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Complaint

IN THE MATTER OF
MEDICAL STAFF OF HOLY CROSS HOSPITAL

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

Docket C-3345. Complaint, Sept. 10, 1991—Decision, Sept. 10, 1991

This consent order prohibits, among other things, the medical staff of a Florida hospital from entering, or attempting to enter, into any agreement which would prevent or restrict the offering or delivery of health care services by Holy Cross Hospital, Cleveland Clinic Florida (CCF), any CCF physician, or any other provider of health care services.

Appearances

For the Commission: *Paul J. Nolan and Mark J. Horoschak.*

For the respondent: *Bruno L. DiGiulian & Associates, P. A., Fort Lauderdale, FL.*

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 the Medical Staff of Holy Cross Hospital has violated and is violating Section 5 of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint stating its charges in that respect as follows:

RESPONDENT

PARAGRAPH 1. Respondent Medical Staff of Holy Cross Hospital ("the Medical Staff") is an unincorporated association, organized and existing under the laws of the State of Florida, with its mailing address at 4725 N. Federal Highway, Ft. Lauderdale, FL. The Medical Staff is composed of physicians and other health care practitioners who have privileges to attend patients at Holy Cross Hospital ("Holy Cross" or "the Hospital"). Appointment to the Medical Staff is a prerequisite for physicians who seek to admit, diagnose, or treat patients at Holy Cross Hospital.

OTHER HEALTH CARE PROVIDERS

PAR. 2. Holy Cross Hospital, Inc., incorporated under the Florida Nonprofit Corporation Law, operates Holy Cross Hospital, which is licensed by the State of Florida to operate 597 general acute care hospital beds. Holy Cross offers subspecialty services such as cardiac surgery, and is one of the few tertiary care hospitals in the Northern Broward County area.

PAR. 3. The Cleveland Clinic Foundation ("Cleveland Clinic" or "the Clinic"), located in Cleveland, Ohio, is a major provider of comprehensive health care services to patients requiring complex medical care. The Clinic is organized and operated as a multispecialty group medical practice and, as such, provides consumers an alternative to traditional individual and single specialty group forms of practice. Under the Clinic's multispecialty group practice format, patients can obtain all necessary specialized medical care and ancillary services from employees of the Clinic, including salaried physicians.

COMPETITION AMONG RESPONDENT'S MEMBERS

PAR. 4. The overwhelming majority of physicians in Northern Broward County and on respondent Medical Staff practice medicine in individual or small group practices on a fee-for-service basis. Under this traditional form of practice, when a patient's illness is beyond the capability or outside the medical specialty of an individual physician, the physician refers the patient to another independent physician.

PAR. 5. The Medical Staff, which includes approximately 300 members, is engaged in substantial activities for the economic benefit of its members. By virtue of its purposes and activities, the Medical Staff is a "corporation" within the meaning of Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. 44. Except to the extent that competition has been restrained as herein alleged, most, if not all, members of the Medical Staff have been and are now in competition among themselves and with other health care practitioners in the Northern Broward County area.

PAR. 6. The acts and practices of the respondent, including those herein alleged, are in or affect commerce within the meaning of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45.

COMPETITION FACED BY RESPONDENT'S MEMBERS

PAR. 7. Beginning in 1984, Cleveland Clinic sought to establish in

Northern Broward County a regional clinic that would operate as a fully integrated, multispecialty group practice, a form of practice which Cleveland Clinic officials believed would be attractive to consumers in that area. Cleveland Clinic officials had concluded that its form of practice controls medical care utilization and costs in a way that is not possible when patient care is provided on a fee-for-service basis by independent physicians, ancillary services providers, and hospitals. For example, the Clinic offers large employers and other third-party payers the alternative of all-inclusive prospective pricing for certain medical procedures requiring the services of a variety of medical and surgical specialists as well as hospital and ancillary services. In order to offer all of the features of Cleveland Clinic's form of practice, the Clinic needed access to a tertiary care hospital in the Northern Broward County area.

PAR. 8. As early as 1984, Holy Cross Hospital sought to offer consumers efficient, high quality alternatives to the traditional fee-for-service form of medical practice such as a health maintenance organization and a multispecialty diagnostic clinic. In 1986 Holy Cross and the Cleveland Clinic sought to enter an affiliation pursuant to which the Hospital's facilities would be utilized in the development of the Clinic's Florida branch, Cleveland Clinic Florida ("CCF"). Hospital officials believed that, in part because of the Cleveland Clinic's national reputation for providing high quality care, the proposed relationship with the Clinic would distinguish Holy Cross from other area hospitals and would help Holy Cross compete more effectively for patients. The proposed affiliation provided that CCF would utilize the Hospital by leasing unused hospital beds and purchasing ancillary hospital-based services from Holy Cross. During August 1986, the existence of discussions between the Clinic and Holy Cross became generally known to respondent Medical Staff.

PAR. 9. Respondent Medical Staff considered the proposed affiliation between CCF and Holy Cross to be a competitive threat to the individual and small group fee-for-service form of medical practice existing in Northern Broward County. CCF would offer consumers an alternative form of practice, integrating medical specialties and ancillary services into one economic unit with salaried physicians, and providing information to consumers by marketing, advertising, and using a trade name. The Medical Staff was concerned that enough consumers would find CCF's alternative form of practice attractive to disrupt existing patterns of patient referrals among individual physicians and small single specialty groups.

THE CONSPIRACY TO RESTRICT COMPETITION

PAR. 10. Respondent Medical Staff, acting as a combination of its members, and in conspiracy with at least some of its members, and others, attempted to and did prevent, delay and limit competition from CCF through the use of boycott threats and other anticompetitive practices. The conspiracy contemplated that respondent would thwart or obstruct Cleveland Clinic from establishing CCF in Northern Broward County by all means necessary, including agreements to act collectively rather than competitively in deciding whether and on what terms to admit patients to Holy Cross or to make patient referrals to CCF's physicians. At various times during and in furtherance of the combination and conspiracy, respondent Medical Staff has:

A. Agreed to boycott and threatened to boycott Holy Cross Hospital in order to coerce the Hospital:

- (i) to refuse to affiliate with the Clinic, and
- (ii) to prevent CCF physicians from becoming members of the Medical Staff;

B. Induced Holy Cross Hospital, through pretextual representations, to close the Medical Staff to new members and thereby prevent CCF physicians from becoming members of the Medical Staff;

C. Refused initially to provide Medical Staff application forms to CCF physicians and later to process Medical Staff applications submitted by CCF physicians.

CONDUCT FURTHERING THE CONSPIRACY

PAR. 11. Shortly after learning that the Cleveland Clinic and Holy Cross were discussing a possible affiliation, the Medical Staff, on August 26, 1986, held its first of several general meetings to discuss and decide what steps it would take in opposition to the Clinic. At that meeting the Medical Staff agreed, by a vote of 115 to 5, to condemn any possible affiliation between the Clinic and Holy Cross, and warned the Hospital of its concern that "the Cleveland Clinic is trying to come to Broward County to actively compete for our patient population and hospital census." In furtherance of the conspiracy, the President of the Medical Staff informed the Hospital that any "short term benefits" to the Hospital resulting from an affiliation with the Clinic would not "be worth it" because they would "be more than off-set by loss of support by disenchanted physicians on our staff." This statement, as well as subsequent similar statements, was intended as,

and was understood by Hospital officials to be, a threat from the Medical Staff that its members would withhold patient admissions if Holy Cross entered an affiliation with the Clinic.

PAR. 12. Following the August 26, 1986, Medical Staff meeting, the President of Holy Cross expressed her concern that the Medical Staff was attempting to have the Hospital cut off discussions with the Clinic, and stated that it was in the Hospital's interest to work with the Clinic. An official of the Medical Staff responded that the Medical Staff considered the proposed affiliation to be a competitive threat, stating: "from the Medical Staff standpoint they will be taking away their patients. . . . This is viewed as a financial threat to the Medical Staff."

PAR. 13. During the following eight months, until April 1987, various members of the Holy Cross Board of Trustees and its President met with representatives of the Clinic to discuss a possible affiliation and to address the concerns and opposition of the Holy Cross Medical Staff. In response, the Medical Staff, through its officials, continued to pressure and threaten the Hospital in order to coerce it not to deal with the Clinic and to exclude physician employees of CCF from the Hospital. Examples of such acts and practices by Medical Staff officials, include, but are not limited to, the following:

A. Coercing the President of Holy Cross, through express and implied threats that members of the Medical Staff would stop admitting patients to Holy Cross, to agree in writing to the Medical Staff demand that the Hospital "protect the private practice of medicine" from competition by CCF and the new form of medical practice that it represented;

B. Warning the Hospital that the Medical Staff members were virtually "unanimous in their feelings as to the effect CCF will have on their livelihood" and threatening that they would "react unfavorably and it will hurt the hospital";

C. Warning the Hospital that "the physicians are concerned and trying to protect their own practices" and threatening that if the Hospital Administration did not back up the Medical Staff, "many physicians are going to pull out and they are not bluffing"; and

D. Causing the Board of Trustees to close the Hospital to new applicants for Medical Staff privileges by making express and implied boycott threats against the Hospital and by presenting the Board of Trustees with pretextual reasons for closing the Medical Staff.

PAR. 14. In April 1987, as a result at least in part of respondent Medical Staff's conspiracy, the Holy Cross Board of Trustees terminated affiliation discussions between CCF and Holy Cross and closed the Hospital to applications for Medical Staff membership.

PAR. 15. The Cleveland Clinic faced the prospect that its physicians would not be permitted to admit and treat their patients at any suitable hospital in the spring of 1988 when CCF's clinic was scheduled to open. In the fall of 1987, CCF decided to apply for a certificate of need ("CON") to build its own tertiary care hospital in Northern Broward County, anticipating that if the CON were approved the hospital would not become operational for three to five years. To ensure that its physicians would have immediate access to some hospital, CCF contracted as a last resort with North Beach Hospital ("North Beach"), a small hospital with limited facilities. Although CCF financed major renovations, North Beach could not support all of the services CCF sought to offer, including cardiac surgery services. Consequently, in early 1988, CCF still needed access to a Northern Broward County hospital at which its physicians could perform cardiac surgery and other specialty and subspecialty services that could not be performed at North Beach. By this time, the Holy Cross Medical Staff had been reopened to applications for membership.

PAR. 16. On or about February 23, 1988, several members of CCF's cardiac surgery team submitted written requests for Holy Cross Medical Staff application forms. Although these physicians submitted their requests several times, the Medical Staff declined to provide the CCF physicians with application forms until sometime after August 12, 1988.

PAR. 17. While the Medical Staff was refusing to provide application forms to the CCF physicians, Medical Staff officials pressured the Holy Cross Board of Trustees with express and implied boycott threats in order to coerce the Board into taking actions to prevent CCF physicians from applying for Medical Staff privileges. Examples of such acts and practices by Medical Staff officials, taken on behalf of the Medical Staff, include but are not limited to the following:

A. Coercing the Chairman of the Board and the President of the Hospital to sign and send a letter, in February 1988, advising CCF that Medical Staff applications by their physicians would not be welcome and asking that they not be submitted; and

B. Causing the Hospital, in March 1988, again to be closed to new

applicants for Medical Staff privileges by making express and implied boycott threats against the Hospital and by presenting the Board of Trustees with pretextual reasons for closing the Medical Staff.

PAR. 18. The Medical Staff was reopened once again to new applicants on June 30, 1988, but before this date and before applications were provided to Clinic physicians, the Medical Staff added a new question to the Medical Staff application: "are you a full time employee of a corporation? If yes, a copy of the employment agreement must be provided." The purpose and effect of this question was to provide a basis for identifying and rejecting CCF and other Medical Staff applicants on the basis of the form of medical practice with which they were associated.

PAR. 19. Medical Staff applications were released to CCF physicians shortly after August 12, 1988, and two CCF physicians submitted applications. The Medical Staff rejected both applications for pretextual reasons and without regard to the qualifications of the applicants, because the applicants were employees of CCF. Following this rejection of the CCF physicians' applications, and in light of prior Medical Staff actions to keep CCF out of Holy Cross Hospital, CCF officials concluded that the Medical Staff had effectively blocked CCF physicians from obtaining Medical Staff privileges at Holy Cross, and CCF physicians ceased their efforts to obtain Medical Staff privileges at Holy Cross as futile.

EFFECTS

PAR. 20. The purpose, effects, tendency, or capacity of respondent's conduct described in paragraphs 10 through 19 are and have been to restrain trade unreasonably and hinder competition in the provision of health care services in the Northern Broward County area in the following ways, among others:

A. Depriving consumers of the price and quality benefits of competition between CCF's integrated multispecialty group practice and independent fee-for-service practitioners;

B. Depriving consumers of the full array of services that CCF sought to offer consumers in Northern Broward County, and, on some occasions, forcing consumers to travel outside the Northern Broward County area to receive specialty and subspecialty medical diagnosis and treatment;

C. Hindering CCF's ability to offer health care services to

consumers by raising its costs, reducing its efficiency, and delaying or preventing CCF from offering specialty and subspecialty services;

D. Limiting competition among physicians in Northern Broward County to the extent that physicians have agreed not to compete with each other, but rather act only on collectively determined terms, in deciding whether to admit patients to Holy Cross Hospital, to refer patients to CCF physicians, or otherwise to deal with Holy Cross, the Clinic, or CCF; and

E. Raising impediments to entry into the physician services market by innovative or nontraditional providers of health care services.

VIOLATION

PAR 21. The combination, conspiracy, acts and practices described above constitute unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act. Such combination, conspiracy, acts and practices, or the effects thereof, are continuing and will continue or recur in the absence of the relief herein requested.

Commissioner Yao not participating.

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 respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of Section 5 of the Federal Trade Commission Act; and

The respondent, its duly authorized officer, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all of 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 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 respondent has violated the said Act, and that the complaint should issue stating its charges in that respect, 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 procedures prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. The Medical Staff of Holy Cross Hospital ("the Medical Staff") is an unincorporated association, organized and existing, under the laws of the State of Florida, with its office and principal place of business located at 4725 N. Federal Highway, Ft. Lauderdale, FL.

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

ORDER

I.

It is ordered, That for purposes of this order, the following definitions shall apply:

1. "*Medical Staff*" means the Medical Staff of Holy Cross Hospital, its successors, assigns, officers, directors, committees, agents, employees, and representatives.

2. "*Holy Cross Hospital*" means Holy Cross Hospital, Inc., a not-for-profit corporation with its principal offices located at 4725 N. Federal Highway, Ft. Lauderdale, FL, its subsidiaries, affiliates, successors, assigns, officers, administrators, directors, committees, agents, employees, and representatives.

3. "*CCF*" means Cleveland Clinic Florida, a nonprofit corporation organized under Florida law, located at 3000 West Cypress Creek Road, Ft. Lauderdale, FL, its parent foundation (Cleveland Clinic Foundation, which is located at 9500 Euclid Avenue, Cleveland, OH), any entity located in Florida that is owned, controlled, or under the management of Cleveland Clinic Florida or Cleveland Clinic Foundation, and the officers, directors, committees, agents, employees, and representatives of Cleveland Clinic Florida or Cleveland Clinic Foundation.

4. "*Corrective action*" means action taken pursuant to and in conformance with the Medical Staff's bylaws against any person with hospital privileges at Holy Cross Hospital whose activities or

professional conduct is reasonably believed to be detrimental to patient safety or the delivery of quality patient care.

II.

It is ordered, That the Medical Staff, directly or indirectly, or through any device, in connection with activities in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, shall forthwith cease and desist from entering into, attempting to enter into, organizing, continuing, or acting in furtherance of any agreement or combination, express or implied, between or among its members or with other physicians, providers of health care services, medical societies, hospitals, or medical staffs, for the purpose or with the effect of preventing or restricting the offering or delivery of health care services by Holy Cross Hospital, CCF, any CCF physician, or any other provider of health services, including any agreement to:

A. Refuse to deal or threaten to refuse to deal with Holy Cross Hospital, CCF, any CCF physician, or any other provider of health care services, including, but not limited to, any agreement or combination to refuse or threaten to refuse to:

1. Admit any patient to Holy Cross Hospital, fulfill any Medical Staff obligation imposed or recognized under any provision of the Florida statutes, the By-Laws or Rules and Regulations of the Medical Staff, or fulfill any other function customarily performed by the Medical Staff;

2. Refer patients to, accept patient referrals from, provide back-up for, or consult in the treatment of any patient with, any CCF physician; or

3. Associate with Holy Cross Hospital or CCF as an employee or independent contractor, or otherwise deal with Holy Cross Hospital, CCF or any CCF physician.

B. Refuse or threaten to refuse to provide, or delay unreasonably in providing, an application for medical staff privileges to any CCF physician who submits a written request for the same.

C. Deny, impede, or refuse to consider any application for hospital privileges or for changes in hospital privileges by any person solely because of his or her affiliation with CCF.

D. (i) Deny or recommend to deny, limit, or otherwise restrict hospital privileges for any CCF physician, or (ii) close or recommend

to close any portion of the Medical Staff without a reasonable basis for concluding that such action or recommendation serves the interests of the hospital in providing for the efficient and competent delivery of health care services.

E. Discriminate, or threaten to discriminate, against any CCF physician with hospital privileges at Holy Cross Hospital with respect to the rights accorded to a member of the Medical Staff.

F. Encourage, advise, pressure, induce, or attempt to induce any person to engage in any action prohibited by this order.

III.

A. *It is further ordered*, That this order shall not be construed to prohibit the respondent Medical Staff or its members from engaging, pursuant to the Medical Staff's bylaws, in credentialing, corrective action, utilization review, quality assurance, or peer review at Holy Cross Hospital, where such conduct neither constitutes nor is part of any agreement, combination, or conspiracy the purpose, effect, or likely effect of which is to impede competition unreasonably.

B. *It is further ordered*, That this order shall not be construed to prohibit any individual member of the Medical Staff from entering into an agreement or combination with any other physician or health care practitioner with whom the individual Medical Staff member practices in partnership or in a professional corporation, or who is employed by the same person as said Medical Staff member.

IV.

It is further ordered, That the Medical Staff shall:

A. Within thirty (30) days after the date this order becomes final:

1. Mail a copy of this order, the accompanying complaint, and the attached Announcement to: (a) each member of the Board of Trustees of the Holy Cross Hospital; (b) the Chief Executive Officer of Holy Cross Hospital; (c) the Administrator of Holy Cross Hospital; (d) the Chief Executive Officers of Cleveland Clinic Florida and Cleveland Clinic Foundation; and (e) each member of the Medical Staff; and

2. Revise the Medical Staff privilege application form by deleting any question relating to whether an applicant is an employee of a corporation and any request for a copy of any employment agreement between an applicant and any other person or corporation. A copy of

such revised application form shall be provided to the Federal Trade Commission within thirty (30) days after being adopted by vote of the Medical Staff as provided in the Medical Staff bylaws.

B. For a period of three (3) years after the date this order becomes final:

1. Report to the Federal Trade Commission any adverse recommendation by the Medical Staff concerning any application for hospital privileges, or change in existing hospital privileges, of any CCF physician or other CCF health care practitioner, within thirty (30) days after final action upon the Medical Staff's recommendation;

2. Distribute to each new member of the Medical Staff a copy of this order, the accompanying complaint, and the attached Announcement within 30 days after he or she is officially admitted to the Medical Staff; and

3. Maintain records adequate to describe in detail any action taken in connection with the activities covered by this order and, upon reasonable notice, make such records available to the Federal Trade Commission staff for inspection and copying.

C. Within sixty (60) days after the date this order becomes final, annually for three (3) years on the anniversary date of the initial report, and at such other times as the Federal Trade Commission may by written notice require, file with the Federal Trade Commission a report setting forth in detail the manner and form in which it has complied with and intends to continue complying with this order.

D. Notify the Federal Trade Commission of any proposed change in its organization that may affect compliance obligations arising out of this order at least thirty (30) days prior to the effective date of any such proposed change.

Commissioner Yao not participating.

APPENDIX A

ANNOUNCEMENT

As you may be aware, on September 10, 1991 the Federal Trade Commission issued a complaint and a final consent order against the Holy Cross Hospital Medical Staff.

The order generally prohibits the Medical Staff from collectively refusing to deal with Holy Cross Hospital, Cleveland Clinic Florida ("CCF"), or CCF physicians. The order also prohibits the Medical

Staff from refusing to evaluate applications for hospital privileges of any person because of his or her affiliation with CCF, or recommending the denial of hospital privileges for any CCF physician without a reasonable basis for concluding that the denial is reasonably related to the efficient operation of and competent delivery of health services at Holy Cross Hospital.

In addition, the order prohibits the Medical Staff from discriminating or threatening to discriminate against any CCF physician with privileges at Holy Cross Hospital, regarding the rights accorded to a member of the Medical Staff. Finally, the Medical Staff is also prohibited from encouraging any person or organization to take actions that the order prohibits the Medical Staff from taking.

Under the order, the Medical Staff removed from the hospital privilege application form the inquiry whether an applicant is an employee of a corporation, which the complaint alleges was added to the application form as a means of discriminating against applications filed by physician employees of CCF.

For more specific information, you should refer to the FTC complaint and order. The civil penalty for violation of the order is \$10,000 per day for each order violation. A copy of the order is enclosed.

(President)

Holy Cross Hospital Medical Staff

IN THE MATTER OF

NIPPON SHEET GLASS COMPANY, LTD., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-3346. Complaint, Oct. 7, 1991—Decision, Oct. 7, 1991*

This consent order requires, among other things, the respondents, suppliers of wired glass, for a period of ten years, to obtain prior Commission approval before engaging any other entity in North America into any joint manufacturing, marketing or distribution agreement that involves selling to customers located in the United States.

Appearances

For the Commission: *Robert W. Doyle, Jr. and James C. Eagan, Jr.*

For the respondents: *Bruce D. Stokler, Glovsky & Popep, P.C.,*
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 ("Commission"), having reason to believe that respondent Nippon Sheet Glass Company, Ltd. ("Nippon") and its subsidiary, respondent NSG Holding USA, Inc. ("NSG-USA"), corporations subject to the jurisdiction of the Commission, have, pursuant to a Common Stock Purchase Agreement ("Purchase Agreement"), purchased approximately 20% of the stock or voting securities of respondent Libbey-Owens-Ford Co., ("LOF"), a subsidiary of respondent Pilkington plc ("Pilkington"), and said Purchase Agreement constitutes a violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45; and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, pursuant to Section 5(b) of the Federal Trade Commission Act, 15 U.S.C. 45(b), stating its charges as follows: