

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.

6. Respondents have disseminated or have caused to be disseminated advertisements for thin crust pizzas, including but not necessarily limited to the attached Exhibits A1, A2, and B. These advertisements contain the following statements:

A. Customer: "Me, I Like to watch what I eat."

Chef: "Then keep watching . . ."

Announcer: "Introducing great tasting low fat thin crust pizzas."

(Exhibit A1, television commercial transcript, and Exhibit A2, television commercial videotape).

B. "Uno's menu is full of 23 new tempting items. Try our 3 new Deep Dish or 8 new Lowfat Thin Crust Pizzas."

(Exhibit B, print advertisement).

7. Through the means described in paragraph six, respondents have represented, expressly or by implication, that their Thinzettas thin crust pizzas are low in fat.

8. In truth and in fact, in most cases respondents' Thinzettas thin crust pizzas are not low in fat. Six out of nine types of Thinzettas thin crust pizzas contained from 14 to 36 grams of fat per serving at the time of dissemination of the advertisements referred to in paragraph six. Therefore, the representation set forth in paragraph seven was, and is, false or misleading.

9. The acts and practices of respondents 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.

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EXHIBIT A1

PIZZERIA UNO TELEVISION COMMERCIAL TRANSCRIPT

Customer 1: Ok, Pizzeria Uno, you do great deep dish pizza, but what about chicken?

Chef: Chicken, you ask? Take this . . .

Announcer: Uno challenges your appetite with over twenty new dishes, like our chicken mushroom marsala with fettucine. [alternate version: Uno challenges your appetite with over twenty new dishes, like our grilled chicken breast sandwich with roasted red peppers].

Super: At participating Restaurants Only.

Customer 2: Me, I like to watch what I eat.

Chef: Then keep watching . . .

Announcer: Introducing great tasting low fat thin crust pizzas. We have over twenty new dishes all made the Uno way. Your way to great food.

Super: Prices May Vary.

Customer 3: Hey, you forgot the appetizers!

Chef: I don't think so.

EXHIBIT A2

EXHIBIT A2 IS A VIDEO TAPE

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EXHIBIT B

Great Deals On UNO's NEW Meals!

HARVEST THINS

SAUSAGE

CHICKEN & ROASTED RED PEPPERS

CHICKEN FAJITA

GRILLED VEGETABLE PRIMAVERA

Uno's new menu is full of 23 new tempting items. Try our 3 new Deep Dish or 8 new Lowfat Thin Crust Pizzas. Or one of our new entrees like Grilled Vegetable Primavera or Lowfat Chicken Fajitas. Now there are more reasons than ever before to come to Uno's.

PRODUCTS MAY VARY

At the Woodfield Mall
Corner of Golf Road and Meacham Road
Schaumburg 413-0200

Jan 21, 1996
FSI

\$2 OFF ANY PIZZA, PASTA OR "FAVORITE" ENTRÉE Lunch Specials not included. Not valid with other offers. One offer per party. Valid at participating restaurants. Expires 2-18-96	TWO CAN DINE FOR \$10.99 Any regular size Deep Dish Pizza & two House Salads for one low price. Additional things extra. Not valid with other offers. One offer per party of two. Valid at participating restaurants. Expires 2-18-96	TWO CAN DINE FOR \$14.99 Any 2 Pasta or "Favorite" Entrées & two House Salads for one low price. Excluding Chicken and one, Jumbo Ribs and Specialty Pizzas. Not valid with other offers. One offer per party of two. Valid at participating restaurants.
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EXHIBIT B

DECISION AND ORDER

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

The respondents, their 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 aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, 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 respondents have 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 Uno Restaurant Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its offices and principal place of business located at 100 Charles Park Road, West Roxbury, Massachusetts.

Respondent Pizzeria Uno Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Delaware, with its offices and principal place of business located at 100 Charles Park Road, West Roxbury, Massachusetts.

Respondent Uno Restaurants, Inc. is a corporation organized, existing, and doing business under and by virtue of the laws of the Commonwealth of Massachusetts, with its offices and principal place

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of business located at 100 Charles Park Road, West Roxbury, Massachusetts.

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.

ORDER

DEFINITIONS

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

1. Unless otherwise specified, "*respondents*" shall mean Uno Restaurant Corporation, Pizzeria Uno Corporation, and Uno Restaurants, Inc., corporations, their successors and assigns and their officers, agents, representatives and employees.

2. "*In or affecting commerce*" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. 44.

I.

It is ordered, That respondents, 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 pizzas, or any other food product containing a baked crust, in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, through numerical or descriptive terms or any other means, the existence or amount of total fat or any other nutrient or substance in such product. If any representation covered by this Part either expressly or by implication conveys any nutrient content claim defined (for purposes of labeling) by any regulation promulgated by the Food and Drug Administration, compliance with this Part shall be governed by the qualifying amount for such defined claim as set forth in that regulation.

II.

Nothing in this order shall prohibit respondents from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990.

III.

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

A. All advertisements and promotional materials containing the representation;

B. All materials that were relied upon in disseminating the representation; and

C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

IV.

It is further ordered, That respondents Uno Restaurant Corporation, Pizzeria Uno Corporation, and Uno Restaurants, Inc. and their successors and assigns shall deliver a copy of this order to all current and future principals, officers, directors, managers, and franchisees, and to all current and future employees, agents, and representatives having responsibility for the preparation of advertising or promotional materials. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

V.

It is further ordered, That respondents Uno Restaurant Corporation, Pizzeria Uno Corporation, and Uno Restaurants, Inc. and their successors and assigns shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the

creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondents learns less than thirty (30) days prior to the date such action is to take place, respondents shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C.

VI.

It is further ordered, That respondents Uno Restaurant Corporation, Pizzeria Uno Corporation, and Uno Restaurants, Inc. and their successors and assigns shall, within sixty (60) days after the date of 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.

VII.

This order will terminate on April 4, 2017, or twenty (20) 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 Part in this order that terminates in less than twenty (20) 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 Part.

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 Part as though the complaint had never been 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.

IN THE MATTER OF

THE ADMINISTRATIVE COMPANY, ET AL.

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

Docket C-3731. Complaint, April 14, 1997--Decision, April 14, 1997

This consent order prohibits, among other things, a Texas-based corporation and its officer from making certain false, misleading or unsubstantiated claims concerning the benefits and appropriateness of living trusts or any legal instrument or service they offer and requires the respondents to clearly and conspicuously disclose to consumers that such trusts may be legally challenged on similar grounds as wills, that living trusts may not be appropriate in all instances, and that the transfer of an individual's assets into a living trust is not included in the price of creating the trust.

Appearances

For the Commission: *Elizabeth M. Palmquist.*

For the respondents: *Tony Chicchio, Chicchio & Associates Dallas, TX.*

COMPLAINT

The Federal Trade Commission, having reason to believe that The Administrative Company, a corporation, Michael P. McIntyre, individually and as an officer and director of The Administrative Company, and Pre-Paid Legal Services, Inc. ("Pre-Paid"), a corporation (collectively, "respondents"), have violated the provisions of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH 1. Respondent Michael P. McIntyre's current address is 4328 Hollow Oak, Dallas, Texas.

Respondent The Administrative Company has ceased doing business. Its address is the same as that of Michael P. McIntyre.

Respondent Pre-Paid Legal Services, Inc., is an Oklahoma corporation, with its principal office or place of business at 321 E. Main Street, Ada, Oklahoma.

PAR. 2. Respondents, at all times relevant to this complaint, have advertised, promoted, offered for sale, and sold living trusts to consumers. A living trust is a trust into which an individual can place all of his or her assets during his or her lifetime and, by transferring