

IN THE MATTER OF
AMERICAN DENTAL ASSOCIATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket 9093. Complaint, Jan. 4, 1977 — Decision, Sept. 6, 1979

This consent order, among other things, provides that on entry of a final adjudicated order in the *American Medical Association (AMA)* case, four dental associations will be bound to a similar order which will be issued against them by the Commission. During the period preceding final resolution of the *AMA* matter, respondents are prohibited from restricting or declaring unethical any form of their members' advertising or solicitation of business which is not false or misleading. Additionally, the dental associations are required to print a statement in their code of ethics which advises members that advertising or solicitation of patients and business shall not be considered unethical or improper.

Appearances

For the Commission: *L. Barry Costilo, Daniel R. Barney, Bonita L. Maplethorpe and Ann Malester.*

For the respondents: *Peter M. Sfikas, Michael P. Tone and Clay H. Phillips, Peterson, Ross, Schloerb & Seidel, Chicago, Ill. for American Dental Association, Joseph B. Carney and Jerry R. Jenkins, Baker & Daniels, Indianapolis, Ind. for Indiana Dental Association and Indianapolis District Dental Society, and John P. Ackerly, III and Stephen A. Northup, Mays, Valentine, Davenport & Moore, Richmond, Va. for Virginia Dental Association and Northern Virginia Dental Society.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act (15 U.S.C. 41, et seq.) and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that respondents American Dental Association (hereinafter "ADA"), Indiana Dental Association (hereinafter "IDA"), Indianapolis District Dental Society (hereinafter "IDDS"), Virginia Dental Association (hereinafter "VDA"), and Northern Virginia Dental Society (hereinafter "NVDS") have violated the provisions of Section 5 of the Federal Trade Commission Act and that a proceeding in respect thereof would be in the public interest, issues its complaint stating its charges as follows:

PARAGRAPH 1. Respondent American Dental Association is an

Illinois corporation with its principal place of business at 211 East Chicago Ave., Chicago, Illinois. ADA has approximately 124,000 members, of whom at least 106,000 are dentists engaged in the active practice of dentistry. Various state dental associations comprise ADA's "constituent" societies, and each constituent society includes various local "component" societies. Dentists, other than those in the federal dental services or engaged in advanced education, are required to be members of a constituent and a component dental society in order to be eligible for membership in ADA. ADA's activities, including those complained of, are directed by delegates from constituent state dental societies, including IDA and VDA.

PAR. 2. Respondent Indiana Dental Association is an Indiana corporation with its principal place of business at 402 Jefferson Building, 1 Virginia Ave., Indianapolis, Indiana. IDA has approximately 2000 dentist members. It is one of the constituent societies of ADA.

PAR. 3. Respondent Indianapolis District Dental Society is an Indiana corporation with its principal place of business at the Illinois Building, 17 West Market St., Indianapolis, Indiana. IDDS is a component society of IDA and ADA and has approximately 450 dentist members.

PAR. 4. Respondent Virginia Dental Association is a Virginia corporation with its principal place of business at Suite 331, 2015 Staples Mill Road, Richmond, Virginia. VDA has approximately 2100 dentist members. It is one of the constituent societies of ADA.

PAR. 5. Respondent Northern Virginia Dental Society is a Virginia corporation with its principal place of business at 1008 North Randolph, Arlington, Virginia. NVDS is a component society of VDA and ADA and has approximately 700 dentist members.

PAR. 6. Members of respondents are engaged in the business of providing dentist services for a fee. Except to the extent that competition has been restrained as herein alleged, dentist members of respondents have been and are now in competition among themselves and with other dentists.

PAR. 7. In 1975 approximately ninety-five percent of all active dentists in the United States were members of ADA and its constituent and component societies. In 1975 total expenditures for dentist services in the United States were approximately \$7.5 billion. A substantial portion of the total expenditures for dentist services in the United States has been paid to and received by members of ADA and members of its constituent and component societies, including members of the respondents named herein.

PAR. 8. It is respondents' objective, *inter alia*, to represent the

interests of their dentist members, including their economic interests. In the course of representing those interests and in the course of performing the acts and practices herein complained of, respondents have utilized the United States mail and other instruments of interstate commerce.

PAR. 9. Members of respondent ADA are located in every state. In the course and conduct of their business, members of ADA and members of IDA, IDDS, VDA and NVDS:

- (A) Receive and treat patients from other states and countries;
- (B) Receive substantial sums of money from the federal government and from private insurers for rendering dentist services, which money flows across state lines;
- (C) Utilize and prescribe drugs and medicines which are shipped in interstate commerce;
- (D) Utilize and prescribe devices and products which are shipped in interstate commerce; and
- (E) Act in continuing association and cooperation with each other, with other state and local dental societies, and with individual dentists in every state, in furthering the agreements and concert of action described below, in the course of which association and cooperation they use the United States mail and other instruments of interstate commerce.

As a result of the conduct and activities of respondents and their members described above, the acts and practices herein complained of are in or affect "commerce" within the meaning of the Federal Trade Commission Act, and respondents are subject to the jurisdiction of the Federal Trade Commission.

PAR. 10. For many years past and continuing up to and including the date of the filing of this complaint, respondents and others have agreed, and participated in concerted action, to eliminate, prevent and hinder competition among dentists. This conduct includes agreements and concerted action to prevent or hinder dentists from:

- (A) Soliciting business by advertising or otherwise;
- (B) Engaging in price competition; and
- (C) Otherwise engaging in competitive practices.

PAR. 11. In the course and as part of the above-described conduct, respondents and others have:

- (A) Adopted, published and distributed the *Principles of Ethics* of the ADA, along with advisory opinions, and principles and codes of ethics and interpretations thereof of the ADA's constituent and

component dental societies, including respondents IDA, IDDS, VDA and NVDS;

(B) Abided by the restrictions contained in the above-described principles and codes of ethics, and interpretations thereof; and

(C) Enforced, directly and indirectly, the restrictions contained in the above-described principles and codes of ethics, and interpretations thereof.

PAR. 12. The effects, among others, of the acts and practices alleged in Paragraphs Ten and Eleven are as follows:

(A) Prices of dentist services have been stabilized, fixed or otherwise interfered with;

(B) Competition among dentists in the provision of dentist services has been hindered, restrained, foreclosed and frustrated;

(C) Consumers of dentists services have been deprived of information pertinent to the selection of a dentist and of the benefits of competition;

(D) Dentists have been restrained in their ability to compete and to make dentist services readily and fully available to consumers; and

(E) Development of innovative systems for the delivery of dentist services has been hindered or restrained.

PAR. 13. The aforesaid acts, practices and methods of competition constitute unfair methods of competition and unfair acts or practices by respondents in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondents named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act, as amended, and the respondents having been served with a copy of that complaint, together with a notice of contemplated relief; and

The respondents, their attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional allegations set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such

agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 3.25 of its Rules, now in further conformity with the procedure prescribed in Section 3.25(f) of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent American Dental Association ("ADA") is an Illinois corporation, with its principal place of business at 211 East Chicago Ave., Chicago, Illinois.

Respondent Indiana Dental Association ("IDA") is an Indiana corporation, with its principal place of business at 402 Jefferson Building, 1 Virginia Ave., Indianapolis, Indiana. IDA is a constituent society of ADA.

Respondent Indianapolis District Dental Society ("IDDS") is an Indiana corporation, with its principal place of business at 211 North Delaware St., Indianapolis, Indiana. IDDS is a component society of IDA and ADA.

Respondent Virginia Dental Association ("VDA") is a Virginia corporation, with its principal place of business at Suite 423, 2015 Staples Mill Road, Richmond, Virginia. VDA is a constituent society of ADA.

Respondent Northern Virginia Dental Society ("NVDS") is a Virginia corporation with its principal place of business at 1008 North Randolph, Arlington, Virginia. NVDS is a component society of VDA and ADA.

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

ORDER

Definitions

For purposes of this order, the following definitions shall apply: "FTC Dkt. 9064" means Federal Trade Commission Dkt. 9064 and that matter as it may otherwise be denominated by a reviewing court.

"Final adjudicated order" means an adjudicated order or opinion of the Federal Trade Commission or of a reviewing court which either dismisses the complaint on the merits or for lack of jurisdiction as to, or grants relief against, the American Medical Association in FTC Dkt. 9064 and which has become final in accordance with Section 5(g)-(k) of the Federal Trade Commission Act, 15 U.S.C. 45(g)-(k).

"Respondents" means the American Dental Association ("ADA"), the Indiana Dental Association ("IDA"), the Indianapolis District Dental Society ("IDDS"), the Virginia Dental Association ("VDA"), and the Northern Virginia Dental Society ("NVDS"), individually or jointly, and their respective councils, departments, committees, divisions, subdivisions, trustees, officers, delegates, representatives, agents, employees, successors, and assigns.

"Constituent societies" means those dental societies or dental associations defined as constituent societies in the January 1, 1978, edition of the American Dental Association's *Constitution and Bylaws* and, in the event that the American Dental Association's *Constitution and Bylaws* is amended to denominate constituent societies differently or to describe a new category of dental societies which replace or are roughly equivalent to constituent societies, "constituent societies" means those dental societies as well.

"Component societies" means those dental societies or dental associations defined as component societies in the January 1, 1978, edition of the American Dental Association's *Constitution and Bylaws* and, in the event that the American Dental Association's *Constitution and Bylaws* is amended to denominate component societies differently or to describe a new category of dental societies which replace or are roughly equivalent to component societies, "component societies" means those dental societies as well.

I

It is ordered, That:

(A) On entry of a final adjudicated order in FTC Dkt. 9064, the Commission will issue an order ("ADA order") against respondents in this proceeding which will consist of the provisions of the FTC Dkt. 9064 final adjudicated order, conformed to make such provisions fully applicable to respondents herein, consistent with Section I(C) of this order. Such conforming modifications will include, for purposes of illustration, but not be limited to, substituting the names of respondents and their ethical codes and publications for the names of the FTC Dkt. 9064 respondents and their ethical codes and publications, respectively, and substituting the words "dental" for "medical", "dentists" for "physicians" and "dentists' services" for "physicians' services". Respondents shall be bound by such ADA order and shall have no right to seek judicial review or otherwise challenge the validity of it unless it fails to conform substantially to the final adjudicated order in FTC Dkt. 9064, consistent with Section (C) of this order, *provided, however:*

(B) In the event that the Commission issues a decision and order based on a consent agreement against the American Medical Association in FTC Dkt. 9064, the instant case shall immediately be reopened and returned to adjudicative status.

(C) No provisions in the final adjudicated order in FTC Dkt. 9064 which relate directly to physicians' contractual arrangements for the sale or distribution of their professional services or to the growth, development or operations of any prepaid health care delivery plan or of any other organization which offers physicians' services to the public shall be applicable to respondents, except to the extent that such provisions relate to advertising or solicitation of patients or business.

(D) In the event that the final adjudicated order in FTC Dkt. 9064 dismisses the complaint on the merits or for lack of jurisdiction, the Commission shall dismiss the complaint in this proceeding.

(E) For the purpose of clarifying Section I(A) of this order, respondents shall not be bound by any order entered pursuant to Section I(A) of this order based on an order of the Commission or a reviewing court which may be entered in FTC Dkt. 9064 unless and until such Dkt. 9064 order becomes a final adjudicated order.

II

It is further ordered, That pending entry of a final adjudicated order, or Commission issuance of a decision and order based on a consent agreement against the American Medical Association in FTC Dkt. 9064, respondents in this proceeding shall not restrict, regulate, impede, declare unethical or improper, interfere with, or advise against any form of advertising or solicitation of patients or business by dentists or dental care delivery organizations which is not false or misleading in any material respect. Within sixty (60) days after entry of this order, respondents shall:

(A) State in a prominent place and manner in the ADA Principles of Ethics, ADA Official Advisory Opinions, NVDS Code of Ethics, and all other codes, guidelines, and other standards of dentist conduct issued by respondents that: "Advertising, solicitation of patients or business, or other promotional activities by dentists or dental care delivery organizations shall not be considered unethical or improper, except for those promotional activities which are false or misleading in any material respect. Notwithstanding any ADA Principles of Ethics or other standards of dentist conduct which may be differently worded, this shall be the sole standard for determining the ethical propriety of such promotional activities. Any provision of an ADA constituent or component society's code of ethics or other

standard of dentist conduct relating to dentists' or dental care delivery organizations' advertising, solicitation, or other promotional activities which is worded differently from the above standard shall be deemed to be in conflict with the ADA Principles of Ethics."

(B) Add footnotes referring readers to the quoted statement in Section II(A) of this order after each provision of respondents' respective ethical codes, advisory opinions, interpretations, and guidelines which relates in any way to dentists' or dental care delivery organizations' advertising, solicitation, or promotional activities. These include the third paragraph of the preamble of the ADA Principles of Ethics and Sections 2, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, and 22 thereof. No version of respondents' respective ethical codes, advisory opinions, interpretations, or guidelines which lacks such footnote references shall be distributed.

(C) Delete from all copies of ethical codes and other publications which are distributed by respondents all references to the following ADA Official Advisory Opinions [of the ADA Principles of Ethics] (March 1977 rev.):

- Advisory Opinion 2 of Section 2
- Advisory Opinions 1 through 13 of Section 12
- Advisory Opinions 1 through 6 of Section 13
- Advisory Opinions 1 through 3 of Section 14
- Advisory Opinion 1 of Section 16
- Advisory Opinions 1 and 8 of Section 17
- Advisory Opinions 1 through 9 of Section 19
- Advisory Opinions 1 through 4 of Section 20

(D) Not thereafter amend, elaborate on, or add any ADA Principles of Ethics, ADA Official Advisory Opinions, or other standards of dentist conduct relating to dentists' or dental care delivery organizations' advertising, solicitation, or other promotional activities, except to conform such standards to the standard set forth in Section II(A) of this order.

(E) Not refer to or apply any standard of dentist conduct other than the standard set forth in Section II(A) of this order in responding to requests for advice, inquiries, and complaints from dental societies, dentists, or others relating to dentists' or dental care delivery organizations' advertising, solicitation, or other promotional activities. In all such responses, respondents shall enclose a copy of this order and a copy of the ADA Principles of Ethics and Official Advisory Opinions made consistent with Section II(A)-(D) of this order.

III

It is further ordered, That at no time after entry of the final adjudicated order, or Commission issuance of a decision and order based on a consent agreement against the American Medical Association in FTC Dkt. 9064, shall respondents apply, in any formal or informal disciplinary proceeding, any standard of dentist conduct different from the standard set forth in Section II(A) of this order to those promotional activities which occur prior to entry of such final adjudicated order or consent order.

IV

It is further ordered, That nothing in this order shall be construed to limit the Commission's authority to investigate, proceed administratively against, or seek court action against any constituent or component society of ADA which may be acting contrary to this order or in violation of any of the laws which the Federal Trade Commission is charged with enforcing.

V

It is further ordered, That if the instant proceeding is returned to adjudicative status pursuant to Section I(B) of this order, no provision of this order other than Section III shall be given effect thereafter.

VI

It is further ordered, That:

(A) Within sixty (60) days after this order becomes final, ADA shall publish its full text in a prominent place and manner in the *Journal of the American Dental Association* and *ADA News*. Within ninety (90) days after this order becomes final, the other respondents shall publish its full text in a prominent place and manner in their respective publications: IDA in the *IDA Journal*; IDDS in the *IDDS Newsletter*; VDA in the *VDA Journal*; and NVDS in *NOVA News*.

(B) Within sixty (60) days after this order becomes final, ADA shall send a letter in the form shown in Appendix A to this order to each of its members. During the period prior to entry of a final adjudicated order, or Commission issuance of a decision and order based on a consent agreement against the American Medical Association in FTC Dkt. 9064, ADA shall send the same form letter, together with a copy of this order, to each dentist who joins ADA, immediately upon his or her joining.

(C) Within sixty (60) days after this order becomes final, ADA shall send, by first class mail, a letter in the form shown in Appendix B to this order to the presidents, staff directors, and ethics committee chairpersons of each of its constituent and component societies, enclosing a copy of this order and a copy of the ADA Principles of Ethics and Official Advisory Opinions made consistent with Section II(A)-(D) of this order.

VII

It is further ordered, That within ninety (90) days after service of this order and annually on the anniversary date of the original report, for each of the succeeding years prior to entry of a final adjudicated order or Commission issuance of a decision and order based on a consent agreement order against the American Medical Association in FTC Dkt. 9064, each respondent shall individually file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order. All such compliance reports shall include such other information and documentation as the Commission may require to show compliance with this order.

VIII

It is further ordered, That nothing in this order shall be construed to exempt any respondent from compliance with the antitrust laws or the Federal Trade Commission Act, and the fact that any activity is not prohibited by this order shall not bar a challenge to it under such laws and statute.

IX

It is further ordered, That each respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or association, or any other change in the corporation or association which may affect compliance obligations arising out of this order.

APPENDIX A

[ADA Regular Letterhead]

Dear Doctor:

As you are probably aware, in January of 1977, the Federal Trade Commission issued a complaint against the ADA, the Indiana Dental Association, the Indianapolis

District Dental Society, the Virginia Dental Association, and the Northern Virginia Dental Society. The administrative complaint alleged that certain portions of ADA's Principles of Ethics and advisory opinions regarding advertising and solicitation by dentists were in violation of the Federal Trade Commission Act.

We have entered into a consent order with the FTC, without admitting any violation of the law, which will provide an interim resolution of the matter pending the ultimate decision in a similar FTC case (Dkt. 9064) involving professional advertising and solicitation. The ADA and the FTC have agreed to be bound by the final outcome of the other case principally as it relates to FTC jurisdiction, ethical restrictions on advertising and solicitation, and relief. That case, which may ultimately be decided by a United States Court of Appeals or the United States Supreme Court, deals with a number of questions, but those which relate to the ADA case are principally whether the FTC has jurisdiction over the professional associations in that case and whether those professional associations may have violated the Federal Trade Commission Act through adoption and enforcement of ethical restrictions on advertising and solicitation.

Pending the final decision in that case, advertising, solicitation of patients or business, or other promotional activities by dentists or dental care delivery organizations shall not be considered unethical or improper, except for those promotional activities which are false or misleading in any material respect. Regardless of any standards of dentist conduct which may be worded differently, this shall be the sole standard for determining the ethical propriety of such promotional activities. The ADA Principles of Ethics and Official Advisory Opinions have been made consistent with the above stated standard through the addition of footnotes. Any provision of an ADA constituent or component society's code of ethics or other standard of dentist conduct relating to dentists' or dental care delivery organizations' advertising, solicitation, or other promotional activities which is worded differently from the above stated standard shall be deemed to be in conflict with the ADA Principles of Ethics.

We urge all of our members and constituent and component organizations to abide by the letter and spirit of this consent order, a copy of which is printed in the _____ issue of the *ADA News* and which may be obtained from ADA headquarters or from your state or local dental society. A copy of the ADA Principles of Ethics and Official Advisory Opinions, as made consistent with the above stated standard, also may be obtained from these sources.

As part of the consent order, the FTC reserves the right to investigate, proceed administratively against, or seek court action against any constituent or component society of the ADA which may be acting contrary to the consent order or in violation of any of the laws which the FTC is charged with enforcing.

We will keep you advised on further developments as this matter proceeds toward its ultimate resolution.

Thank you for your cooperation.

Sincerely,
Joseph P. Cappuccio, D.D.S.
President

APPENDIX B

[ADA Regular Letterhead]

Dear _____:

As you are probably aware, in January of 1977, the Federal Trade Commission

issued a complaint against the ADA, the Indiana Dental Association, the Indianapolis District Dental Society, the Virginia Dental Association, and the Northern Virginia Dental Society. The administrative complaint alleged that certain portions of ADA's Principles of Ethics and advisory opinions regarding advertising and solicitation by dentists were in violation of the Federal Trade Commission Act.

We have entered into a consent order with the FTC, without admitting any violation of the law, which will provide an interim resolution of the matter pending the ultimate decision in a similar FTC case (Dkt. 9064) involving professional advertising and solicitation. The ADA and the FTC have agreed to be bound by the final outcome of the other case principally as it relates to FTC jurisdiction, ethical restrictions on advertising and solicitation, and relief. That case, which may ultimately be decided by a United States Court of Appeals or the United States Supreme Court, deals with a number of questions, but those which relate to the ADA case are principally whether the FTC has jurisdiction over the professional associations in that case and whether those professional associations may have violated the Federal Trade Commission Act through adoption and enforcement of ethical restrictions on advertising and solicitation.

Pending the final decision in that case, advertising, solicitation of patients or business, or other promotional activities by dentists or dental care delivery organizations shall not be considered unethical or improper, except for those promotional activities which are false or misleading in any material respect. Regardless of any standards of dentist conduct which may be worded differently, this shall be the sole standard for determining the ethical propriety of such promotional activities. The ADA Principles of Ethics and Official Advisory Opinions have been made consistent with the above stated standard through the addition of footnotes (a copy is enclosed). Any provision of an ADA constituent or component society's code of ethics or other standard of dentist conduct relating to dentists' or dental care delivery organizations' advertising, solicitation, or other promotional activities which is worded differently from the above stated standard shall be deemed to be in conflict with the ADA Principles of Ethics.

We urge all of our members and constituent and component organizations to abide by the letter and spirit of the consent order, copies of which are enclosed.

All older editions of ADA's Principles of Ethics, Official Advisory Opinions, and constituent and component society ethical codes and interpretations which are worded differently from the above stated standard should no longer be distributed or enforced. Neither should any informal interpretations be given which do not accord with this standard.

As part of the consent order, the FTC reserves the right to investigate, proceed administratively against, or seek court action against any constituent or component society of the ADA which may be acting contrary to the consent order or in violation of any of the laws which the FTC is charged with enforcing.

We will keep you advised on further developments as this matter proceeds toward its ultimate resolution.

Thank you for your cooperation.

Sincerely,
Joseph P. Cappuccio, D.D.S.
President

Enclosures

Modifying Order

IN THE MATTER OF

JAY NORRIS CORP., ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 9054. Decision, May 2, 1978 — Modifying Order, Sept. 10, 1979

This order conforms an order issued on May 2, 1978, 91 F.T.C. 751, 43 FR 33900, to court-approved modifications by revising Part I of the original order to reflect that the term "full purchase price," as used in Paragraph 2, excludes postage incurred in placing an order or requesting a refund; deleting Paragraph 6; and by changing the notification period for corporate changes in Paragraph 2 of Part III of the order from the 30 days originally provided to five days.

ORDER CONFORMING PREVIOUS FINAL ORDER TO COURT
APPROVED MODIFICATIONS

After the Commission issued a cease and desist order in this matter on May 2, 1978, the respondents named in the order filed a petition for review of the order in the United States Court of Appeals for the Second Circuit. By motion dated February 21, 1979, the parties jointly requested the Court to modify Part I, Paragraph 2 and Part III, Paragraph 2 of the Commission's order and affirm the Commission's order as so modified (with the exception of Part I, Paragraph 6 of the order, which respondents continued to contest in the court proceeding). By consenting to the modified order the respondents agreed to severance of Part I, Paragraph 6 for purposes of finality so that the balance of the order would become immediately final and enforceable upon approval by the Court of the stipulated modifications. The "agreement" submitted to the Court with the joint motion also provided that "[u]pon entry of the Court's Order affirming the stipulation the Commission will enter a new Administrative Order in conformity with said Order."

On May 1, 1979, the Court of Appeals, *inter alia*, approved the stipulated modifications.¹ Accordingly, the Commission hereby enters the following order incorporating the modifications agreed to by the parties and approved by the Court.

¹ The Court also rejected respondents' challenges to Part I, Paragraph 6, of the Commission's order, although it ordered changes in the wording of the language for purposes of clarification. That provision is not final as respondents have received from Mr. Justice Marshall of the United States Supreme Court an extension of time until September 14, 1979, for the filing of a petition for writ of certiorari. Part I, Paragraph 6 will be the subject of a separate administrative order if and when it becomes final in accordance with 15 U.S.C. 45(g).