

Complaint

116 F.T.C.

IN THE MATTER OF

LOMAS MORTGAGE U.S.A., INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3462. Complaint, Oct. 7, 1993--Decision, Oct. 7, 1993*

This consent order prohibits, among other things, the Texas mortgage lender from misrepresenting the terms or the nature of lock-in agreements on loans it offers consumers in the future, and requires the respondent to pay \$300,000 in consumer redress, to the Commission, to be used for refunds of up to \$1,000 each to certain Lomas customers.

Appearances

For the Commission: *Arthur B. Levin.*

For the respondent: *Jim Moseley* and *Harriet E. Miers, Locke, Purnell, Rain & Harrell*, Dallas, TX. *C. Michael Buxton, Vinson & Elkins*, Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that Lomas Mortgage U.S.A., Inc., a corporation ("Lomas Mortgage" "respondent"), formerly known as the Lomas & Nettleton Company, has violated the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 45-58, as amended, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint and alleges that:

PARAGRAPH 1. Lomas Mortgage is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Connecticut, with its office and principal place of business located at 1600 Viceroy, in the City of Dallas, State of Texas.

PAR. 2. Respondent has been and is engaged in the mortgage lending business.

PAR. 3. The acts and practices of respondent, as alleged in this complaint, have been and are in or affecting commerce, as "commerce" is defined in the FTC Act.

PAR. 4. Respondent, through a combination of oral representations, the language and design of its loan application form (Exhibit I), the use of incomplete forms, and other means, has represented to applicants in many instances that respondent would unconditionally "lock-in" *i.e.*, agree to hold constant, the mortgage interest rate and number of discount points on Federal Housing Administration ("FHA") loans for a period of sixty days after the signing of the loan application form.

PAR. 5. In truth and in fact, respondent in numerous instances did not lock-in the mortgage interest rate or number of discount points on FHA loans for consumers to whom it had made such representations, imposing higher interest rates or more discount points for these loans within the sixty-day period. Therefore, respondent's representations as stated in paragraph four were, and are, false and misleading.

PAR. 6. The acts and practices of respondent as alleged in this complaint constitute unfair or deceptive acts or practices in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. 45(a). Respondent may again employ these acts or practices in the absence of the requested relief.

Complaint

116 F.T.C.

EXHIBIT I



Lomas & Nettleton

Application for an FHA Mortgage
(Except Section 235)

EXHIBIT I

C-3462

B146200

TO: The Lomas & Nettleton Company

RE: L&N Loan No. _____ Buyer: _____

Principal Amount: _____ Seller: _____

Interest Rate: _____ % Term: _____ Yrs. Property _____

Address: _____

Date: _____

Expiration Date: _____

The undersigned hereby applies to The Lomas & Nettleton Company ("L&N") for a commitment to close the above Mortgage Loan (hereinafter called "the subject loan") in accordance with the terms and subject to the conditions appended hereto and/or set forth below:

- 1) The subject loan shall be evidenced, secured and closed by Loan Documents in form and of substance satisfactory to L&N.
- 2) The subject loan shall be an FHA Mortgage (except those loans subject to Section 235) and shall be in the principal amount stated in the related FHA Loan Approval.
- 3) At the closing of the subject loan, L&N will be paid the following charges, fees or assessments:
 - i) an amount equal to _____ % (the discount or points to be charged by L&N as a condition to making the subject loan) of the principal amount of the subject loan; and
 - ii) a warehousing or interest differential fee in the amount of \$ _____
 - iii) an origination fee equal to 1% of the principal amount of the subject loan; and
 - iv) All costs of the subject loan including title appraisal, credit reports, photographs, tax service contract, inspection fees and other similar charges, including closing costs, as may be permitted by applicable regulations; and
 - v) Any portion of the mortgage insurance premium which is not to be financed.
- 4) The undersigned represents to L&N that the undersigned, in making this application, is acting as agent for the Seller and on behalf of the Buyer; and the undersigned agrees that, within five days of L&N's acceptance hereof, the undersigned will advise the Buyer and Seller of the terms and conditions of the commitment evidenced by L&N's acceptance hereof including Paragraph 3 above.
- 5) The general terms and conditions on the reverse side hereof are incorporated herein by reference and made part hereof as fully as if set forth in full herein.
- 6) This application, when accepted and executed by an authorized officer of L&N, will become a valid commitment of L&N, binding on the parties hereto in accordance with the terms hereof. The commitment, when thus validated, will be for the exclusive benefit of the Buyer and may not be assigned or transferred to any other borrower.

If the foregoing meets with your approval, please evidence your acceptance by signing in the space provided below and return two copies hereof to the undersigned.

An applicant signing this document is hereby advised that no representative of L&N is authorized to vary the written terms of this document by oral representations or statements and that no applicant shall rely on any oral representation or statement if such representation or statement varies from the written terms of this document. Therefore, please read carefully all of the terms of this document.

Firm Name (if applicable) _____

Authorized Signature _____

Address _____

City _____

Approved and Accepted:
The Lomas & Nettleton Company

By _____
Authorized Signature

EXHIBIT I

Commitment of The Lomas & Armstrong Company
General Terms and Conditions

EXHIBIT I

C-3462

B146200

1. Definitions

- As used herein and in the foregoing application, the following terms shall have the respective meanings:
- 1.01. **Loan Documents** means the loan documents, including the promissory note, secured by a deed of trust, and all other documents, including the original Mortgage Note payable to the order of L&A, which are delivered to L&A by the Borrower.
- 1.02. **Mortgage Note** means the note in the principal amount of the subject loan evidencing the debt, payable to the order of L&A, secured by a deed of trust on the real estate covered by the foregoing application, payable to the order of L&A or its nominee, and secured by a deed of trust on the real estate covered by the foregoing application.
- 1.03. **FHA Mortgage** means a Mortgage Note secured by a mortgage covering real estate involved in a single-family dwelling, payment of which is either partially or completely insured by the Federal Housing Administration (FHA) under the National Housing Act (Section 225) or Title V of the Housing Act of 1945 or with respect to which there is a current binding and enforceable commitment for insurance issued by the FHA.
- 1.04. **VA Mortgage** means a Mortgage Note secured by a mortgage covering real estate involved in a single-family dwelling, payment of which is either partially or completely guaranteed by the Veterans Administration (VA) under the Servicemen's Readjustment Act of 1944 or Chapter 37 of Title 38 of the United States Code.

(2) Interest Rate

- The interest rate on the loan to be evidenced by the Mortgage Note shall be the interest rate set forth in the section of the foregoing application. In no event will L&A be required to fund the subject loan if, in L&A's sole judgment, the prescribed interest rate would constitute usury under the laws of the state in which the security is located.
- 2.01. The locked-in interest rate and discount points provided for the number of days indicated herein is available only if this loan for which application is made is actually closed within the number of days indicated. By signing this loan application, L&A is not representing, warranting or promising that this loan application will be approved and, if approved, closed within the number of days indicated. L&A's agents and employees are not authorized to represent, warrant or promise that this loan, if approved, will close within the number of days indicated and L&A hereby informs applicants that they should not rely upon any representations or statement which purports to so represent, warrant or promise. The actions of third parties such as the FHA/VA, pest control companies, credit bureaus, appraisers, title companies, verifiers of mortgages, deposits and employment, private mortgage insurance companies, and closing attorneys over whom L&A has no control may delay approval or closing of the loan. L&A will not be responsible for any such delays or for refund of fees paid. If the number of days indicated above passes because of any such delays, L&A will not have an obligation to provide the locked-in rate or discount points set forth in this application and after the expiration of the lock-in period this application will be handled as if the lock-in option had not been chosen.

(3) L&A's Option to Terminate Commitment

- The maximum rate of interest permitted to be charged on a VA Mortgage is fixed from time to time by the VA, an agency of the United States government. In the event of a change between the date of the foregoing application and the date of closing, in such maximum rate permitted to be charged on a VA Mortgage, the commitment evidenced by L&A's acceptance of the foregoing application, as L&A's option, shall be null and void, effective on the date of such change.

(4) General Provisions

- 4.01. **Regulatory Compliance:** The subject loan, if funded by L&A, will be closed in a manner consistent with all applicable laws and in accordance with all applicable rules and regulations of the FHA and other governmental agencies.
- 4.02. **Expiration:** The commitment evidenced by L&A's acceptance of the foregoing application shall expire and be of no further force or effect unless the subject loan is closed and funded in accordance with the terms hereof prior to the first to occur of:
- The commitment evidenced by L&A's acceptance of the foregoing application shall expire and be of no further force or effect on the Expiration Date first written unless the subject loan is closed in accordance with the terms hereof prior to such date or
 - The termination, for any reason, of the FHA's authority to conduct business or to issue commitments, or insurance certificates or
 - The termination, for any reason, of the Government National Mortgage Association's authority to guarantee securities backed by government insured or guaranteed mortgages or
 - L&A's election to terminate the commitment in response to a change in the maximum interest rate permitted to be charged on a VA mortgage.
- 4.03. **Proprietary Interest in Loan Documents Vested in L&A:** The Buyer and the Seller and the Agents or Broker acting on their behalf hereby acknowledge and agree that all documentation held by L&A in connection with the foregoing application is the exclusive property of L&A and is not transferable to any other lender or party without L&A's express written consent. Should L&A in response to any written request by the Buyer, Seller and Agents or Broker consent to a transfer of the foregoing application to any other party, then the requesting parties shall pay to L&A a transfer fee equal to 2% of the principal amount of the subject loan.
- 4.04. **Other:**

Applicable to PG only Commitments Only

Borrower and accept the terms and conditions herein and pay the non-refundable commitment fee of 1% of the proposed loan amount.

L&A MORTGAGE U.S.A., INC.

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 complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and that, if issued by the Commission, would charge the respondent with violations of the Federal Trade Commission Act, 15 U.S.C. 45 *et seq.*; and

The respondent 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 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 considered the matter and having determined that it had reason to believe that the respondent has 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 Lomas Mortgage U.S.A., Inc. is a corporation organized, existing and doing business by virtue of the laws of the State of Connecticut, with its office and principal place of business located at 1600 Viceroy, in the City of Dallas, State of Texas.

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

ORDER

For purposes of this order, the term "*mortgage loan*" shall mean a Federal Housing Administration ("FHA") consumer mortgage loan or conventional consumer mortgage loan.

For purposes of this order, the term "*lock-in*" shall mean any agreement, however designated, with an applicant for a mortgage loan, to hold for any specified period of time a certain interest rate and/or a certain number of discount points while the loan application is being processed, whether or not the agreement is subject to additional conditions, *provided, however*, that this term shall not include such agreements if made within ten (10) days of the scheduled closing on the loan.

I.

It is ordered, That respondent Lomas Mortgage U.S.A., Inc. ("respondent"), a corporation, its successors and assigns, and its officers, agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of any mortgage loan in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, 15 U.S.C. 41, *et seq.*, shall cease and desist from representing orally or in writing to any mortgage applicant, directly or by implication, that any interest rate and/or number of points on a mortgage loan are subject to a lock-in, unless that interest rate and number of points are not subject to change during the period specified in the lock-in, except as provided under Section II.

II.

A. *It is further ordered*, That whenever the interest rate and/or number of points quoted to a mortgage loan applicant who has informed respondent of the decision to lock-in are subject to change during the lock-in period, respondent, its successors and assigns shall clearly and conspicuously disclose in writing at the time the

applicant applies for the commitment or lock-in that the interest rate and/or number of points quoted are subject to change during the lock-in period and shall also clearly and conspicuously disclose, in writing, the conditions under which the interest rate and/or number of points are subject to change, and shall require the applicant or applicant's agent to sign respondent's copy of the disclosure of said conditions. Said disclosure shall be contained on the front page of any form that contains or describes the terms of the lock-in agreement, shall be in bold face type at least as large as any other type used on the form, and shall be separated from the rest of the text so that it can be readily noticed.

B. *Provided, however*, that respondent will not be in violation of this order if, in the case of an application for an FHA mortgage loan with the interest rate and/or number of points, as well as other terms, conditioned upon no change occurring in the maximum rate of interest to be charged on a Veterans Administration guaranteed mortgage loan, the written disclosure states:

Your FHA mortgage loan interest rate and/or number of points may change and are NOT "LOCKED IN" to the extent that if the Veteran's Administration changes the maximum interest rate that can be charged on VA loans, [lender], at its option, may change the interest rates and or number of points being offered you.

In the event that an FHA loan is conditioned upon no changes occurring in an index rate other than the Veteran's Administration guaranteed mortgage loan rate, the written disclosure shall refer to the applicable index rate instead of the Veteran's Administration rate.

In the case of an application for a conventional mortgage loan with the interest rate and/or number of points, as well as other terms, conditioned upon no change occurring in the maximum rate of interest to be charged on a Veterans Administration guaranteed mortgage loan, the written disclosure shall state:

Your conventional mortgage loan interest rate and/or number of points may change and are NOT "LOCKED IN" to the extent that if the Veteran's Administration changes the maximum interest rate that can be charged on VA

loans, [lender], at its option, may change the interest rates and/or number of points being offered you.

In the event that a conventional loan is conditioned upon no changes occurring in an index rate other than the Veterans Administration guaranteed mortgage loan rate, the written disclosure shall refer to the applicable index rate instead of the Veteran's Administration rate.

III.

It is further ordered, That whenever respondent, its successors and assigns agree to a "lock-in" on an FHA or conventional mortgage loan and the subject loan closes during the period specified in the loan application, the loan shall be provided upon the terms stated in the application, unless the disclosures provided in Section II of this order have been made, and a change in the maximum interest rate charged by the Veteran's Administration, or any other applicable index rate, occurs prior to closing. This paragraph shall not be construed to impair the respondent's right to deny an application based on the failure of the applicant to meet respondent's credit granting, criteria or the failure of any applicant or other parties to provide information or services reasonably necessary for the loan to be approved or closed within the period specified in the applicant's lock-in.

IV.

It is further ordered, That respondent shall deliver, on or before the tenth day following the date this consent agreement is accepted by the Commission and placed on the public record, to the Federal Trade Commission, 6th Street and Pennsylvania Ave., N.W., Washington, D.C. a cashier's or certified check for \$300,000, made payable to the Federal Trade Commission, to be placed into an interest-bearing escrow account designated by the Commission, in

the name and under the control of the Commission's designated agent.

In the event of any default on any obligation to make any payment under this order, interest on the unpaid amount shall accrue, from the date of default to the date of payment, as provided by 28 U.S.C. 1961(a).

V.

It is further ordered, That the Commission may apply any or all funds received from respondent pursuant to this order, and any interest received thereon, to a consumer redress program for consumers who applied to respondent for FHA loan financing, from February 1 to May 1, 1987, and whose commitments or lock-ins were terminated by respondent in April or May 1987 on the basis of a purported right to terminate contained in respondent's loan application materials, and who did not close a loan with respondent or who closed a loan with respondent at terms less favorable than in the lock-in agreement between respondent and the consumer.

Any funds as shall be required to administer a program of consumer redress as described in Section V of this order shall be taken from the sum provided by respondent in Section IV above. Any funds not distributed by the Commission as redress or extended to administer the consumer redress program shall be paid to the United States Treasury.

The maximum award under this redress program shall be an equal share of the amount set out in Section IV, (less expenses to administer the program), not to exceed \$1,000.00 per applicant or group of joint applicants who made a single loan application. The Commission shall, consistent with the provisions otherwise set out herein, have full discretion to: (1) review and approve the procedures used to identify those consumers who meet the criteria for redress; (2) determine the application of the criteria for participation in any redress program and identify those consumers entitled to relief in any redress program implemented pursuant to this order; (3) determine the manner and timing of the sending to consumers of the

forms attached hereto as Exhibits A-C; and (4) delegate any and all tasks connected with such redress program to any individuals, partnerships, or corporations of its choice and to pay the fees, salaries and expenses incurred thereby from the payments made by respondent pursuant to Section IV of this order. On a bi-weekly basis, the Commission or its designated agent shall provide to Lomas Mortgage a copy of each claim form (Exhibit B) received from consumers requesting redress under the terms of this order. Respondent shall have the right to contest the validity of any claim submitted pursuant to the redress program and to provide information concerning the invalidity of the claim within thirty (30) days of receiving such claim form. The Commission shall decide the validity of any such claim based on the information and evidence provided and shall withhold payment of any challenged claim pending determination of its validity by the Commission. Upon payment of redress to any applicant, the Commission or its designated agent shall deliver to Lomas Mortgage the release (Exhibit C) signed by that applicant in connection with the redress program.

The following applicants shall not be eligible for any award under this redress program:

1. Any applicant who does not submit a signed claim form and release within ninety (90) days of receipt of said form and release;
2. Any applicant who has filed a claim pursuant to redress programs administered by the states of Pennsylvania and Texas;
3. Any applicant who has been involved in completed litigation with respondent concerning the termination of its loan commitments in April 1987;
4. Any applicant who otherwise has previously executed settlement agreements or a release with respondent in connection with the termination of its loan commitments in April 1987;
5. Any applicant who has, by refinancing, renegotiation, or otherwise, in the period April 15 through October 15, 1987, achieved or obtained an FHA, VA, or conventional mortgage loan

with the equivalent of the combination of interest rate and points that were locked in with respondent as of April 13, 1987.

VI.

It is further ordered, That, within sixty (60) days following the date of service of this order, Lomas Mortgage shall provide the Commission with a list of the name and last known address of each FHA loan applicant and co-applicant who had a pending loan application with a lock-in feature as of April 13, 1987, and a separate list of all customers whom respondent believes fit under the five criteria for ineligibility set out above in Section V. Respondent shall derive the list of FHA loan applicants from computerized loan applications records for loan applications which closed; and from loan records maintained by respondent and which it can locate for loan applications which did not close. In compiling this list of FHA loan applicants for loans which did not close, respondent shall make a good faith attempt to locate, in its file storage facilities in Dallas and any where else such files are stored, the application files for those applicants and shall provide the last known address and social security number of both the applicant and co-applicant contained in such application files and the address for which a loan was sought.

Within thirty (30) days of being provided such list, the Commission shall cause to be sent a notice by certified mail to the provided address for FHA loan applicants with a lock-in feature pending as of April 13, 1987. This notice shall consist of the forms attached hereto as Exhibits A-C. All notifications shall contain on the envelope the words "PLEASE FORWARD."

VII.

It is further ordered, That, for a period of ten (10) years from service of this order, respondent, its successors and assigns, shall maintain and upon request make available to the Federal Trade Commission up-to-date copies of all mortgage forms in use at any of its offices.

VIII.

It is further ordered, That respondent shall distribute a copy of this order to all present and future loan officers and management officials having supervisory responsibilities for administration, sales, advertising or policy with respect to the subject matter of this order in each of its subsidiaries and operating divisions dealing with mortgage origination, and shall secure from each such individual a signed statement acknowledging receipt of this order.

IX.

It is further ordered, That respondent, its successors and assigns shall notify the Commission at least thirty (30) days prior to any proposed change in 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 respondent which may affect compliance obligations arising out of the order.

X.

It is further ordered, That respondent shall maintain and upon request make available to the Federal Trade Commission all records that will demonstrate compliance with the requirements of this order.

XI.

It is further ordered, That respondent shall, within sixty (60) days after the date of service of this order, file with the Commission a report, in writing, signed by the respondent and setting forth in detail the manner and form of its compliance with this order.

EXHIBIT A

FTC vs. Lomas Consumer Refund Program

TO: FORMER MORTGAGE APPLICANTS OF LOMAS

NOTICE OF LITIGATION SETTLEMENT AND REFUND

This notice is to inform you that Lomas Mortgage U.S.A., formerly known as The Lomas and Nettleton Company ("Lomas" or "L&N") has agreed to pay consumer redress to settle Federal Trade Commission charges that Lomas improperly canceled mortgage lock-ins and commitments in April 1987. In the spring of 1987, Lomas used a mortgage application form that contained the following paragraph on the back:

The maximum rate of interest permitted to be charged on a VA Mortgage is fixed from time to time by the VA, an agency of the United States government. In the event of a change, between the date of the forgoing application and the date of closing, in such maximum rate permitted to be charged on a VA Mortgage, the commitment evidenced by L&N's acceptance of the foregoing application, at L&N's option, shall be null and void, effective on the data of such change.

On April 13, 1987, after the Veterans Administration raised the maximum interest rate for VA loans, Lomas exercised the option described in the second sentence of the paragraph above and canceled its pending commitments for FHA loan applications. Your application was one which may have been subject to a lock-in or commitment that was canceled.

Lomas has since learned that several individuals whose lock-ins or commitments were canceled felt that Lomas did not fully explain to them that their original application could be canceled as provided above, or felt misled about or misunderstood the effect of the cancellation clause. Lomas values its reputation and looks forward to a satisfactory resolution of any questions or complaints you have. Based upon discussion with representatives of the Federal Trade Commission, Lomas has agreed to provide refunds to certain consumers who were affected by the cancellation of their loan lock-in or commitment.

To be eligible for a refund, you must submit the enclosed claim form by XXXXXXXXXXXX, 199X. If your claim form is not received by XXXXXXXX, 199X you will not receive a refund. Lomas has the right to challenge your eligibility based upon its loan records.

The amount you may be eligible to receive as a refund depends on: 1) the total number of customers qualifying for a refund and 2) the total amount actually paid into a settlement fund by Lomas. Depending on the number of people who qualify for a refund, you may receive as much as \$1,000.00.

Lomas looks forward to a satisfactory resolution of your situation and thanks you for your patience and cooperation.

EXHIBIT B

FTC vs. Lomas Consumer Refund Program

CLAIM FORM

I believe that I am entitled to participate in the refund program provided by the Federal Trade Commission ("FTC") agreement with Lomas Mortgage USA, Inc., formerly known as The Lomas and Nettleton Company ("Lomas"), because of the following:

1. I applied for a FHA loan to Lomas after February 1, 1987, and my lock-in or commitment was pending on April 13, 1987.
2. I chose to execute a conditional commitment or "lock-in" agreement with Lomas which provided for a rate of interest of _____ and I agreed to pay _____ points.
3. I (circle one):
 - (a) closed a loan with Lomas; or
 - (b) closed a loan with another lender with whom I applied within ten (10) days of canceling my Lomas application which later closed at a rate and points higher than the rate and points at which I applied at Lomas; or
 - (c) was prevented from closing the loan I sought because of the conduct of Lomas which I felt was unjustified.
4. I closed my loan at a rate of interest of _____ and I agreed to pay _____ points. I am still making payments on my loan.
5. I believe that I was entitled to receive the interest rate of _____ and pay _____ points because I was told I would receive such interest rate and points or I understood from the agreement I signed with Lomas that I would receive the stated interest rate and points, and I did not receive such interest rate and points in my view due to the fault of Lomas. I did everything I was required to do to close at the rate provided for in my original application with Lomas.
6. If I closed a loan with another lender, I am attaching a copy of my HUD-1 Settlement Statement from the title company and a copy of my mortgage. If I closed a loan with Lomas I need not attach such documents.
7. I am returning an executed release as attached which I understand will be delivered to Lomas at the time a check is forwarded to me.
8. I understand that Lomas has the right to dispute my claim.

Claim No. _____

Under penalty of perjury, I certify that the information provided above is true and correct to the best of my knowledge.

Name

Date

My current address is:

EXHIBIT C

FTC vs. Lomas Refund Program

GENERAL RELEASE

The release, given by the undersigned person of the State of _____ to Lomas Mortgage U.S.A., Inc., formerly known as The Lomas & Nettleton Company (hereinafter referred to as "Lomas").

WITNESSETH:

In consideration of the payment by Lomas of \$10.00 and other good and valuable consideration, receipt of which is hereby acknowledged, the undersigned and their heirs and assign(s), hereby release(s), and forever discharge(s) Lomas together with all of its past and present officers, agents, employees, insurers, predecessors, successors and assigns of and from any and all claims, demands, damages, causes of action or liabilities of any kind or nature whatsoever, whether now or existing or hereafter and whether now known or unknown, arising from my application for a FHA loan in the spring of 1987 and relating to the rate of interest and/or points on that loan.

The undersigned acknowledge(s) that this release is given as part of the compromise of the claim against Lomas and agrees that the payment made hereunder is not to be construed as an admission of liability on the part of Lomas.

D a t e :

- - - - -

Name

Name

CONCURRING STATEMENT OF COMMISSIONER MARY L. AZCUENAGA

Having found reason to believe that Lomas Mortgage U.S.A., Inc., violated Section 5 of the FTC Act based on its oral representations and other conduct in treating loan applications, I concur in the Commission's decision to approve issuance of a final decision and order pursuant to a consent agreement with Lomas. I do not reach the question whether the loan application form (Exhibit I attached to the complaint) within its four corners is deceptive and, therefore, express no opinion on whether construction of the loan application form under the FTC Act differs from the construction of the form by the court in *Goodbar v. The Lomas & Nettleton Co.*, No 88-1873, 1989 U.S. Dist. Lexis 6151 (E.D. La. May 25, 1989), holding, in favor of Lomas, that the form is not deceptive under Louisiana law. In my view, the proposed requirement that Lomas provide additional written disclosures to loan applicants is appropriate fencing-in relief.

Complaint

116 F.T.C.

IN THE MATTER OF

NUMEX CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3463. Complaint, Oct. 7, 1993--Decision, Oct. 7, 1993

This consent order prohibits, among other things, a California-based corporation, that advertised and promoted "Therapy Plus," from misrepresenting: the efficacy of certain devices; the degree to which scientific proof demonstrates that any such device is effective in reducing, relieving, or eliminating pain; the degree to which such a device is a significant medical breakthrough; or the degree to which the device is used, recommended, or accepted by the relevant medical or scientific community as effective in reducing, relieving or eliminating pain. This consent order also requires the respondent to possess competent and reliable scientific evidence to substantiate future health and pain-relief claims. In addition, the order prohibits the respondent from misrepresenting the endorsement for any product or service or the connection between the endorser and any individual or company marketing the product or service.

Appearances

For the Commission: *Beth M. Grossman* and *Lesley Anne Fair*.

For the respondent: *Harold D. Murry, Howrey & Simon*,
Washington, D.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that Numex Corporation, a corporation, hereinafter sometimes referred to as respondent, has violated the provisions 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, alleges: