

Complaint

95 F.T.C.

IN THE MATTER OF
AMF INCORPORATED

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

Docket C-3011. Complaint, Feb. 21, 1980—Decision, Feb. 21, 1980

This consent order requires, among other things, a White Plains, N.Y. manufacturer and seller of bicycles, tricycles and other two- or three-wheeled non-motorized vehicles to cease, in connection with the advertising and sale of its products, from representing young children or others riding or operating such vehicles in an improper, unsafe or unlawful manner. The firm is also prohibited from representing any person riding a minibike in traffic unless such operation is permitted by applicable traffic laws and regulations. The order further requires the firm to timely produce two or more versions of a bicycle safety message with the advice, assistance and approval of three independent individuals experienced or knowledgeable in bicycle safety, children's advertising and children's television programming; provide a film of such message to specified television broadcasting stations throughout the country; and monitor the message for four months to ensure that it reaches a designated number of children. Should the message fail to reach the specified audience level, respondent is required to distribute the film for airing by a second group of T.V. stations.

Appearances

For the Commission: *Louise R. Jung* and *John G. Siracusa*.

For the respondent: *Hugh Latimer, Bergson, Borkland, Margolis & Adler*, Washington, 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 AMF Incorporated, a corporation, hereinafter referred to as respondent, has 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:

PAR. 1. Respondent AMF Incorporated is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its office and principal place of business located at 777 Westchester Ave., White Plains, New York.

Respondent's Wheel Goods Division is principally responsible for the

manufacture and sale of respondent's bicycles, tricycles and other wheeled toys.

PAR. 2. Respondent is now and for all times relevant to this complaint has been engaged in the production, distribution, and sale of a variety of bicycles, tricycles and other wheeled toys.

PAR. 3. Respondent has caused to be prepared and placed for publication and has caused the dissemination of advertising material, including, but, not limited to, the advertising referred to herein, to promote the sale of bicycles and tricycles, including, but not limited to, the "Evel Knievel MX," the "Evil Knievel Hot Seat" and the "Avenger."

PAR. 4. In the course and conduct of its aforesaid business, respondent causes and has caused wheeled goods to be transported from its place of business to purchasers thereof located in various other States of the United States and in the District of Columbia. Respondent maintains and at all times mentioned herein has maintained, a substantial course of trade in said products in or affecting commerce.

PAR. 5. In the course and conduct of its aforesaid business, respondent has disseminated, and caused the dissemination of certain television advertisements concerning said products in or affecting commerce which were broadcast by television stations located in various States of the United States, and in the District of Columbia, having sufficient power to carry such broadcasts across state lines, for the purpose of inducing, and which were likely to induce, directly or indirectly, the purchase of said product in or affecting commerce.

PAR. 6. Typical and illustrative of the statements and representations in respondent's advertisements disseminated by means of television, but not all inclusive thereof, are the "Can't Wait" and "Avenger" advertisements. In "Can't Wait," two young boys are shown riding their respective vehicles, a bicycle and tricycle, down their parallel driveways, continuing a short distance into the adjoining street so as to greet each other, without slowing down or looking out for cars or other possible dangers to themselves or others. In "Avenger," one young boy is shown riding a bicycle on a one-way street, then turning onto a sidewalk and into a vacant dirt lot without slowing down or looking right or left, riding over rough and uneven ground in the dirt lot, and then turning into an alley without slowing down or looking right or left.

PAR. 7. A. The aforesaid advertisements have the tendency or capacity to influence young children to ride or operate a bicycle, tricycle or other similar wheeled toy in a street, road, alley or other traffic thoroughfare.

B. Furthermore, the aforesaid advertisements have the tendency

or capacity to influence children to engage in the following behavior with respect to the use of bicycles, tricycles, or other similar wheeled toys:

1. Riding across rough and uneven ground on a bicycle, tricycle or other similar wheeled toy in a manner which creates an unreasonable risk of harm to person or property.

2. Riding or operating a bicycle, tricycle or other wheeled toy in a manner which is contrary to generally recognized standards of safety for the operation or use of a bicycle, tricycle or other similar wheeled toy.

Therefore, such advertisements have the tendency or capacity to induce behavior which involves an unreasonable risk of harm to person or property, and were and are therefore unfair or deceptive acts or practices.

PAR. 8. In the course and conduct of its aforesaid businesses, and at all times mentioned herein, respondent has been and is now, in substantial competition, in or affecting commerce, with other corporations engaged in the manufacture and sale of bicycles, tricycles and other wheeled toys.

PAR. 9. The aforesaid acts or practices of respondent, as herein alleged as aforesaid, were and are all to the prejudice and injury of the public and of respondent's competitors, and constituted and now constitute unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act, as amended.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the named respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge the named respondent with violation of the Federal Trade Commission Act; and

The named respondent, AMF Incorporated, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, and admission by the named respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by the named respondent that the law has been violated as alleged in such complaint,

and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the named respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed agreement on the public record for a period of sixty (60) days and the named respondent having thereafter submitted modifications to the executed agreement, dated September 26, 1979; and

The Commission, having duly considered the comments filed by interested persons pursuant to Section 2.34 of its Rules during the sixty (60) day period and the recommendations of its staff, now in further conformity with the procedures prescribed in Section 2.34 of its Rules, hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. The named respondent, AMF Incorporated, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with an office and place of business located at 777 Westchester Ave., White Plains, New York.

2. Respondent's Wheel Goods Division is principally responsible for the manufacture and sale of respondent's bicycles, tricycles and other wheeled toys.

ORDER

For the purpose of this Order, the term "non-motorized two- or three-wheeled vehicle" shall include bicycles, tricycles, and other similar non-motorized two- or three-wheeled vehicles. The term "minibike" shall refer to motorized two-wheeled vehicles without gears and shall not include mopeds.

I.

It is ordered, That respondent AMF Incorporated, a corporation, hereinafter referred to as respondent, its successors and assigns, and their officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale or distribution in or affecting commerce of any non-motorized two- or three-wheeled vehicle or minibike, cease and desist from, directly or by implication:

- A. Representing, in any manner, any child who appears to be eight years old or younger operating any non-motorized two- or three-wheeled vehicle in any public street, road, alley or other traffic thoroughfare; *provided, however,* that this provision shall not apply to

the depiction of any child who appears to be five to eight years old operating a non-motorized two- or three-wheeled vehicle in any public street, road, alley, or other traffic thoroughfare when such child is accompanied and closely supervised by a person who appears to be eighteen years old or older and who is operating a non-motorized two- or three-wheeled vehicle.

B. Representing, in any manner, any person(s) performing stunts, jumps, wheelies, or any other similar act while operating a non-motorized two- or three-wheeled vehicle when such act(s) create(s) an unreasonable risk of harm to person or property; *provided, however*, that this provision shall not apply to the depiction of persons using motocross bikes in an adult-supervised off-the-road setting and in which the participants are shown wearing helmets and where arms, legs, and feet are suitably covered.

C. Representing, in any manner, any person(s) operating or riding a non-motorized two- or three-wheeled vehicle in any public street, road, alley or other traffic thoroughfare:

1. without obeying all applicable official traffic control devices;
2. other than upon, astride or straddling a regular seat attached thereto;
3. with more persons on it, at any one time, than the vehicle is designed or safely equipped to carry, except that an adult rider may carry a child securely attached to its person in a back pack or sling;
4. while carrying any package, bundle, or article which obstructs vision or interferes with the proper control of the vehicle;
5. when such person attaches himself/herself or the vehicle to any other vehicle; *provided, however*, that this provision shall not apply to the depiction of a bicycle trailer or bicycle semitrailer attached to a bicycle if that trailer or semitrailer has been designed for such attachment and when the operation of such a bicycle with such an attachment does not create an unreasonable risk of harm to person or property;
6. unless such vehicle is equipped with reflectors in conformance with Section 1512.16 of the "Revised Safety Standards for Bicycles" (16 CFR 1512 (1978)) or any successor provision, rule or regulation issued by the Consumer Product Safety Commission and, in addition, a functioning headlamp whenever such person is operating or riding a non-motorized two- or three-wheeled vehicle at dawn, dusk or night;
7. while wearing loose clothing or long coats that can catch in pedals, chains or wheels;
8. against the flow of traffic;
9. unless such person exercises proper caution, such as by riding at

a reasonable speed and at a reasonable distance from parked cars and the edge of the road, with respect to:

- a. car doors opening and cars pulling out into traffic; and
- b. drain grates, soft shoulders and other road surface hazards;

10. in other than single file when travelling with other such vehicles; *provided, however*, that this provision shall not apply to the depiction of persons riding in other than single file when such behavior does not impede the normal and reasonable movement of traffic and does not create an unreasonable risk of harm to person or property;

11. unless such person exercises proper caution before entering or crossing any public street, road, alley or other traffic thoroughfare from any non-traffic area by first stopping and looking left and right and yielding the right-of-way to all vehicles approaching on such public thoroughfare to the extent necessary to safely enter the flow of traffic;

12. unless such person exercises proper caution before entering or crossing any sidewalk or other pedestrian pathway by first looking left and right and yielding the right-of-way to all pedestrians approaching on such pedestrian pathway.

D. Representing, in any manner, any person operating a mini-bike in any public street, road, alley or other traffic thoroughfare, unless such operation is lawful under applicable vehicle codes.

II.

It is further ordered, That respondent shall produce two or more versions of bicycle safety messages of from one-half to five minutes duration. In the development and production of the safety message(s), respondent agrees to secure the advice, assistance, and approval of each of three independent individuals who will provide experience or knowledge in the areas of (1) bicycle safety, (2) children's television programming, and (3) children's advertising. The conclusion reached by these individuals concerning the appropriateness of the safety messages shall be reported to the Federal Trade Commission.

It is further ordered, That, on or before September 1, 1979, respondent shall provide a film of either bicycle safety message to each television broadcasting station listed in Appendix A. Respondent shall monitor the dissemination of the safety message(s) and shall provide to the Commission a report on the gross impressions achieved by the dissemination of the safety message(s) between September 1, 1979 and December 31, 1979. This report shall be submitted on or before January 31, 1980.

It is further ordered, That, in the event the total gross impressions

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for the safety message(s) does not equal or exceed ten percent of the gross impressions achieved by the "Avenger" and "Can't Wait" television advertisements (as reported in Appendix B) respondent shall provide a film of the safety message(s) to each television broadcasting station listed on Appendix C on or before March 1, 1980, and shall continue to monitor the dissemination of the safety message(s) and provide to the Commission on or before July 31, 1980, a second report on the gross impressions achieved by the dissemination of the safety message(s) between March 1, 1980 and June 30, 1980.

It is further ordered, That, in the event that service of this order upon respondent occurs after June 15, 1979, the dates set forth in Section II shall be adjusted so that a period of seventy-five (75) days lapses between the date of service of this order upon respondent and the date by which respondent is required to provide a film of the bicycle safety message(s) to the stations named in Appendix A. All of the dates following this initial date shall also be adjusted to retain and allow for the same periods of time for performance of obligations outlined in this section.

For purposes of this section, the measurement of gross impressions shall include only the 6-11 year old component of the viewing audience. Gross impressions shall be measured by counting each probable exposure of a 6-11 year old child to the safety message(s), with duplication allowed.

III.

It is further ordered, That respondent shall forthwith distribute a copy of this order to each of its operating divisions which engage or shall engage in the preparation or dissemination of advertising.

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

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

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APPENDIX A

CITY AND STATE

STATION

WBMG	BIRMINGHAM, AL
WSFA	MONTGOMERY, AL
KPHO	PHOENIX, AZ
KERO	BAKERSFIELD, CA
KJTV	BAKERSFIELD, CA
KNBC	LOS ANGELES, CA
KABC	LOS ANGELES, CA
KCOP	LOS ANGELES, CA
KHJ	LOS ANGELES, CA
KTLL	LOS ANGELES, CA
KTTV	LOS ANGELES, CA
KLCS	LOS ANGELES, CA
KTVU	LOS ANGELES, CA
KGO	LOS ANGELES, CA
KPIX	LOS ANGELES, CA
KLXA	LOS ANGELES, CA
KBTU	SAN FRANCISCO, CA
KGMH	SAN FRANCISCO, CA
KWGN	SAN FRANCISCO, CA
WRC	SAN FRANCISCO, CA
WJKS	SANTA ANA, CA
WRN/WTHF	DENVER, CO
WPLG	DENVER, CO
WTVJ	DENVER, CO
WFLA	DENVER, CO
WSB	DENVER, CO
WXIA	DENVER, CO
WJBF	DENVER, CO
WMAZ	DENVER, CO
WTOC	DENVER, CO
WLS	DENVER, CO
WSIL	DENVER, CO
WQAD	DENVER, CO
WIFR	DENVER, CO
WPTA	DENVER, CO
WISH	DENVER, CO
WMT	DENVER, CO
KCCI	DENVER, CO
KCAU	DENVER, CO
KOAM	DENVER, CO
KAKE	DENVER, CO
	WASHINGTON, D.C.
	JACKSONVILLE, FL
	MIAMI, FL
	MIAMI, FL
	MIAMI, FL
	TAMPA, FL
	ATLANTA, GA
	ATLANTA, GA
	AUGUSTA, GA
	MACON, GA
	SAVANNAH, GA
	CHICAGO, IL
	HARRISBURG, IL
	MOLINE, IL
	ROCKFORD, IL
	FORT WAYNE, IN
	INDIANAPOLIS, IN
	CEDAR RAPIDS, IA
	DES MOINES, IA
	SIoux CITY, IA
	PITTSBURG, KS
	WICHITA, KS

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<u>STATION</u>	<u>CITY AND STATE</u>
WDRB	LOUISVILLE, KY
WDSU	NEW ORLEANS, LA
WBFF	BALTIMORE, MD
WJZ	BALTIMORE, MD
WMAR	BALTIMORE, MD
WBZ	BOSTON, MA
WNAC	BOSTON, MA
WCVB	BOSTON, MA
WHYN	SPRINGFIELD, MA
WGPR	DETROIT, MI
WZZM	GRAND RAPIDS, MI
WKZO	KALAMAZOO, MI
WILX	LANSING, MI
WJBX	DETROIT, MI
KCMT	ALEXANDRIA,
WHTV	MERIDIAN, MS
KMOX	ST. LOUIS, MO
KYTV	SPRINGFIELD, MO
KYUS	MILES CITY, MT
KOLN	LINCOLN, NE
WMUR	MANCHESTER, NH
KRWG	LAS CRUCES, NM
KFNW	PORTALES, NM
WTEN	ALBANY, NY
WBNG	BINGHAMTON, NY
WABC	NEW YORK, NY
WCBS	NEW YORK, NY
WOR	NEW YORK, NY
WTVH	SYRACUSE, NY
WSYR	SYRACUSE, NY
WLOS	ASHEVILLE, NC
WTVB	DURHAM, NC
WXII	WINSTON-SALEM, NC
WCPO	CINCINNATI, OH
WKYC	CLEVELAND, OH
WKEF	DAYTON, OH
WUAB	PARMA, OH
WSTV	STEUBENVILLE, OH
WDHO	TOLEDO, OH
WSPD	TOLEDO, OH
WTOL	TOLEDO, OH

<u>STATION</u>	<u>CITY AND STATE</u>
KTVL	MEDFORD, OR
KATU	PORTLAND, OR
WNEP	AVOCA, PA
WGAL	LANCASTER, PA
WPVI	PHILADELPHIA, PA
KDKA	PITTSBURGH, PA
WIIIC	PITTSBURGH, PA
WTAE	PITTSBURGH, PA
WJAR	PROVIDENCE, RI
WPRI	PROVIDENCE, RI
WCBD	CHARLESTON, SC
WIS	COLUMBIA, SC
WFBC	GREENVILLE, SC
WCIV	MT. PLEASANT, SC
WBIR	KNOXVILLE, TN
WNGE	NASHVILLE, TN
WTVF	NASHVILLE, TN
WFAA	DALLAS, TX
KXAS	FORT WORTH, TX
KPRC	HOUSTON, TX
KLBK	LUBBOCK, TX
KWBT	RICHMOND, VA
KING	SEATTLE, WA
KOMO	SEATTLE, WA
KSPS	SPOKANE, WA
WSAZ	HUNTINGTON, WV
WISC	MADISON, WI

APPENDIX B

"Can't Wait" and "Avenger"

Total gross impressions of children ages 6-11 for both advertisements: 59,630,000

Total minutes of advertising broadcast from July, 1976 through September, 1977: 960 minutes

Total number of markets in which the two advertisements were broadcast: 37 markets

Total net impressions of children ages 6-11 for both advertisements: 3,619,000

APPENDIX C

<u>STATION</u>	<u>CITY</u>
WBMG	BIRMINGHAM

<u>STATION</u>	<u>CITY</u>
WBRC	BIRMINGHAM
WTVY	DOTHAN
WYUR	HUNTSVILLE
WCOV	MONTGOMERY
KTAR	PHOENIX
KVOA	TUCSIN
KATV	LITTLE ROCK
KBAK	BAKERSFIELD
KJTV	BAKERSFIELD
KNBC	LOS ANGELES
KABC	LOS ANGELES
KHJ	LOS ANGELES
KTLA	LOS ANGELES
KWHY	LOS ANGELES
KXTV	SACRAMENTO
KSCI	SAN BERNARDINO
KFMB	SAN DIEGO
KTSF	SAN FRANCISCO
KEYT	SANTA BARBARA
WFSB	HARTFORD
WHNB	W. HARTFORD
WEVU	BONITA SPRINGS
WBBH	FT. MYERS
WCIX	MIAMI
WPLG	MIAMI
WFTV	ORLANDO
WPTV	PALM BEACH
WJHG	PANAMA CITY
WTSP	ST. PETERSBURG
WXLt	SARASOTA
WCTV	TALLAHASSEE
WIVT	TAMPA
WRBL	COLUMBUS
WMAZ	MACON
KID	IDAHO FALLS
WCIA	CHAMPAIGN
WICD	CHAMPAIGN
WBBM	CHICAGO
WGN	CHICAGO
WLS	CHICAGO
WMAQ	CHICAGO

<u>STATION</u>	<u>CITY</u>
WSIL	HARRISBURG, IL
WMBD	PEORIA
WGFM	QUINCY
KHQA	QUINCY
WKJG	FT. WAYNE
WISH	INDIANAPOLIS
WRTV	INDIANAPOLIS
WTHR	INDIANAPOLIS
WTWO	TERRE HAUTE
WMT	CEDAR RAPIDS
KUPK	COPELAND
KARD	WICHITA
KTVH	WICHITA
WBKO	BOWLING GREEN
WAVE	LOUISVILLE
KALB	ALEXANDRIA
KATC	LAFAYETTE
KFLY	LAFAYETTE
KPLC	LAKE CHARLES
WDSU	NEW ORLEANS
WGNO	NEW ORLEANS
WVUE	NEW ORLEANS
WBFF	BALTIMORE
WHAG	HAGERSTOWN
WBZ	BOSTON
WCVB	BOSTON
WTEV	NEW BEDFORD
WUHQ	BATTLE CREEK
WEYI	SAGINAW
WJBK	DETROIT
KMSP	MINNEAPOLIS
KSTP	ST. PAUL
WCBI	COLUMBUS
WJTV	JACKSON
WHTV	MERIDIAN
KFVS	CAPE GIRARDEAU
KYUS	MILES CITY
KGVO	MUSSOULA
KHGI	KEARNEY
KOLN	LINCOLN
KETV	OMAHA

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<u>STATION</u>	<u>CITY</u>
KVVU	BENDERSON
KLAS	LAS VEGAS
KOLO	RENO
KGGM	ALBUQUERQUE
KVIA	FARMINGTON
WSYE	ELMIRA
WHEC	ROCHESTER
WSOC	CHARLOTTE
WFMY	GREENSBORO
WGHP	HIGH POINT
WRAL	RALEIGH
WXIX	CINCINNATI
WEWS	CLEVELAND
WCMH	COLUMBUS
WDHO	TOLEDO
KETA	OKLAHOMA CITY
KWTV	OKLAHOMA CITY
KOTV	TULSA
KPTV	PORTLAND
WTAJ	ALTOONA
WLYH	LEBANON
KYW	PHILADELPHIA
WPVI	PHILADELPHIA
WIIC	PITTSBURGH
WTAE	PITTSBURGH
WSBA	YORK
WBTW	FLORENCE
KXON	MITCHELL
WDEF	CHATTANOOGA
WTVG	CHATTANOOGA
WCPT	CROSSVILLE
WATE	KNOXVILLE
WHBQ	MEMPHIS
WREG	MEMPHIS
WSM	NASHVILLE
WTVF	NASHVILLE
KBMT	BEAUMONT
WFAA	DALLAS
KVIA	EL PASO
KXAS	FT. WORTH
KRIV	HOUSTON

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<u>STATION</u>	<u>CITY</u>
KHOU	HOUSTON
KENS	SAN ANTONIO
KMOL	SAN ANTONIO
KCEN	TEMPLE
KLTV	TYLER
KRGV	WESLACO
KUTV	SALT LAKE CITY
WHSV	HARRISONBURG
WSET	LYNCHBURG
WSLS	ROANOKE
KAPP	YAKIMA
WBOY	CLARKSBURG
WTAP	PARKERSBURG
WEAU	EAU CLAIRE
WMTV	MADISON
WAEO	RHINELANDER
WSAU	WAUSAU

IN THE MATTER OF
BRUNSWICK CORPORATION, ET AL.

Docket 9028. Interlocutory Order, Feb. 22, 1980

ORDER DENYING MOTION TO DISQUALIFY COUNSEL

By motion filed with the Secretary on December 26, 1979, respondents Brunswick Corporation and Mariner Corp. (hereinafter "Movants") move that the law firms of Mori and Ota and Pettit & Martin be disqualified as counsel for Yamaha Motor Company, Ltd. in this proceeding.¹ Movants contend that disqualification is required because of the actions of Ronald J. Dolan, a former Commission employee. For the reasons stated below, this motion is denied.²

I

The facts regarding this matter are set forth in Mr. Dolan's affidavits of December 14, 1979 ("Dolan Affidavit I") and January 11, 1980 ("Dolan Affidavit II"), the accuracy of which are supported by the December 14, 1979 ("Ferguson Affidavit I") and January 11, 1980 ("Ferguson Affidavit II") affidavits of John P. Ferguson; the January 9, 1980, affidavit of Jun Mori; the January 9, 1980, affidavit of Henry Y. Ota; and the December 11, 1979, affidavit of Shigeru Watanabe.

Prior to June 8, 1979, Mr. Dolan was an Assistant Director of the Commission's Bureau of Competition, and had served as the Commission's lead trial counsel in Dkt. 9028. Dolan Affidavit I ¶ 3. During his employment at the Commission, Mr. Dolan did not discuss with Mori and Ota either his own employment or the possibility that Pettit & Martin might serve as counsel for Yamaha. Dolan Affidavit II ¶ 16; Watanabe Affidavit ¶ 4. Mr. Dolan left the Commission's employment on June 8, 1979, and became employed by Pettit & Martin as "counsel" on July 2, 1979. In July 1979 an announcement of Mr. Dolan's employment by Pettit & Martin was sent to Jun Mori of Mori and Ota. Dolan Affidavit II ¶ 3.

On September 18, 1979, Mr. Mori telephoned Mr. Dolan and arranged to meet with him. *Id.* at ¶ 4. Mr. Dolan and Mr. Mori dined together on September 20, 1979, and Mr. Dolan "broached the possibility of Pettit & Martin handling some of the Washington legal business for Mori and Ota's clients." *Id.* at ¶ 5. Mr. Mori stated that the only Washington

¹ By motions of January 8 and 21, 1980, Movants sought a stay of the proceeding until the Commission ruled on their disqualification motion. By orders of January 18 and 23, 1980, the Commission denied these motions.

² The Commission having found oral argument on this motion to be unnecessary, Movants' request for such argument is denied. Movants' motion for leave to file their reply of January 21, 1980, is granted, as is Yamaha's motion for leave to file its reply of January 22, 1980.