

IN THE MATTER OF
THE HENSLEY GROUP, ET AL.

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

Docket 9230. Complaint, July 17, 1989—Decision, January 10, 1990

This consent order prohibits, among other things, an Alexandria, Va. timeshare promoter and its president from representing that a consumer has won a specified prize when he or she has not won the specified prize. The order requires respondents to disclose any applicable costs immediately following reference to the prize.

Appearances

For the Commission: *Terrence J. Boyle* and *Eileen Harrington*.

For the respondents: *Frank T. Eck, Eck, Collins & Anderson*,
Richmond, VA.

COMPLAINT

The Federal Trade Commission, having reason to believe that The Hensley Group, a corporation, and H. Lloyd Hensley, individually and as an officer of said corporation ("respondents"), have violated certain provisions of the Federal Trade Commission Act, ("FTC Act"), 15 U.S.C. 41 *et seq.*, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. The Hensley Group, is a Virginia corporation with its principal office and place of business located at 4701 A Eisenhower Avenue, Alexandria, Virginia.

H. Lloyd Hensley is an officer of The Hensley Group. He formulates, directs and controls the acts and practices of The Hensley Group, including the acts and practices hereinafter set forth. His address is the same as that of The Hensley Group.

PAR. 2. (a) Since at least 1987, respondents have created and disseminated promotional mailings such as attached Exhibits 1-2 throughout the United States to promote the sale of resort memberships and other recreational or real property interests.

(b) Respondents' promotional mailings make numerous representations regarding prizes or gifts to be awarded to consumers who appear at the site at which resort memberships or other recreational or real property interests are sold.

PAR. 3. The acts and practices of respondents alleged in this complaint have been in or affecting commerce.

PAR. 4. In numerous instances, respondents have represented, directly or by implication, that a named consumer has won one or more specified prizes.

PAR. 5. In truth and in fact, the named consumer has not won the specified prizes. Therefore, the representations set forth in paragraph four were false and misleading.

PAR. 6. In numerous instances, respondents have represented, directly or by implication, that a consumer will receive one or more prizes for no cost.

PAR. 7. In truth and fact, consumers are unable to receive one or more prizes without paying additional costs. Therefore, the representations set forth in paragraph six were false and misleading.

PAR. 8. The acts and practices of respondents as alleged in this complaint constitute unfair and deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. 45(a).

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EXHIBIT 1

<i>Certificate Of</i> Trust Code: 097944 **CR10 To <u>Mrs. M. A. Laurello</u> <u>6613 Huntsman Boulevard</u> <u>Springfield, Virginia 22152</u> Be it known that <u>Mrs. Laurello</u> will receive a verified entitlement immediately redeemable and valued at <u>TWENTY THREE THOUSAND 00/100 dollars payable</u> <u>in cash for 1988 BMW 325 AUTOMOBILE</u> contingent upon you presenting the Certificate of Trust to the reception center stated herein entitling you to said cash or merchandise valued at the stated amount prior to the expiration date of <u>November 16, 1988</u> As the recipient of the top two (2) grand prizes, you will additionally receive an entitlement redeemable for <u>\$10,000.00</u> contingent upon you presenting the Certificate of Trust to said reception center entitling <u>Mrs. Laurello</u> to said cash prior to the expiration date stated above Respond today, <u>Caroline Burke</u> CONFIRMED <i>Caroline Burke</i> Dist. Director Let it be known that millions of dollars worth of prizes have been and will be awarded to families throughout America. A list is attached hereto which illustrates a current list of winners. Claim Numbers: 01530 and 19998		<i>Please do not delay! All unclaimed grand prizes must be awarded!</i> <i>Should you fail to respond to this notice, your name will never appear</i> <i>in our current list of grand prize winners as illustrated below.</i> <table border="1"> <tr> <td>MRS. LAURELLO OF VIRGINIA</td> <td>WINNER OF</td> <td>1988 BMW & \$10,000.00</td> </tr> <tr> <td>MS. KAREN DECARDO OF MISSOURI</td> <td>WINNER OF</td> <td>\$10,000.00</td> </tr> <tr> <td>MRS. R. DICHERMAN</td> <td>WINNER OF</td> <td>CHRYSLER SUNANCE</td> </tr> <tr> <td>MR. JULIO CORTES</td> <td>WINNER OF</td> <td>\$3,279.00</td> </tr> </table>	MRS. LAURELLO OF VIRGINIA	WINNER OF	1988 BMW & \$10,000.00	MS. KAREN DECARDO OF MISSOURI	WINNER OF	\$10,000.00	MRS. R. DICHERMAN	WINNER OF	CHRYSLER SUNANCE	MR. JULIO CORTES	WINNER OF	\$3,279.00
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MR. JULIO CORTES	WINNER OF	\$3,279.00												

Mrs. Laurello, find attached your Certificate of Trust entitling you to your TWO (2) stated prizes. This is being presented to you as part of a previous offer whereby you were to receive two of four items. These items included 1) 1988 BMW Car, 2) \$10,000.00, 3) Sony Television System, 4) Deluxe AM/FM Multiplex Stereo System. We completed our selection, and the attached Certificate of Trust entitles you to your TWO (2) stated prizes. This is your final opportunity to claim these TWO (2) prizes.

Call today toll-free 1(800)352-7209 or (703)866-9288 to advise of your intent to claim your prizes, and schedule an appointment to visit The Hensley Off-Site Reservation Center. Our operators are on duty from 11:00 AM TO 8:00 PM Monday through Friday, and 10:00 AM to 2:00 PM on Saturday. Be sure to ask the operator how you can receive an additional bonus gift valued at \$59.95. This entire offer expires on November 16, 1988.

AWARD REDEMPTION RULES

You must be of legal age to contract to qualify for this program. If married both you and your spouse must claim your gift together. No purchase is necessary, however you are required to attend a gift seminar sales presentation. Employees of the developer or related entities, present owners, students, and persons with no source of income, anyone connected with this program, anyone named on the purpose of the solicitation of interval ownership. The person named on the letter must appear at our office with this letter, to claim his gift. This promotion is sponsored by Resort Services. Proof of identification may be required. Tax liability on any gift is the responsibility of the recipient and shall not be assumed by Resort Services. Awards and the chance of receiving and the retail value of each item are: Item 1: 1:100,000; Item 2: 1:100,000; Item 3: 1:100,000; Item 4: 1:100,000. We guarantee that at least one of the gifts will be distributed. All unclaimed gifts will not be distributed. This is part of a national program being sponsored by several developments which include Resort Services and ends December 31, 1988. We reserve the right to vary in different versions of this sweepstakes offer, however, their value will be approximately the same. One gift per family/vehicle. This promotion is designed of credit worthy single persons 25 to 65 with an income of \$25,000, or credit worthy married persons 25 to 65 with an income of \$30,000. The exact items which you are to receive in this promotion will be determined by your assigned claim numbers featured on the front of the Official Prize List, determined by your exact prizes. Claims subject to verification and void if illegible, unauthorized, forged, altered or irregular in any way. Liability for misprinted data is limited to the replacement of the promotional solicitation only. Equity Services Group, a registered trademark of Lead Marketing, PO Box 10342, McLean, VA 22102, is the marketing agent for this program. Limited theatre seating, no children please.



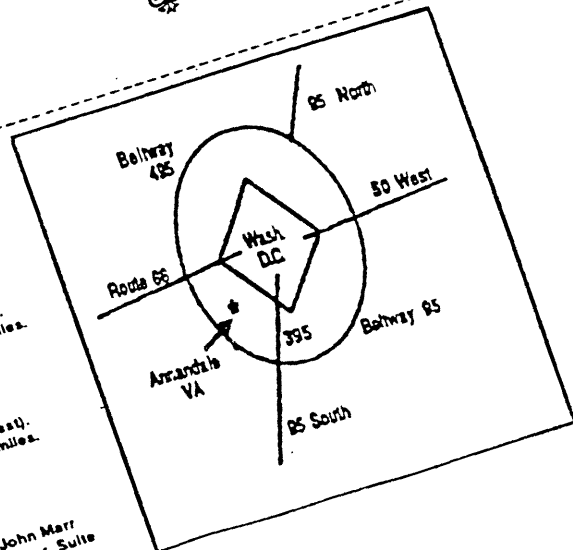
IT'S EASY TO GET TO OUR RECEPTION CENTER

From Virginia or Maryland:
Take Beltway 495 to Exit #6 (Route 236 East).
Take Route 236 east approximately 1 1/2 miles.
Turn left on John Marr Drive.

From Washington DC:
Take 395 South to Exit #3 (Route 236 West).
Take Route 236 West approximately 5 miles.
Turn right on John Marr Drive.

Location:

Resort Services is located at 4201 John Marr Drive in the Hub Center on the 2nd Floor, Suite 210. We look forward to your visit. 1443



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EXHIBIT 2



YOU ARE GUARANTEED TO RECEIVE YOUR TWO PRIZES!

When you are entitled to receive the top two listed prizes.

■CR29

February 2, 1989

Mrs. Richard Davison
304 Brodleaf Drive
Vienna, Virginia 22180

Prize Claim
Nos. 14098, 91388

Code: 098705

PLEASE COMPLY WITH THIS PETITION

Mrs. Davison is hereby petitioned to claim one (1) 1989 BMW Automobile, and one (1) certificate entitling Mrs. Davison to \$10,000.00 Worth of Gold Bullion.

Failure to heed this petition will immediately result in the forfeiture of your prizes. You must call 1(800)352-7209 within 72 hours of receipt of this petition to notify us of your intent to claim your stated prizes.

Mrs. Davison, The Council of Equity Adjustments is an independent organization commissioned by national advertising groups to award unclaimed valuable prizes, and certify the distribution of said prizes. The Council has been given your file, and it states that you have been notified one or more times to claim your prizes. The prizes must be distributed, and certification must be made.

MRS. DAVISON, YOU ARE GUARANTEED TO RECEIVE YOUR TWO PRIZES! But there is one condition, you must qualify in accordance with the rules stated on the reverse of this notification. Your opportunity to claim the stated prizes ends on February 17, 1989. After this date, these stated prizes will be released to some other family in Virginia.

Mrs. Davison, call today 1(800)352-7209 to advise of your intent to claim your prizes, and schedule an appointment to visit the local claim center. Our operators are on duty from 11:00 AM to 8:00 PM, Monday through Friday, and 10:00 AM to 2:00 PM on Saturday. You have 72 hours to call.

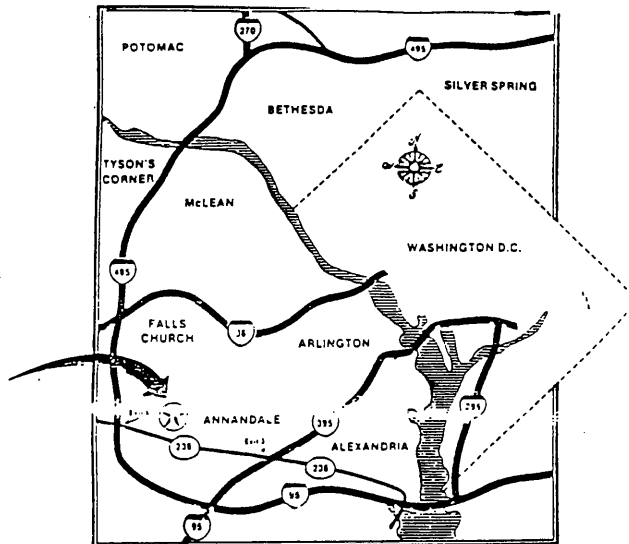
Sincerely,

Cecil K. Tyrone III

Cecil K. Tyrone III

Client:	Hensley Group
Project:	Resort Services
Top two prizes:	1) BMW Car 2) Gold Bullion
Remaining prizes:	3) His & Hers Diamond Watches 4) \$200 Gift Check

POST OFFICE BOX 25479 WASHINGTON, D.C. 20007-8479



IT'S EASY TO GET TO OUR RECEPTION CENTER

FROM VIRGINIA OR MARYLAND: Take Beltway 495 to Exit #6 (Route 236 East). Take Route 236 East approximately 1 1/2 miles. Turn left on John Marr Drive.

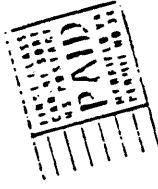
FROM WASHINGTON D.C.: Take 395 South to Exit #3 (Route 236 West.) Take Route 236 West approximately 5 miles. Turn Right on John Marr Drive.

LOCATION: Resort Services is located at 4201 John Marr Drive in the Hub Center on the 2nd Floor, Suite 210. We look forward to your visit.

AWARD REDEMPTION RULES

You must be of legal age to contract to qualify for this program. If married both you and your spouse must claim your gift together. No purchase is necessary, however you are required to attend a 90 minute sales presentation. Employees of the developer or related entities, present owners, students, and persons with no source of income, anyone connected with this program, anyone visited in the past six months, or present owners of Resort Services are ineligible. This is for the purpose of solicitation of interval ownership. The person named on the letter must appear at our office, with this letter to claim prizes. This promotion is sponsored by Resort Services. Proof of identification may be required. Tax liability on any prize is the responsibility of the recipient. For security reasons not all items are kept at the Merchandise Warehouse. Tax, License, shipping and handling are the responsibility of the recipient and shall not total more than \$499 for the car. Awards and the chance of receiving and the retail value of each item are: BMW Automobile, 1:200,000, \$23,000; \$10,000.00 Gold Bullion, 1:200,000, \$10,000.00; His and Her Diamond Watches, 199,998:200,000, \$199.00; \$200 Gift Check, 199,998:200,000, \$200. We guarantee that at least two of the prizes will be distributed. Any unclaimed prizes will not be distributed. This is part of a national program being sponsored by several developments which includes Resort Services and ends December 31, 1989. We reserve the right to substitute gifts of equal or greater value. Presentation of prize options will vary in different versions of this sweepstakes offer, however their value will be approximately the same. One offer per family/vehicle. This promotion is designed for credit worthy married persons 25 to 65 years of age with an annual income of \$30,000, or credit worthy single persons 25 to 65 years of age with an annual income of \$30,000. The exact items which you are to receive in this promotion will be determined by your assigned prize claim numbers featured on the front of this letter. Upon your visit to the facility, indicated on the map included in this offer, an authorized representative will match your claim numbers with the Official Prize List, determining your exact prizes. Claims subject to verification and void if illegible, unauthorized, forged, altered, or irregular in any way. Liability for misprinted data is limited to the replacement of the promotional solicitation only. Lead Marketing, Inc., trading as The Council of Equity Adjustments, PO Box 10342, McLean, VA 22102, is the marketing agent for this program. Limited theater seating, no children please.

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DATED DOCUMENTS / OPEN AT ONCE

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THE COUNCIL OF
EQUITY ADJUSTMENTS

P.O. Box 25479
Washington, D.C. 20017-8479



POSTMASTER: If undeliverable as addressed please refer to section 1.10 of the official rules.
ADDRESSEE: If you have moved notify Postal Service or The Council of Equity Adjustments.
Include the number from enclosed document

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 the notice of contemplated relief; and

The respondents, their attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts 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 Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its 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, 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 The Hensley Group is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia with its office and principal place of business located at 4701 A Eisenhower Avenue, in the City of Alexandria, State of Virginia.

Respondent H. Lloyd Hensley is an officer of The Hensley Group. He formulates, directs and controls the acts and practices which are the basis of the Commission's administrative complaint. His address is 4701 A Eisenhower Avenue, in the City of Alexandria, State of Virginia.

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

I.

It is ordered, That respondents, The Hensley Group, a corporation, its successors and assigns, and its officers, and H. Lloyd Hensley, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from representing, directly or by implication, that a consumer has won a specified prize, award, gift, bonus, premium, or any other good or service which is similarly described when in fact the consumer has not won the specified prize, gift, bonus, premium, or other good or service similarly described.

II.

It is further ordered, That respondents, The Hensley Group, a corporation, its successors and assigns, and its officers, and H. Lloyd Hensley, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, do forthwith cease and desist from representing, directly or by implication to any consumer that they will receive a prize, award, gift, bonus, premium, or any other good or service which is similarly described, without disclosing fully, in type of equal size to that used to identify such good or service and immediately following each good or service thus represented, any cost that the consumer must pay to receive such good or service.

III.

It is further ordered, That respondents, The Hensley Group, a corporation, its successors and assigns, and H. Lloyd Hensley, individually and as an officer of said corporation, shall for three years after the date the representation was last made maintain and upon request make available to the Federal Trade Commission for inspection and copying accurate records of (1) all advertising, promotional or sales materials containing representations regarding prize or gift offerings and (2) all prizes or gifts awarded pursuant to such offerings.

IV.

It is further ordered, That respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent 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.

V.

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of 10 years from the date of service of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

VI.

It is further ordered, That respondents shall, within sixty (60) days after service 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 all requirements of this order.

Commissioner Owen not participating.

IN THE MATTER OF
NUTRONICS CORPORATION, ET AL.

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

Docket C-3281. Complaint, Jan. 16, 1990—Decision, Jan. 16, 1990

This consent order requires, among other things, a Longmont, Co. manufacturer of the Alter-Brake System (ABS) to have competent and reliable scientific research to substantiate its increased fuel-saving claims, to cease misrepresenting that its ABS device has been approved by the government for sale to the public, and to display a disclaimer when making any representation of improved fuel economy or performance through the use of any such device.

Appearances

For the Commission: *R. Norman Cramer, Jr., Claude C. Wild III*
and *Mitchell B. Davis.*

For the respondents: *Paul A. Morris, Boulder, CO.*

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 Nutronics Corporation and Gary Kelsay, individually and as an officer of Nutronics Corporation (collectively the "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 as follows:

PARAGRAPH 1. Respondent Nutronics Corporation is a corporation organized and existing under the laws of the State of Nevada. It is qualified to do business in the State of Colorado as a foreign corporation with its office and principal place of business located at 700 Weaver Park Road, Suite A, Longmont, Colorado.

PAR. 2. Respondent Gary Kelsay is President and CEO of corporate respondent Nutronics Corporation. He formulates, directs and controls the acts and practices of said corporate respondent, including the acts and practices hereinafter set forth.