a prehearing conference held Mar. 6, 1974, in Seattle, Wash., complaint counsel advised of their intention to amend the complaint to add a number of individual respondents, one additional corporate respondent, Ramble Travel and Tours, Inc., and to make certain substantive changes in the allegations. The motion to amend was certified to the Commission together with respondents' opposition on Apr. 5, 1974. The Commission granted the motion to amend and on May 17, 1974, issued an amended complaint which was served on all individual and corporate respondents between May 23 and June 3, 1974. Answers to the amended complaint were filed between June 18 and 26. A timetable for pretrial proceedings was issued by the undersigned on June 24, 1974, setting dates for the completion of discovery, exchange of lists of witnesses and documents, and setting Sept. 9, 1974, for commencement of hearings on the merits.

² In addition to a cease and desist order, and certain other relief, restitution for persons purchasing package tours from respondents was sought by complaint counsel. Restitution was not included in the "Notice Order" issued either with the original or the amended complaint. Complaint counsel advised of their intention to seek restitution at the pretrial conference of Mar. 6, 1974, and subsequently filed a "Notice of Intent to Seek Restitution from Corporate and Individual Respondents" on Mar. 22, 1974.

customer and the healers were concerned, were basically religious experiences or activities "imbedded in the religious doctrine of the Christian religion," and that the complaint amounted to an attempted regulation of religious action involving the "testing of the truth or falsity of the religious beliefs" of customers and "faith healers," "spiritual healers," or "psychic healers" in violation of the First Amendment. Travel King, Inc., further alleged that it had nothing to do with what took place between the "customers and the healers." Individual respondent Ronald Brown denied that he was ever actively involved in the operation of Travel King, Inc., and denied any responsibility for the "formulation, direction, arrangement, or administration" of package tours by that corporate respondent.

PROCEEDINGS

Hearings were held between Sept. 9, 1974, and Sept. 24, 1974. Forty-eight witnesses testified, 33 being called by complaint counsel and 15 by respondents. The exhibits received numbered 134, 131 being introduced by complaint counsel and the balance by respondents. The exhibits include promotional literature, advertisements, films, TV scripts, respondents' correspondence with tour members and prospective members, internal memoranda, newspaper articles and clippings which were reproduced and distributed by one or another of respondents, medical reports, and similar materials. The transcript numbers 2,388 pages.

The briefing schedule issued requiring proposed findings to be filed by Nov. 15, 1974, and replies by Nov. 27, 1974. On Nov. 6, 1974, complaint counsel requested an extension of time for findings to Dec. 13, 1974, and to Jan. 10, 1975, for replies. This was granted by the undersigned as to all parties provided an extension of time for filing the initial decision to Feb. 28, 1975, was granted by the Commission. Such an extension was granted on Dec. 17, 1974.

BASIS OF DECISION

This matter is now before the undersigned for initial decision based on the allegations of the complaint, answers, evidence, and the proposed findings of fact, conclusions and briefs filed by respondents and complaint counsel. All proposed findings of fact, conclusions and arguments not specifically found or accepted herein are rejected. The undersigned, having considered the entire record, and all the contentions of both sides, makes the following findings and conclusions, and issues the order set out at the end hereof:

FINDINGS OF FACT

RESPONDENTS

Travel King, et al.

1. Travel King, Inc., was incorporated in 1969 in the State of Washington. From September 1972 to February 1974, Travel King had its main office in Bellevue, Washington, a suburb of Seattle. From April 1973 to May 1974, a branch office was maintained in downtown Seattle which did business as Travel King, Inc. & Ramble Tours. Although Travel King still exists as a corporate entity, it has had no place of business since May 1974 and, according to its answer and that of Nyla Ford, it is no longer doing business.

2. Ramble Travel & Tours, Inc. (hereinafter "Ramble") was incorporated in the State of Washington on Dec. 7, 1973. Ramble's corporate offices were located in downtown Seattle, Wash., where Ramble did business from Dec. 7, 1973, until May 1974, using the trade names Travel King and Travel King & Ramble Tours. The business purpose of the formulation of Ramble was to operate a travel agency and to succeed Travel King in the operation of the downtown Seattle business. Ramble continued using the same name as its predecessor in order to maintain name identification with its customers and also continued using the same travel brochures.

3. In 1971, Nyla Ford began purchasing the business of Travel King. In September 1972, Ronald Brown became half-owner of the business, Nyla Ford remaining owner of the other half. This dual ownership continued until February 1973, when Ronald Brown acquired Nyla Ford's interest, corporate respondent Travel King being in financial difficulties. Since Feb. 1, 1973, individual respondent Ronald Brown has been the sole owner of Travel King, Inc. Nyla Ford has been president of Travel King from September 1972 until the present. She was an incorporator. She also served as vice president and a director of Ramble Travel & Tours, Inc., from Dec. 7, 1973, until February 1974. However, she held no stock in Ramble.

4. Yuda Galazan has been president of Ramble Travel & Tours, Inc., from its incorporation on Dec. 7, 1973, to the present, owning 100 percent of its stock. Prior to the formation of Ramble, Mr. Galazan was active during the fall of 1973 in the management of the downtown Seattle office of Travel King, Inc., and engaged in the promotion of "psychic surgery" tours to the Philippines as later set out herein.

For the above see admissions and answers to interrogatories of Travel King, Inc., and individual respondents connected therewith; see also, CX 1, 3-4; Galazan, Tr. 882-83; Ford, Tr. 1786-1793, 1786-91.

Phil-Am, et al.

5. Phil-Am Travel Agency, Inc. is incorporated in the State of California with its corporate office and principal place of business in San Francisco. A branch office is located in Seattle, Wash., and is managed by Jesus Ma. (Jesse) Jose. Other branches are located in Los Angeles, San Diego, Stockton, San Jose, and Honolulu. Adeline C. Heredia and Emile H. Heredia each own 50 percent of the stock in Phil-Am. Adeline Heredia is the president of the corporation, and Emile Heredia is the secretary. Together they have authority over Phil-Am and its employees, and formulate, direct and control the policies, acts and practices of Phil-Am. See admissions and answers to interrogatories of Phil-Am and Emile H. and Adeline Heredia; see also Adeline Heredia, Tr. 1534.

Gem, et al.

7. Gem Travel Service, Inc., is a California corporation with its office and principal place of business in San Francisco. Laurence C. Marquez is president and chief executive officer, holding 50 percent of the outstanding stock. Marian E. Butterfield is secretary-treasurer of Gem and also owns 50 percent of the outstanding stock. Together they formulate, direct and control the policies, acts and practices of Gem. See admissions and answers to interrogatories of Gem, Laurence C. Marquez and Marian E. Butterfield.

Representations to the Public by Travel King

8. Travel King, Inc. disseminated travel brochures, advertisements and promotional literature, and sponsored promotional meetings, including film showings in hotels and similar places in the Seattle metropolitan area, to market tours to the Philippines. Representations were made to members of the public in connection with the promotion of such tours that "healers" in the Philippines, variously known as "psychic surgeons," "psychic healers," "faith healers" and "spiritual" or "spirit healers," or the like, would open bodies with their bare hands, remove diseased tissue or disease-causing material, and that thereby many persons were cured of serious, even terminal illnesses, as well as of chronic conditions of a troublesome, painful, or incapacitating nature.

9. "RAMBLE TOURS TO THE PHILIPPINES" is the tour brochure used by Travel King to describe the Philippine tour. Travel King requested Northwest Orient Airlines to distribute this brochure widely. The schedule provides for "Visit to Famous Spiritualist of The Philippines," and contains a release to be signed by the tour member for any "responsibility regarding any treatment or treatments administered by the Faith Healers" (CX 2). "TOUR TO THE PHILIPPINES" (CX 5) is a single sheet which sets out the cost of the tour, and also contains a summary of the basic information provided in CX 2. The reservation application form (CX 6), which Travel King, and

also Mr. Galazan, used for a time during the beginning of these group tours, likewise provides for a release for any treatment or treatments by "Faith Healers." Mr. Galazan testified that CX 2, 5 and 6 were sent in the mail to interested customers and to past tour customers for them to pass on to other people (see admissions of Travel King and Galazan; Galazan, Tr. 820, 830-35, 867-68).

10. "QUESTIONS YOU MAY HAVE" (CX 7A-B) is a description issued by Travel King and Mr. Galazan in the promotion of its tours to the Philippines describing "psychic surgery," stating that it is not connected with any one church but that "people of all faiths" are healed, that "anyone" can be helped, and that "upward of 70% are happy with the results." The leaflet lists major and minor ailments which may be treated, guarantees appointments, and states that many doctors go to the Philippines "for treatment themselves," and that other doctors are "researching" the phenomenon. The leaflet was prepared in the fall of 1973 when the travel agency became involved in answering questions about health, so that those who worked in the office could answer questions. It was distributed to those inquiring about the tours, and was mailed to those who signed up as tour members prior to departure. The printing was paid for either by Mr. Galazan directly or by Travel King, Inc., with Mr. Galazan eventually reimbursing the travel agency (Galazan, Tr. 815-18; Tr. 1830-31).

11. "QUESTIONS YOU MAY HAVE" was distributed to the public, as stated, in connection with the promotion of tours to the Philippines by Travel King. Among other statements in this leaflet were the following (CX 7A-B): There are men in the Philippines who have (or claim to have) the powers to heal and/or operate on persons without instruments of any kind. They do this with no sanitation, and no pain, entering the body with their hands, operating in a matter of minutes, and with prayer closing the body leaving no scar.

* * * * *

WHAT TYPE OF CURES? Cancer, coronary, multiple sclerosis, blindness, deafness, tumors, diabetes, blood clots, arthritis, etc.; these are some ailments people have claimed were cured. Some have been told they only have months to live and others who have minor ailments.

* * * * *

HOW DOES OUR AMERICAN MEDICAL ASSOCIATION FEEL ABOUT THIS? Most doctors due to their training are sceptical, and yet we have many doctors going for treatment themselves, as well as others around the world who are now in the process of researching all available information.

12. CX 8A-H is a series of photocopied newspaper, news letter, and magazine articles conveying the impression that the human body is opened with the bare hands, that diseased tissue or disease-causing material is removed curing serious or terminal illnesses. Numerous references are made to actual surgery with the bare hands, the body being opened, and diseased tissue or disease-causing material being removed.

13. Hundreds of copies of the foregoing newspaper articles were printed by Mr. Galazan and distributed at various public film showings sponsored by Travel King held during the fall of 1973. Ms. Hasson, the Travel King office manager, recalled delivering multiple copies of CX 8A-H in bulk to one of the film showings held during September or October of 1973 (Galazan, Tr. 830-33, Hasson, Tr. 1901).
Public Film Showings and Advertising Thereof

14. Travel King sponsored a number of public meetings, announced by advertisements in major Seattle newspapers, at which films depicting Philippine "healers" were shown to the public. The advertisements were placed during the fall of 1973 in the Seattle Post-Intelligencer, the Seattle Times, and other papers such as the Aberdeen Daily World (CX 9, 10, 14-16, 192, 193 AND 197). The advertisement of Oct. 6, 1973, in the Seattle Post-Intelligencer was as follows (CX 10):

NOTICE TO PUBLIC

DUE TO OVERWHELMING REQUEST
THERE WILL BE ANOTHER SHOWING
OF ASTOUNDING FILMS ON

PHILIPPINE PSYCHIC HEALING

SUNDAY, OCT. 7th, 1 P.M.

HOLIDAY INN

BELLEVUE, WN.

FREE TO PUBLIC

15. The public meetings were held in Seattle, Bellevue, Bellingham, and Everett, and several hundred people attended each of them. Ms. Ford and Mr. Galazan attended representing Travel King, with Mr. Galazan acting as master of ceremonies at at least one of them. At these meetings, individuals known as Tom Muchlinski, Elaine Shinn, or both, spoke concerning "faith healing." Mr. Galazan described Travel King's tours and services. During these meetings, Ms. Ford also spoke to those attending and described the tours offered by Travel King to the Philippines (admissions of Travel King and Galazan; Dr. Wallace, Tr. 753).

16. The record contains the film, provided by Mr. Galazan, shown at these public meetings or one similar to it (CX 80; Galazan, Tr. 825-26; see also C. Wright, Tr. 120-130). It depicts "psychic surgery." The film must be seen to comprehend its full impact. It records a series of "operations" on individuals, each of whom is shown lying on a table surrounded by onlookers. The "psychic surgeon" or "faith healer" appears to have his hands, surrounded by blood, in a depression in one part or another of the patient's body, and appears to have opened or to be opening it with his bare hands, without anesthesia or surgical instruments of any sort, and to be removing tissue or other material from inside. During the "operation," the "psychic surgeon" or "faith healer" from time to time holds up to the view of the onlookers what appears to be tissue or material removed from the body. Thereafter, the abdomen, or other part of the anatomy which appears on the film to have been opened, is wiped clean by the "psychic surgeon" or "faith healer," or his attendants. No marks of any incision are seen, and there is no scar. The patient arises and walks away. See CX 80; CX 79 and CX 81 are other reels of film depicting "psychic surgery" which, as described later herein, were shown at meetings connected with or sponsored, directly or indirectly, by respondents Gem and Phil-Am, or those promoting tours with those respondents.

17. Travel King tour brochures (CX 2), "QUESTIONS YOU MAY HAVE" (CX 7A-B), and the photocopied newspaper, newsletter and magazine material (CX 8A-H), were distributed at the Travel King film showings (admissions of Travel King and Galazan; Galazan, Tr. 823-834).

18. During the Sept. 30, 1973, meeting, sponsored by Mr. Galazan and typical of these Travel King film showings (see CX 192 and CX 193; Galazan, Tr. 821-24). Tom Muchlinski, mentioned in finding 15, told the assembled crowd that before he went to the Philippines he had a heart problem which made it difficult for him to walk and which necessitated his taking many nitroglycerin pills. He also told the group he no longer needed to take the pills and showed a film (similar to CX

80) of the kind of "psychic surgery" he experienced. Mr. Muchlinski also showed the group what he claimed was a piece of cholesterol removed from his heart by the psychic surgeons with their bare hands. A woman who claimed to be "legally blind" also spoke at the meeting, telling how she had been operated on in the Philippines by the "psychic surgeons," and that they had improved her vision. Mr. Galazan introduced the various people who spoke about their operations to the audience. The cost of the hotel room in which the meeting was held was shared equally by Travel King, Inc. and Mr. Galazan (Galazan, Tr. 823-833).

19. The film showing held on Oct. 7, 1973 (see CX 10), was similar to the September 30 showing. At this time, Mr. Muchlinski, and other people, again came forward and gave testimonials about the "psychic surgery" they had received in the Philippines. When people asked whether they could be cured of specific diseases, they were told there might be hope for them. Several people signed up at the meeting itself to go on the next Travel King tour. The same literature that was distributed at the Sept. 30, 1973, meeting was also made available at the Oct. 7, 1973, meeting (Galazan, Tr. 858-864). Nyla Ford estimated that about 500 people came to the September meeting and 700 to the October meeting (Ford, Tr. 1824-1832). Additional film showings for audiences also numbering several hundred were held on Nov. 4 and Nov. 17, 1973, at which Mr. Galazan was present (Galazan, Tr. 890A-B; see CX 14, 15 and 16). Mr. Muchlinski's expenses in promoting Travel King's "psychic surgery" tours were paid by Mr. Galazan (Tr. 864-65).

20. Dr. John Wallace is a psychiatrist and teacher of psychiatry at the University of Washington School of Medicine. He is also a consultant to other doctors on the counseling of patients and families of patients who are ill with life-threatening diseases, such as cancer or heart disease. In November 1973, Dr. Wallace saw an ad for a "psychic healing" film showing by Travel King. He subsequently attended the showing at the Olympic Hotel in Seattle (CX 14 and 15 are copies of the advertisements for the showing which appeared in Seattle papers). Dr. Wallace identified Mr. Galazan, Elaine Shin (Shinn), and Mr. Wallinski (Muchlinski) as the principal persons involved in the showing, and identified a Travel King Brochure (CX 2) and promotional document entitled, "QUESTIONS YOU MAY HAVE" (CX 7) as being distributed (Dr. Wallace, Tr. 698-701). Dr. Wallace testified that the films were identified verbally as "showing psychic surgical operations taking place in the Philippines" (Dr. Wallace, Tr. 701). At one point there was a comment by one of the film showings "There it is, the tumor is out" (Dr. Wallace, Tr. 720). Dr. Wallace testified with respect to the audience and the effect of the film at the Olympic Hotel (Tr. 722, 724-25, and 729):

There were 100 to 150 people present in the Spanish Ballroom. Both sexes, all ages

from children to very elderly people. Many of them obviously infirm in one fashion or another, lame, handicapped in a variety of ways. Some individuals obviously were definitely ill at that time as indicated by their powdered complexion and feebleness and so forth. Others had been clearly through some serious illness. They looked pretty pale. Others in the audience were obviously healthy.

* * * * *

Certain individuals in the audience were obviously made very anxious and distressed by the close-ups of human anatomy or alleged human anatomy. Some elderly ladies appeared to be about to faint. There were several comments to the effect, look at that, he is really taking it out, quote, unquote.

In the contents of the film and in the dialogue that went on between the showers of the film and the audience there was a consistent reassurance that cure or some degree of help would be forthcoming. In the context of the film, it would appear that certain dramatic surgical procedures were taking place.

Dr. Wallace testified that questions from the audience in effect asked Travel King representatives whether any condition could be helped by the "psychic surgeons." The answer received was "yes, any condition can be helped by psychic surgery" (Tr. 725).

21. Dr. Wallace evaluated the Travel King brochure (CX 2) and promotional document "QUESTIONS YOU MAY HAVE" (CX 7). In his opinion, statements in CX 7 would contribute to the belief in "psychic surgery" by a seriously ill person. He referred both to claims of cures and a statement suggesting that the existence of films proved that "psychic surgeons" were not hypnotists (Tr. 732). Dr. Wallace testified that CX 7, distributed at the film showings (Tr. 732):

* * * implies that what you see on the camera is all, or on the film, is all there is to be seen, and that the camera or that results of the filming are the complete and whole truth in the context of a variable description of what the audience was told is being done * * *. The audience was consistently told to suspend their faculties.

TV Advertising

22. Respondents Travel King, Yuda Galazan and Ronald Brown disseminated advertising over TV station KTVW, Channel 13, in the Seattle-Tacoma area promoting Travel King's tours to the Philippines to see "psychic healers." The audio portion of the advertisement is in the record (CX 210). The commercial was broadcast twice each day between Sept. 26 and Oct. 16, 1973 (CX 209). The audio portion of the script states (CX 210):

* * * YOU CAN VISIT THE *MIRACULOUS* PHILIPPINE FAITH HEALERS, ALTHOUGH TRAVEL KING TRAVEL AGENCY AND PARTICIPATING SCHEDULED AIRLINES ACCEPT NO RESPONSIBILITY FOR ANY SERVICES, *SURGERY* OR TREATMENT DONE BY THE PSYCHIC HEALERS, IN CONNECTION WITH THIS TOUR OF THE PHILIPPINES. (Emphasis added.)

Representations to the Public by Phil-Am

23. Respondent Phil-Am Travel Agency, Inc., like Travel King, disseminated travel brochures, literature, and other promotional materials, showed, arranged for or was responsible for the showing of

films, and engaged in other activities for the purpose of marketing its tours to the Philippines, representing to members of the public that "faith healers," "psychic healers," "spiritual healers," etc., would open their bodies with their bare hands, remove diseased tissue or disease-causing material, and thereby cure many persons of serious illnesses. Travel Literature

24. Individual respondents Emile H. Heredia and Adeline C. Heredia, co-owners of corporate respondent Phil-Am, became interested in the business prospects of selling tours to the public to visit Philippine "healers," and authorized Phil-Am's marketing and sales manager, one Victorino P. Mapa, to prepare travel brochures (see Mapa, Tr. 1420-26, 1428-1430, 1432-38; CX 111). The record contains examples of these brochures (CX 26, 27, 39, 106, and 175). One of Phil-Am's brochures "SPIRITUALIST PILGRIMAGE TO THE PHILIPPINES" states (CX 26):

A European authority on parapsychology said that *the phenomenon of psychic surgery is happening in the Philippines* because of the intense religious devotion of its people. Witness and experience this at close range.

See and consult with the world famous spiritual healers of the Philippines * * *. (Emphasis added.)

The Pan-American tour brochure disseminated by Phil-Am listed 14 Philippine "spiritual healers" (CX 27; see also CX 28 and CX 29). A number of these were identified by Ms. Carol Wright, a witness herein, as "psychic surgeons" who purported to "operate" on patients by opening their bodies with their bare hands, and removing diseased tissue or disease-causing material using fakery and deception in the process (C. Wright, Tr. 110, *et seq.*). In addition to travel brochures prepared by Phil-Am and Pan-American, brochures were prepared with Northwest Orient Airlines (CX 26), Philippine Airlines (CX 175), and Japan Airlines (CX 176). In the case of Northwest Orient and Pan-American the airlines paid one-half the cost and Phil-Am the other half. The brochures prepared with Northwest Orient, Pan-American Airways, and Philippine Airlines were disseminated to members of the public by mail and personally to those who visited Phil-Am's offices (admissions of Phil-Am).

25. In addition to brochures, Phil-Am disseminated a booklet entitled "A GUIDE TO SPIRITUAL AND MAGNETIC HEALING AND PSYCHIC SURGERY IN THE PHILIPPINES" (Mapa, Tr. 1485-86), and offered it for sale to prospective tour members (CX 170). Page 2 of the booklet discusses "What is PSYCHIC SURGERY?" and states (CX 41):

By means totally unexplainable in terms of modern science, certain individuals (usually with little or no academic training) possess the ability to "operate" on the human body using only their bare hands, and remove diseased tissue, blood clots, and pus * * *.

Initial Decision

86 F.T.C.

On page 13, the booklet states (CX 41):

* * * the healers themselves are concentrating their efforts on patients whose arrangements are handled by Christian and Diplomat.

* * * * *

Diplomat Travel & Tours * * * specializes in handling patients who desire to visit Tony Agpaoa at his clinic * * *.

* * * * *

Christian Travel Center * * * specializes in handling patients who desire to visit one or more of the healers associated with the Union Espiritista Cristiana de Filipinas.

Phil-Am was appointed by the Christian Travel Center, Inc. of the Philippines as their exclusive travel agents in the United States to organize tours to consult "spiritual healers", who in fact purported to open the human body with the bare hands, and the "President General" of the foregoing "Union Espiritista Cristiana de Filipinas, Inc." so informed Phil-Am by letter of July 19, 1973 (CX 111; see also Adeline Heredia, Tr. 1565). Phil-Am worked with Diplomat Tours of the Philippines until April 1973 bringing groups from the United States to see "psychic surgeons" (CX 177).

Tour Promoters

26. A number of individuals with the approval, assistance and financial support of Phil-Am promoted that firm's tours to the Philippines to visit "faith healers" or "psychic healers." These persons had previously acted as tour conductors for Phil-Am's group tours to the Philippines, or had otherwise been to the Philippines, and after returning to the states showed films, slides, and photographs depicting "psychic surgeons," and in some instances placed advertisements in newspapers for Phil-Am "psychic surgery" tours. They engaged in such promotional activities to go again to the Philippines by obtaining free passage as tour conductors on another of Phil-Am's tours (admissions of Phil-Am). In some cases Phil-Am reimbursed promoters for their expenses (Adeline Heredia, Tr. 1545-46; Mapa, Tr. 1476-77, 1481), and substantial numbers of recruits for Phil-Am's tours were obtained by them (Mapa, Tr. 1474-75).

27. One of these promoters, Ms. Blanchard, was reimbursed by Phil-Am for the reprinting of magazine articles, mileage incurred by traveling to various cities for film showings, telephone calls and film (Blanchard, Tr. 1590-92). This reimbursement was part of an \$1,800 payment (Blanchard, Tr. 1599). About \$400 or \$500 in "pocket" money was also paid to Ms. Blanchard by Phil-Am in early 1974 (Tr. 1601-02). In addition to these payments, this promoter was a tour conductor three times for Phil-Am, going free twice and splitting a ticket with another the third time, thus receiving tickets worth approximately

\$2,500 (CX 214; Blanchard, Tr. 1606-07). Total compensation paid by Phil-Am for promotional activities of Ms. Blanchard, including free passage, etc., thus amounted to some thousands of dollars. Emile H. Heredia and Adeline C. Heredia testified that the money paid Ms. Blanchard in reality came from the "Christian Travel Center" in the Philippines (Emile H. Heredia, Tr. 1509-1510; Adeline C. Heredia, Tr. 1545-46; see also Jesus Ma. Jose, Tr. 1706-07). Ms. Blanchard likewise testified that she regarded her payments to have come from "Christian Travel" (Blanchard, Tr. 1590-91). Payments, nevertheless, were made to Ms. Blanchard, and for similar activities to another tour promoter, Ms. Lillian Lux, on Phil-Am checks with no indication that the money came from any source other than Phil-Am (CX 212 and CX 213). The payments were sizeable, the check to Ms. Blanchard being for \$1,800 and the check to Ms. Lux for \$1,500. Adeline C. Heredia knew that both Ms. Blanchard and Ms. Lux were promoting Phil-Am tours to the Philippines (Tr. 1549-1550). The brochure of Phil-Am for the Nov. 3, 1973, tour via Pan-American had Ms. Blanchard's name on its cover, and a similar brochure for the Phil-Am tour via Philippine Airways contained the name of Ms. Lux (CX 106 and CX 107).

In connection with the foregoing claim that "Christian Travel Center" paid Ms. Blanchard and Ms. Lux rather than Phil-Am, it is relevant to note that Phil-Am had an exclusive working arrangement with the Philippine "Christian Travel Center" (CX 106). For a member of the public to be assured of treatment by certain "psychic surgeons" in the "Union Espiritista," arrangements could only be made through Phil-Am (Adeline C. Heredia, Tr. 1565). Christian Travel provided "land" arrangements, including "spiritual healers," in the Philippines, for Phil-Am's tours, and Phil-Am marketed the "package tour" in the United States. In fact, Phil-Am was the "Christian Travel Center's" exclusive United States agent to organize tours to the Philippines to see "spiritual healers" (CX 106). Phil-Am's "Reservation Application" form provided for a release by the tour member of any liability on the part of "Phil-Am Travel Agency, Inc., and Christian Travel Center, Inc.," for treatment by the Philippine "Spiritual Healers" (CX 29). In essence, Phil-Am and "Christian Travel Center" were engaged in a joint venture involving the marketing of tours to the Philippines to visit "psychic surgeons," "spiritual healers," "faith healers," etc. Whether the money paid Ms. Blanchard and Ms. Lux was that of Phil-Am, or whether Phil-Am was reimbursed or transmitted "Christian Travel Center" funds is not significant. Phil-Am knew about, benefited by, and either paid or transmitted funds to Ms. Blanchard and Ms. Lux in payment for or to defray the cost of their promotional activities, and is responsible for representations by them to prospective tour

members that "psychic surgery" was an actual surgical operation, that the body was opened by the "psychic surgeons" and diseased tissue or disease-causing material removed.

28. The films shown to the public by Ms. Blanchard depicted "psychic surgery" operations. Films were shown with considerable frequency, and small advertisements were placed in local papers publicizing them (Blanchard, Tr. 1575-78, 1582). Literature was often distributed at such film showings, such as a reprint of an article entitled "The 'Spiritual Healers' " which appeared in Philippine Panorama on Aug. 26, 1973. (CX 31; Blanchard, Tr. 1584). The article features Alex Orbito, a "psychic surgeon" with whom Phil-Am scheduled appointments for tour members (CX 28, 29, and 107) and describes at length and in great detail the techniques, methodology, and successes of "psychic surgery," with liberal use of medical terms. The flavor of this promotional item is indicated by a picture of a young woman undergoing an "operation" under which the caption states (CX 31B):

OPERATION BY BARE HANDS. Alex Orbito removes the malignant growth from abdomen of Linda Fruechtenicht of Illinois. Center photo shows malignant growth removed from the patient. There is little blood on the skin, but there is not a sign of wound after cleaning with cotton.

AFTER OPERATION. Linda (at right) smiles, obviously feeling very much relieved. She said she felt no pain during the operation.

29. Another article photocopied from Philippine Panorama magazine was distributed at some of Ms. Blanchard's film showings (Blanchard, Tr. 1585). The article is called "The Healers of Pangasinan" and is dated Sept. 30, 1973 (CX 32B and C). Various "psychic surgeons," some of whom are named in Phil-Am travel brochures (see CX 28, 29, 107, and 108), are discussed and pictured. The article includes descriptions of "miracle cures," and descriptions of various procedures in which bodies are entered with bare hands and diseased tissue or disease-causing material removed. Eyeballs are removed from their sockets, repaired and replaced, and the ability of "healers" to cure many diseases including cancer and diabetes are discussed. Other illnesses which are said in the article to be treated successfully by "psychic surgery" include defective kidneys, high blood pressure, heart problems, cataracts, and varicose veins. Ms. Blanchard distributed Phil-Am tour brochures at her film showings (Blanchard, Tr. 1578-79).

30. Another promoter, Mr. Bill Rogers, and his wife were given free passage as tour conductors on one of Phil-Am's tours to the Philippines. Between August 1973 and January 1974 Mr. Rogers was paid several thousand dollars by Phil-Am for expenses incurred in promoting Phil-Am's tours to the Philippines, including the cost of newspaper advertising, stamps and printing (admissions of Phil-Am).

31. Phil-Am authorized Mr. Rogers to use the name "Phil-Am" in

advertisements for Phil-Am's tours to the Philippines, reimbursed him for costs, and CX 37 and 38 are advertisements placed in newspapers by him for meetings held to discuss "psychic surgery" and Phil-Am tours (admissions of Phil-Am, 54, 57, 59 and 60-61). CX 38 is reproduced herein, as follows:

SPIRITUAL PILGRIMAGE
(LEAVES DEC. 6, 1973)
to the Philippines—Visit the Famous
PSYCHIC SURGEONS

15 Day Tour
Round Trip **\$985⁰⁰** Includes Meals, Tours,
Hotel & Guide Service

FLY DIRECT—SEATTLE TO MANILA NORTHWEST ORIENT AIRLINES—747.
NO CHANGE OF PLANES.

FOR RESERVATIONS AND FULL INFO. CALL Bill Rogers, 455-0949—or Write.

PHIL AM TRAVEL AGENCY

P.O. BOX 572, BELLEVUE, WASH.

This advertisement appeared in one of the two major Seattle newspapers, the Seattle Times or Post-Intelligencer (Allen, Tr. 675-680). Mr. Rogers also distributed travel brochures of Phil-Am, under Phil-Am's name, which stated to prospects that "psychic surgery is happening" in the Philippines "because of the intense religious devotion of its people" (CX 39D). The brochures distributed by Mr. Rogers advised prospects to mark all letters, applications, etc., "Attention Bill Rogers" (CX 39C). Mr. Rogers traveled free as a tour conductor to the Philippines with Phil-Am tours on three occasions, and his wife accompanied him, also free, on two of these trips, also as a tour conductor (Rogers, Tr. 1653-54, 1681-83). Total ticket value was nearly \$5,000 (CX 214).

32. In connection with the promotion of Phil-Am tours, Mr. Rogers showed films of "psychic surgery" to the public extensively in the Pacific Northwest. The "psychic surgeons" shown included "healers" mentioned in the testimony of witnesses Donald and Carol Wright, discussed later herein, and which are identified, discussed or quoted in many of the magazine articles which Mr. Rogers and others disseminated publicly (CX 31-36). These "psychic surgeons" included Alex and Marcos Orbito, Romeo Bugarin, Marcello, Tony Agpaoa, Jose Mercado, Juan Blance and others (Rogers, Tr. 1659). Most of these names appear on the brochures and reservation applications used by Phil-Am (CX 27-29, 107, 108, 180). The films show operations for varied illnesses, such as eye ailments, abdominal ailments, paralysis, arthritis, in fact, "just about any type of ailment you can name" (Rogers, Tr. 1654-1660; CX 79).

33. As stated, Mr. Rogers showed his film extensively in the Pacific Northwest. He estimated approximately 75 showings, with about 25 to 40 people attending each showing, although some of his showings were attended by over 100 people. He showed his films to high school classes, at colleges and churches, and before business organizations (Rogers, Tr. 1651-54; Tr. 1682). A typical promotion for "psychic surgery" and Phil-Am tours included the showing of a film which Mr. Rogers or his son took. In the narration of the film, Mr. Rogers sometimes identified the people and usually identified the ailment or illness of that person. What the people observed in these films was some area of the body exposed, the opening thereof with the bare hands, a puddle of blood-like fluid appearing, tissue or material of some sort removed, the wiping up of the liquid revealing no wound, and no sign of a scar. Mr. Rogers answered questions and added his own account of his experiences in the Philippines (Rogers, Tr. 1653). Along with personal reports of what he had seen, Mr. Rogers on occasion referred people with specific questions about specific illnesses to others whom he knew had gone to

Initial Decision

86 F.T.C.

the Philippines and had been "cured" of a particular ailment. If he didn't know firsthand whether "psychic surgeons" could cure, for example, arthritis, he might recommend that the caller telephone a person who had visited "psychic surgeons" for that ailment (Rogers, Tr. 1671-72). At these showings CX 30-36 were distributed. CX 31-36 are reprints of articles about the truth and validity of "psychic surgery," and an informational sheet. Mr. Rogers additionally distributed CX 39, identical to CX 175, the original Phil-Am tour brochure, and CX 40, whenever he talked to groups or showed films to groups who were interested in "psychic surgery." CX 30 is an information sheet for prospective tour members explaining the advantages of journeying to the Philippines in a tour group and receiving group rates. Mr. Rogers signed this document as a representative of Phil-Am, as follows:

When sending in reservation applications, either to the Seattle or Bellevue Office, *Please Mark* all mail and applications *ATTENTION* Bill Rogers. This will assure you of prompt service. Make all checks payable to Phil Am Travel Agency, Inc.

Sincerely,

Bill Rogers - Group Coordinator
Representative of Phil Am Travel
Agency, Inc. and Christian Travel
Center, Inc. - Manila, P. I.

Direct Mail Address:

Bill Rogers
P. O. Box 572
Bellevue, WA 98009
Phone: (206) 455-0949
Seattle Office:
Bill Rogers
c/o Phil Am Travel Agency, Inc. 705 - 2nd Ave., Suite 1602
Seattle, WA 98104
Phone: (206) 623-0670

34. At film showings and meetings, Mr. Rogers distributed the travel brochure "PHIL-AM TRAVEL AGENCY'S SPIRITUALIST PILGRIMAGE TO THE PHILIPPINES" (CX 26), reservation applications for Phil-Am (CX 29), the information sheet mentioned in the preceding finding, and reprints of articles describing the opening of bodies by "spiritual healers," "faith healers," etc., in the Philippines, the removal of tissue or disease-causing material, and miraculous cures achieved (CX 31-36).

35. As previously set out, Mr. Rogers was compensated by Phil-Am for his efforts in recruiting members for Phil-Am's tours to the Philippines. Mr. Rogers had a number of discussions concerning reimbursements with Mr. Jose, manager of the Seattle Phil-Am office (Jose, Tr. 1702). Mr. Rogers told him the amount he needed for his

various expenses. His expenses included office incidentals, advertising, telephone calls, and gasoline used in travel to show films. Like Ms. Blanchard and Ms. Lux, Mr. Rogers was reimbursed by a Phil-Am check in the amount of approximately \$2,800 (Rogers, Tr. 1646-49).

36. In sum, Mr. Rogers actively held himself out to be an agent and representative of Phil-Am, distributed Phil-Am literature, was accepted and ratified as such by Phil-Am, and was compensated by Phil-Am for his efforts. Phil-Am used him to promote Phil-Am tours to the Philippines, and in such promotion represented to the public through talks, meetings, film showings and the distribution of literature that "spiritual healers," "faith healers," "psychic surgeons," etc., in the Philippines performed actual surgical operations by opening and entering the body with their bare hands and removing diseased tissue or disease-causing material, and that serious and even terminal illnesses were often cured thereby.

Representations to the Public by Gem Travel Service

37. Respondent Gem Travel first set up its "psychic surgery" tours early in 1972 in response to a request from Diplomat Tours in Manila. The request came from the manager of Diplomat, one Doris Almeda, to Mr. Cortez, a salesman for Gem and the brother-in-law of Ms. Almeda. Ms. Almeda informed Mr. Cortez that people in the United States would be traveling to the Philippines "seeking the help of the healers," and Diplomat requested that Gem "facilitate the handling of these people" (Cortez, Tr. 1019-1028). Ms. Almeda wanted Gem to organize groups for visits to Rev. Agpaoa, as already noted, a well known "psychic surgeon". Mr. Ron Cacas, an officer of Gem, also discussed initial arrangements with Diplomat (Cortez, Tr. 1029; Cacas, Tr. 1164-65). Under the initial agreement between Gem and Diplomat, Diplomat would set up the land arrangements in the Philippines for the tours for which it would charge Gem a fee, while Gem would arrange air transportation (Cortez, Tr. 1030-32; Cacas, Tr. 1169).

38. Diplomat Tours is a Philippine travel agency formerly managed by Ms. Almeda and currently managed by "psychic surgeon" Rev. Agpaoa's wife. Diplomat Tours has an arrangement with Rev. Agpaoa under which appointments with him are handled exclusively by Diplomat, and Diplomat granted an exclusive agency to Gem for Gem tour members to see Rev. Agpaoa. In effect, this meant the only way for a sick person to have an appointment with Rev. Agpaoa was through Gem (Cortez, Tr. 1032; Cacas, Tr. 1169-1170; Mapa, Tr. 1434-35) and Gem promoted this exclusivity (CX 52, 144). CX 52, printed on a Gem letterhead, states:

SPECIAL ANNOUNCEMENT

For those wishing to visit with Rev. Tony Agpaoa in Baguio City.

Appointment and consultation with Rev. Tony can be confirmed by DIPLOMAT TRAVEL & TOURS of Baguio ONLY if travel arrangements are handled through GEM TRAVEL SERVICE of San Francisco, California.

Due to the number of people coming from Europe, Australia and New Zealand, anyone traveling from the United States, Mexico and South America must make advance reservation. For your reservation please fill out and return the form below.

39. On Feb. 22, 1972, Gem ran its first "psychic surgery" tour to the Philippines. The original tour was set up by Ms. Butterfield, Mr. Cortez, and other employees of Gem in conjunction with Diplomat Tours. Ms. Butterfield was the Gem officer with principal responsibility for origination of the tours, although all Gem officers discussed and agreed to setting up those tours (admission of Gem; Marquez, Tr. 1109-1110; Butterfield, Tr. 1180-81). Mr. Cortez was a Gem employee and part-time commission salesman of Gem for more than six years. Mr. Cortez worked in the office of Gem at a desk provided by Gem. He was the principal salesman and tour organizer for the "psychic surgery" tours. Inquiries regarding the tours were generally referred to Mr. Cortez. Gem authorized Mr. Cortez to speak to or correspond with persons inquiring about "psychic surgery" tours. This responsibility was delegated to him by Mr. Marquez (admission of Gem; Marquez, Tr. 1127). Mr. Cortez received half of Gem's commission on each "psychic surgery" tour package sold (Marquez, Tr. 1132-33).

40. Gem prepared and disseminated travel brochures describing its "SPIRITUALIST TOURS to the PHILIPPINES" (CX 50, 51). The brochures included a specific waiver by the tour member of any responsibility of Gem for treatment by Rev. Agpaoa. Mr. Marquez insisted on the inclusion of such a waiver of liability because he was aware of the risk Gem was running in taking customers to Rev. Agpaoa (Marquez, Tr. 1108, 1111-13). Brochures were sent to persons inquiring about Gem "psychic surgery" tours and about cures by Mr. Agpaoa (admission of Gem; Allen, Tr. 574).

41. Gem's "SPIRITUALIST TOURS to the PHILIPPINES" are set up for people who wish to undergo "psychic surgery." Gem arranges and guarantees meetings between its customers and Rev. Agpaoa during those tours, who is known to employees of Gem and members of the public as a "psychic surgeon" (answer of Gem; admission of Gem; see also CX 147(a)). Gem prepared travel literature which was sent or given to persons interested in Gem's "psychic surgery" tours to the Philippines. An example is CX 53 titled "THE PHILIPPINE CHURCH OF SCIENCE REVELATION, INC." "SPIRITUALISM AND PSYCHIC HEALING" which was used to promote a tour from San Francisco to Baguio City, Philippines, in June 1972. This pamphlet,

which was disseminated to the public by Gem, was most explicit in its representations about "psychic surgery" and Rev. Agpaoa, as follows:

Psychic Surgery

"Not with a knife, but with hands" said Maestro Salvatore D'Aura, and this the fabulou[s] Tony Agpaoa, the Philippines' "Miraculous Spiritual Healer," will demonstrate. Witness the amazing, painless, almost bloodless operation which continues to baffle medical science! [CX 53B.]

This document further announced that Rev. Agpaoa would touch on the finer points of "Spiritual Healing" and the nature of "psychic surgery," and was identified with Mr. Cortez's name, Gem's name, and Gem's address. See also Cortez, Tr. 1099-1100.

42. After returning from a trip to the Philippines in June 1972 during which he filmed Rev. Agpaoa performing "operations" with his bare hands, Mr. Cortez prepared a statement to respond to inquiries from the public coming into Gem's San Francisco and other offices (CX 54A, 153A-B; Cortez, Tr. 1042, 1047). It is reproduced herein and describes "painless surgery with the bare hands performed by Rev. Agpaoa and his assistant, Marcelo." This document was signed by Mr. Cortez and was mailed with a Gem price list (CX 54B) attached and often with a Gem brochure enclosed (Cortez, Tr. 1048-1055).

Initial Decision

86 F.T.C.

Cable "GEMTRAVEL"

GEM TRAVEL SERVICE, INC.

Phone: (415) 397-4790

of

SAN FRANCISCO

703 Market Street -- Central Tower Building
San Francisco, California 94103

ident
LARRY C. MARQUEZ
s President/General Manager
RONALD D. CACAS
etary/Treasurer
MARIAN BUTTERFIELD

I have just returned from a three-weeks's visit with Rev. Tony in Baguio where I personally witnessed, observed and took pictures and color movies of a series of painless surgery with bare hands performed by Rev. Tony and his assistant, Marcelo.

AIRLINES

The group who traveled with me voiced sincere satisfaction in having made this journey. They all showed courage, faith and belief in Tony's works and expressed their appreciation for the opportunity of having seen Tony and being relieved of their malady and sufferings which have lasted for a number of years, for most of them.

STEAMSHIPS

TOURS

Please be guided by the enclosed information sheet for those wishing to visit with Rev. Tony in Baguio City, Philippines.

CRUISES

HOTELS

Yours very truly,

BAGGAGE

Ernie V. Cortez
Ernie V. Cortez

TRAVEL NOW
PAY LATERTRAVEL
INSURANCE

43. At the time Mr. Cortez was mailing out CX 54 in response to inquiries about Rev. Agpaoa, he was preparing to show his film of Rev. Agpaoa in operation (CX 81). He announced two showings on Sept. 1, 1973, at the Olympic Hotel in Seattle by postcard sent to people who were inquiring about tours to the Philippines (CX 144A; admission of Gem; Cortez, Tr. 1033-37). The postcard announced an "ACTION MOVIE 'THE WONDER HEALERS OF THE PHILIPPINES' Rev. ANTONIO AGPAOA and his assistant MARCELO," stated that travel information would be given "after each show," and that appointments with Mr. Agpaoa and Marcello would be "arranged exclusively" by Mr. Cortez of "Gem Travel Service, Inc." (CX 144A). Mr. Cortez narrated the film describing both the travel and the tour accommodations. He described one segment of his movie as being a "hemorrhoid operation" performed by Mr. Agpaoa and he described other "operations." Mr. Cortez also told the people, in response to questions as to how people felt after the operations portrayed in the film, "There was no pain * * * all they felt was pressure in their body" (admission of Gem; Cortez, Tr. 1035). Mr. Cortez also gave out Gem brochures at the film showing (Cortez, Tr. 1035).

44. Mr. Marquez and Ms. Butterfield, the owners and officers of Gem, viewed Mr. Cortez's film in mid-1972 and were aware that Mr. Cortez planned to show it to promote Gem's tours to the Philippines (Gem answers to interrogatories; see also Marian Butterfield, Tr. 1181). In fact, Gem had a showing of "psychic surgery" taken in the Philippines in its office (Butterfield, Tr. 1182). Mr. Cortez discussed the Seattle film showing with both Mr. Marquez and Ms. Butterfield and received their approval for showing it (Cortez, Tr. 1043-44; Butterfield, Tr. 1194-95). Ms. Butterfield stated that she thought the showing was a good idea at the time (Butterfield, Tr. 1195). Gem paid for part or all of the hotel expenses for that showing (admission of Gem; Cortez, Tr. 1043). The film is in the record as CX 81 and depicts "psychic surgery" in the Philippines showing the opening of the human body with the bare hands, removal of tissue or other material, and the closing of the incision without a scar.

45. In addition to the film shown by Mr. Cortez to the Seattle audience, another film similarly depicting "psychic surgery" was shown by a person known as Elaine Shinn (Cortez, Tr. 1037). Ms. Shinn narrated her film, and Mr. Cortez referred most questions as to Rev. Agpaoa's "successes" to Ms. Shinn who answered them as well as questions about her film (Cortez, Tr. 1037-39; admission of Gem). Prior to the Seattle film showing, Elaine Shinn had conveyed her desire to Mr. Cortez to become a tour conductor for Gem (admission of Gem), and had told Mr. Cortez that she had her own films of "psychic surgery"

(Cortez, Tr. 1039). Subsequent to the Seattle Olympic Hotel showing, she did receive a free ticket from Gem for a tour to the Philippines two weeks later, Sept. 15, 1973 (admission of Gem; Cortez, Tr. 1040-41).

46. In the San Francisco area Gem arranged for the non-promotional showing of a film depicting "psychic surgery" to a study group in the Berkeley area. This was done by a person known as Sarah Paukert on the request of individual respondent Marian E. Butterfield (Butterfield, Tr. 1181-83). Ms. Paukert's promotional activities on behalf of "psychic surgery" were described in her own testimony in this proceeding. She first took a Gem tour to see Rev. Agpaoa on Feb. 3, 1973. Shortly after returning from this tour, she told Mr. Cortez of her interest in becoming a tour conductor and at approximately the same time started showing her films (Paukert, Tr. 1275-77). Because she was spending as much as an hour discussing travel agency arrangements at the end of her showings, she requested that Mr. Cortez supply her with Gem brochures, which she told him were for distribution at such showings (Paukert, Tr. 1276, 1284). In December and November 1973, Ms. Paukert traveled to the Philippines free as a tour conductor for Gem (Butterfield, Tr. 1184, 1216; CX 143B). The value of the tickets she received from Gem appears to have been about \$3,000 (Paukert, Tr. 1276; see CX 143B, which shows Ms. Sarah Paukert to have been a Gem tour conductor on two occasions and a "Dr. Norman Paukert" to have accompanied her as a tour conductor on one of these). Gem, that is, Ms. Butterfield and Mr. Cortez (Butterfield, Tr. 1184; Cortez, Tr. 1067), knew the nature of the "psychic surgery" films being shown to the public by Ms. Paukert, i.e., that they purported to show "operations" in which human bodies were opened with the bare hands, diseased tissue removed, etc., provided her with Gem travel brochures to pass out at such showings (Paukert, Tr. 1284), had Ms. Paukert's name printed on such brochures (Butterfield, Tr. 1184), and provided her with free trips to the Philippines as a tour conductor (Butterfield, Tr. 1184; CX 143B). Under the circumstances, respondent Gem must accept responsibility for the representations to the public contained in Ms. Paukert's films.

47. Other persons showed films of "psychic surgery" tours, distributed Gem travel brochures, and received free passage as tour conductors for Gem (CX 143A-D; Butterfield, Tr. 1192-98; Cortez, Tr. 1069-1087; CX 115, 127).

Use of Varying Terms for "Psychic Surgery"

48. In promoting their tours to the public for consultation and treatment by Philippine "healers" respondents used varying terms including "psychic surgery" (CX 26, 37-38, 39D, 41, 53A-B, and 175; Galazan, Tr. 811) "faith healing," "spiritual" or "spirit healing" (CX 2, 7A, 17, 27-29, 31-35, 45, 53D, 107-108, 163, 170, 179B, and 210), "psychic

healing" (CX 9, 10, 14, 16, 41, 192, 193, 197, and 210), and "magnetic healing" (CX 41). All these terms were used by respondents in conjunction with the graphic depiction by films of what appeared to be actual "surgical operations" with the bare hands in the Philippines (CX 79, 80 and 81), by verbal statements at film showings, by travel and promotional literature, by distribution of newspaper and magazine articles, and booklets, and through letters and advertisements, to the same effect. In the context used by respondents all the foregoing terms, together with the films, statements, promotional literature and materials disseminated and employed with those terms, meant and conveyed to the public the impression of "psychic surgery" as that term is used in the complaint. All collectively represented to the public that those who purchased tours to the Philippines would be taken to "healers" who would perform actual "surgical operations" with the bare hands, would open the body, remove diseased tissue or disease-causing material, close the body without a scar, that all would be done in a few minutes without anesthesia, pain or suffering, and that many would be cured thereby of serious or even terminal illnesses.

"Psychic Surgery"

49. "Psychic surgery," that is, the opening of the body with the bare hands, removal of diseased tissue or disease-causing material, closing the opening without a scar, etc., is pure and unmitigated fakery. More bluntly, the "surgical operations" of "psychic surgeons," "psychic healers," "faith healers," "spiritual" or "spirit healers," "magnetic healers," etc., with the bare hands are simply phony.

50. The illusion of opening the human body with the bare hands, and the removal of diseased tissue or material therefrom, is created by a variety of crooked devices, mainly clever sleight-of-hand. The "psychic surgeons," "faith healers," "psychic healers," etc., are skilled sleight-of-hand artists, and additionally employ a variety of tricks, devices and methods of deception, including the use of small animal parts, to convey the deceptive impression that a "surgical operation" is taking place and that material is being removed from the body. As the record discloses, thousands of well-meaning people, the sick and infirm have been gulled, exploited and deceived, sometimes with tragic and heart-rending consequences.

51. Two witnesses who testified in this proceeding, Donald F. and Carol Wright, studied "psychic surgery" in the Philippines, actually became "psychic surgeons," and revealed in detail the complete fakery of that phenomenon. The Wrights had studied ESP in the United States, and were extremely interested in what they had heard about the "psychic surgery" phenomenon in the Philippines, tending initially to give it credence. They journeyed to the Philippines in January 1973,

and returned again in July 1973 with a group of ill people who were seeking help (C. Wright, Tr. 113-16). The "healers" contacted on this visit included Virgilio Gutierrez, Romeo Bugarin, Tony Rumbo, Alex Orbita, and Tony Alcantara. The techniques used by these persons were very similar. In most of the operations, cotton was used to wipe off the area to be operated on. A bowl of water was present. In nearly all the operations blood clots or material appearing to be blood clots were removed from the body, and sometimes a piece of tissue which looked like an organ was removed. The area being operated on was wiped clean and there was no scar. The Wrights saw this procedure performed many times on the people they had brought with them. However, no one was visibly improved by these "operations" (C. Wright, Tr. 119).

52. The Wright's party returned to the United States but the Wrights stayed on, moving out of their hotel and renting a house. Their purpose in staying was to work with the "healers" and to learn the phenomenon of "psychic surgery." They were disappointed that there were no miracle cures of the people they had brought with them, but they did not yet suspect that "psychic surgery" was fakery. They met a "healer" who offered to allow the Wrights to work with him. They assisted him as he treated Filipino patients. The Wrights also had the opportunity to work with one Virgilio Gutierrez at his center. The centers were located in the "healers' " homes or in small houses where they worked "treating" the sick.

53. While working as assistants to a number of different "healers," the Wrights discovered "psychic surgery" did not consist of "surgery" at all, but was being performed by sleight-of-hand. Donald Wright noted objects falling from the "healers' " hands onto the bodies of the patients before the "operations" (D. Wright, Tr. 270), and Carol Wright had the opportunity to examine a "tumor" which had been removed from a patient. As an assistant, one of her jobs was to dispose of the "extracted" material at the end of an operation. Before emptying the bowl, she unwrapped what looked like a tumor. She testified (Tr. 134):

* * * so I took the membrane and pulled it back and found that this was a tumor, a membrane that had been stuffed with cotton and blood clots and it appeared very much like a tumor, but it was not, it was just a flat piece of membrane that had been stuffed with cotton and blood clots to look like a round tumor.

The Wrights separately and together had experiences which led them to the conclusion that "psychic surgery" was performed by sleight-of-hand and that the extracted material had not come from within a human's body.

54. After confronting one of their teacher "psychic surgeons" with what they had observed, the "psychic surgeon" admitted that the "operations" were done by sleight-of-hand. The Wrights were eventual-

ly taught the techniques involved. The Wrights were trusted because they had been working with this particular "psychic surgeon" for a number of months. Carol Wright explained (Tr. 215):

I believe that we showed to them our sincerity in that we were come to stay until we did learn and that we did work with them in their centers * * *. We gave this or impressed them that we gave of our time every day in working with their healing centers from morning until night, and over a long period of time they recognized we were serious of being there to learn that.

55. The Wrights were taught how to shop for animal parts used to make up a "bullet." A bullet is actual animal tissue or a clot of animal blood and cotton which is made to appear like tissue coming from inside the body (C. Wright, Tr. 137-141). The Wrights were taught how to make the bullet, how to wrap it, how to prepare the tissue, how to hide the bullet and then how to transfer it onto the patient. They were taken to an open market where they bought animal tissue. The "healer" showed them which animal parts looked most like human parts and then taught them how to prepare the materials. After that, the Wrights were taught where to hide the prepared bullets, for example, on their persons, inside cigarette packs, in their stockings, in their belts, etc. They were taught the techniques of palming so that no one would see the bullet, planting the bullet on the patient's body, moving the bullet if it were necessary, using continuous kneading action in an indentation on the patient's body (which appears to be manipulation but allows the "psychic surgeon" to open his bullets), the importance of such an indentation on the patient's body, the addition of water obtained from saturated cotton balls often passed to the "healer" by attendants, which mixes with a small bullet of animal blood and is used to make the appearance to the uninitiated of human blood issuing from an "opening" in the body, the spreading of an animal membrane in the "blood" in the indentation in the human body to look like an opening therein, and the bringing "out" of the hidden animal membrane so that it seems that material from the body of the person being operated on is being removed. The Wrights were shown how to end an operation, how to clean up the area being "operated on" and to dispose of all the bullets (C. Wright, Tr. 137-154; D. Wright, 269-71). The Wrights, in sum, learned the techniques used for creating the illusion of an actual operation, and they used all these techniques on people who visited some of the centers where they were working. The Wrights continued to work with many other "healers," and they observed the same techniques that they had learned and could perform themselves. They joined the "Union Espiritista Christiana de Filipinas" (C. Wright, Tr. 192-93) which is an organization to which most Philippine "healers" performing "psychic surgery" belong.

56. The nature of Ms. Carol Wright's testimony can be appreciated from the following (Tr. 137-39):

Q. What did you observe as he demonstrated these techniques?

A. He showed me exactly where he had positioned the bullet, as it was known, on himself and then on the body of the patient before he did the operation.

To go back, if I may, he taught me also how to make a bullet, which is the actual tissue, blood clot and cotton that is used in the operation that is made to appear like material coming from inside the body. He took me to—he showed me how to buy the material, what to look for, what to buy, how to make it, how to wrap it, how to prepare the tissue, then on patients, and I worked on a number of patients, not models or not just to practice on, but they were patients who were ill, doing these types of operations.

Q. Where were the materials for these operations obtained?

A. In an open market.

Q. What kind of materials were obtained?

A. Blood clots, blood, from the blood of a cow, which was congealed, and also material from pigs and from cows. Liver was used. We were shown how to look in the intestines to pick out small glands and cysts that could be used, for example, in an adenoid operation or thyroid operation. We were shown what to look for and how to prepare the material so it would very closely resemble the human body as you would bring out a piece of tissue.

Q. And how were these materials then prepared before the operation?

A. Before the operation they would be prepared, for example, taking a small piece of blood clot, perhaps the size of a marble, and placing it into a square of cotton, a small piece of cotton—they always used Red Cross cotton, for some reason—rolling it up very tight and then placing it into a cigarette pack so it would not be noticeable when it was carried.

Q. How were these items carried to the scene of the operation?

A. Inside these cigarette packs, empty cigarette packs. They were also secreted on the person of the healer, the psychic surgeon, perhaps in his socks. We were shown that if you were to wear socks like a man would wear, to put them inside the elastic at the top. They could be put inside the belt, they could be under the collar, they could be—I observed one of the female psychic surgeons take one from her bra—any place on your body which would be or could be a hiding place.

Q. And, in the operation you were shown, how were the materials which were prepared then used to create the appearance of the operation?

A. Taking one of the bullets, which is the blood clot inside the cotton, it would be palmed and held in such a manner that it would not be seen by the patient or by relatives or whoever was around, have it in here like so, and would be planted on the patient's body somewhere and then, after a moment, it would be brought to the area wherever they were going to do the operation and they would begin kneading and they would also make a pressure indentation into the patient's body if it's on the abdomen. If the person was very, very thin, they would often bring the legs up in order to make it softer so that the hands could go down further. And then, through kneading, through pushing, then adding some water, this blood that is in the cotton would begin to mix with the water and appear red and begin to run all over the body and be kind of messy and dramatic and then, if there was also wrapped inside the bullet a piece of tissue, then, while the psychic surgeon's hands are down in, with the hands folded underneath, then it could be—they would break that open and bring these pieces out bit by bit, always keeping one hand in. This was one thing they would say, if they took both hands out, the opening would close, but there was always one hand down and the fingers would be bent under like so, and this is how I was taught to do this.

57. The Wrights testified that the "operations" which they per-

formed and the thousands of "operations" which they witnessed being performed by some of the most well-known "psychic surgeons" in the Philippines were in truth not real operations, the body of the patient was never opened, the flowing blood-like fluid was not that of the patient, the material removed had never been inside the patient, and there was no scar because there had been no "operation." These "operations" were all performed by sleight-of-hand. All the "healers" they witnessed and the "healers" who had taught them used sleight-of-hand techniques commonly employed by magicians (C. Wright, Tr. 145-46; D. Wright, Tr. 267).

58. The Wrights stayed in the Philippines until April 1974. Toward the end of their stay they tried to expose "psychic surgery" for what it was, fakery (C. Wright, Tr. 180). Their original hopes and expectations of learning a miracle healing method from "psychic" or "spiritual" sources by then had been dashed. When they returned to Iowa, they continued to try to expose "psychic surgery" through appearances on local television (D. Wright, Tr. 336-38).

59. Mr. Wright demonstrated in the hearing room the techniques of "psychic surgery" exactly as he and Carol Wright had been taught by Philippine "psychic surgeons" (see transcript beginning at Tr. 296 for demonstration by D. Wright). The techniques used in Mr. Wright's demonstration were similar to those on the films which have been received in evidence (CX 79, 80 and 81). Carol Wright viewed two of respondents' promotional films, CX 80, which was used by respondents Travel King and Mr. Galazan, and CX 81 used by Gem and Mr. Cortez. Based on her experience and training as a "psychic surgeon" Ms. Wright analyzed the events portrayed. The techniques were the same as she learned, and she detected the sleight-of-hand involved, including that used by Rev. Tony Agpaoa (C. Wright, Tr. 124-25, 169-170).

60. The "healers" or "psychic surgeons" who worked with the Wrights, or whom the Wrights testified they observed as performing sleight-of-hand, include the following: Terte, Virgilio Gutierrez, Jr., Tony Rumbo, Tony Alcantara, Romeo Bugarin, Juanito Flores, Alex Orbito, Tony Santiago, Jose Mercado, Felicia Irtal, Rosita Bascos, Marcello, Rudy and Placido Palitayan (C. Wright, Tr. 137, 148-153; D. Wright, Tr. 286-292). Their testimony discusses a number of variations of "psychic surgery" which "psychic surgeons" used to apply to different ailments and on different parts of the body. A number of these names are the same as those on respondents' Phil-Am and Travel King promotional literature (CX 17 and Galazan, Tr. 834-844; CX 27, 107, and 108). Many of these names also occur in articles written in magazines or newspapers which were reprinted or photocopied and distributed at promotional meetings by tour conductors of various

respondents herein. The Wrights considered these healers to be the "major psychic surgeons" in the Philippines. The number of "psychic surgeons" the Wrights observed at work while living in the Philippines was great. They concluded that the techniques used by the "psychic surgeons" were all essentially similar and all were fake. The techniques of "psychic surgery" originated in a particular locality among a core group of practitioners, and spread as the commercial demand developed, with Mr. Terte and Mr. Agpaoa teaching recruits (C. Wright, Tr. 233; D. Wright, Tr. 288, 477). Donald Wright testified that once he had learned the techniques used by the psychic surgeons, he could detect the use of sleight-of-hand every time (Tr. 403). An additional technique employed by one particular "psychic surgeon" involved the use of a hidden razor blade to make a minute and shallow cut on a patient's body, enhancing the dramatic effect and heightening the illusion of "surgery" (see Wright, Tr. 146-47; Gurtler, Tr. 351-52; Brown, Tr. 2112-13).

61. Another witness who observed "psychic surgery" at close range in the Philippines and who determined it to be pure fakery accomplished by sleight-of-hand combined with clever use of "props," dramatic effects to exploit the gullibility of onlookers and the desire of many to believe, was a professional magician and sleight-of-hand artist, Robert Gurtler (Andre Kole). Mr. Gurtler is a famous magician who has performed throughout the world on television and in films. He has also viewed and evaluated performances of many other magicians in this country and throughout the world. In September of 1973 while performing on stage and over television in Manila, Mr. Gurtler was contacted by Time magazine and was asked to investigate the phenomenon of "psychic surgery" which was beginning to receive wide publicity at that time (Gurtler, Tr. 350). Mr. Gurtler accepted this assignment and viewed at close range the activities of seven psychic surgeons, five of whom are mentioned in the literature of one or another of respondents.

62. One of the "psychic surgeons" used the technique mentioned earlier of a concealed razor blade employed as part of his "operation" (Gurtler, Tr. 351-52; see list of "psychic surgeons" on Phil-Am's travel brochure, CX 27, No. 2 on list). The technique, which creates the illusion that an incision is made when the "healer" points his or a spectator's finger at the skin of the patient, is in fact created by sleight-of-hand in the preliminarily cutting of the skin with the concealed blade. Mr. Gurtler's testimony describing the sleight-of-hand techniques used in "psychic surgery" corroborates the testimony of the Wrights. The "psychic surgeons" were observed by Mr. Gurtler to use what Mr. Gurtler called "loads" or capsules filled with blood and tissue to

simulate "surgical operations" with the bare hands. Mr. Gurtler's expert eyes detected these secreted by the "psychic surgeon" in a variety of places, on the person, in a cigarette pack or case, around the "operating" table, in the cotton swabs, on the person of an assistant, behind a fan, under the pillow, etc. They were used during the "operation" as convenient or required. The "psychic surgeon" would "make a depression" in the body of the patient, would knead it and during such process by sleight-of-hand would obtain a "load" or "bullet," would burst the "load" or "bullet," mixing the concealed blood and animal tissue with water in a piece of cotton offered by an attendant, producing a red blood-like fluid, and creating the illusion that the body had been penetrated (Gurtler, Tr. 353-366).

63. Mr. Gurtler's expert evaluation of the "psychic surgery" he witnessed make it clear why so many people have been fooled. The sleight-of-hand employed by the "psychic surgeons," in Mr. Gurtler's professional opinion, is better than the vast majority of the magicians he had witnessed throughout the world (Gurtler, Tr. 361). No training in science or medicine would ordinarily help a person initially to detect these sleight-of-hand techniques, although Mr. Gurtler believed that an observer could be taught to detect them. The techniques, however, were not new in the world of magic and could be duplicated by a sleight-of-hand expert or professional magician.

64. Another witness, Mr. Larry Allen, who personally observed and studied "psychic surgery," provided additional compelling evidence of its wholly fraudulent nature. This witness, an electronic technician, gave a detailed and credible account of his experience with Rev. Agpaoa, one of the most well-known of the "psychic surgeons," whom he observed closely and filmed while on a tour promoted by respondent Gem in September 1972. Mr. Allen was able to detect the manner in which Rev. Agpaoa's "loads" or "bullets" were brought into the room. He watched one of Rev. Agpaoa's assistants on several occasions enter the operating room quarters carrying two shopping bags, each of which was filled and covered with a towel. During the excitement surrounding an incident where a patient undergoing an "operation" began to hemorrhage, Mr. Allen looked into the shopping bags which he had seen brought in, and one was filled with the capsules or bullets used in the "operations."

65. Mr. Allen viewed numerous "surgical operations" in the hotel in Manila where the Gem tour group stayed. In one "operation" performed by Rev. Agpaoa on a woman's ear he "heard a pop," a squirt of red liquid shot out of Rev. Agpaoa's hand and almost hit the wall, and then Rev. Agpaoa pulled out what Mr. Allen recognized as "a chicken heart, the heart of a small chicken or bird" (Tr. 591). Rev. Agpaoa held

it up to the people and said, "This is causing her ear problem." Mr. Allen also viewed Marcello, Rev. Agpaoa's assistant, and Juan Blance performing "psychic surgery" (Tr. 682-83). He observed both of them using "loads" or "bullets" to perform their operations and, in addition, he saw Mr. Blance use a hidden razor blade in a performance similar to that described by the magician, Mr. Gurtler.

66. During a tour arranged by respondent Gem to see Rev. Agpaoa, a witness in this proceeding, Erna Hansen, saved garments which were stained with blood during "psychic surgery." She brought them back to the United States where they were examined by a criminologist, who was director of the King County (Seattle) Police Department Crime Laboratory. Analysis showed that (Sweeney, Tr. 2155):

* * * the blood supported by the garments was of swine origin or hog blood.

67. A number of expert medical doctors provided evidence of the fakery involved in "psychic surgery." One of them was Dr. Thomas Gail whose practice as an active hospital staff member regularly includes surgery. While a doctor in the United States Navy assigned to the U.S. Embassy in the Philippines, he had occasion to view Rev. Agpaoa performing "psychic surgery" in Quezon City in 1966. Dr. Gail viewed, among others, abdominal "psychic surgery" and concluded that there had been no opening in the body and no actual surgery. He observed that the "blood," based on its color and its clotted appearance, was not fresh human blood. He also described the parts of the abdominal cavity which would be seen in an actual operation but which were not visible during the "psychic surgery." As to the tissues and membranes which appeared, he testified that "none of these structures even resembled those encountered in a surgical operation" (Tr. 533-38). Dr. Gail described a surgical procedure to correct sterility, one of the "operations" performed by Rev. Agpaoa which he witnessed, and testified that Rev. Agpaoa's procedure did not even simulate that operation with any fidelity (Tr. 538-39). The first "psychic surgery" witnessed by Dr. Gail was a nose "operation." In his opinion, based on viewing the tissues and structures, which were completely dissimilar from normal human tissues and structures, and dissimilar from anything he had "ever seen or encountered in surgery," no actual entry of the body occurred and no "surgery" had taken place (Tr. 547).

68. Dr. Gail viewed individual respondent Galazan's film of "psychic surgery" (CX 80) and gave his expert opinion as a surgeon that no surgery was taking place. This opinion was based on the dissimilarity between actual human blood and body tissue, and that which appeared in the film. Dr. Gail further testified that the events he saw portrayed in the film were generally similar to those he had observed in the Philippines (Tr. 545-47).

69. Dr. Gail believed the illusion of an opening in the body was created as follows (Tr. 557):

* * * by sleight of hand, upon thrusting, after he [psychic surgeon] thrust his hand on the abdomen, he squeezed something in his palm and produced the bloody substance, and the bloody substance does not come from the person, and this illusion of the incision is created this way.

Dr. Gail furthermore believed that, if an operation had taken place during the "psychic surgery" he witnessed, based on the lack of sanitary conditions, there was virtually an absolute certainty that serious infection would have occurred (Tr. 540). In addition, in an abdominal operation the hands of the surgeon would normally go far into the abdomen to reach various organs, whereas Rev. Agpaoa penetrated only one or two inches (Tr. 534, 546). In Dr. Gail's expert opinion as a surgeon, the body cannot be entered without breaking the skin or without surgical instruments, nor can an operation be performed without leaving a scar (Tr. 539-540).

70. A medical doctor, Ronald Chard, Jr., an expert in the field of pediatric oncology (tumors in children) and hematology, who worked both as a practicing physician and assistant clinical professor at the University of Washington School of Medicine, testified in this proceeding. He viewed the Galazan film (CX 80), used to promote Travel King tours, immediately prior to testifying. In his opinion, there was "no evidence of any surgical operation in any of the procedures on the film" (Tr. 757). He testified that in nine of the ten procedures, puckering of the skin, such as would occur simply from pushing on the skin, occurred, unlike actual surgery in which the skin flaps open. Furthermore, the tissue supposedly removed was unlike any with which Dr. Chard was familiar (Tr. 758-59). Dr. Chard examined four patients who had been treated by "psychic surgeons." One boy with leukemia, who was under the regular care of Dr. Chard, was treated and supposedly cured of his disease. According to Dr. Chard (Tr. 767):

Upon my examination about ten days after that there was no evidence in the child's skin or anywhere else that anything had been done at all, and X-ray was done of his pelvic area that included this and there were no abnormalities in this area.

Another patient of Dr. Chard, a teen-age girl with cancer in several areas of her body, had "psychic surgery" on her knees, stomach and lung. On her return, Dr. Chard testified (Tr. 770):

The girl did have an examination, in which there was no evidence that any procedures on her skin had been accomplished. Repeated X-rays showed that all lesions were larger without interruption of any of their borders. There were also new lesions in the chest and the leg had progressed.

It was Dr. Chard's medical opinion that the statements appearing in the first paragraph of Travel King's information sheet (CX 7A) were "fraudulent" because in fact the body is not entered in "psychic surgery" (Dr. Chard, Tr. 780).

71. Another medical doctor, Elray G. Burgwald, is a surgeon in practice in the State of Washington. He testified that from October 1966 until January 1970, and from August of 1973 until the present, a person named Phyllis Douglass was a patient under his care. Ms. Douglass had originally been treated for breast cancer in 1966. In 1973, the disease was present in her shoulder and neck. Dr. Burgwald advised Ms. Douglass as to the worthlessness of "psychic surgery" but, despite his advice, she went to the Philippines that month for that purpose (Dr. Burgwald, Tr. 2052-54). On her return, Ms. Douglass was examined by Dr. Burgwald who testified (Tr. 2054):

* * * if anything the mass in her left superclavicular area was slightly large[r], if anything, but overall there had been little change, if any, with an increase in the size of her mass, rather than any loss of size or removal of any tissue that was evident. There was no evidence of any new scars or other signs of surgery procedure.

Ms. Douglass' husband brought back to Seattle a piece of the tissue the "psychic surgeon," Rev. Agpaoa, "removed" from Ms. Douglass (Richard M. Douglass, Tr. 1352). Dr. Burgwald examined the tissue and, in his opinion, "there was no question from even gross examination that this was a specimen of small intestine or small bowel" (Tr. 2056). Dr. Burgwald turned the tissue over to a pathologist, Dr. Arnold D. Hoekzema, for further examination. Dr. Arnold D. Hoekzema analyzed the tissue "removed" from Ms. Douglass by Rev. Agpaoa, and received from Dr. Burgwald, and determined that it was or came from the bowel of a small animal (Dr. Hoekzema, Tr. 2067). CX 57 is a copy of the pathology report. The report states (CX 57):

The specimen consists of two pieces of tissue, one a 15-cm. in length segment of what appears to be small bowel from a non-human source * * *.

Responsibility of Individual Respondents

72. Yuda Galazan, Nyla Ford and Ronald Brown were individually responsible for the promotion of tours to the Philippines so that tour members could undergo "psychic surgery," and each was individually responsible for false, misleading and deceptive written, oral and visual representations to the public, in connection with the sale of tours to the Philippines for "psychic surgery," that "psychic surgery" was an actual surgical operation, that the body was thereby opened with the bare hands, and diseased tissue or disease-causing material removed therefrom. As previously found, Nyla Ford and Ronald Brown were officers, owners, and managers of Travel King, Inc., Mr. Brown becoming sole owner, however, as of Feb. 1, 1974. They formulated, directed and controlled the policies, acts and practices of Travel King, Inc.

73. Yuda Galazan, as previously found, was president and sole owner of Ramble Travel & Tours, Inc., which continued the downtown Seattle business of Travel King, Inc., subsequent to Dec. 7, 1973, using

the trade names Travel King and Travel King & Ramble Tours. From Oct. 31, 1973, to Dec. 7, 1973, Mr. Galazan managed the downtown Seattle office of Travel King, Inc. Mr. Galazan formulated, directed and controlled the policies, acts and practices of Ramble Travel & Tours, Inc., from the date of its incorporation, and participated in the formulation, direction and control of the policies, acts and practices of the Travel King, Inc., office in downtown Seattle.

74. Mr. Galazan promoted tours to the Philippines for "psychic surgery" by a variety of methods, including newspaper advertising, public meetings with film showings, and tour literature. CX 9, 10, 14-16, 192 and 193 are newspaper advertisements from the major Seattle newspapers, the Seattle Times and Post-Intelligencer, placed by Mr. Galazan between August and December 1973.

CX 192 reads "PHILIPPINE PSYCHIC HEALING, Appointment and Tour Arranged, Films Available for Showing, For More Information Call 622-5424." This ad appeared in the Seattle Post-Intelligencer, Sept. 26, 1973. The telephone number was identified as Mr. Galazan's, and Mr. Galazan placed and paid for that advertisement (Galazan, Tr. 822-23).

CX 193 reads "NOTICE TO THE PUBLIC, Information for PSYCHIC HEALING in the Philippines, Film to be Shown Sunday, Sept. 30, 1 P.M., Holiday Inn—Bellevue," again listing Mr. Galazan's number. This ad appeared in the Seattle Post-Intelligencer on Sept. 29, 1973, and was placed and paid for by Mr. Galazan (Tr. 821-22).

CX 9 is a newspaper advertisement identical to CX 192, except that it shows the telephone number of the Travel King, Inc., downtown Seattle office rather than Mr. Galazan's number. This ad appeared in the Seattle Post-Intelligencer on Oct. 18, 1973 (Galazan, Tr. 854-56).

CX 10 is a newspaper advertisement which reads "NOTICE TO PUBLIC, Due to Overwhelming Requests There will be Another Showing of Astounding Films on PHILIPPINE PSYCHIC HEALING, Sunday, Oct. 7, 1 p.m., Holiday Inn, Bellevue, Wn., Free to Public." This ad appeared on Oct. 6, 1973, in the Seattle Post-Intelligencer. Mr. Galazan acknowledged that he placed this advertisement (Galazan, Tr. 854-57).

CX 15 is an advertisement which appeared in the Seattle Times on Nov. 15, 1973. It is entitled "VISIT PHILIPPINE FAMOUS PSYCHIC HEALERS" and announces a film showing in the Spanish Ballroom of the Olympic Hotel on Saturday, Nov. 17, 1973, at 1:00 P.M., and also announces a tour departure on Nov. 29, 1973. The advertiser is identified as "TRAVEL KING TRAVEL AGENCY—SEATTLE." CX 14 is an advertisement using practically the same language but a different format. Mr. Galazan placed and paid for these two advertise-

ments (Galazan, Tr. 888-890A; Admission of Mr. Galazan; Galazan, Tr. 795).

CX 16 announces another film showing at the Holiday Inn in Bellevue, Wash., Sunday, Nov. 4, at 1:00 P.M. The downtown Seattle phone number of Travel King, Inc., is given in this advertisement. The exhibit is an advertising specimen for the Seattle Times dated Nov. 2, 1973. Mr. Galazan placed this advertisement before Oct. 31, 1973 (Galazan, Tr. 888-890A; downtown office phone number appears in respondent Ronald Brown's supplemental answers to interrogatories, Exhibit B).

75. As the foregoing findings disclose, Travel King and Mr. Galazan sponsored public meetings at which "psychic surgery" was discussed and films of "psychic surgery," like CX 80, were shown. These meetings have already been discussed in some detail. Mr. Galazan was present at all these showings and promoted tours to the Philippines for "psychic surgery" at them. The showings were before audiences of hundreds of people (Galazan, Tr. 890A-B), and "psychic surgery" was represented to the public as an actual surgical operation by which the body was opened with the bare hands, diseased tissue or disease-causing material removed, etc.

76. The TV advertising of Travel King has been the subject of prior findings. CX 210 is the script of this commercial which was prepared on the basis of instructions given to the manager of Channel 13 by Mr. Galazan (Galazan, Tr. 851-52).

77. Mr. Muchlinski and others were paid for their expenses in promoting Travel King "psychic surgery" tours. Mr. Galazan was a moving force in arranging to subsidize the expenses of Mr. Muchlinski in return for the promotion and recommendation by him of "psychic surgery" and Travel King tours (Galazan, Tr. 864-65). Mr. Galazan, in fact, continues to promote "psychic surgery" and tours to the Philippines (Galazan, Tr. 804, 815, 820, 862, 891-94, 925; Ford, Tr. 1821-22). Indeed, in a newspaper advertisement placed several months after a Federal court injunction was entered in this matter, the heading is used "TRAVEL KING AND RAMBLE TOURS AGENCY Continues Their Famous TOURS TO THE PHILIPPINES" (CX 19; Galazan, Tr. 896-97). Mr. Galazan placed this advertisement. Under the circumstances, this advertisement implies that a tour for "psychic surgery" is again being made available to the public, notwithstanding the injunction. This is especially so in view of Travel King's widely publicized film showings in the fall of 1973. Many of the people who went on the tour announced by this advertisement were sick and as a part of their tour, Mr. Galazan arranged visits with the "psychic surgeons" (Galazan, Tr. 895-900). During hearings in this very

proceeding, Mr. Galazan was involved in sending people to Portland, Oreg., for "psychic healing" (Galazan, Tr. 917-920, 958).

78. Ms. Ford, as earlier stated, fully participated in the formulation, direction and control of the policies, acts and practices of both Travel King, Inc., and Ramble Travel and Tours, Inc. She was instrumental in obtaining and operating the downtown Seattle office of Travel King, Inc., during 1973, and actively promoted tours to the Philippines for "psychic surgery." After Mr. Galazan and later Ramble Travel & Tours, Inc. took over operation of the downtown Seattle office, Ms. Ford continued working as a travel agent receiving a salary from Mr. Galazan. This employment was terminated in February 1974. One of the terms of the sale of the downtown office to Mr. Galazan was a provision for monthly payments or royalties to Ms. Ford based on the continuation of the "psychic surgery" tours (CX 1C; Ford, Tr. 1786-1790, 1796-97, 1838, 1848; Hasson, Tr. 1898; Galazan affidavit; Brown interrogatories; admissions of Ms. Ford).

79. Ms. Ford observed "psychic surgery" in the Philippines prior to promoting tours in the Seattle area. On her return from the Philippines, she obtained respondent Ronald Brown's concurrence in the promotion of tours for "psychic surgery" by Travel King, Inc., and prepared a tour program. A travel brochure was written and submitted to Northwest Airlines (Ford, Tr. 1814-1823; Hasson, Tr. 1900; Brown, Tr. 1861-63; Galazan, Tr. 807, 817, 960; Brown interrogatories; admissions of Ms. Ford). As noted earlier, CX 7A-B "QUESTIONS YOU MAY HAVE" was prepared by Ms. Ford for use in selling tours to the Philippines for "psychic surgery," and represents to the public that "there are men in the Philippines who have (or claim to have) powers to heal and/or operate on persons without instruments of any kind" (Ford, Tr. 1830-31). Ms. Ford was present with Mr. Galazan at film showings sponsored by Travel King showing "psychic surgery," and spoke at one of these meetings describing Travel King's travel brochure (Ford, Tr. 1824-1832).

80. Individual respondent Ronald Brown, although half-owner and later sole owner of Travel King and vice-president of that corporate respondent, was far less involved in the promotion of tours to the Philippines for "psychic surgery," and the misrepresentations connected therewith, than Mr. Galazan or Ms. Ford. Nevertheless, he did participate. He paid half the cost of television commercials for Travel King broadcast in September 1973 advertising "MIRACULOUS PHILIPPINE FAITH HEALERS," but disclaiming any responsibility for "surgery" by them (CX 210). Mr. Brown was well aware of the promotional activities for "psychic surgery" being conducted by Mr. Galazan and Ms. Ford, as already indicated, and the misrepresentations

being made (Galazan, Tr. 817, 960; Ford, Tr. 1819-1820; Brown, Tr. 1861-63).

81. Adeline C. Heredia and Emile H. Heredia were likewise individually responsible for the promotion of tours to the Philippines so that tour members could undergo "psychic surgery," and each was individually responsible for false, misleading and deceptive written, oral and visual representations to the public that "psychic surgery" was an actual surgical operation, that the body was thereby opened with the bare hands, and diseased tissue or disease-causing material removed therefrom. Mr. Mapa, the sales and marketing manager for Phil-Am, began the development of "psychic surgery" tours to the Philippines on behalf of that travel agency after encountering a tour group arranged by respondent Gem (Mapa, Tr. 1420-22). Thereafter he advised Mr. Heredia, co-owner of Phil-Am, of the potential of such tours and with his consent began planning a tour to visit Rev. Agpaoa, the best known "psychic surgeon" at that time (Mapa, Tr. 1420-26, 1428-29). Mr. Heredia had seen "psychic surgery" operations in the Philippines, was aware that Rev. Agpaoa, one of the most famous of the "psychic surgeons," had been indicted for fraud and had fled the United States, and yet, as owner and manager of Phil-Am, permitted Phil-Am to promote "psychic surgery" tours to the Philippines as described in earlier findings (Emile Heredia, Tr. 1498-99, 1500). Likewise, Adeline C. Heredia exercised the general executive responsibilities of president of Phil-Am. She had a general understanding of "psychic surgery" and approved the brochure publicizing Phil-Am's tour with Philippine Airlines which stated "psychic surgery is happening in the Philippines" (Adeline C. Heredia, Tr. 1534-1542; CX 175). She looked upon "psychic surgery" tours to the Philippines as "another market" for Phil-Am, and approved payments to former Phil-Am tour conductors for the promotion of "psychic surgery" by film showings and other means (Adeline C. Heredia, Tr. 1545-1550).

82. Individual respondents Laurence C. Marquez and Marian E. Butterfield jointly owned and controlled corporate respondent Gem. They knew of, participated in, and were responsible for, the activities of Gem in promoting "psychic surgery" tours to the Philippines so that tour members could undergo "psychic surgery," and each was individually responsible for false, misleading and deceptive, written, oral and visual representations to the public that "psychic surgery" was an actual surgical operation, that the body was thereby opened with the bare hands, and diseased tissue or disease-causing material removed therefrom. Both Mr. Marquez and Ms. Butterfield were fully cognizant of the promotional activities of Gem employees for "psychic surgery." Indeed, both had seen "psychic surgery" films and did not believe that

the body was actually opened with the bare hands, and diseased tissue or disease-causing material removed (Marquez, Tr. 1108-09, 1123; Cortez, Tr. 1148; Butterfield, Tr. 1205).

Respondents Had No Reasonable Basis for Representing "Psychic Surgery" to Be an Actual Surgical Operation, Etc.

83. It has been found that "psychic surgery" is pure fakery. The body is not opened, no "surgery" is performed with the bare hands or with anything else, and nothing is removed from the body. The entire "operation" is an egregious fraud perpetrated by sleight-of-hand and similar tricks and devices. The fact that an individual respondent in this matter may have been taken in by the tricks of the "psychic surgeons," if that is true, does not render the deception perpetrated on the public by the promotion and sale of tours to undergo "psychic surgery" any the less real. Knowledge or intent is not a requisite for finding that respondents engaged in false, misleading, deceptive and unfair acts and practices, and made material misrepresentations to the public in promoting tours to the Philippines for "psychic surgery."

84. In any event, in view of the absolutely incredible nature of "psychic surgery" respondents were under a duty to make a thorough inquiry before making representations to the public in promoting tours to the Philippines that actual surgery would be performed, that the body would be opened with the bare hands, etc. Respondents had no reasonable basis to represent, or to allow representations to be made on their behalf, that "psychic surgeons" opened the body with their bare hands, removed diseased tissue, etc. Indeed, apart from the incredible nature of "psychic surgery," there is evidence in the record of the wide dissemination of information, when respondents were promoting their tours, that fraud was involved in "psychic surgery." One of the more famous "psychic surgeons," Rev. Agpaoa, was indicted in 1968 for fraud in the United States involving "psychic surgery," forfeited bail and fled the country (CX 59A-C, CX 60). This received extensive publicity (see Adeline C. Heredia, Tr. 1500). Leading metropolitan newspapers in both Seattle and San Francisco carried prominent articles questioning "psychic surgery" (see articles in Seattle Times, CX 72 through CX 74, CX 76-78; Tr. 979-980; the Seattle Post-Intelligencer, CX 96, the San Francisco Chronicle, CX 147 and 148). In the Seattle area, one of the witnesses in this proceeding who saw "psychic surgery" in the Philippines and detected it as fakery, appeared on at least three occasions on Channel 7 disclosing the fraud involved (Allen, Tr. 627, 681-82). And in the Port Angeles, Wash., Chronicle as early as Oct. 25,

1972, articles appeared revealing the fakery in "psychic surgery" (CX 154).³

85. The publicity relating to "psychic surgery" described in the foregoing finding was very explicit. The Port Angeles Chronicle, for example, in October 1972 carried an article headed "Films of Phony Operations Will Be Shown." The Port Angeles Chronicle went on to state (CX 154):

* * * The techniques used by Agpaoa can be clearly seen. They include use of animal parts and tissue as well as dehydrated blood capsules. At first the healer and his assistants welcomed the filmmakers, but when they realized how powerful the zoom lens on the camera was they stopped the cameras and wouldn't allow any more filming * * *"

The Seattle Times in December 1973 reported (CX 74):

Agpaoa, a self-styled leader of the healers, jumped bail in Detroit five years ago after a federal grand jury charged he had defrauded ailing Detroit residents of thousands of dollars by enticing them to fly to Manila for "cures."

The "psychic surgeries" he and other healers supposedly perform with their bare hands cause no pain and leave no scar. Skeptics say this is because the healers actually do not open the body.

Several newspapers and persons who have witnessed the "surgeries" have reported the healers conceal animal organs and blood capsules in their hands, then palm the matter atop the body to give the appearance of an opening in the flesh.

The Philippine consulate was reported to have warned ailing persons "not to expect miracles" and that Rev. Agpaoa had been "denounced by the Philippine Medical Association for his questionable activities and faces possible criminal prosecution" (CX 76). Another article appearing in the Seattle Times in November 1973 contained the statement (CX 78):

A nonbeliever is Alejandro Roces, a writer and secretary of education a decade ago in the cabinet of former President Diosdado Macapagal.

On a recent occasion, he seized a pan of water containing flesh which a healer supposedly had just extracted from a patient.

Roces said he took it to a laboratory for analysis. "It was chicken intestine," he said.

The article also contained a large picture of respondent Galazan. An article in the San Francisco Chronicle in June 1973 began with a statement that "Gem Travel Service, Inc." was marketing a "nifty" tour package "complete with two weeks' worth of visits to a psychic healer" (CX 147A; see also Cortez, Tr. 1025-26). The article featured " 'Dr. Tony' Agpaoa" and contained a picture with the caption "Films show 'Dr. Tony' operating with his bare hands." The article also noted that films were circulating in the "Bay Area," and reported that:

Agpaoa made the mistake a month later of visiting this country and was arrested, tried, and fined for fraud and practicing medicine without a license. He's had his problems with the authorities back home, too, but continues in business.

³ These newspaper articles were not admitted for the truth of any factual information contained in them. They were received as relevant and material to the allegation in Paragraph Six of the complaint that respondents lacked a "reasonable basis for representations leading members of the general public to believe that the 'psychic surgery' performed in the Philippines is an actual surgical operation * * *." (Tr. 979-980).

A companion article on June 26, 1973, contained additional descriptive matter on "psychic surgery," endorsements of those who believed in it, and quotations from one "Dr. Francis Rigney, an assistant clinical professor of psychiatry at the University of California Medical Center" (CX 148A):

Any decent magician could do it, and few people could spot the trickery * * *

The American Cancer Society was quoted as follows (CX 148B):

The cancer society's report also said tests have found the blood isn't always human blood—sometimes it is from animals, and sometimes ont [sic] blood at all—and the removed tissues are usually animal guts.

A witness in this proceeding, Larry Allen, mentioned earlier, after detecting the fraudulent character of "psychic surgery" on a Gem tour, returned to Seattle and in addition to appearing over television to expose the fraud, wrote a letter which the Seattle Post-Intelligencer published on Nov. 17, 1973, which stated (CX 96):

* * * The healing turned out to be a common fraud, performed by sleight-of-hand with animal blood and innards * * *

86. Publicity calling "psychic surgery" into question on the ground of fraud was proven by complaint counsel to have come to the attention of representatives of all corporate respondents. The article in the San Francisco Chronicle (CX 147A-B) published June 25, 1973, was seen by respondent Adeline C. Heredia (Tr. 1539), and both Ms. Heredia and Emile H. Heredia were long aware that Rev. Agpaoa had been indicted in the United States for fraud in connection with "psychic surgery" (Emile H. Heredia, Tr. 1500; Adeline C. Heredia, Tr. 1537). Laurence C. Marquez and Marian E. Butterfield of Phil-Am were also proven to have seen the San Francisco Chronicle article (CX 147A-B) see Tr. 1123 and Tr. 1205. Mr. Cortez, an employee of Gem, who particularly promoted that travel agency's "psychic surgery" tours, was also familiar with the San Francisco Chronicle articles and the indictment of Rev. Agpaoa (Cortez, Tr. 1024-27). Likewise, respondent Galazan had seen articles in the Seattle Times including the announcement, quoted earlier, from the Philippine consulate (CX 76). Mr. Galazan acknowledged seeing another article published Nov. 20, 1973, which contained his picture as well as the statement, also quoted earlier, of "Alejandro Roces" that he found the material allegedly removed from a patient by a "psychic surgeon" to have been "chicken intestine" (CX 78) see Galazan, Tr. 982-83.

Public Interest

Volume of Business

87. Substantial numbers of people have purchased package tours to the Philippines from and through respondents, paying substantial sums of money therefore. The cost of the tour offered by Travel King, Inc. & Ramble Tours from the West Coast was either \$1,132 per person or

\$1,186 per person, depending on the season (CX 2). Phil-Am's tour cost \$985 under the group plan, and \$1,200 under the independent plan (CX 26). The Gem tour was \$932 under the group plan, \$1,007 under the regular plan, and \$1,116 under the independent plan (CX 50). Travel King, Inc. & Ramble Tours appear to have sold at least 200 tours (see Galazan, Tr. 804, 815, 820, 862, 891-92). Phil-Am has marketed over 814 tours (CX 214; Tr. 1570), and Gem about 1042 (CX 143; Tr. 1014). All in all, about \$2,000,000 has been spent by the public on the "psychic surgery" tours of respondents to the Philippines. Further, insofar as travel to the Philippines to obtain "psychic surgery" is concerned the foregoing seems to be only the "tip of the iceberg." Many thousands of ill persons from all over the world seem to have made the trip, drawn by the desperate but futile hope that by some magic their bodies will be opened by Philippine "healers," and the causes of their diseases removed.

Injury to the Public

88. The representation that "psychic surgeons," "psychic healers," "faith healers," or "spiritual" or "spirit healers" have the ability to open the body with their bare hands, to remove diseased tissue or disease-causing material, to close the body and leave no scar, all without pain or anesthesia, has the capacity to cause the gravest and most serious, indeed, incalculable injury to individuals and to the public generally. Not only do such representations have the tendency and capacity to cause seriously ill persons to travel long distances at great expense, and to waste their time, money, and energy in the false belief that they will undergo an actual surgical operation, but such representations have the tendency and capacity to worsen the condition of the sick, and even to cause death, through interruption of normal medical care.

89. The foregoing are not purely theoretical possibilities. Complaint counsel produced evidence establishing the reality of such effects.

The case of Mr. Hansen

Mr. Hansen, suffering from congestive heart failure and a non-reparable hernia, was taken by his wife, through a Gem tour, to the Philippines to obtain "psychic surgery" from Rev. Agpaoa. Mr. Hansen was desperate to have his hernia repaired. Mr. and Mrs. Hansen had seen "psychic surgery" films, and decided to go to the Philippines to see Rev. Agpaoa (Mrs. Hansen, Tr. 2072-73). Mr. Hansen started the trip comfortably, although in a wheelchair. By the time he had traveled from Seattle to San Francisco, transferred aircraft and flown to Hawaii, he "had a spell." Mrs. Hansen, a registered nurse, had medications with her and there was a doctor on the plane. Mr. Hansen was given oxygen and was eventually able to sleep (Mrs. Hansen, Tr. 2073). After arriving in the Philippines, Rev. Agpaoa "operated" on Mr.

Hansen. According to Mrs. Hansen, Rev. Agpaoa removed "a piece of tissue that was about an inch wide and six inches long" from her husband. This amazed her "because you know when you are being operated on for a rupture, you don't have to pull out anything. You repair" (Mrs. Hansen, Tr. 2077). On the return trip, just as they arrived home, Mr. Hansen came down with pneumonia, and had to be hospitalized. Mr. Hansen spent eight days in the hospital with pneumonia and died at home of congestive heart failure on the day he was released (Mrs. Hansen, Tr. 2084-86). Persons with congestive heart trouble are susceptible to pneumonia, which is hard on their hearts (Mrs. Hansen, Tr. 2087-88).

The case of Mrs. Douglass

Mrs. Douglass suffered from inoperable cancer in her neck and had a short life expectancy. Her husband heard about, and became interested in, "psychic surgery" as offering a possible cure. Mr. Douglass saw an advertisement for a Travel King promotion at the Holiday Inn, Bellevue, Wash., which included a film showing. He and his wife attended. They watched the film and listened to testimonials (Douglass, Tr. 1344). As a result they purchased tickets, although from Gem, and both journeyed to the Philippines for "psychic surgery" from Rev. Agpaoa. Rev. Agpaoa "operated" on Mrs. Douglass, and pulled some tissue from the area of her neck. Mr. Douglass described Agpaoa's hands moving back and forth, moving cotton around on Mrs. Douglass' body, and seeing blood spurt after a few moments. He described blood clots on the skin's surface and the removal of what Rev. Agpaoa announced was "the tumor" (Douglass, Tr. 1351). As described in earlier findings, Mr. Douglass took a piece of the tissue Rev. Agpaoa had stated was the tumor he removed from Mrs. Douglass' neck. When they returned home the tissue was analyzed and was found to be of animal origin (Dr. Hoekzema, Tr. 2067). The report caused Mrs. Douglass to cry (Douglass, Tr. 1367). Mrs. Douglass did not improve. She received no benefit from her visit to the "psychic surgeon." She returned bitterly disappointed and physically weakened. The trip to the Philippines cost the Douglasses over \$2,000 and they also left Tony Agpaoa a \$100 donation (Douglass, Tr. 1367-68). The hot and humid climate and the disappointment of no improvement for his wife made Mr. Douglass describe his trip to the Philippines as "miserable" (Douglass, Tr. 1373).

The case of Mrs. Brown

Wallace Brown testified that his wife suffered a stroke in July 1972 which left her almost totally paralyzed. Over the next year, Mrs. Brown received various types of therapy, including physical, occupational, and speech therapy, but was able to improve her condition only slightly. She

was confined to a wheelchair, had difficulty speaking, and had double vision. Mr. Brown went to an advertised Travel King film showing on Sept. 30, 1973 (see CX 193). At the showing, he saw films of "psychic surgery" operations. He felt that his wife was at a point where no more improvement would occur and that he would have to accept things as they were. The films of "psychic surgery," however, offered him a hope of improvement for her that was not available anywhere else (Brown, Tr. 2093-94). Mr. Brown was very impressed with what the film showed and, coupled with the testimonials offered at the film showing, was very anxious to find out more about "psychic surgery." As a result, Mr. Brown took his wife and a woman to assist her to the Philippines in October 1973. In a two-week stay, Mrs. Brown was "treated" by many "healers," including Alex and Marcos Orbito, Tony Agpaoa, and Juan Blance. Mrs. Brown had many "operations" by these "healers," respondent Yuda Galazan making all the arrangements (Brown, Tr. 2111), but each day Mr. Brown noticed that there was no improvement. He also noticed that there was no improvement in the other members who accompanied him on this Travel King tour. Upon returning to the United States, there was still no improvement in his wife's condition. She had in fact lost ground in her ability to feed herself, which she was able to do before the trip but, because she did not continue her therapy, she did not have the ability upon her return. Mrs. Brown found the loss of hope very hard to take. The trip cost between \$3,000 and \$4,000 (Brown, Tr. 2115-2117).

The case of William Chambers

Mr. William Chambers was afflicted with amyotrophic lateral sclerosis, also known as Lou Gehrig's disease. His physician, Dr. Otto Trott, estimated that he had about three years left to live (Dr. Trott, Tr. 1964). Mr. Chambers, his wife and mother-in-law attended a film showing of psychic surgery conducted by Ms. Blanchard, and later a showing at which Mr. Rogers was present (Mrs. Chambers, Tr. 2157-58; Mrs. Stolz, Tr. 1942). Both Ms. Blanchard and Mr. Rogers, as described in prior findings, received payment for expenses from Phil-Am for their promotional activities for "psychic surgery" tours to the Philippines. After the showing at which Mr. Rogers was present, Mr. Rogers sent Mr. and Mrs. Chambers Phil-Am travel literature, including "PHIL-AM, TRAVEL AGENCY'S SPIRITUALIST PILGRIMAGE TO THE PHILIPPINES" (CX 39). This brochure contained the statement "the phenomenon of psychic surgery is happening in the Philippines," as previously described. Mr. Chambers determined to journey to the Philippines to obtain "psychic surgery." Mrs. Stolz, his mother-in-law, accompanied him. In November 1973 they both traveled to the Philippines on one of Phil-Am's "psychic surgery" tours. Mr.

Chambers had much difficulty walking during the trip, especially on one occasion when he had to carry baggage a long distance over concrete at the airport (Mrs. Stolz, Tr. 1943). Once in the Philippines, Mr. Chambers' treatment consisted of "psychic surgery" with frequent, intensive massage of the legs. Mrs. Stolz testified that after these treatments, Mr. Chambers was in great discomfort with swollen and weakened legs (Mrs. Stolz, Tr. 1944-49). When Mr. Chambers returned, his wife observed that his condition was weaker, and several days later he entered the hospital with blood clots in the lungs for which he was placed on anticoagulant medication (Mrs. Chambers, Tr. 2159-2160). It was the opinion of his physician, Dr. Trott, that these emboli were caused by thrombosis of the legs resulting from the trip to the Philippines. The factors of a long flight, sitting upright in an airplane seat, and the frequent intensive massage connected with the "psychic surgery" combined to form blood clots in his legs which were carried to his lungs. In early April of 1974, Mr. Chambers had a fall at home, striking his head and suffering a subdural hematoma, a bleeding between the skull and the brain. Mr. Chambers recovered from this occurrence, but had to be taken off the anticoagulants upon which he had become dependent. Shortly thereafter, he suffered another pulmonary embolism, which resulted in his sudden death on the day he was scheduled to leave the hospital. Dr. Trott concluded that the Philippine "psychic surgery" tour resulted in Mr. Chambers' death when he was still expected to have approximately two years to live. Dr. Trott testified that pulmonary embolism is not a normal complication of amyotrophic lateral sclerosis and explained that blood clots could easily form in Mr. Chambers' weakened legs under the kind of massage he received in the Philippines. See Dr. Trott, Tr. 1968-2047. Mr. Chambers spent about \$2,000 and Mrs. Stolz about \$1,500 on the trip to the Philippines, including the tour price paid to Phil-Am, about \$400 in donations to "psychic surgeons" and incidental expenses. Dr. Trott estimated that medical expenses incurred by Mr. Chambers as a result of his travel to the Philippines were about \$3,300. In addition, because of his sudden death, Mr. Chambers was unable to obtain his normal pension from which his widow would have received benefits after he died (Mrs. Chambers, Tr. 2160-2186).

CONCLUSIONS

1. The Federal Trade Commission has jurisdiction over the corporate and individual respondents, and over the acts and practices which are the subject of this proceeding.
2. Corporate and individual respondents promoted and were responsible for the promotion of tours to the Philippines so that tour

members could undergo "psychic surgery," "psychic healing," "faith healing," or "spiritual" or "spirit healing."

3. In the course of promoting tours to the Philippines, corporate and individual respondents made representations to the public which had the tendency and capacity to cause members of the public to believe that the "psychic surgery," "psychic healing," "faith healing," or "spiritual" or "spirit healing," which those who purchased tours from respondents would undergo in the Philippines, consisted of an actual surgical operation, that the body was opened with the bare hands, and that diseased tissue or disease-causing material was thereby removed.

4. Such representations were false and fraudulent, unfair, misleading and deceptive.

5. The "psychic surgery," "psychic healing," "faith healing," or "spiritual" or "spirit healing," performed in the Philippines on persons purchasing tours promoted by respondents did not consist of an actual surgical operation, the body was not opened with the bare hands, or with anything else, and diseased tissue or disease-causing material was not removed.

6. The "psychic surgery," "psychic healing," "faith healing," or "spiritual" or "spirit healing," to undergo which respondents marketed tours to members of the public, is pure fakery and a fraud accomplished by the deception and trickery of the "psychic surgeons," "psychic healers," "faith healers," or "spiritual" or "spirit healers" through the use of sleight-of-hand, tricks and devices, including the employment of animal parts, tissue and blood, all used to defraud and deceive trusting persons into the false and mistaken belief that human bodies have been opened with the bare hands, diseased material or disease-causing material removed, and the incision closed, all without pain or suffering.

7. The representations of corporate and individual respondents herein, and for which they were responsible, in the promotion of tours to the Philippines so that tour members could undergo "psychic surgery," "psychic healing," "faith healing," and "spiritual" or "spirit healing," had the tendency and capacity to inflict great injury and suffering on persons afflicted with serious, incurable or terminal illnesses and diseases, to prey upon and to exploit them, and to cause them, and in some cases their spouses, children or relatives, to undertake long journeys at great cost, hardship and inconvenience, and to forego medical treatment with the potential result of worsening their condition and hastening or causing their death.

8. There is great and abiding public interest in this proceeding.

9. The acts and practices of corporate and individual respondents disclosed by the record are to the prejudice and injury of the public, and constitute unfair methods of competition and unfair and deceptive

acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

REMEDY

All corporate respondents disseminated false, misleading and deceptive representations concerning the nature of the "psychic surgery," "psychic healing," "faith healing," or "spiritual" or "spirit healing," which those who purchased tours to the Philippines from them would experience. The individual respondents herein controlled the policies, acts and practices of the closely-held corporate respondents, and are responsible for the activities of the businesses they controlled and the employees thereof. *Standard Educators, Inc.*, 79 F.T.C. 858, 894-99, *aff'd Standard Educators, Inc. v. Federal Trade Commission*, 475 F.2d 401, 402-03 (D.C. Cir. 1973); *Federal Trade Commission v. Standard Education Society*, 302 U.S. 112 (1937); *Pati-Port, Inc. v. Federal Trade Commission*, 313 F.2d 103 (4th Cir. 1963); *Standard Distributors, Inc. v. Federal Trade Commission*, 211 F.2d 7, 15 (2nd Cir. 1954); *Fred Meyer, Inc. v. Federal Trade Commission*, 359 F.2d 351 (9th Cir. 1966). All individual respondents, in fact, knew of, and authorized, directly or by acquiescence, or personally participated in, the dissemination of false, misleading and deceptive representations to the public, through film showings, distribution of literature and printed materials, statements, and otherwise, that the "psychic surgery," "psychic healing," "faith healing," "spiritual" or "spirit healing," which members of the public would experience if they purchased tours to the Philippines from respondents, consisted of an actual operation, that the body was opened, and diseased tissue or disease-causing material removed. Responsibility of respondents for the representations of "tour conductors" or "tour promoters," under the circumstances set out in the findings made earlier in this initial decision, is clear. *Goodman v. Federal Trade Commission*, 244 F.2d 584 (9th Cir. 1957); *Holiday Magic, Inc.*, order of Oct. 15, 1974 [84 F.T.C. 748]. To end the false, misleading and deceptive representations, all corporate and individual respondents must be bound by an order. Such action does not constitute "regulation of religious action" or of travel which is "religious in nature." Respondents may continue to do business as travel agents, but respondents may not promote travel or tours by misrepresenting the nature of the "treatment" available.

The order issued not only prohibits misrepresentation that "psychic surgery," "psychic healing," etc., consists of an actual "surgical operation," but prohibits the continued use of the terms "psychic surgery," "psychic healing," "faith healing," "spiritual" or "spirit healing," and similar terms, employed in the past by respondents in the

promotion of tours to the Philippines. The continued use of those terms would permit continued deception of the public. This would be true notwithstanding cessation of specific misrepresentations through films, dissemination of literature and printed materials, statements, etc., that "psychic surgeons" or "healers" in the Philippines had the miraculous power to open human bodies with their bare hands, and remove diseased tissue or disease-causing material. The legal authority to enter an order which will end all means of continuing past deceptive practices is well established. *Federal Trade Commission v. National Lead Co.*, 352 U.S. 419, 428-430 (1957); *Jacob Siegel Co. v. Federal Trade Commission*, 327 U.S. 608 (1946). The sale of "psychic surgery" or the arrangement for treatment by "psychic surgeons," in view of the record herein, is also obviously deceptive and requires prohibition, considering respondents' past conduct.

As an additional provision for ending continuing effects of past false, misleading and deceptive representations in the promotion of tours to the Philippines, respondents must also provide a copy of Attachment A to every member of the public who has taken a "psychic surgery" tour of a respondent or who inquires in the future about "psychic surgery," "psychic healing," etc., or who seeks to purchase travel, tours or accommodations for such purpose in the Philippines, or elsewhere. Past tour members must be notified because they may have discontinued vital medication or otherwise terminated valid medical treatment. As a result of the widespread publicity given to "psychic surgery" films, and other false, misleading and deceptive representations contained in the promotional materials and literature disseminated by, or on behalf of, respondents, it is probable that requests by the public for "psychic surgery" tours, and for travel to visit "psychic surgeons," or Philippine "healers," will be addressed to respondents in the future. Members of the public inquiring about "psychic surgery," "psychic healing," etc., must, for their protection, be given adequate disclosure of the fakery and danger involved. Such provision will also insure compliance with the order by preventing respondents from implicitly endorsing "psychic surgery," "psychic healing," etc., or continuing to sell such tours, by responding to requests for information by sending tour brochures or other literature. Such warning notice is clearly within the Commission's authority to order the relief essential to end unlawful practices and their continuing effects. *Federal Trade Commission v. National Lead, supra*; *Federal Trade Commission v. Ruberoid Co.*, 343 U.S. 470 (1952); *Jacob Siegel Company v. Federal Trade Commission, supra*; see also, *Arthur Murray Studio of Washington, Inc. v. Federal Trade Commission*, 458 F.2d 622 (5th Cir. 1972), rehearing denied May 11, 1972; *S.S.S. Company, Inc. v. Federal Trade Commission*, 416 F.2d 226 (6th Cir.

1969); *All-State Industries of North Carolina, Inc. v. Federal Trade Commission*, 423 F.2d 423 (4th Cir. 1970).

Certain other provisions have also been included in the order. Respondents had no reasonable basis for believing that "psychic surgery," "psychic healing," etc., involved an actual opening of the human body with the bare hands, and the removal of diseased tissue or disease-causing material. In view of past misrepresentations with respect to treatment of disease by "psychic surgery," respondents must be prohibited from future misrepresentations with respect to any other form of treatment of disease unless there is a reasonable basis therefor. Those caught violating the Act "must expect some fencing in." *Federal Trade Commission v. National Lead, supra*. Similarly, the manner in which respondents approved, authorized, used, and benefited by the promotional activities of "tour promoters" or "tour conductors" for travel and tours to the Philippines for "psychic surgery," "psychic healing," etc., warrants that respondents be prohibited from providing compensation expenses, travel at free or reduced rates, or other benefits, to persons making representations or engaging in acts or practices prohibited by this order.

Complaint counsel originally sought a provision in the order requiring restitution to all persons who purchased "psychic surgery" tours to the Philippines from any corporate respondent in this proceeding. Subsequent to submission of proposed findings, complaint counsel withdrew their advocacy of restitution on the basis of the Commission's ruling of Jan. 21, 1975, striking the restitution provision from its order against *Holiday Magic, et al.*, Docket 8834 [85 F.T.C. 89]. The Commission's action was taken in view of the decision in *Heater v. Federal Trade Commission*, 503 F.2d 321 (9th Cir. 1974), and the decision of the Commission not to seek review of that decision by the Supreme Court. In striking the order of restitution from *Holiday Magic*, the Commission noted that while its determination not to seek review of the *Heater* decision should not be taken to signify a change in its view regarding the correctness of that decision:

* * * it does eliminate any possibility that *Heater* will not continue to be governing law in the Ninth Circuit.

This case, of course, arose in the Ninth Circuit and all respondents are within that circuit. Hence, restitution is not a valid remedy in this matter, even if it were otherwise contemplated, and complaint counsel properly no longer urge a provision in the order to that effect.

Complaint counsel, however, although dropping the restitution provision from their proposed order, seek to amend retroactively the notice order issued herein to provide a basis for the Commission to seek, in its discretion, "consumer redress" in the form of restitution as

authorized by the "Federal Trade Commission Improvement Act" of Jan. 4, 1975. Respondents oppose such action.

Section 206 of that Act creates a new Section 19 of the Federal Trade Commission Act, 15 U.S.C. §59, allowing the Commission, after it has issued a final cease and desist order, to sue a respondent or respondents in Federal district court to obtain "consumer redress" which may consist of "rescission or reformation of contracts, the refund of money or return of property, the payment of damages, and public notification" respecting the unfair or deceptive acts or practices. The statute applies to cases in which a cease and desist order issued after the date of enactment if the respondent (Section 206(b)(2)):

* * * had been notified in the complaint, or in the notice or order attached thereto, that consumer redress may be sought.

Neither the complaint, amended complaint, nor notice order in this proceeding contained any provision for restitution, or notified any corporate or individual respondent that "consumer redress" was or might be sought. Retroactive amendment of the Complaint would constitute a transparent evasion of the plain and unambiguous terms of the statute.

The fact that complaint counsel at the initial pretrial conference announced that they intended to seek restitution, and shortly thereafter filed a written notice to this effect (see notice of intent to seek restitution from corporate and individual respondents, filed Mar. 22, 1974) does not change matters. Such notice did not emanate from the Commission, but from complaint counsel. Respondents were never given notice by the Commission that "consumer redress" was or might be sought. And certainly, as stated, no such notice was in the complaint or notice order. To rule that, in lieu thereof, notice from complaint counsel met the requirements of the statute, would require construction and modification of the plain language thereof. Such action would be wholly unjustified. Where the language of a statute is plain and unambiguous there is no occasion for construction, and the statute must be given effect according to its plain and obvious meaning. *United States v. Public Utilities Commission of California*, 345 U.S. 295, 315 (1953); *Mastro Plastics Corp. v. National Labor Relations Board*, 350 U.S. 270, 287 (1955). Giving effect to the plain language of the statute will not produce anomalous or absurd results, indeed, to the contrary. Cf. *Federal Trade Commission v. Tuttle*, 244 F.2d 605 (2nd Cir. 1957), *cert. denied*, 354 U.S. 925. The motion of complaint counsel to amend the notice order is denied. It may be noted, in connection with the advocacy of restitution or "consumer redress" by complaint counsel, that respondents did not retain the bulk of the money paid by members of the public for "psychic surgery" tours to the Philippines. Except for a

commission, respondents remitted all such funds to airline companies and to hotels, etc., for "land" accommodations.

The following order is entered.

ORDER

It is ordered, That respondents Travel King, Inc., doing business as Travel King, Inc. & Ramble Tours; Phil-Am Travel Agency, Inc.; Gem Travel Service, Inc.; and Ramble Travel and Tours, Inc., corporations; Yuda Galazan and Nyla Ford, individually and as officers and directors of Ramble Travel and Tours, Inc.; Ronald Brown, individually and as an officer of Travel King, Inc.; Adeline C. Heredia and Emile H. Heredia, individually and as officers of Phil-Am Travel Agency, Inc.; Laurence C. Marquez and Marian E. Butterfield, individually and as officers of Gem Travel Service, Inc.; and their successors and assigns, and their agents, representatives and employees, acting directly or through any corporate or other device, or through any other person or firm, in connection with the advertising, offering for sale, sale, or provision of travel arrangements, or of any form of treatment for disease or disorder, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, in the promotion of travel or tours to the Philippines, or elsewhere, that "psychic surgery"⁴ is an actual surgical operation, that the body is opened, and that diseased tissue or disease-causing material is removed from the human body.

2. Representing, directly or by implication, in the promotion of travel or tours to the Philippines, or elsewhere, that "psychic surgeons"⁵ in the Philippines, or elsewhere, have the ability or power to open the body with the bare hands, and to remove diseased tissue or disease-causing material.

3. Advertising or promoting, directly or indirectly, "psychic surgery," or travel or tours to the Philippines, or elsewhere, for "psychic surgery," or for visits to "psychic surgeons," or to any person claiming to be, or known by the respondent involved to be, a "psychic surgeon."

4. Using the terms "psychic surgery" or "psychic surgeon" in the promotion of travel or tours to the Philippines, or elsewhere, or any other term, description or symbol which suggests, directly or by

⁴ Whenever used in this order the term "psychic surgery" includes the terms "psychic healing," "faith healing," and "spiritual" or "spirit healing," and equivalent terms, when those terms refer to or contemplate, a "treatment" or "healing" procedure or technique which purports to involve the opening of the body with the bare hands, and the removal of diseased tissue or disease-causing material.

⁵ Whenever used in this order the term "psychic surgeon" includes the terms "psychic healer," "faith healer," and "spiritual" or "spirit healer," and equivalent terms, when those terms refer to a "healer" or person who purports to open the body with the bare hands, and to remove diseased tissue or disease-causing material.

implication, the opening of the body, the performing of any kind of surgery, or the removing of any tissue or material, with bare hands without instruments.

5. Offering for sale or selling "psychic surgery" or arranging or facilitating treatments by any "psychic surgeon."

6. Representing, directly or by implication, in connection with the promotion, sale, arrangement or scheduling of travel or tours, that during or at the end of such travel or tours, arrangements will be made for visits with any "psychic surgeon," or that any "psychic surgeon" will be available for visits.

7. Making any representation, directly or by implication, as to the validity, efficacy or safety of any form of treatment for disease or disorder without possessing, at the time the representation is made, a reasonable basis therefor.

8. Providing or arranging for the provision of any form of compensation, reimbursement, gratuity, or benefit, including free or reduced rate travel or accommodations to anyone known by the respondents involved, or who should have been known by the respondents involved with reasonable inquiry, to have engaged in the use of any of the representations or promotions prohibited by this order.

It is further ordered, That respondents shall:

(a) Deliver promptly to all persons who request information concerning "psychic surgery" or travel or tour arrangements to visit "psychic surgeons," or who have taken a "psychic surgery" tour of a respondent herein, a copy of the notice contained in Attachment A. [Where such inquiries are by telephone, the notice need only be sent if the inquiring person requests a written response or if a respondent sends written materials to the inquiring person.]

(b) Distribute a copy of this order to each of their employees and to all persons who are or have been tour conductors on respondents' "psychic surgery" tours.

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

ATTACHMENT A

The following notice shall be typed on a single page or printed in type at least as large as typewriter pica type on respondents' letterhead:

WARNING

The following factual information is of vital importance to anyone who has undergone or contemplates undergoing "psychic surgery" by any "psychic surgeon" in the Philippines, or elsewhere.

Please read this warning carefully.

"Psychic surgery" has been shown to be fraud and fakery. The "psychic surgeons" in the Philippines use sleight-of-hand and other tricks and deceptions, including the employment of animal parts, tissue and blood to create the appearance of surgery.

"Psychic surgeons" use small capsules filled with the blood and tissue of animals hidden in their hands, cotton, and other places, to simulate human blood and tissue. Chemical analysis of blood appearing during one "operation" showed it to have come from a pig and a tumor supposedly removed during another came from a small animal. Another "psychic surgeon" used a concealed razor blade to make surface incisions. Two former "psychic surgeons" have publicly testified that *all "psychic surgery" is a fake*, using sleight-of-hand techniques and animal parts to create its effects. There is no opening of the body and nothing is removed from inside the body during "psychic surgery," regardless of who claims to be able to perform it.

There are known instances of people who have died or have been seriously injured as a result of the careless manipulations of the "psychic surgeons." These manipulations are particularly dangerous for persons with cancer, tumors, varicose veins, and certain heart conditions.

If you have stopped taking medication or seeing your doctor because you believe you have been "cured" by "psychic surgery," *you may be in serious danger*. There is no way to diagnose many diseases yourself. The feeling of improvement, if any, may only be short-lived and if you wait too long to consult a doctor, it may be too late for him or her to help you.

You should check with a doctor to ensure your own safety.

This travel agency no longer provides any arrangements for visits to "psychic surgeons."

OPINION OF THE COMMISSION

BY HANFORD, *Commissioner*:

The amended complaint in this matter charges the eleven respondents (four West Coast travel agencies and seven of their officers and shareholders) with selling tours to the Philippines by falsely representing that the "psychic surgery" offered there is an actual surgical operation by which diseased tissue or disease-causing material is removed from the human body and with lack of reasonable basis for these same representations.¹

The initial decision of Administrative Law Judge Hanscom, filed Feb. 28, 1975, found all eleven respondents in violation of Section 5 of the Federal Trade Commission Act on both theories. A comprehensive

¹ The following abbreviations are used for citations:

I.D. — Initial decision of administrative law judge;

Tr. — Transcript of testimony;

CX — Commission exhibit;

RB — Brief on appeal of respondent; and

FF — Findings of Fact.

order was entered, prohibiting virtually any activity by respondents in connection with "psychic surgery," and requiring that respondents send warning notices to past purchasers of "psychic surgery" tours and to those who inquire about such tours in the future. One travel agency, Gem Travel Service, Inc., and its two officers and shareholders, Laurence C. Marquez and Marian E. Butterfield, appeal.

We find no merit in any of respondents' contentions, nor do we see any other reason to disturb the initial decision and order; thus, they are both affirmed in full. The findings and conclusions of the law judge are adopted as those of the Commission.

Respondents raise four sets of arguments in challenging the initial decision.

1. Their first contention is that Judge Hanscom's findings of fact are not supported by the record as a whole.² Respondents' primary contention here is that their allegedly deceptive promotional efforts were few and far between and, in essence, *de minimis*. This argument is not supportable as either a legal or a factual matter. The dissemination of only one or a small percentage of deceptive representations has frequently been held to violate Section 5.³ As we have stated previously, "we are not prepared to say that deception is all right if practiced in moderation."⁴ This is particularly true where, as here, the deceptive representations have the capacity to cause extreme medical and financial injury to those members of the public who rely on them.⁵

Moreover, the deception practiced by respondents was by no means *de minimis*, either in time or in scope. In promoting its June 12, 1972 tour to the Philippines, Gem's brochure featured the psychic surgery of Tony Agpaoa as one of its "highlights."⁶ It was represented in these brochures that Mr. Agpaoa would perform "painless, almost bloodless operation[s]" with his hands, rather than a knife.⁷ Soon thereafter, Mr. Ernie Cortez, a Gem employee, began sending out letters on Gem stationery, informing some of the "dozen a day or so" of potential Gem "psychic surgery" customers about the activities of Mr. Agpaoa.⁸ This

² RB 5-12.

³ *Gimbel Bros., Inc. v. F.T.C.*, 116 F.2d 578 (2d Cir. 1941); *Gimbel Bros.*, 60 F.T.C. 359 (1962), *appeal dismissed*, 7 S & D 549 (3d Cir. 1962); *Baldwin Bracelet Corp.*, 61 F.T.C. 1345 (1962), *aff'd*, 325 F.2d 1012 (D.C. Cir. 1963), *cert. denied*, 377 U.S. 923 (1964); *Fedders Corp.*, D. 8932 (Jan. 14, 1975 [85 F.T.C. 38]), *appeal docketed*, No. 75-4051, 2d Cir., Mar. 19, 1975.

⁴ *Baldwin Bracelet Corp.*, 61 F.T.C. 1345, 1363 (1962), *aff'd*, 325 F.2d 1012 (D.C. Cir. 1963), *cert. denied*, 377 U.S. 923 (1964).

⁵ FF 88-89, Tr. 594-603.

⁶ CX 53B. Mr. Agpaoa, who was indicted for fraud in connection with the practice of psychic surgery in 1967 and forfeited \$25,000 bond, had an "exclusive dealing" arrangement with Gem, by which any American wishing to use his services had to book with Gem. CX 59-60, FF 38, CX 52.

⁷ CX 53B, FF 41.

⁸ Tr. 1041-55.

letter speaks of "painless surgery with bare hands."⁹ Later, in mid-1973, Mr. Cortez, on behalf of Gem, attempted to promote "psychic surgery" tours through public showings of movies depicting actual "psychic surgery operations."¹⁰ This film was shown five times in four cities in two states and was viewed by hundreds of prospective Gem customers.¹¹ It unquestionably has the tendency and capacity to convey the message that "psychic surgery" is an actual surgical operation involving the opening of the human body and the removal of diseased tissue and/or disease causing material.¹²

Moreover, films depicting "psychic surgery" were shown to the public on Gem's behalf by several Gem tour conductors.¹³ The law judge found respondents liable for these films as well,¹⁴ and respondents concede such responsibility.¹⁵ We find no merit in respondents' contention that the representations made by the tour conductors were not deceptive.¹⁶ This defense is bottomed on two propositions: 1) the films accurately portray that which took place and 2) the tour conductors accompanied the films with a "balanced" narrative, setting forth the possibility that "psychic surgery" may be a fake. However, the mere holding out of the possibility that the procedure is genuine when in fact it is not is deceptive. Secondly, the few disclaimers shown to have been made were not sufficient to dissipate the profound emotional message of the films. Third, when a person shows a film which ostensibly depicts a miracle cure involving an apparent opening of the body to seriously ill persons, then invites them to partake of the cure, it is virtually impossible for disclaimers to eliminate the tendency of the film to convey the message to at least some members of the audience that an opening of the body is taking place. We must also reject respondents' defense that the tour conductors did not intend to sell the "psychic surgery" tours.¹⁷ Intent to deceive is simply not an element of a deception under Section 5.¹⁸

Respondents also argue that there has been no showing that sales resulted from any misrepresentations, rather than from word of mouth advertising.¹⁹ This contention must be rejected for two reasons: first,

⁹ CX 54A, CX 153A.

¹⁰ CX 81, FF 43-44. Tr. 1033-44.

¹¹ Tr. 1033-34.

¹² CX 81, FF 43-44, 49-50.

¹³ FF 45-47.

¹⁴ FF 46.

¹⁵ RB 8.

¹⁶ RB 8-12.

¹⁷ RB 9-10.

¹⁸ *Koch v. F.T.C.*, 206 F.2d 311 (6th Cir. 1953); *Ford Motor Co. v. F.T.C.*, 120 F.2d 175 (6th Cir.), cert. denied, 314 U.S. 668 (1941); *Gimbel Bros., Inc. v. F.T.C.*, 116 F.2d 578 (2d Cir. 1941); *F.T.C. v. Sterling Drug, Inc.*, 317 F.2d 669 (2d Cir. 1963); *Montgomery Ward & Co., Inc. v. F.T.C.*, 379 F.2d 666 (7th Cir. 1967).

¹⁹ RB 12.

much of the word of mouth must inevitably have stemmed from earlier misrepresentations;²⁰ second, it need not be shown that even one consumer actually relied on a particular false claim.²¹

2. Contending that the law judge's order is overbroad, respondents ask us to alter Paragraphs 3 and 5 and delete Paragraph 6 and the first "*It is further ordered*" paragraph. The purpose of modifying Paragraphs 3, 5, and 6 is to allow respondents to continue to sell "psychic surgery" tours. We believe, however, that based on respondents' past conduct in promoting these tours and the law judge's conclusion that "psychic surgery" is "pure fakery and a fraud,"²² an outright ban on promotion of "psychic surgery" tours or arrangement for visits to "psychic surgeons" is well within the permissible limits of the Commission's power to "fence in" law violators.²³ Where the very sale of a product or service is offensive to public policy, it is within the authority of the Commission to ban its sale entirely.²⁴

Because we are dealing here with desperate consumers with terminal illnesses who want to believe that "psychic surgery" will cure them, no amount of disclosure will suffice to drive home to all the point that "psychic surgery" is nothing but a total hoax. Respondents' argument that we may not prohibit the arrangement or advertisement of "psychic surgery" has little force in light of their concession that we may prohibit them from selling "psychic surgery."²⁵ Surely the power to prohibit the sale of a service encompasses the power to prohibit its advertisement.

The second aspect of respondents' appeal of the order relates to the sending of the warning notice to past purchasers and those who inquire about "psychic surgery" in the future. As respondents themselves contend, much of their "psychic surgery" business stems from word of mouth of former customers. As respondent Butterfield put it, word of mouth had a "snowballing" effect.²⁶ Even if Gem no longer sells "psychic surgery" tours, some wayfaring souls, hearing the word of mouth, may book passage through Gem to the Philippines to see Mr.

²⁰ As respondent Butterfield put it (Tr. 1186), word-of-mouth from the earlier tours created a "snowballing effect" on Gem's "psychic surgery" business. See also Tr. 747.

²¹ *Bockenstette v. F.T.C.*, 134 F.2d 369 (10th Cir. 1943), modified, 4 S. & D. 423 (10th Cir. 1945); *Charles of the Ritz Dist. Corp. v. F.T.C.*, 143 F.2d 676 (2d Cir. 1944); *Northern Feather Works, Inc. v. F.T.C.*, 234 F.2d 335 (3d Cir. 1956); *American Life and Accident Insurance Co. v. F.T.C.*, 255 F.2d 289 (8th Cir.), cert. denied, 358 U.S. 875 (1958).

²² I.D. 64[p. 764, herein].

²³ *F.T.C. v. National Lead Co.*, 352 U.S. 419 (1957); *S. Dean Slough v. F.T.C.*, 396 F.2d 870 (5th Cir.), cert. denied, 393 U.S. 980 (1968); cf. *Albert Lane v. F.T.C.*, 130 F.2d 48 (9th Cir. 1942).

²⁴ *Peerless Products, Inc.*, 56 F.T.C. 1070, aff'd, 284 F.2d 825 (7th Cir. 1960), cert. denied, 365 U.S. 844 (1961).

²⁵ In their proposed order, respondents would retain the prohibition against selling "psychic surgery" or offering it for sale. RB 21.

²⁶ Tr. 1186.

Agpaoa. This is a continuing effect of past deception and may properly be remedied via a warning letter.²⁷

Additionally, for their own medical benefit, it is important to warn past "psychic surgery" tour participants that "psychic surgery" was a hoax. As Judge Hanscom said: "Past tour members must be notified because they may have discontinued vital medication or otherwise terminated valid medical treatment."²⁸

As for future inquirers about "psychic surgery," it is obvious that they have at least some interest in partaking of "psychic surgery" services. The fact that they have come to Gem is evidence that the interest was likely engendered by Gem's past acts. To reduce the probability that, as a result of Gem's past deception, these individuals partake of "psychic surgery," it is not unduly burdensome to require respondents to inform them that "psychic surgery" is a hoax.

Respondents also ask us to delete the requirement that they distribute a copy of the order to employees and past or present "psychic surgery" tour conductors. Provisions of this type have frequently been entered by the Commission and upheld by the courts.²⁹ We find this provision entirely appropriate here.

3. Respondents also ask us to delete the reasonable basis provision (Paragraph 7) from the order.³⁰ This request is based on three arguments. First, they contend that the representations for which the reasonable basis was allegedly lacking were *de minimis*. We reject this contention as being unfounded in law or fact for the same reason we reject the *de minimis* argument as to the falsity issue.³¹ Second, respondents argue that the tour conductors did not lack a reasonable basis for their claims, since they were "satisfied users." The experience of a lay tour guide is clearly not an adequate basis for this type of medical claim.³² Respondents' third argument is that the order paragraph relating to reasonable basis is too broad in any case. They contend that it would stop their sale of tours to Lourdes or Fatima. This would be so only if the mere sale of a tour there constitutes a representation as to the efficacy of the "treatment for disease or disorder" which may be obtained there. We do not believe that a mere

²⁷ *Campbell Soup Co.*, 77 F.T.C. 664 (1970); *Firestone Tire & Rubber Co.*, 81 F.T.C. 398 (1972), *aff'd*, 481 F.2d 246 (6th Cir.), *cert. denied*, 414 U.S. 1112 (1973); *I.T.T. Continental Baking Co.*, D. 8860 (Oct. 19, 1973 [83 F.T.C. 865]), *appeal docketed*, No. 75-4141, 2d Cir., July 11, 1975; *Sugar Information, Inc.*, 81 F.T.C. 711 (1972); *I.T.T. Continental Baking Co., Inc.*, 79 F.T.C. 248 (1971); *Ocean Spray Cranberries, Inc.*, 80 F.T.C. 975 (1972); *Pay Less Drug Stores Northwest, Inc.*, 82 F.T.C. 1473 (1973); *Boise Tire Co.*, C-2425 (July 16, 1973 [83 F.T.C. 21]); *Lens Craft Research and Development Co., et al.*, D. 8960 (Sept. 4, 1974 [84 F.T.C. 355]); *Wasem's Inc.*, C-2524 (July 23, 1974 [84 F.T.C. 209]).

²⁸ I.D. 66[P. 766, herein].

²⁹ *E.g., Consumers Products of America, Inc., v. F.T.C.*, 400 F.2d 930 (3d Cir. 1968), *cert. denied*, 393 U.S. 1088 (1969); *National Dynamics v. F.T.C.*, 492 F.2d 1333 (2d Cir.), *cert. denied*, 419 U.S. 993 (1974).

³⁰ RB 15-17.

³¹ Pp. 2-4, *supra* [pp. 772-773 herein].

³² Cf. 21 C.F.R. Sec. 330.10 (a)(4) (ii).

visit to a religious or spiritual shrine constitutes a "treatment." Thus, this provision is not overbroad.

4. Respondents' last major argument is that individual respondents Marquez and Butterfield should not be included in the order because they did not personally represent anything about "psychic surgery" to anyone and did not encourage violations by the tour conductors.³³ Respondents miss the point. Under the law, the presence of knowledge, control, and authorization is more than an ample basis for individual liability.³⁴ All these elements were found by the administrative law judge and respondents do not contest these findings.³⁵ We hold that individual liability is amply justified under the law and is necessary on these facts to prevent circumvention of the order.³⁶

For the reasons set forth herein, the appeal of respondents is denied. The initial decision will be adopted as the decision of the Commission.

FINAL ORDER

This matter having been heard by the Commission upon the appeal of respondents Gem Travel Service, Inc., Laurence C. Marquez and Marian E. Butterfield from the administrative law judge's initial decision, and upon briefs and oral argument in support thereof and in opposition thereto; and the Commission having rendered its decision denying the appeal and adopting the initial decision:

It is ordered, That respondents, Travel King, Inc., Phil-Am Travel Agency, Inc., Gem Travel Service, Inc., Ramble Travel and Tours, Inc., Yuda Galazan, Nyla Ford, Ronald Brown, Adeline C. Heredia, Emile H. Heredia, Laurence C. Marquez, and Marian E. Butterfield shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

³³ RB 17-19.

³⁴ *Surf Sales Co. v. F.T.C.*, 259 F.2d 744 (7th Cir. 1958); *Steelco Stainless Steel Inc. v. F.T.C.*, 187 F.2d 693 (7th Cir. 1951); *Consumers Home Equipment Co. v. F.T.C.*, 164 F.2d 972 (6th Cir.), cert. denied, 331 U.S. 860 (1947); *Walter Dltz v. F.T.C.*, 406 F.2d 227 (3d Cir.), cert. denied, 395 U.S. 936 (1969); *Lloyd A. Fry Roofing Co. v. F.T.C.*, 371 F.2d 277 (7th Cir. 1966); *John A. Guziak v. F.T.C.*, 361 F.2d 700 (8th Cir. 1966), cert. denied, 385 U.S. 1007 (1967); *Fred Meyer, Inc. v. F.T.C.*, 359 F.2d 351 (9th Cir. 1966) *rev'd on other grounds*, 390 U.S. 341 (1968); *Standard Educators, Inc. v. F.T.C.*, 475 F.2d 401 (D.C. Cir.), cert. denied, 414 U.S. 828 (1973); contrast *Coro, Inc. v. F.T.C.*, 338 F.2d 149 (1st Cir. 1964), cert. denied, 380 U.S. 954 (1965), where individual liability was denied by the Court based on the individual's lack of knowledge of the facts constituting the deceptive practice.

³⁵ FF 82, I.D. 63-66. See also FF 7, 39, 40, 44, 46, 86, Tr. 1106-20, 1195-98.

³⁶ *F.T.C. v. Standard Education Society*, 302 U.S. 112 (1937).

Respondents also contend that the law judge exceeded his authority when he found their conduct to be "a fraud" (I.D. 64). Commission findings of "fraud" have been found supported in the past by the courts on numerous occasions, e.g. *International Art Co. v. F.T.C.*, 109 F.2d 393 (7th Cir.), cert. denied, 310 U.S. 632 (1940); *Consumers Home Equipment Co. v. F.T.C.*, 164 F.2d 972 (6th Cir.), cert. denied, 331 U.S. 860 (1947); *Dorfman v. F.T.C.*, 144 F.2d 737 (8th Cir. 1944). We find the law judge's characterization of respondents' conduct amply supported by the record and well within his authority.

IN THE MATTER OF
ROSENTHAL CHEVROLET CO., ET AL.

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

Docket 8975. Complaint, July 1, 1974—Decision, Sept. 30, 1975

Consent order requiring an Arlington, Va., new and used car dealership, among other things to cease misrepresenting that any vehicle is new when it has been used in any manner other than the limited use necessary in moving or road testing it prior to delivery to the customer. Further, the complaint is dismissed as to individual respondent Robert M. Rosenthal.

Appearances

For the Commission: *Jerry W. Boykin.*

For the respondents: *Basil J. Mezines, Stein, Mitchell [Mezines,*
Wash., D.C.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that Rosenthal Chevrolet Co., a corporation, and Robert M. Rosenthal and Harry Rosenthal, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Rosenthal Chevrolet Co. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 3400 Columbia Pike, in the County of Arlington, Commonwealth of Virginia.

Respondents Robert M. Rosenthal and Harry Rosenthal are individuals and officers of the corporate respondent. They formulate, direct, and control the acts and practices of the corporate respondent, including those hereinafter set forth. Their business address is the same as that of the corporate respondent.

The respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, and sale to the public of new and used motor vehicles and in the servicing and repair thereof.