

Complaint

117 F.T.C.

IN THE MATTER OF

DEL DOTTO ENTERPRISES, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket 9257. Complaint, April 19, 1993--Decision, April 21, 1994*

This consent order prohibits, among other things, a California-based corporation and its officers from making false claims regarding real estate, credit, investments, or business opportunities in the future. In addition, the order prohibits the respondents from misrepresenting that any endorsement for a product or service represents the typical or ordinary experience of previous users, and from representing that any advertisement is not paid advertising.

Appearances

For the Commission: *Chris M. Couillou, Andrea L. Foster and Paul Davis.*

For the respondents: *George Miron, Feith & Zell, Washington, D.C.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Del Dotto Enterprises, Inc., a corporation, and David P. Del Dotto and Yolanda Del Dotto, individually and as officers of said corporation ("respondents"), have 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:

PARAGRAPH 1. Respondent Del Dotto Enterprises, Inc., ("DDE") is a California corporation whose office and principal place of business is located at 1500 J Street, Modesto, California.

Respondent David Del Dotto is president and a shareholder of DDE. Individually or in concert with others, David Del Dotto has formulated, directed, controlled, and/or participated in the business activities, policies, acts, and practices of DDE.

Respondent Yolanda Del Dotto is secretary and a shareholder of DDE. Individually or in concert with others, Yolanda Del Dotto has

formulated, directed, controlled, and/or participated in the business activities, policies, acts, and practices of DDE.

PAR. 2. Respondents have advertised, offered for sale, sold, and distributed products and services, including, but not limited to, a set of books and audio cassette tapes, collectively known as the "Cash Flow System," and computer hardware and software. These products and services were promoted by various means, including, but not limited to, through program length advertisements and at seminar presentations held at public facilities in various locations in the United States. The Cash Flow System includes information about purchasing real estate and obtaining credit.

PAR. 3. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PAR. 4. Respondents have disseminated or have caused to be disseminated program length advertisements for the Cash Flow System. These advertisements have included, but are not limited to, programs with the following titles: Financial Freedom and Wealth Building in America Today (Part VI) [hereinafter "Financial Freedom VI"]; Financial Freedom and Wealth Building in America Today (Part V) [hereinafter "Financial Freedom V,"]; Financial Freedom and Wealth Building in America Today (Part IV) [hereinafter "Financial Freedom IV"]; How To Make Nothing But Money; Financial Freedom and Wealth Building in America Today (Part II) [hereinafter "Financial Freedom II"]; and Financial Freedom and Wealth Building in America Today [hereinafter "Financial Freedom"]. These advertisements contain the following statements, among others:

A. "Volume 8 is the government loan book, which teaches you all about government loans, how to get loans for as little as 3% interest, how any homeowner can go out, and immediately get a loan for \$17,500, and countless more loan programs that are available to you right now." [Quoted from Financial Freedom VI, Financial Freedom V, Financial Freedom IV, How to Make Nothing But Money, Financial Freedom II, and Financial Freedom]

B. "How anybody who owns a home can get a loan for \$17,500!" [Quoted from Financial Freedom VI, Financial Freedom V, Financial Freedom IV, How to Make Nothing But Money, Financial Freedom II, and Financial Freedom]

C. "In Volume 8, this is one of my favorite books, because this is my government loan book. It will teach you all about how to get loans for as little as 1% to 3% interest; and where to go to the government to get 'em. And not only that, how would you like to have a loan for \$17,500 to upgrade your house, and do

the work yourself and actually put money into your pocket. This volume will show you how to do that." [Quoted from Financial Freedom II]

D. "Volume 3 is one of my favorite courses. This is the credit course. Now what I teach you in this book is I teach you how to get good credit. It's very important: how to clear up your negative credit and how to co-mortgage with other people. Not only that, it also contains how to get over \$100,000 of unsecured credit for all of you out there that need credit cards." [Quoted from Financial Freedom VI and How to Make Nothing But Money]

E. "Volume 3 is the credit course that will teach you how to qualify for bank loans, how to establish good credit, how to co-mortgage with other people, and how to apply for over \$100,000 of unsecured credit." [Quoted from Financial Freedom VI, Financial Freedom V, Financial Freedom IV, How to Make Nothing But Money, Financial Freedom II, and Financial Freedom]

F. "You're going to receive the 'National Foreclosure Network Wholesale Buyer's Guide.' This booklet contains invaluable information on over 100,000 discounted foreclosure vacation timeshare properties, over 16,000 resolution trust foreclosures throughout the nation, over 3,000 tax sale properties that can be purchased for under \$1000, and hundreds of V.A. homes that can be purchased with only \$500." [Quoted from Financial Freedom IV]

G. "Dave Del Dotto's toll-free telephone consultants are available to personally assist you in all deals." [Quoted from Financial Freedom VI, Financial Freedom V, and Financial Freedom Part IV]

H. "How to get loans for as little as 3% interest." [Quoted from Financial Freedom VI, Financial Freedom V, Financial Freedom IV, How to Make Nothing But Money, Financial Freedom II, and Financial Freedom]

I. "Now Volume 8, this is one of my favorite books, because this is my government loan book. It will teach you all about how to get loans for as little as 1% to 3% interest. How anybody can go, go to the government and get a loan for \$17,500 to upgrade their house, and you can actually put money into your pocket under this program. Folks, this will also show you how to get the government to make all your payments on your properties through Section 8 housing programs. It's available everywhere in America." [Quoted from Financial Freedom VI and How to Make Nothing But Money]

J. "You can do what hundreds of thousands of others are doing, you can get wealth, security, financial freedom and peace for the rest of your life." [Quoted from Financial Freedom VI, Financial Freedom V, Financial Freedom IV, How to Make Nothing But Money, and Financial Freedom II]

K. "Over 500,000 people, just like the ones you see on this television special, have become avid Dave Del Dotto students, and participants in his Cash Flow System, the most dynamic wealth building home study course available in the country today. I think it's important to know that you can do exactly what they're doing, and go on to achieve your dreams, and accumulate as much wealth as you're willing to work for." [Quoted from Financial Freedom VI, Financial Freedom V, Financial Freedom IV, How to Make Nothing But Money, and Financial Freedom II]

L. "We're here today at one of our national seminars and I wanted to take this opportunity to show you how people from around the nation are taking time to

come to these seminars and learn how to accomplish their goals, achieve their dreams and gain wealth building knowledge. Those are people just like yourself who've made the decision to finally go for it - to finally go for their dreams." [Quoted from Financial Freedom V and II]

M. "Hello, I'm Dave Del Dotto. Would you give up thirty minutes of your time if it could change your life from what you have now to the life that you really want to live? Would you give up thirty minutes of your time if it meant that you could pay off all your bills, buy the house and the car you've always wanted to own and have the financial freedom you've always wanted? In the next thirty minutes, I'm going to show how you can do these things. I'm even going to guarantee it." [Quoted from Financial Freedom]

N. "Those are people like you and me, and there are thousands more like them. Let me ask you something? Did you think those people are any different than you? Well let me tell you, they're not. They only did one thing that you haven't done, they called the 800 number that you see on the screen. They called these operators and they bought this Cash Flow System. And they did it for less money than it costs for the average portable color television set. They bought themselves financial freedom for the rest of their lives. This Cash Flow System is an informative collection of books and tapes that took years to develop. It works for anybody who is willing to use it. And the proof is in the fact that my students are from all walks of life, housewives, teenagers, lawyers, school teachers, immigrants, married couples, single people, even Harvard graduates." [Quoted from Financial Freedom]

O. "So I would suggest everybody right now get into the business right now if you want to make a fortune." [Quoted from Financial Freedom II]

P. "If you're really sincere about making money, the money that you need to achieve your goals, then you won't need a guarantee. But it will do for you what it did for me and what it does for thousands of people throughout the country." [Quoted from How to Make Nothing But Money]

Q. "I would recommend, for anybody out there, believe me, when I tell you this, I knew nothing about real estate two years ago. Go for it. Believe me, go for it! Get the knowledge that you need through the books and tapes that Dave Del Dotto sells, and do it. It really works. Believe me, it works." [Quoted from How to Make Nothing But Money, testimonial of Dennis Smith]

R. "I can't, you know, stress enough about how to, how to encourage you to get the tapes to do this, because I'm just an average Joe, and, and if I can learn this, believe me, you can." [Quoted from Financial Freedom VI and How to Make Nothing But Money, testimonial of Dan O'Connor]

S. "It's being done. It can be done. We're doing it. We're average people. Everyone can do this. [Quoted from Financial Freedom VI and Financial Freedom II, testimonial of Reggie Brooks]

PAR. 5. Through the use of the statements contained in advertisements and other communications, including but not necessarily limited to the advertisements referred to in paragraph four, respondents have represented, directly or by implication, that:

A. Respondents' book entitled "Treasury of Government Loans," which is volume 8 of the Cash Flow System, will teach customers how every homeowner can immediately get a government home improvement loan of \$17,500;

B. Respondents' book entitled "Treasury of Government Loans" will show customers how to pocket some portion of the proceeds of a \$17,500 government home improvement loan;

C. Respondents, book entitled "Your Credit, The Key to Financial Resources," which is volume 3 of the Cash Flow System, will teach customers how they can get over \$100,000 of unsecured credit through credit cards;

D. The "National Foreclosure Network Wholesale Buyer's Guide" includes an extensive list of foreclosure and tax sale properties;

E. A telephone consulting service, to personally assist customers in making real estate deals, is included in the price paid for the Cash Flow System;

F. Respondents' book entitled "Treasury of Government Loans" shows customers how they can get loans for 1 to 3% under circumstances normally and expectably encountered by consumers; and

G. Respondents' book entitled "Treasury of Government Loans" will show customers how they can get the government to make all of their payments on rental property.

PAR. 6. In truth and in fact:

A. Respondents' book entitled "Treasury of Government Loans" does not teach customers how every homeowner can immediately get a government home improvement loan for \$17,500. Under the pertinent loan program, Section 2 of Title I of the National Housing Act, 12 U.S.C. 1703, consumers must meet eligibility requirements including, but not necessarily limited to, creditworthiness.

B. Respondents, book entitled "Treasury of Government Loans" does not show customers how to pocket some portion of the proceeds of a \$17,500 government home improvement loan. It does not contain any discussion of pocketing proceeds. In addition, the loans guaranteed under the pertinent loan program, Section 2 of Title I of National Housing Act, 12 U.S.C. 1703, are only for property improvement and are not supposed to be pocketed.

C. Respondents' book entitled "Your Credit, The Key to Financial Resources" does not teach customers how they can get over \$100,000 of unsecured credit through credit cards. It does not contain any discussion of customers obtaining over \$100,000 of unsecured credit through credit cards. In addition, the prerequisites for the issuance of credit cards make it virtually impossible for all but those with extremely high incomes and very good credit histories to obtain the amount of unsecured credit indicated.

D. The "National Foreclosure Network Wholesale Buyer's Guide" does not contain an extensive list of foreclosure and tax sale properties.

E. The telephone consulting service is not included in the price paid for the Cash Flow System.

F. Respondents' book entitled "Treasury of Government Loans" does not show customers how they can get loans for 1 to 3% under circumstances normally and expectably encountered by consumers. The 1% to 3% loans mentioned in respondents' books are either available in very limited circumstances or are no longer available.

G. Respondents' book entitled "Treasury of Government Loans" does not show customers how they can get the government to make all of their payments on rental property.

Therefore, the representations set forth in paragraph five were, and are, false and misleading.

PAR. 7. In their advertising and sale of the Cash Flow System, respondents have represented, directly or by implication, that respondents guarantee a refund of the purchase price. Respondents have failed to adequately disclose that respondents charge a restocking fee of 10% of the purchase price on refunds made under their guarantee. This fact would be material to consumers in their purchase decisions regarding the product. The failure to adequately disclose this fact, in light of the representation made, was, and is, a deceptive practice.

PAR. 8. Through the use of the statements contained in advertisements and other communications, including but not necessarily limited to the advertisements referred to in paragraph four, respondents have represented, directly or by implication, that:

A. Hundreds of thousands of respondents' customers have made substantial sums of money through use of the Cash Flow System;

B. Customers who attempt to use the Cash Flow System typically profit through investments in real estate; and,

C. The consumer testimonials that appear in advertisements for the Cash Flow System reflect the typical or ordinary experience of members of the public who have attempted to use the Cash Flow System.

PAR. 9. In truth and in fact:

A. Hundreds of thousands of respondents' customers have not made substantial sums of money through use of the Cash Flow System;

B. Customers who attempt to use the Cash Flow System do not typically profit through investments in real estate; and,

C. The consumer testimonials that appear in advertisements for the Cash Flow System do not reflect the typical or ordinary experience of members of the public who have attempted to use the Cash Flow System.

Therefore, the representations set forth in paragraph eight were and are, false and misleading.

PAR. 10. Through the use of the statements contained in advertisements and other communications, including but not necessarily limited to the advertisements referred to in paragraph four, respondents have represented, directly or implication, that at the time they made the representations set forth in paragraph eight, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PAR. 11. In truth and in fact, at the time they made the representations set forth in paragraph eight, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in paragraph ten was, and is, false and misleading.

PAR. 12. Through the advertising and dissemination of its program length advertisements including, but not necessarily limited to Financial Freedom, respondents have represented, directly or by implication, that these advertisements are independent television programs and are not paid commercial advertising.

PAR. 13. In truth and in fact, the advertisements referred to in paragraph twelve are not independent television programs and are

paid commercial advertising. Therefore, the representation set forth in paragraph twelve was, and is, false and misleading.

PAR. 14. Respondents have offered for sale and sold computer hardware and software to customers in various locations in the United States. In connection with these sales, respondents have represented, directly or by implication, that computer hardware and software sold to customers would be delivered to the customers within a specified period of time or a reasonable period of time.

PAR. 15. In truth and in fact, the computer hardware and software referred to in paragraph fourteen that were sold to customers have not in many instances been delivered to them within the specified period of time or within a reasonable period of time. Further, in many instances, respondents have failed to provide refunds of money paid by such customers or have failed to provide them within a reasonable period of time. Therefore, the representation set forth in paragraph fourteen was, and is, false and misleading.

PAR. 16. The acts and practices of respondents as alleged above in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondents named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act, as amended, and the respondents having been served with a copy of that complaint, together with a notice of contemplated relief; and

The respondents, their attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission's Rules; and

The Secretary of the Commission having thereafter withdrawn this matter from adjudication in accordance with Section 3.25(c) of its Rules; and

The Commission having considered the matter and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 3.25(f) of its Rules, now in further conformity with the procedure prescribed in Section 3.25(f) of its Rules, the Commission hereby makes the following findings and enters the following order. In any action which may be brought under Section 19(a)(2) of the Federal Trade Commission Act, as amended, the said findings shall not be deemed conclusive within the meaning of Section 19(c)(1)(B)(i) of the Federal Trade Commission Act, as amended.

FINDINGS

1. Respondent Del Dotto Enterprises, Inc., ("DDE") is a California corporation whose office and principal place of business is located at 1500 J Street, Modesto, California.

Respondent David Del Dotto is president and a shareholder of DDE. Individually or in concert with others, David Del Dotto has formulated, directed, controlled, and/or participated in the business activities, policies, acts, and practices of DDE.

Respondent Yolanda Del Dotto is secretary and a shareholder of DDE. Individually or in concert with others, Yolanda Del Dotto has formulated, directed, controlled, and/or participated in the business activities, policies, acts, and practices of DDE.

2. 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.

3. Respondents have advertised, offered for sale, sold, and distributed products and services, including, but not limited to, a set of books and audio cassette tapes, collectively known as the "Cash Flow System," and computer hardware and software. These products and services were promoted by various means, including, but not limited to, through program-length advertisements and at seminar presentations held at public facilities in various locations in the United States. The Cash Flow System includes information about purchasing real estate and obtaining credit.

4. The acts and practices of respondents described in these findings have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

5. Respondents have disseminated or have caused to be disseminated program-length advertisements for the Cash Flow System. These advertisements have included, but are not limited to, programs with the following titles: Financial Freedom and Wealth Building in America Today (Part VI) [hereinafter "Financial Freedom VI"]; Financial Freedom and Wealth Building in America Today (Part V) [hereinafter "Financial Freedom V"]; Financial Freedom and Wealth Building in America Today (Part IV) [hereinafter "Financial Freedom IV"]; How To Make Nothing But Money; Financial Freedom and Wealth Building in America Today (Part II) [hereinafter "Financial Freedom II"]; and Financial Freedom and Wealth Building in America Today [hereinafter "Financial Freedom"]. These advertisements contain the following statements, among others:

A. "Volume 8 is the government loan book, which teaches you all about government loans, how to get loans for as little as 3% interest, how any homeowner can go out, and immediately get a loan for \$17,500, and countless more loan programs that are available to you right now." [Quoted from Financial Freedom VI, Financial Freedom V, Financial Freedom IV, How to Make Nothing But Money, Financial Freedom II, and Financial Freedom]

B. "How anybody who owns a home can get a loan for \$17,500!" [Quoted from Financial Freedom VI, Financial Freedom V, Financial Freedom IV, How to Make Nothing But Money, Financial Freedom II, and Financial Freedom]

C. "In Volume 8, this is one of my favorite books, because this is my government loan book. It will teach you all about how to get loans for as little as 1% to 3% interest; and where to go to the government to get 'em. And not only that, how would you like to have a loan for \$17,500 to upgrade your house, and do the work yourself and actually put money into your pocket. This volume will show you how to do that." [Quoted from Financial Freedom II]

D. "Volume 3 is one of my favorite courses. This is the credit course. Now what I teach you in this book is I teach you how to get good credit. It's very important: how to clear up your negative credit and how to co-mortgage with other people. Not only that, it also contains how to get over \$100,000 of unsecured credit for all of you out there that need credit cards." [Quoted from Financial Freedom VI and How to Make Nothing But Money]

E. "Volume 3 is the credit course that will teach you how to qualify for bank loans, how to establish good credit, how to co-mortgage with other people, and how to apply for over \$100,000 of unsecured credit." [Quoted from Financial Freedom VI, Financial Freedom V, Financial Freedom IV, How to Make Nothing But Money, Financial Freedom II, and Financial Freedom]

F. "You're going to receive the 'National Foreclosure Network Wholesale Buyer's Guide.' This booklet contains invaluable information on over 100,000 discounted foreclosure vacation timeshare properties, over 16,000 resolution trust foreclosures throughout the nation, over 3000 tax sale properties that can be purchased for under \$1000, and hundreds of V.A. homes that can be purchased with only \$500." [Quoted from Financial Freedom IV]

G. "Dave Del Dotto's toll-free telephone consultants are available to personally assist you in all deals." [Quoted from Financial Freedom VI, Financial Freedom V, and Financial Freedom Part IV]

H. "How to get loans for as little as 3% interest." [Quoted from Financial Freedom VI, Financial Freedom V, Financial Freedom IV, How to Make Nothing But Money, Financial Freedom II, and Financial Freedom]

I. "Now Volume 8, this is one of my favorite books, because this is my government loan book. It will teach you all about how to get loans for as little as 1% to 3% interest. How anybody can go, go to the government and get a loan for \$17,500 to upgrade their house, and you can actually put money into your pocket under this program. Folks, this will also show you how to get the government to make all your payments on your properties through Section 8 housing programs. It's available everywhere in America." [Quoted from Financial Freedom VI and How to Make Nothing But Money]

J. "You can do what hundreds of thousands of others are doing, you can get wealth, security, financial freedom and peace for the rest of your life." [Quoted from Financial Freedom VI, Financial Freedom V, Financial Freedom IV, How to Make Nothing But Money, and Financial Freedom II]

K. "Over 500,000 people, just like the ones you see on this television special, have become avid Dave Del Dotto students, and participants in his Cash Flow System, the most dynamic wealth building home study course available in the country today. I think it's important to know that you can do exactly what they're doing, and go on to achieve your dreams, and accumulate as much wealth as you're willing to work for." [Quoted from Financial Freedom VI, Financial Freedom V, Financial Freedom IV, How to Make Nothing But Money, and Financial Freedom II]

L. "We're here today at one of our national seminars and I wanted to take this opportunity to show you how people from around the nation are taking time to come to these seminars and learn how to accomplish their goals, achieve their dreams and gain wealth building knowledge. These are people just like yourself who've made the decision to finally go for it - to finally go for their dreams." [Quoted from Financial Freedom V and II]

M. "Hello, I'm Dave Del Dotto. Would you give up thirty minutes of your time if it could change your life from what you have now to the life that you really want to live? Would you give up thirty minutes of your time if it meant that you could pay off all your bills, buy the house and the car you've always wanted to own and have the financial freedom you've always wanted? In the next thirty minutes, I'm going to show how you can do these things. I'm even going to guarantee it." [Quoted from Financial Freedom]

N. "Those are people like you and me, and there are thousands more like them. Let me ask you something? Did you think those people are any different than you?"

Well let me tell you, they're not. They only did one thing that you haven't done, they called the 800 number that you see on the screen. They called these operators and they bought this Cash Flow System. And they did it for less money than it costs for the average portable color television set. They bought themselves financial freedom for the rest of their lives. This Cash Flow System is an informative collection of books and tapes that took years to develop. It works for anybody who is willing to use it. And the proof is in the fact that my students are from all walks of life, housewives, teenagers, lawyers, school teachers, immigrants, married couples, single people, even Harvard graduates." [Quoted from Financial Freedom]

O. "So I would suggest everybody right now get into the business right now if you want to make a fortune." [Quoted from Financial Freedom II]

P. "If you're really sincere about making money, the money that you need to achieve your goals, then you won't need a guarantee. But it will do for you what it did for me and what it does for thousands of people throughout the country." [Quoted from How to Make Nothing But Money]

Q. "I would recommend, for anybody out there, believe me, when I tell you this, I knew nothing about real estate two years ago. Go for it. Believe me, go for it! Get the knowledge that you need through the books and tapes that Dave Del Dotto sells, and do it. It really works. Believe me, it works." [Quoted from How to Make Nothing But Money, testimonial of Dennis Smith]

R. "I can't, you know, stress enough about how to, how to encourage you to get the tapes to do this, because I'm just an average Joe, and, and if I can learn this, believe me, you can." [Quoted from Financial Freedom VI and How to Make Nothing But Money, testimonial of Dan O'Connor]

S. "It's being done. It can be done. We're doing it. We're average people. Everyone can do this. [Quoted from Financial Freedom VI and Financial Freedom II, testimonial of Reggie Brooks]

6. Through the use of the statements contained in advertisements and other communications, including but not necessarily limited to the advertisements referred to in finding five, respondents have represented, directly or by implication, that:

A. Respondents' book entitled "Treasury of Government Loans," which is volume 8 of the Cash Flow System, will teach customers how every homeowner can immediately get a government home improvement loan of \$17,500;

B. Respondents' book entitled "Treasury of Government Loans" will show customers how to pocket some portion of the proceeds of a \$17,500 government home improvement loan;

C. Respondents' book entitled "Your Credit, The Key to Financial Resources," which is volume 3 of the Cash Flow System,

will teach customers how they can get over \$100,000 of unsecured credit through credit cards;

D. The "National Foreclosure Network Wholesale Buyer's Guide" includes an extensive list of foreclosure and tax sale properties;

E. A telephone consulting service, to personally assist customers in making real estate deals, is included in the price paid for the Cash Flow System;

F. Respondents' book entitled "Treasury of Government Loans" shows customers how they can get loans for 1% to 3% under circumstances normally and expectably encountered by consumers; and

G. Respondents' book entitled "Treasury of Government Loans" will show customers how they can get the government to make all of their payments on rental property.

7. The representations set forth in finding six were, and are, false and misleading because:

A. Respondents' book entitled "Treasury of Government Loans" does not teach customers how every homeowner can immediately get a government home improvement loan for \$17,500. Under the pertinent loan program, Section 2 of Title I of the National Housing Act, 12 U.S.C. 1703, consumers must meet eligibility requirements including, but not necessarily limited to, creditworthiness.

B. Respondents' book entitled "Treasury of Government Loans" does not show customers how to pocket some portion of the proceeds of a \$17,500 government home improvement loan. It does not contain any discussion of pocketing proceeds. In addition, the loans guaranteed under the pertinent loan program, Section 2 of Title I of National Housing Act, 12 U.S.C. 1703, are only for property improvement and are not supposed to be pocketed.

C. Respondents' book entitled "Your Credit, The Key to Financial Resources" does not teach customers how they can get over \$100,000 of unsecured credit through credit cards. It does not contain any discussion of customers obtaining over \$100,000 of unsecured credit through credit cards. In addition, the prerequisites for the issuance of credit cards make it virtually impossible for all but those with extremely high incomes and very good credit histories to obtain the amount of unsecured credit indicated.

D. The "National Foreclosure Network Wholesale Buyer's Guide" does not contain an extensive list of foreclosure and tax sale properties.

E. The telephone consulting service is not included in the price paid for the Cash Flow System.

F. Respondents' book entitled "Treasury of Government Loans" does not show customers how they can get loans for 1% to 3%, under circumstances normally and expectably encountered by consumers. The 1% to 3% loans mentioned in respondents' books are either available in very limited circumstances or are no longer available.

G. Respondents' book entitled "Treasury of Government Loans" does not show customers how they can get the government to make all of their payments on rental property.

8. In their advertising and sale of the Cash Flow System, respondents have represented, directly or by implication, that respondents guarantee a refund of the purchase price. Respondents have failed to adequately disclose that respondents charge a restocking fee of 10% of the purchase price on refunds made under their guarantee. This fact would be material to consumers in their purchase decisions regarding the product. The failure to adequately disclose this fact, in light of the representation made, was, and is, a deceptive practice.

9. Through the use of the statements contained in advertisements and other communications, including but not necessarily limited to the advertisements referred to in finding five, respondents have represented, directly or by implication, that:

A. Hundreds of thousands of respondents' customers have made substantial sums of money through use of the Cash Flow System;

B. Customers who attempt to use the Cash Flow System typically profit through investments in real estate; and,

C. The consumer testimonials that appear in advertisements for the Cash Flow System reflect the typical or ordinary experience of members of the public who have attempted to use the Cash Flow System.

10. The representations set forth in finding nine were, and are, false and misleading because:

A. Hundreds of thousands of respondents' customers have not made substantial sums of money through use of the Cash Flow System;

B. Customers who attempt to use the Cash Flow System do not typically profit through investments in real estate; and,

C. The consumer testimonials that appear in advertisements for the Cash Flow System do not reflect the typical or ordinary experience of members of the public who have attempted to use the Cash Flow System.

11. Through the use of the statements contained in advertisements and other communications, including but not necessarily limited to the advertisements referred to in finding five, respondents have represented, directly or by implication, that at the time they made the representations set forth in finding nine, respondents possessed and relied upon a reasonable basis that substantiated such representations.

12. At the time they made the representations set forth in finding nine, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in finding eleven was, and is, false and misleading.

13. Through the advertising and dissemination of its program-length advertisements, including but not necessarily limited to Financial Freedom, respondents have represented, directly or by implication, that these advertisements are independent television programs and are not paid commercial advertising.

14. The advertisements referred to in finding thirteen are not independent television programs and are paid commercial advertising. Therefore, the representation set forth in finding thirteen was, and is, false and misleading.

15. Respondents have offered for sale and sold computer hardware and software to customers in various locations in the United States. In connection with these sales, respondents have represented, directly or by implication, that computer hardware and software sold to customers would be delivered to the customers within a specified period of time or a reasonable period of time.

16. The computer hardware and software referred to in finding fifteen that were sold to customers have not in many instances been delivered to them or have not been delivered to them within the specified period of time or within a reasonable period of time.

Further, in many instances, respondents have failed to provide refunds of money paid by such customers or have failed to provide them within a reasonable period of time. Therefore, the representation set forth in finding fifteen was, and is, false and misleading.

17. Respondents have represented, directly or by implication, in the sale of goods and services that refunds would be made within a reasonable period of time in accordance with the terms of the guarantee or warranty offered with such goods and services.

18. Respondents have represented, directly or by implication, that refunds would be made within a reasonable period of time on goods and services returned to DDE with authorization from DDE.

19. In numerous instances, customers who have returned goods or services purchased from respondents in accordance with the terms of the offered guarantee or warranty or with authorization from DDE have not received refunds from respondents or have received refunds from respondents only after unreasonable delay and numerous requests to respondents for their refunds. Therefore, the representations set forth in findings seventeen and eighteen were, and are, false and misleading.

20. The acts and practices of respondents as alleged above in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

ORDER

As used in this order, the term "*business opportunity*" means an activity engaged in for the purpose of making a profit.

I.

It is ordered, That Del Dotto Enterprises, its successors and assigns, and its officers, and David P. Del Dotto and Yolanda Del Dotto, individually and as officers of Del Dotto Enterprises, and their respective agents, representatives, and employees, acting directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of the Cash Flow System or any other product or service concerning investments, credit, business opportunities, or real estate, in or affecting

commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

A. Respondents will teach customers how every homeowner can get a government home improvement loan;

B. Every homeowner can get a loan that is insured under Section 2 of Title I of the National Housing Act, 12 U.S.C. 1703;

C. Respondents will show customers how to pocket some portion of the proceeds of a government home improvement loan;

D. Customers can pocket some portion of the proceeds of a loan that is insured under Section 2 of Title I of the National Housing Act, 12 U.S.C. 1703;

E. Respondents will teach customers how they can get over \$100,000 of unsecured credit through credit cards;

F. Customers can get over \$100,000 of unsecured credit through credit cards regardless of their creditworthiness and income;

G. Respondents will show customers how they can get loans for 1% to 3% under circumstances normally and expectably encountered by consumers;

H. Respondents will show customers how they can get the government to make all of their mortgage payments on rental property;

I. The government will make all of a customer's mortgage payments on rental property;

J. Hundreds of thousands of respondents' customers have made substantial sums of money through use of the Cash Flow System;

K. Customers who attempt to use the Cash Flow System typically profit through investments in real estate; and,

L. The consumer testimonials that have appeared in the advertisements for the Cash Flow System referred to in paragraph four of the complaint reflect the typical or ordinary experience of members of the public who have attempted to use the Cash Flow System.

II.

It is further ordered, That Del Dotto Enterprises, its successors and assigns, and its officers, and David P. Del Dotto and Yolanda Del Dotto, individually and as officers of Del Dotto Enterprises, and their

respective agents, representatives, and employees, acting directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of the Cash Flow System or any other product or service concerning investments, credit, business opportunities, or real estate, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, that:

A. The book entitled "National Foreclosure Network Wholesale Buyer's Guide, includes an extensive list of foreclosure or tax sale properties; and

B. A telephone consulting service, to personally assist customers in making real estate deals, is included in the price paid for the product or service.

III.

It is further ordered, That Del Dotto Enterprises, its successors and assigns, and its officers, and David P. Del Dotto and Yolanda Del Dotto, individually and as officers of Del Dotto Enterprises, and their respective agents, representatives, and employees, acting directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of the Cash Flow System or any other product or service concerning investments, credit, business opportunities, or real estate, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, directly or by implication, the following:

A. The availability, terms or conditions of any loan, grant or credit from any source for any purpose; and

B. The contents or scope of any product or service, including, but not limited to, any book or other writing, or audio or video tape.

IV.

It is further ordered, That Del Dotto Enterprises, its successors and assigns, and its officers, and David P. Del Dotto and Yolanda Del Dotto, individually and as officers of Del Dotto Enterprises, and their respective agents, representatives, and employees, acting directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of the Cash Flow System or any other product or service concerning investments, credit, business opportunities, or real estate, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, the performance, benefits, efficacy or success rate of any such product or service, unless such representation is true and unless at the time of making such representation respondents possess and rely upon competent and reliable evidence, which when appropriate must be competent and reliable scientific evidence, that substantiates the representation. For purposes of this order, competent and reliable scientific evidence shall mean tests, analyses, research, studies or other evidence based on the expertise of professionals in the relevant area that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

V.

It is further ordered, That the respondents, Del Dotto Enterprises, a corporation, its successors and assigns, and its officers, and David P. Del Dotto and Yolanda Del Dotto, individually and as officers of Del Dotto Enterprises, and their respective agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that any endorsement (as "endorsement" is defined in 16 CFR 255.0(b)) of the product or service represents the typical or

ordinary experience of members of the public who attempt to use the product or service, unless such is the fact.

VI.

It is further ordered, That Del Dotto Enterprises, its successors and assigns, and its officers, and David P. Del Dotto and Yolanda Del Dotto, individually and as officers of Del Dotto Enterprises, and their respective agents, representatives, and employees, acting directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of the Cash Flow System or any other product or service concerning investments, credit, business opportunities, or real estate, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, when representing to consumers the existence of a guarantee, warranty or refund policy, do forthwith cease and desist from:

a. Using the terms "Satisfaction Guarantee," "Money Back Guarantee," "Free Trial Offer," or similar representations in advertising unless they refund the full purchase price of the advertised product at the purchaser's request;

b. Failing to disclose, with such clarity and prominence as will be noticed and understood by prospective purchasers, any material limitations or conditions that apply to a guarantee, warranty or refund policy; and

c. Failing to refund money in accordance with the terms of a guarantee, warranty or refund policy within a reasonable period of time after a consumer complies with the conditions for receiving a refund. For purposes of this paragraph, "a reasonable time period" shall be:

(1) That period of time specified in respondents, solicitation if such period is clearly and conspicuously disclosed to the purchaser in the solicitation; or

(2) If no period of time is clearly and conspicuously disclosed, a period of thirty (30) days following the date that purchaser complies with the conditions for receiving a refund.

VII.

It is further ordered, That Del Dotto Enterprises, its successors and assigns, and its officers, and David P. Del Dotto and Yolanda Del Dotto, individually and as officers of Del Dotto Enterprises, and their respective agents, representatives, and employees, acting directly or through any partnership, corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of any product or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from creating, producing, selling, or disseminating:

A. Any advertisement that misrepresents, directly or by implication, that it is not a paid advertisement;

B. Any commercial or other video advertisement fifteen (15) minutes in length or longer or intended to fill a broadcasting or cable casting time slot of fifteen (15) minutes in length or longer that does not display visually, in a clear and prominent manner and for a length of time sufficient for an ordinary consumer to read, within the first thirty (30) seconds of the commercial and immediately before each presentation of ordering instructions for the product or service, the following disclosure:

"THE PROGRAM YOU ARE WATCHING IS A PAID ADVERTISEMENT FOR [THE PRODUCT OR SERVICE]."

Provided that, for the purposes of this provision, the oral or visual presentation of a telephone number or address for viewers to contact to place an order for the product or service shall be deemed a presentation of ordering instructions so as to require the display of the disclosure provided herein.

VIII.

It is further ordered, That Del Dotto Enterprises, its successors and assigns, and its officers, and David P. Del Dotto and Yolanda Del Dotto, individually and as officers of Del Dotto Enterprises, and their respective agents, representatives, and employees, acting directly or through any partnership, corporation, subsidiary, division, or other

device, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale or distribution of any product or service, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from failing to deliver goods, transfer interests in real estate or perform services ordered by purchasers from respondents within a reasonable time period. If delivery, transfer or performance cannot be completed within such a reasonable time period, then respondents shall clearly and conspicuously offer in writing to such purchaser, no later than at the expiration of the reasonable time period, an option either to consent to a delay in delivery, transfer or performance or to cancel his or her order and receive a full refund which shall be sent by respondents by first class mail within seven (7) working days of the date on which respondents receive such purchaser's notice of cancellation. For purposes of this paragraph, "a reasonable time period" shall be:

(a) That period of time specified in respondents' solicitation if such period is clearly and conspicuously disclosed to the purchaser in the solicitation; or

(b) If no period of time is clearly and conspicuously disclosed, a period of thirty (30) days following the date that the purchaser's order is received by respondents or by a designated agent of respondents.

IX.

It is further ordered, That for five (5) years after the last date of dissemination of any representation covered by this order, respondents, or their successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

B. All tests, reports, studies, surveys, demonstrations or other evidence in their possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

X.

It is further ordered, That respondent Del Dotto Enterprises shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure, including but not limited to dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolutions of subsidiaries or affiliates, the planned filing of a bankruptcy petition, or any other corporate change that may affect compliance obligations arising out of this order.

XI.

It is further ordered, That respondents David P. Del Dotto and Yolanda Del Dotto shall, for a period of ten (10) years from the date of entry of this order, notify the Commission within thirty (30) days of the discontinuance of their present business or employment and of their affiliation with any new business or employment. Each notice of affiliation with any new business or employment shall include the respondent's new business address and telephone number, current home address, and a statement describing the nature of the business or employment and his or her duties and responsibilities. The expiration of the notice provision of this Part XI shall not affect any of the obligations arising under this order.

XII.

It is further ordered, That respondents shall:

A. Within thirty (30) days after service of this order, provide a copy of this order to each of respondents' current principals, officers, directors and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this order.

B. For a period of ten (10) years from the date of entry of this order, provide a copy of this order to each of respondents' principals, officers, directors and managers, and to all personnel, agents, and representatives having sales, advertising, or policy responsibility with respect to the subject matter of this order who are associated with

respondents or any subsidiary, successor, or assign, within three (3) days after the person assumes his or her position.

XIII.

It is further ordered, That respondents shall, within sixty (60) days after service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Modifying Order

117 F.T.C.

IN THE MATTER OF

TICOR TITLE INSURANCE COMPANY, ET AL.

MODIFYING ORDER IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket 9190. Final Order, Sept. 19, 1989--Modifying Order, April 22, 1994*

This order modifies the Commission's Final Order, issued in 1989 (112 FTC 344), by deleting references to the states of New Jersey and Pennsylvania. Therefore, in accordance with the decision and judgment of the court of appeal, the order, as modified by the Commission, prohibits the companies from discussing, proposing, setting or filing any rates for title search and examination services through a rating bureau in the states of Connecticut, Wisconsin, Arizona, and Montana.

MODIFIED ORDER TO CEASE AND DESIST

The respondents having filed in the United States Court of Appeals for the Third Circuit a petition for review of the Commission's cease and desist order issued herein on September 19, 1989; and the court of appeals having rendered a decision vacating the Commission's order in its entirety; and the Commission having filed a petition for *certiorari* respecting the respondents' sale of title search and examination services in Connecticut, Wisconsin, Arizona, and Montana; and the court of appeals, after reversal and remand by the Supreme Court, having rendered a decision denying the petition for review; and the respondents' petition for a *writ of certiorari* having been denied:

Now, therefore, it is hereby ordered, That the aforesaid order to cease and desist be modified in accordance with the decision and judgment of the court of appeals to read as follows:

I.

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

a. "Title search and examination services" means all activities which are designed to identify and describe the ownership of a