

IN THE MATTER OF

SOUTHBANK IPA, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3355. Complaint, Dec. 20, 1991—Decision, Dec. 20, 1991*

This consent order requires, among other things, a Florida association and its 23 obstetrician/gynecologist members to dissolve Southbank IPA and Southbank Health Care Corp.; prohibits each physician respondent from entering into any agreement with any other physician respondent or any competing physician to fix, stabilize, or tamper with any fee, price, or other aspect or term associated with any physician's services; and prohibits the physician respondents from dealing with any third-party payor on collectively determined terms.

Appearances

For the Commission: *David M. Narrow, Linda Blumenreich, Kathleen Kenyon and James C. Egan, Jr.*

For the respondents: *Jack R. Bierig, Sidley & Austin, Chicago, IL. and Donald W. Weidner, Florida Physicians Association, Jacksonville, FL.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended (Title 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 the respondents named above have violated and are violating Section 5 of the Federal Trade Commission Act, 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 stating its charges as follows:

PARAGRAPH 1. For purposes of this complaint, the following definitions shall apply:

A. "*Third-party payor*" means any person or entity that engages in the process of reimbursing for, purchasing, or paying for health care services provided to any other person.

B. "*Participating provider*" means any physician or other person

or entity providing medical or other health care services that has entered into an agreement with a third-party payor to provide certain medical or other health care services to subscribers or enrollees of the third-party payor, or under any plan or program of the third-party payor, according to the terms and conditions for participation established or offered by the third-party payor.

PAR. 2. A. The twenty-three physician respondents are individuals who are or have been engaged in the private practice of obstetrics/gynecology for a fee in Jacksonville, Florida. Their addresses are as follows:

Wade Barnes, M.D., 836 Prudential Drive, Suite 1202, Jacksonville, Florida;

Ernest Ferrell, M.D., 836 Prudential Drive, Suite 1202, Jacksonville, Florida;

Cynthia Flanders, M.D., 4205 Belfort Road, Suite 3004, Jacksonville, Florida;

Donald Freedman, M.D., 4130 Salisbury Road, Suite 2000, Jacksonville, Florida;

James Hayes, M.D., 836 Prudential Drive, Suite 1608, Jacksonville, Florida;

John Huddleston, M.D., 25 Prescott Street, N.E., Atlanta, Georgia;

James Joyner, M.D., 580 W. 8th Street, Suite 711, Jacksonville, Florida;

Hormoz Khosravi, M.D., 4123 University Boulevard, Suite D, Jacksonville, Florida;

Peter McCranie, M.D., 836 Prudential Drive, Suite 1203, Jacksonville, Florida;

H. Wyatt McNeill, M.D., 820 Prudential Drive, Suite 502, Jacksonville, Florida;

Herman Miller, M.D., 820 Prudential Drive, Suite 306, Jacksonville, Florida;

Qudratullah Mojadidi, M.D., 580 W. 8th Street, Suite 6007, Jacksonville, Florida;

Richard Myers, M.D., 836 Prudential Drive, Suite 1001, Jacksonville, Florida;

Paul Oberdorfer, M.D., 1501 San Marco Boulevard, Jacksonville, Florida;

Norman Pack, M.D., 836 Prudential Drive, Suite 1001, Jacksonville, Florida;

Wilford Paulk, M.D., 836 Prudential Drive, Suite 1001, Jacksonville, Florida;

Raymond William Quinlan, M.D., 836 Prudential Drive, Suite 1800, Jacksonville, Florida;

Alexander Rosin, M.D., 820 Prudential Drive, Suite 408, Jacksonville, Florida;

Wilbur Rust, M.D., 820 Prudential Drive, Suite 215, Jacksonville, Florida;

Kenneth Sekine, M.D., 836 Prudential Drive, Suite 802, Jacksonville, Florida;

Jeffrey Stowe, M.D., 836 Prudential Drive, Suite 802, Jacksonville, Florida;

Carol Wyninger, M.D., 1501 San Marco Boulevard, Jacksonville, Florida; and

Vernon Zeigler, M.D., 4205 Belfort Road, Suite 3004, Jacksonville, Florida.

B. Respondents Southbank IPA, Inc. ("Southbank IPA") and Southbank Health Care Corp., Inc. ("Southbank Health Care Corp.") are corporations organized, existing, and doing business under and by virtue of the laws of the State of Florida. Their principal offices and places of business are located in Jacksonville, Florida, and their registered agent is Ms. Barbara Suddath Strickland, c/o Mahoney, Adams, Mylam, Surface & Grimsely, 100 Laura Street, Jacksonville, Florida.

PAR. 3. The physician respondents formed Southbank Health Care Corp. and Southbank IPA. Southbank IPA is a subsidiary of Southbank Health Care Corp. and is controlled by it. The physician respondents are the shareholders of Southbank Health Care Corp. and constitute the membership of Southbank IPA.

PAR. 4. The acts and practices of the respondents, 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.

PAR. 5. Except to the extent that competition has been restrained as alleged herein, the physician respondents have been and are now in competition among themselves and with other providers of obstetrical/gynecological services in the Jacksonville, Florida, area or elsewhere.

PAR. 6. Physicians, including the physician respondents, are often paid for their services by third-party payors, including health

maintenance organizations ("HMOs"). HMOs and other third-party payors generally invite physicians (and sometimes certain other health care providers) to become participating providers by entering into written agreements or contracts to treat the subscribers or enrollees of their health care plans. These contracts establish the terms and conditions of the relationship between physicians and third-party payors, including the fees to be paid for treating subscribers or enrollees. Through such contracts, HMOs and other third-party payors may obtain discounts from physicians' usual fees, and physicians may obtain access to additional patients.

PAR. 7. Third-party payors in Jacksonville compete with each other on the basis of price, coverage offered, physician and hospital quality and availability, and other factors that are important to consumers. Reimbursements to physicians are a large component of a third-party payor's costs and, therefore, are significant to a third-party payor in determining what to charge consumers for its health care coverage.

PAR. 8. Absent agreements among competing physicians on the terms, including price, on which they will treat subscribers or enrollees of health care plans offered or provided by third-party payors, competing physicians decide individually whether to enter into contracts with third-party payors to treat their subscribers or enrollees.

PAR. 9. The physician respondents are, and at all material times have been, members of the medical staff of Southern Baptist Hospital of Florida, Inc. d/b/a Baptist Medical Center in Jacksonville, Florida, and hold staff privileges in obstetrics and/or gynecology at Baptist Medical Center. They constitute nearly the entire active staff of obstetrician/gynecologists at Baptist Medical Center. Because only members of the hospital's medical staff may admit patients to Baptist Medical Center, the physician respondents, when acting in concert, effectively control access to Baptist Medical Center's obstetrical/gynecological facilities and services. Because these facilities and services are highly regarded in Jacksonville, the ability of third-party payors to attract subscribers or enrollees is significantly enhanced by having obstetrician/gynecologists at Baptist Medical Center as participating providers.

PAR. 10. SunCare HMO, Inc. ("SunCare HMO") began operating in Jacksonville in 1986. In 1988, it was acquired by AV-MED, Inc. d/b/a AV-MED Health Plan and SunCare HMO, Inc.

PAR. 11. Prior to the formation of Southbank IPA in May 1987,

most or all of the physician respondents were members of SunCare IPA, Inc. ("SunCare IPA"), through which they provided covered services to SunCare HMO's subscribers or enrollees pursuant to contractual agreements between each physician respondent and SunCare IPA, and between SunCare IPA and SunCare HMO. As members of SunCare IPA, the physician respondents shared the risk of financial loss with other physicians in SunCare IPA if the total costs of services provided by members of SunCare IPA to subscribers and enrollees of SunCare HMO exceeded anticipated levels. As members of SunCare IPA, the physician respondents also agreed to participate in programs and follow guidelines designed to assure that physicians in SunCare IPA provided high quality services, while controlling the costs of those services.

PAR. 12. AmeriPlan Health Services, Ltd. ("AmeriPlan") and its successor, Principal Health Care of Florida, Inc., is an HMO offering health care coverage in the Jacksonville area.

PAR. 13. SunCare HMO, AmeriPlan/Principal Health Care of Florida, Inc., and other third-party payors compete with each other to provide health care coverage to consumers in the Jacksonville area.

PAR. 14. Beginning in 1986, the physician respondents agreed not to compete with respect to whether, and on what terms, they would treat subscribers or enrollees of at least some third-party payors' health care plans. The physician respondents conspired to resist efforts by third-party payors: (a) to obtain low fees from the physician respondents for their services; and (b) to implement other policies and requirements designed to contain costs and enhance the quality of services for consumers.

PAR. 15. Both SunCare HMO and AmeriPlan/Principal Health Care, Inc. met concerted opposition from some or all of the physician respondents at various times beginning in 1986. The physician respondents agreed to treat SunCare HMO's subscribers or enrollees only after concertedly forcing it to eliminate a cost-containment measure that required SunCare HMO subscribers or enrollees to consult their primary care physician before going to an obstetrician/gynecologist specialist for treatment. The physician respondents, acting concertedly, forced AmeriPlan/Principal Health Care, Inc. to agree to increase the fees it paid for obstetrical services in 1986 and again in 1987.

PAR. 16. To further the conspiracy described in paragraph 14, the physician respondents:

A. Formed Southbank IPA and Southbank Health Care Corp. in May 1987, with certain of the physician respondents serving as the officials of those organizations, to negotiate collectively on their behalf with third-party payors;

B. Agreed to refuse to contract individually with any third-party payor that had a contract with, or was in the process of negotiating a contract with, Southbank IPA;

C. Agreed not to enter into contracts with any other individual practice association ("IPA") or similar organization to treat third-party payors' subscribers at Baptist Medical Center without the permission of Southbank IPA;

D. Agreed on a schedule of the fees to be charged by the physician respondents, as members of Southbank IPA, to third-party payors for obstetrical/gynecological services provided by the physician respondents pursuant to agreements entered into between Southbank IPA and third-party payors; and

E. Agreed on a list of "negotiating points" for their representatives from Southbank IPA to use in negotiations with third-party payors as to the terms on which the physician respondents, through Southbank IPA, would contract with, or become participating physicians in, third-party payors or their plans or programs.

PAR. 17. Unlike many other physician groups that have formed IPAs, the physician respondents have not placed themselves jointly at financial risk for losses that might occur from Southbank IPA's operation. Unlike other IPAs, Southbank IPA does not provide new or more efficient services, or enable its members to provide new or more efficient services. Southbank IPA is a vehicle created by the physician respondents to facilitate their engaging in collective decisions on fees and other terms to be sought from third-party payors, and to collectively pressure or coerce third-party payors to accept those fees and terms.

PAR. 18. Upon its formation in May 1987, Southbank IPA requested its members to submit to it letters of resignation from SunCare HMO and SunCare IPA, and suggested language for the letters. All of the physician respondents, who were members of Southbank IPA, submitted resignation letters to Southbank IPA. Each resignation letter stated that by virtue of the physician respondent's membership in Southbank IPA, his or her future participation in SunCare HMO, if any, would be through Southbank IPA. In June 1987, Southbank IPA forwarded the resignation letters of the physician respondents to

SunCare HMO and SunCare IPA. When contacted individually by SunCare HMO, each physician respondent refused to deal with SunCare HMO except collectively, through Southbank IPA.

PAR. 19. In December 1987, after several months of negotiations with Southbank IPA, and after agreeing to make various other concessions, under threat of a concerted boycott by the physician respondents, SunCare HMO agreed to increase its payments to the physician respondents for obstetrical and gynecological services.

PAR. 20. In 1989, the physician respondents, acting collectively through Southbank IPA, again threatened to boycott SunCare HMO unless it agreed to increase its payments to them. For the second time, SunCare HMO was forced to increase its payments to the physician respondents.

PAR. 21. The increased payments identified in paragraphs 19 and 20 raised SunCare HMO's costs. These costs have been passed on to SunCare HMO's subscribers and enrollees in the form of higher premiums.

PAR. 22. By engaging in the acts and practices described in paragraphs 14 through 21, respondents have combined or conspired with each other to fix the fees they charge to third-party payors, to boycott third-party payors, and otherwise to restrain competition among obstetrician/gynecologists in the Jacksonville, Florida area.

PAR. 23. The actions of the respondents described in paragraphs 14 through 22 have had the purpose or effect, or the tendency and capacity, to restrain competition unreasonably and to injure consumers in the following ways, among others:

A. By restraining trade unreasonably and hindering competition among obstetrician/gynecologists in the Jacksonville, Florida, area;

B. By fixing and/or increasing the fees that obstetrician/gynecologists in the Jacksonville, Florida, area receive from third-party payors; and

C. By depriving consumers and third-party payors of the benefits of competition among obstetrician/gynecologists in the Jacksonville, Florida, area.

PAR. 24. The combination or conspiracy and the acts and practices described above constitute unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45. The violation or the effects thereof, as herein alleged, are continuing and will continue or recur in the absence of the relief herein requested.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents 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 respondents with violation of the Federal Trade Commission Act; 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 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 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 thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that 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 procedure 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. Respondent Southbank IPA, Inc., and respondent Southbank Health Care Corp., Inc., are corporations organized, existing, and doing business under and by virtue of the laws of the State of Florida, with their offices and principal places of business located in Jacksonville, Florida. Their registered agent is Ms. Barbara Suddath Strickland, Mahoney, Adams, Mylam, Surface & Grimsley, 100 Laura Street, Jacksonville, Florida.

2. Wade Barnes, M.D., Ernest Ferrell, M.D., Cynthia Flanders, M.D., Donald Freedman, M.D., James Hayes, M.D., John Huddleston, M.D., James Joyner, M.D., Hormoz Khosravi, M.D., Peter McCranie, M.D., H. Wyatt McNeill, M.D., Herman Miller, M.D., Qudratullah Mojadidi, M.D., Richard Myers, M.D., Paul Oberdorfer, M.D., Norman Pack, M.D., Wilford Paulk, M.D., R. William Quinlan, M.D., Alexander Rosin, M.D., Wilbur Rust, M.D., Kenneth Sekine, M.D., Jeffrey Stowe,

M.D., Carol Wyninger, M.D., and Vernon Zeigler, M.D. (hereinafter "physician respondents") are obstetrician/gynecologists practicing or who have practiced at Southern Baptist Hospital of Florida, Inc. d/b/a Baptist Medical Center, Jacksonville, Florida. Each physician respondent is or has been licensed and does or has done business under and by virtue of the laws of the State of Florida. Their addresses are as follows:

Wade Barnes, M.D., 836 Prudential Drive, Suite 1202, Jacksonville, Florida;

Ernest Ferrell, M.D., 836 Prudential Drive, Suite 1800, Jacksonville, Florida;

Cynthia Flanders, M.D., 4205 Belfort Road, Suite 3004, Jacksonville, Florida;

Donald Freedman, M.D., 4130 Salisbury Road, Suite 2000, Jacksonville, Florida;

James Hayes, M.D., 836 Prudential Drive, Suite 1608, Jacksonville, Florida;

John Huddleston, M.D., 25 Prescott Street, N.E., Atlanta, Georgia;

James Joyner, M.D., 580 W. 8th Street, Suite 711, Jacksonville, Florida;

Hormoz Khosravi, M.D., 4123 University Boulevard, Suite D, Jacksonville, Florida;

Peter McCranie, M.D., 836 Prudential Drive, Suite 1203, Jacksonville, Florida;

H. Wyatt McNeill, M.D., 820 Prudential Drive, Suite 502, Jacksonville, Florida;

Herman Miller, M.D., 820 Prudential Drive, Suite 306, Jacksonville, Florida;

Qudratullah Mojadidi, M.D., 580 W. 8th Street, Suite 6007, Jacksonville, Florida;

Richard Myers, M.D., 836 Prudential Drive, Suite 1001, Jacksonville, Florida;

Paul Oberdorfer, M.D., 1501 San Marco Boulevard, Jacksonville, Florida;

Norman Pack, M.D., 836 Prudential Drive, Suite 1001, Jacksonville, Florida;

Wilford Paulk, M.D., 836 Prudential Drive, Suite 1001, Jacksonville, Florida;

Raymond William Quinlan, M.D., 836 Prudential Drive, Suite 1800, Jacksonville, Florida;

Alexander Rosin, M.D., 820 Prudential Drive, Suite 408, Jacksonville, Florida;

Wilbur Rust, M.D., 820 Prudential Drive, Suite 215, Jacksonville, Florida;

Kenneth Sekine, M.D., 836 Prudential Drive, Suite 802, Jacksonville, Florida;

Jeffrey Stowe, M.D., 836 Prudential Drive, Suite 802, Jacksonville, Florida;

Carol Wyninger, M.D., 1501 San Marco Boulevard, Jacksonville, Florida; and

Vernon Zeigler, M.D., 4205 Belfort Road, Suite 3004, Jacksonville, Florida.

3. 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.

For purposes of this order, the following definitions shall apply:

A. "*Southbank IPA*" means Southbank IPA, Inc., and its Board of Directors, committees, officers, representatives, agents, employees, successors, and assigns.

B. "*Southbank Health Care Corp.*" means Southbank Health Care Corp., Inc., and its Board of Directors, committees, officers, representatives, agents, employees, successors, and assigns.

C. "*Physician respondents*" means the obstetrician/gynecologist members of Southbank IPA and shareholders of Southbank Health Care Corp. named in paragraph two of the complaint.

D. "*Third-party payor*" means any person or entity that reimburses for, purchases, or pays for all or any part of the health care services provided to any other person, and includes, but is not limited to: health insurance companies; prepaid hospital, medical, or other health service plans, such as Blue Shield and Blue Cross plans; health maintenance organizations; preferred provider organizations; government health benefits programs; administrators of self-insured health benefits programs; and employers or other entities providing self-insured health benefits programs.

E. "*Integrated joint venture*" means a joint arrangement to provide

health care services, on a prepaid or other basis, in which physicians who would otherwise be competitors pool their capital to finance the venture, by themselves or together with others, and share substantial risk of adverse financial results caused by unexpectedly high utilization or costs of health care services.

II.

It is ordered, That each physician respondent, directly or indirectly, or through any corporate or other device, in connection with the provision of health care services in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act, as amended, forthwith shall cease and desist from entering into, attempting to enter into, organizing or attempting to organize, implementing or attempting to implement, or continuing or attempting to continue any combination, agreement or understanding, express or implied, with any other physician respondent(s), or with any competing physician(s), to:

A. Fix, stabilize, or tamper with any fee, fee schedule, price, pricing formula, conversion factor, or other aspect or term of the fees charged or to be charged for any physician's services; or

B. Deal with any third-party payor on collectively determined terms by, among other things:

(1) Agreeing or combining, attempting to agree or combine, or taking any action, directly or indirectly, in furtherance of any agreement or combination to fix, stabilize, or tamper with the amount, manner of calculation, or any term of reimbursement or payment from, or the price or any term of purchase by, any third-party payor for any physician's services;

(2) Agreeing with another physician or physicians to negotiate, or acting jointly with another physician or physicians, directly or indirectly (*e.g.*, through any agent or representative), to negotiate with any third-party payor concerning any term, requirement, or other aspect of being, becoming, or remaining a participating physician in any third-party payor or any program or plan of any third-party payor;

(3) Agreeing or acting jointly with another physician or physicians, directly or indirectly, to boycott or threaten to boycott, to refuse or threaten to refuse to deal with, to withdraw or threaten to withdraw

from participation in, or not to participate or threaten not to participate in, any third-party payor or any program or plan of any third-party payor; or

(4) Agreeing or acting jointly with another physician or physicians, directly or indirectly, to coerce or threaten to coerce, or to pressure, induce, encourage, influence, urge, or advise any physician to boycott or threaten to boycott, to refuse or threaten to refuse to deal with, to withdraw or threaten to withdraw from participation in, or not to participate or threaten not to participate in, any third-party payor or any program or plan of any third-party payor.

Provided, however, that nothing in this order shall prohibit any physician respondent from:

(1) Entering into an agreement or combination with any physician with whom the physician respondent practices medicine in partnership, or in a professional corporation, or who is employed by the same person as the physician respondent, to deal with any third-party payor on collectively determined terms;

(2) Forming, facilitating the formation of, or participating in an integrated joint venture and dealing with any third-party payor on collectively determined terms through the joint venture, as long as the physicians participating in the joint venture remain free to deal individually with any third-party payor that declines to deal with the integrated joint venture, and the third-party payor is on notice that the physicians are free to deal individually with the third-party payor at any time that it declines to deal with the integrated joint venture;

(3) Offering to participate or participating with other physicians in bona fide utilization review, quality assurance, or credentialing activities in connection with the provision of physician services, or in any bona fide program for the professional peer review of fees charged by individual physicians in individual cases;

(4) Exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government executive agency or legislative body concerning legislation, rules or procedures, or to participate in any federal or state administrative or judicial proceeding; or

(5) Providing information or views, individually or collectively with other physicians, to any third-party payor concerning any issue, including reimbursement.

III.

It is further ordered, That the physician respondents shall:

A. Dissolve Southbank IPA and Southbank Health Care Corp. within one hundred eighty (180) days after the date on which this order becomes final; and

B. File a verified written report demonstrating how they have complied with paragraph III.A. of this order within two hundred ten (210) days after the date on which this order becomes final.

IV.

It is further ordered, That respondents Southbank IPA and Southbank Health Care Corp. shall:

A. Within thirty (30) days after the date on which this order becomes final, and prior to the dissolutions provided for in paragraph III.A. of this order, distribute by first-class mail a copy of this order and the accompanying complaint to each third-party payor doing business in Duval County, except that for purposes of this paragraph IV.A. of this order, the phrase "employers or other entities providing self-insured health benefits programs," as otherwise included in the definition of "third-party payor" in paragraph I.D. of this order, shall be limited to the entities enumerated in the Appendix attached to this order; and

B. Within sixty (60) days after the date on which this order becomes final, and prior to the dissolutions provided for in paragraph III.A. of this order, file a verified written report demonstrating how they have complied with paragraph IV.A. of this order.

V.

It is further ordered, That each physician respondent shall:

A. File a verified written report with the Commission within sixty (60) days after the date on which this order becomes final, and annually thereafter for three (3) years on the anniversary of the date the order became final, and at such other times as the Commission, by written notice, may require, setting forth in detail the manner and form in which he or she has complied and is complying with this order. As part of any report filed pursuant to this paragraph V.A. of this

order, each physician respondent shall notify the Commission if he or she has discontinued the practice of medicine, discontinued the practice of obstetrics or gynecology, moved his or her practice to a different address, or entered into any new medical practice whose activities involve the provision of obstetrical or gynecological services in Duval County, Florida. Such report shall include the physician respondent's new business address and a statement of the nature of the new business or employment in which the physician respondent is newly engaged, as well as a description of the physician respondent's duties and responsibilities in connection with the business or employment;

B. For a period of five (5) years after the date on which this order becomes final, notify the Commission in writing within thirty (30) days after he or she forms or participates in the formation of, or joins or participates in, any integrated joint venture as described in proviso (2) to paragraph II. of this order; and

C. For a period of five (5) years after the date on which this order becomes final, maintain and make available to Commission staff, for inspection and copying upon reasonable notice, records sufficient to describe in detail any joint activities undertaken pursuant to any of the provisos to paragraph II. of this order.

Commissioner Yao not participating.

APPENDIX

Alliance Mortgage Company 25 West Forsyth Street Jacksonville, FL 32202	Allied-Bendix Corporation 7575 Baymeadows Way Jacksonville, FL 32216
Alton Packaging Corporation P.O. Box 4484 Jacksonville, FL 32216	American Transtech 8000 Baymeadows Way Jacksonville, FL 32216
Anheuser Busch, Inc. P.O. Box 18017 Jacksonville, FL 32219	Atlantic Drydock P.O. Box 138 Jacksonville, FL 32226
Barnett Bank of Jacksonville 100 Laura Street Jacksonville, FL 32202	Container Corporation North Eighth Street Fernandina Beach, FL 32034

Duval Federal Savings and
Loan Association
1 North Hogan Street
Jacksonville, FL 32202
Florida Rock Industries, Inc.
155 East 21st Street
Jacksonville, FL 32206
Huntley Jiffy Stores, Inc.
1890 Kingsley Avenue
Orange Park, FL 32073
Jacksonville Kraft Paper
Company, Inc.
P.O. Box 18019
Jacksonville, FL 32229
Maxwell House Division
735 East Bay Street
Jacksonville, FL 32202
Revlon Professional Products
P.O. Box 37557
Jacksonville, FL 32236
Sears, Roebuck & Company
9501 Arlington Expressway
Jacksonville, FL 32211
Suddath Van Lines, Inc.
5266 Highway Avenue
Jacksonville, FL 32205

Florida Publishing Company
P.O. Box 1949F
Jacksonville, FL 32231
Gate Petroleum Company
9540 San Jose Boulevard
Jacksonville, FL 32217
ITT Rayonier, Inc.
P.O. Box 2002
Fernandina Beach, FL 32034
Jacksonville Shipyards, Inc.
P.O. Box 2347
Jacksonville, FL 32203
North Florida Shipyards, Inc.
P.O. Box 3863
Jacksonville, FL 32202
SCM Corporation
P.O. Box 389
Jacksonville, FL 32218
Southern Bell
20th Floor #4BB1
301 West Bay Street
Jacksonville, FL 32201
Vistakon, Inc.
1417 San Marco Boulevard
Jacksonville, FL 32207

IN THE MATTER OF

DIVE N' SURF, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
TEXTILE FIBER PRODUCTS IDENTIFICATION ACT AND
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3356. Complaint, Dec. 23, 1991—Decision, Dec. 23, 1991

This consent order requires, among other things, the California-based company, d/b/a Body Glove International, to label or otherwise identify the constituent fiber content, percentages of fiber content, manufacturer's name, and country of origin for their textile fiber products, as required by the Textile Fiber Products Identification Act. In addition, the order requires the respondent to distribute a copy of the order to each of its operating divisions.

Appearances

For the Commission: *Sylvia J. Kundig* and *Jeffrey A. Klurfeld*.

For the respondent: *Steven B. Lehat, Sheldon & Mak*, Pasadena, CA.

COMPLAINT

The Federal Trade Commission, having reason to believe that Dive N' Surf, Inc., a corporation, also trading and doing business as Body Glove International ("respondent"), has violated the provisions of the Federal Trade Commission Act and the Textile Fiber Products Identification Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Dive N' Surf, Inc., is a corporation organized, existing and doing business under the laws of the State of California. Its office and principal place of business is 530 6th Street, Hermosa Beach, California.

PAR. 2. Respondent is an importer, manufacturer, and wholesaler of textile fiber products, including, but not limited to, wearing apparel constructed of neoprene ("neoprene-type garments"), such as wet-suits, that consist of a rubber substance enclosed between two layers of a knit fabric.