

IN THE MATTER OF

CONOPCO, INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3706. Complaint, Jan. 23, 1997--Decision, Jan. 23, 1997*

This consent order prohibits, among other things, Conopco, Inc., a New York-based manufacturer of margarine and spreads, doing business as Van Den Bergh Foods Company, from misrepresenting the amount of fat, saturated fat, cholesterol or calories in any spread or margarine; and requires the respondent to have adequate scientific substantiation for claims that any margarine or spread reduces the risk of heart disease, or causes or contributes to a risk factor for any disease or health-related condition. In addition, the consent order requires, for three years, that advertisements for Promise margarine or spreads must include the total fat disclosure and must disclose either the percentage of calories derived from fat or the fact that the product is not low in fat.

Appearances

For the Commission: *Anne V. Maher, Rosemary Rosso, Maureen Enright and Jill Samuels.*

For the respondent: *Nancy Schnell, New York, N.Y.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Conopco, Inc., doing business as Van Den Bergh Foods Company ("respondent"), has violated 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 is a New York corporation with its office and principal place of business located at 390 Park Avenue, New York, New York. Van Den Bergh Foods Company is an unincorporated operating division of Conopco, Inc. Conopco, Inc. is a wholly-owned subsidiary of Unilever United States, Inc., a Delaware corporation with its office and principal place of business also located at 390 Park Avenue, New York, New York.

PAR. 2. Respondent, through its operating division known as Van Den Bergh Foods Company, has manufactured, advertised, labeled, offered for sale, sold and distributed margarines and spreads, including Promise spread, Promise Extra Light margarine and Promise Ultra (26%) spread (hereinafter sometimes collectively referred to as "Promise margarines and spreads") and other foods to consumers. Promise spread, Promise Extra Light margarine and Promise Ultra (26%) spread are "foods" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

PAR. 3. The acts and practices of respondent 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. Respondent has disseminated or has caused to be disseminated advertisements for Promise margarines and spreads, including but not necessarily limited to the advertisements attached as Exhibits A through E. These advertisements contain the following statements and depictions:

A. "HEART DISEASE: NATION'S #1 KILLER" [Depiction of Newspaper Headline] [SFX: Dramatic Tone]

MUSIC: YOU MAKE ME FEEL SO YOUNG. YOU MAKE ME FEEL THERE ARE SONGS TO BE SUNG.

[Depiction of an adult male with two young children, one child male and the other female]

[Depiction of a plate of pancakes with two heart-shaped pats of margarine on the pancakes; behind the plate is a package of Promise spread (stick form), with the following statements on the package label: "Low in Saturated Fat" and "NO CHOLESTEROL"]

[Depiction of adult male smiling and looking down, moving to depiction of the young girl smiling and looking up]

"HEALTH TODAY Serum Cholesterol: the warning is real." [Depiction of Newspaper Headline] [SFX: Dramatic Tone] MUSIC: AND EVERY TIME I SEE YOU GRIN ...

[Depictions of the adult male with the two children] "FIT -OR- FAT"

[Depiction of Newspaper Headline, shown several times] [SFX: Printing Press Sounds]

VOICEOVER: "Promise spread has no cholesterol" [Depiction of the adult male with the two children; a super at the bottom of the screen states: "Include Promise as part of a low saturated fat, low cholesterol diet."]

VOICEOVER: "...and is lower in saturated fat than leading margarines." [Depiction of a knife spreading margarine on pancakes with a package of Promise spread (stick form) behind the plate; the Promise package label states "Low in Saturated Fat" and "NO CHOLESTEROL" and a super at the bottom of the screen continues to state: "Include Promise as part of a low saturated fat, low cholesterol diet."]

MUSIC: YOU MAKE ME FEEL SO YOUNG [Depiction of the adult male with two children at a table moving to screen depicting the female child eating and then to a depiction of the male child eating and then to the adult male eating]

VOICEOVER: "Promise. Get Heart Smart."

[Depiction of packages of Promise spread (tub form), Promise spread (stick form) and Promise Extra Light margarine in top third of screen] A super in large caps in the center of screen reads: "PROMISE. GET HEART SMART" [Depiction of the male adult with the two children in the bottom of the screen] (Exhibit A).

B. "GET HEART SMART." (Exhibits A through E).

C. Depiction of Heart-Shaped Pat[s] of Margarine in conjunction with depictions of packages of Promise spread, Promise Extra Light margarine and Promise Ultra (26%) spread. (Exhibits A through E).

D. "Low in Saturated Fat." [Depiction of package of Promise spread (stick form)] (Exhibit B).

E. "ZERO FAT BREAKTHROUGH" [Depiction of Headline] [SFX MUSICAL/ELECTRONIC]

* * * * *

"EXCLUSIVE THE FIRST Fat Free MARGARINE" [Depiction of Headline] SFX COMPUTER PRINTER

* * * * *

VOICEOVER: "Discover Fat Free Promise Ultra." [Depiction of plate with two muffin halves with heart-shaped pats of margarine on the muffins; behind the plate is a package of Promise Ultra Fat Free spread]

"Zero Fat with ...just five delicious calories a serving." [Depiction of young girl with three adults, moving to depiction of a knife spreading margarine on a muffin half]; a super at the bottom of the screen states: "Include Promise Ultra as part of a low saturated fat, low cholesterol diet."]

[Depiction of adults and young girl at a table; a super at the bottom of the screen states: "Include Promise Ultra as part of a low saturated fat, low cholesterol diet."]

* * * * *

VOICEOVER: It's the first fat free...margarine. Definitely one of a kind." [Depiction of people at table moving to male adult eating muffin with margarine on it]

"SPREAD THE FAT FREE NEWS" SFX ELECTRONIC

* * * * *

VOICEOVER: "Regular or Fat Free Promise Ultra ... " [Depiction of packages of Promise Ultra (26%) spread and Promise Ultra Fat Free spread in top third of screen]

VOICEOVER: "Get Heart Smart." [Depiction of packages of Promise Ultra (26%) spread and Promise Ultra Fat Free spread in top third of screen; a super in large caps in the center of screen reads: "GET HEART SMART"] (Exhibit D).

PAR. 5. Through the use of the statements and depictions contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits A through E, respondent has represented, directly or by implication, that eating Promise spread, Promise Extra Light margarine or Promise Ultra (26%) spread helps reduce the risk of heart disease.

PAR. 6. Through the use of the statements and depictions set forth in the advertisements referred to in paragraph four, including

but not necessarily limited to the advertisements attached as Exhibits A through E, respondent has represented, directly or by implication, that at the time it made the representation set forth in paragraph five, respondent possessed and relied upon a reasonable basis that substantiated such representation.

PAR. 7. In truth and in fact, at the time it made the representation set forth in paragraph five, respondent did not possess and rely upon a reasonable basis that substantiated such representation. Therefore, the representation set forth in paragraph six was, and is, false and misleading.

PAR. 8. Through the use of the statements and depictions contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits A and D, respondent has represented, directly or by implication, that Promise spread and Promise Extra Light margarine [Exhibit A] and Promise Ultra (26%) spread [Exhibit D] are low in total fat.

PAR. 9. In truth and in fact, Promise spread, Promise Extra Light margarine and Promise Ultra (26%) spread are not low in total fat. At the time respondent made the representation, Promise spread contained 9.5 grams of fat per 14 gram serving and 34 grams of fat per 50 grams; Promise Extra Light margarine contained 5.6 grams of fat per 14 gram serving and 20 grams of fat per 50 grams; and Promise Ultra (26%) spread contained 3.64 grams of fat per 14 gram serving and 13 grams of fat per 50 grams. Therefore, the representation set forth in paragraph eight was and is false and misleading.

PAR. 10. Through the use of the statements and depictions contained in the advertisements referred to in paragraph four, including but not necessarily limited to the advertisements attached as Exhibits A and B, respondent has represented, directly or by implication; that Promise spread is low in saturated fat.

PAR. 11. In truth and in fact, Promise spread is not low in saturated fat. At the time respondent made the representation, Promise spread contained 1.6 grams of saturated fat per 14 gram serving with 17 percent of calories derived from saturated fat. Therefore, the representation set forth in paragraph ten was and is false and misleading.

PAR. 12. Through the use of the statements and depictions contained in the advertisements referred to in paragraph four, including but not limited to the advertisement attached as Exhibit A,

respondent has represented, directly or by implication, that Promise spread and Promise Extra Light margarine have no dietary cholesterol. Respondent has failed to adequately disclose that Promise spread and Promise Extra Light margarine contain a significant amount of total fat. In light of respondent's representation that Promise spread and Promise Extra Light margarine have no dietary cholesterol, the significant total fat content of the products would be material to consumers and the failure to adequately disclose this fact is deceptive.

PAR. 13. The acts or practices of respondent, as alleged in this complaint, constitute unfair or deceptive acts or practices and the making of false advertisements in or affecting commerce in violation of Sections 5(a) and 12 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Denver Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, its attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the 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, 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 Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that a 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 Pre-Paid Legal Services, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Oklahoma, with its office and principal place of business located at 321 E. Main Street, in the City of Ada, State of Oklahoma.

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

DEFINITIONS

For purposes of this order:

a. "*Living trust*" means a trust into which an individual can place all of his or her assets during his or her lifetime and, by transferring ownership of the assets to the name of the trust, thereby remove the assets from the individual's estate.

b. "*Probate*" is the legal process that validates a will, the legal document that contains instructions to the court on how assets and liabilities are to be divided and distributed at death.

ORDER

I.

It is ordered, That respondent Pre-Paid Legal Services, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, including through any individual or entity with whom or which respondent has contracted to provide pre-paid legal services, in connection with the advertising, promoting, offering for sale, or sale of living trusts, do forthwith cease and desist from misrepresenting, in any manner, directly or by implication, orally or in writing, that:

- A. The use of a living trust avoids all probate and administrative costs.
- B. At death, a living trust allows assets to be distributed immediately or almost immediately.
- C. A living trust cannot be challenged.
- D. Living trusts are prepared by local attorneys.
- E. A living trust protects against catastrophic medical costs.
- F. A living trust is the appropriate estate planning device for every consumer.
- G. There are no disadvantages to a living trust.

II.

It is further ordered, That respondent Pre-Paid Legal Services, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, including through any individual or entity with whom or which respondent has contracted to provide pre-paid legal services, in

connection with the offering for sale or sale of living trusts, do forthwith cease and desist from failing to disclose, clearly and conspicuously, in writing, and prior to the consummation of the sale, the following information:

A. Living trusts may be challenged on similar grounds as wills.

B. Living trusts may not be appropriate in all instances, and all estate planning options should be examined before determining which estate plan best suits a particular individual's needs and wishes.

III.

It is further ordered, That respondent Pre-Paid Legal Services, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, including through any individual or entity with whom or which respondent has contracted to provide pre-paid legal services, in connection with the offering for sale or sale of living trusts, do forthwith cease and desist from failing to disclose, clearly and conspicuously, in writing, and prior to the consummation of the sale, the following information, if true:

A. The availability of informal probate under this state's statutes allows minimal or no contact with the courts and reduces the time required to probate a will.

B. The transfer of an individual's assets into the living trust is not included in the price of creating the living trust.

C. It is the sole responsibility of the purchaser of the living trust to transfer assets into the trust.

D. Creditors have a longer period of time to file a claim against a living trust than against a probated estate.

IV.

It is further ordered, That respondent Pre-Paid Legal Services, Inc., a corporation, its successors and assigns, and its officers, and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promoting, offering for sale, or sale of living trusts by any individual or entity with whom or which

respondent has contracted to provide pre-paid legal services, do forthwith cease and desist from failing to take reasonable steps sufficient to determine, commencing with the beginning of such a contractual relationship and continuing throughout the relationship, whether the promotion or sale involves any acts or practices prohibited by paragraphs I, II and III of this order. Such steps shall include, but are not limited to, evaluating, on a basis independent of the individual or entity with whom or which respondent has contracted to provide pre-paid legal services, the terms or conditions of sale, the adequacy of any disclosures, the representations made and the truthfulness of these representations (for the purposes herein, evaluating may, but need not, include reviewing advertisements, sales scripts and sales manuals, interviewing officers and employees, ascertaining the number and nature of consumer complaints and blind testing of oral representations).

V.

It is further ordered, That respondent Pre-Paid and its successors and assigns shall, in accordance with the provisions of this Part, offer a refund in the amount of one hundred sixty-five dollars (\$165.00) to every purchaser of a living trust, except for (1) those purchasers residing in states with which Pre-Paid has previously settled, and (2) all other purchasers who have previously received refunds from either Pre-Paid or the American Association for Senior Citizens ("AASC").

A. Within thirty (30) days of the date that this order becomes final, respondent shall compile and submit to the Commission a current mailing list containing the names and last known addresses of all AASC members for whom living trusts were prepared by Pre-Paid and who reside in states with which Pre-Paid has not previously settled. Respondent shall also compile and submit to the Commission a list of all AASC members to whom respondent has paid refunds, indicating the amount of each refund and the date the refund was issued. In compiling these lists, respondent shall search all relevant records in the possession, custody, or control of the respondent, including but not limited to its unincorporated divisions, joint ventures, partnerships, operations under other names, affiliates, and all directors, officers, partners, employees, agents, consultants, franchisees, and any other person or entity, including independent contractors, working for or on behalf of any of the foregoing.

B. The Commission shall compile and maintain a list of consumers potentially eligible to receive refunds based on the information respondent is required to produce pursuant to V.A, above, and supplemented by such further relevant information in the Commission's possession or that comes to the Commission's attention.

C. The Commission or its designated agent shall mail a notification letter substantially in the form set out in Appendix 1 to all persons the Commission has reason to believe are eligible consumers, to advise each of: (a) the settlement with Pre-Paid, and (b) the consumer's right to receive a refund.

D. The Commission shall enclose with each notification letter described in V.C, above, a claim form substantially in the form set out in Appendix 2. Refund eligibility shall be based on submission of such form, which has been signed by either the AASC member or the beneficiary, next-of-kin or other representative of the member, if the member is deceased.

E. Any potentially eligible consumer who does not submit a completed and executed claim form in response to the Commission's notification letter by the date specified in the notification letter shall not be eligible to participate in the distribution; provided, that the Commission may in its discretion accept and process an untimely response to the notification letter.

F. The funds from any returned checks, and checks not cashed within 60 days after the distribution date, shall be redeposited into the redress fund for possible redistribution.

VI.

It is further ordered, That the consumer redress fund shall be established, administered, distributed and terminated under the direction and control of the Commission and/or its designated agent. Respondent shall be notified, upon request, as to how the consumer refunds are distributed, but shall have no right to contest the manner of distribution chosen by the Commission. Within 30 days of completing the distribution of refunds pursuant to Part V of this order, the Commission or its designated staff will provide written notification to the escrow agent specified in the Escrow Agreement attached as Appendix 3 to return to the Commission for transmittal to Pre-Paid any funds remaining in the escrow account that were not paid to consumers or to cover administrative costs of the escrow

account. Nothing in this provision shall be construed to limit Pre-Paid's obligation under Parts V and VI of this order to provide consumer refunds.

VII.

It is further ordered, That, for a period of three (3) years from the date of issuance of this order, respondent, and its successors and assigns, shall maintain and upon request make available to a representative of the Federal Trade Commission for inspection and copying all documents relating to the advertising, promoting, offering for sale, or sale of living trusts that are developed, written, reviewed, authorized, or used by respondent, its successors and assigns, its officers, and its agents, representatives and employees, directly or through any corporation, subsidiary, division, or other device, or by any individual or entity with whom or which respondent has contracted to provide pre-paid legal services.

VIII.

It is further ordered, That respondent shall notify the Federal Trade Commission, through its Denver Regional Office unless otherwise directed, at least thirty (30) days prior to any proposed change in the respondent, such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of new corporations, subsidiaries or affiliates of the respondent, the planned filing of a bankruptcy petition, or any other corporate change that may affect compliance obligations arising out of this order.

IX.

It is further ordered, That respondent shall:

A. Within thirty (30) days of service of this order upon it, provide a copy of this order to each of respondent's current principals, officers, directors and managers and to all personnel, agents and representatives who are or have been participating or engaging in any manner in respondent's sales activities relating to living trusts.

B. For a period of three (3) years from the date of issuance of this order, provide a copy of this order to each of respondent's principals, officers, directors and managers, and to all personnel, agents and

representatives who are participating or engaging in any manner in respondent's sales activities relating to living trusts within three (3) days after the person assumes his or her position.

X.

It is further ordered, That this order will terminate on April 4, 2017, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

A. Any paragraph in this order that terminates in less than twenty years;

B. This order's application to any respondent that is not named as a defendant in such complaint; and

C. This order if such complaint is filed after the order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this paragraph as though the complaint was never filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

XI.

It is further ordered, That respondent shall, within sixty (60) days of service of this order upon it, 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 it has complied with this order.

Decision and Order

123 F.T.C.

APPENDIX 1

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
DENVER REGIONAL OFFICE

1961 Stout Street, Suite 1523
Denver, CO 80294-0101
(303) 844-2271

Dear AASC Member:

The Federal Trade Commission has entered into a settlement agreement with Pre-Paid Legal Services, Inc. ("Pre-Paid"), the organization which provided living trusts to members of the American Association for Senior Citizens ("AASC"). The FTC charge AASC and Pre-Paid with making certain misrepresentations, as well as with failing to disclose important information, in the course of marketing and selling living trusts. The agreement reached between Pre-Paid and the Federal Trade Commission is for settlement purposes only and does not constitute an admission of wrongdoing on the part of Pre-Paid.

In settlement of this matter, Pre-Paid has agreed to make partial refunds to AASC members. To be eligible for this refund, you must sign and return the enclosed claim form. If you have already received a refund from Pre-Paid or AASC, you are not eligible for this refund.

Sincerely,

Federal Trade Commission

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Decision and Order

APPENDIX 2

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
DENVER REGIONAL OFFICE1961 Stout Street, Suite 1523
Denver, CO 80294-0101
(303) 844-2271

CLAIM FORM

Name _____
Address _____
City/State/Zip _____

This Claim Form is to be used in connection with your request for a refund from Pre-Paid Legal Services, Inc. ("Pre-Paid"). Please read the Letter enclosed with this Claim Form. **THIS CLAIM FORM MUST BE RECEIVED BY THE FTC AT THE ADDRESS SHOWN ABOVE NO LATER THAN _____, 199_. (60 day turn-around).** A self-addressed envelope is provided for your convenience. Please affix the proper postage.

INSTRUCTIONS

1. Please check the appropriate box to indicate your status:
 - ☐ As a member of the American Association for Senior Citizens ("AASC"), I received a living trust from Pre-Paid Legal Services, Inc. I have not received a refund from either AASC or Pre-Paid.
 - ☐ _____, the AASC member who received the living trust, is legally incompetent or deceased, and I am the beneficiary, next-of-kin or other representative of that person. Neither the AASC member nor myself, on behalf of that AASC member, has received a refund from either AASC or Pre-Paid.
2. If your name and/or address as they appear at the top of this form are different, or the information is otherwise incorrect, please enter the change(s) in the line(s) to the right.

PRIVACY ACT NOTICE

This information is being collected in order to make a distribution of funds paid to the Federal Trade Commission in connection with an Agreement Containing Consent Order to Cease and Desist issued to Pre-Paid Legal Services, Inc. by the Commission pursuant to 15 U.S.C. 45. In addition, this information may be disclosed for other purposes authorized by the Privacy Act, 5 U.S.C. 552a, 47 Fed. Reg. 32,622, including disclosure to other government agencies. Failure to provide the requested information could delay processing or, in some cases, make it impossible for us to process your claim.

Under penalty of perjury, I certify that the foregoing is true and correct to the best of my knowledge and belief.

Signature_____
Date

APPENDIX 3

ESCROW AGREEMENT

Whereas, Pre-Paid Legal Services, Inc. ("Pre-Paid" or "proposed respondent"), has agreed with the staff of the Federal Trade Commission ("the Staff") to settle a certain proposed complaint against it; and

Whereas, as part of the settlement of the proposed complaint for alleged violations of Section 5 of the Federal Trade Commission Act ("FTC Act"), Pre-Paid and the staff have agreed that Pre-Paid will pay partial consumer refunds to those who purchased living trusts from the American Association for Senior Citizens ("AASC"); and

Whereas, the staff requires as a condition of its recommendation of the proposed settlement to the Commission that one hundred thirty thousand dollars (\$130,000) be held in escrow to secure payment of the redress, pending final approval of the settlement and issuance of the order by the Commission, before being disbursed as directed by the terms of the proposed Agreement Containing Consent Order to Cease and Desist;

Now, therefore, in consideration of the premises and mutual covenants, agreements and conditions herein contained, Pre-Paid and the staff do hereby agree to and with each other as follows:

1. Gilardi & Co., in its capacity as a redress contractor (FTC contract #L-1127), shall serve as the Escrow Agent. Within forty-eight (48) hours of signing the Proposed Agreement Containing Consent Order to Cease and Desist to the Commission for final approval, the proposed respondent shall pay to Escrow Agent the amount of one hundred thirty thousand dollars (\$130,000), to be held in escrow in an interest-bearing account to secure payment of the refunds in trust for consumers, by depositing the same into an account ("the escrow fund") as designated by the Escrow Agent. Pre-Paid will pay said amount by a certified or cashier's check(s) or wire transfer.

2. Except as provided in paragraphs four and five of this Agreement and Part V of the proposed Agreement Containing Consent Order to Cease and Desist, proposed respondent agrees to make no claim to or demand for the return of the escrow fund or any portion thereof, directly or indirectly, through counsel or otherwise, and, in the event of bankruptcy of proposed respondent, proposed respondent agrees that the funds are not part of the debtor's estate and that the estate does not have any claim or interest therein.

3. The refund amounts so held in escrow shall be disbursed in accordance with the proposed Agreement Containing Consent Order to Cease and Desist executed by the parties. The Escrow Agent shall be compensated for its management of the escrow fund by the escrow fund.

4. This Agreement shall be irrevocable, and the escrow fund shall be used for no purpose other than payment of the consumer refunds as specified in the Agreement Containing Consent Order to Cease and Desist and to compensate Escrow Agent. The parties agree, however, that this fact is not and will not be interpreted as an admission or acknowledgment by either side that any dominion, title or interest, either legal or equitable, in the principal of the escrow fund remains in Pre-Paid. The Escrow Agent shall return to the Commission for transmittal to Pre-Paid any money remaining in the escrow fund after reimbursement to all consumers who request a refund as soon as practicable after the conclusion of the process of disbursement of the consumer refunds.

5. In the event that the proposed Agreement Containing Consent Order to Cease and Desist does not receive final approval from the Commission, the Escrow Agent shall terminate the escrow account and return all funds to the Commission for transmittal to proposed respondent. The parties agree, however, that this fact is not an admission or acknowledgment by either side that any dominion, title, or interest, either legal or equitable, in the principal of the funds remains in Pre-Paid.

In witness whereof, each of the parties caused this Escrow Agreement to be executed on its behalf by its duly authorized representatives.

Complaint

123 F.T.C.

IN THE MATTER OF

UNO RESTAURANT CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SECS. 5 AND 12 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3730. Complaint, April 4, 1997--Decision, April 4, 1997*

This consent order prohibits, among other things, the Massachusetts-based pizza corporations from misrepresenting the existence or amount of fat or any other nutrient or substance in any pizza or other baked crust food products.

Appearances

For the Commission: *John T. Dugan.*

For the respondent: *Craig Fochler, Wildman, Harold, Allen & Dixon, Chicago, IL.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Uno Restaurant Corporation, Pizzeria Uno Corporation, and Uno Restaurants, Inc., corporations ("respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Uno Restaurant Corporation is a Delaware corporation with its principal office or place of business at 100 Charles Park Road, West Roxbury, Massachusetts.

2. Respondent Pizzeria Uno Corporation is a Delaware corporation with its principal office or place of business at 100 Charles Park Road, West Roxbury, Massachusetts.

3. Respondent Uno Restaurants, Inc. is a Massachusetts corporation with its principal office or place of business at 100 Charles Park Road, West Roxbury, Massachusetts.

4. Respondents have manufactured, advertised, labeled, offered for sale, sold, and distributed products to the public, including thin crust pizzas known as "Thinzettas," which are "foods" within the meaning of Sections 12 and 15 of the Federal Trade Commission Act.

5. 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.