

Complaint

IN THE MATTER OF

MICHAEL G. CHRISMAN, ET AL.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket C-3951; File No. 0023113
Complaint, June 7, 2000--Decision, June 7, 2000*

This consent order requires Respondents Michael G. Chrisman and Michelle R. Chrisman individually and doing business as DayTrading International to have a reasonable basis substantiating any representation about the percentage, ratio, or number of trades that a user of any trading program could reasonably expect to be profitable; the amount of earnings, income, or profit that a user of any trading program could reasonably expect to attain; the rate of return that a user of any trading program could reasonably expect to attain or the length of time over which such a rate of return could reasonably be expected; or the past performance of a trading program, or claims about any financial benefit or other benefit from any trading program. The order also prohibits Respondents from misrepresenting that since January 1996, respondents' "Daily Picks Newsletter" program has returned an average of 167 percent annually or that during 1996 and 1997, respondents' "Hot Small Caps Newsletter" program returned an average annual return of 214 percent, or that users of any trading program can reasonably expect to trade with little or no financial risk and from misrepresenting the extent of risk to which users of any such program are exposed. In addition, the order requires Respondent to disclose, clearly and conspicuously, "DAY TRADING involves high risks and YOU can LOSE a lot of money," in close proximity to any representation he makes about the financial benefits of any trading program.

Participants

For the Commission: *Michael Ostheimer, C. Lee Peeler, and BE.*

For the Respondents: *Lora A. Brzezynski, McKenna & Cuneo, L.L.P.*

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COMPLAINT

The Federal Trade Commission, having reason to believe that Michael G. Chrisman and Michelle R. Chrisman ("respondents"), individually and doing business as DayTrading International, 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. Respondents Michael G. Chrisman and Michelle R. Chrisman are the co-owners of DayTrading International, a Missouri company with its principal office or place of business at 113 West Porter Street, Kirksville, MO 63501. Individually or in concert with others, they formulate, direct, or control the policies, acts, or practices of the company, including the acts or practices alleged in this complaint. Their address is the same as that of the company.
2. Respondents have advertised, offered for sale, sold, and distributed products or services to the public, including recommendations for trading stock. Respondents sell these products or services through their Internet Web site, www.daytradingintl.com. Stock trading products or services sold by respondents include the "Live Interactive Trading Room," the "Daily Picks Newsletter," and the "Hot Small Caps Newsletter." The "Live Interactive Trading Room" is an Internet chat room where respondents provide "live" day trading advice during the day on when to buy and sell stocks. The "Daily Picks Newsletter," and the "Hot Small Caps Newsletter" are in the form of e-mails delivered once per day which contain advice for stock trading.
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.

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4. Respondents have disseminated or have caused to be disseminated advertisements for their trading programs, including but not necessarily limited to the attached Exhibits A and B. These advertisements contain the following statements:

- A. "Our daily and intra-day stock picks produce substantial profits within very short periods of time. *Imagine the advantages you will have, trading with professionals that make their entire livelihood from the equity markets. Sign up now!* View our services for more information and prices." (emphasis in original).

(Exhibit A, The home page of respondent's Web site, <www.daytradingintl.com>).

B. "Live Interactive Trading Room"

The Trading Room provides live intra-day plays to our members. These trades produce fractional gains in a very short period of time. If you are looking to make 1/4's, 3/8's, 1/2's, or even points, perhaps on several occasions though out [sic] the day, then this is where you should be. These calls are made by our traders that have over 18 years of trading experience and are profitable more than 85% of the time when managed correctly. This forum allows us to alert all of our members instantaneously of breaking news stocks [sic] on the verge of exploding upwards.

. . . In order to take full advantage of this service, you should have sufficient capital to buy between 500 and 1000 shares or more, have access to real time quotes as well as a good broker with fast execution. This style of trading can be most profitable of all, because 1/4 point on

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2000 shares is \$500. Two or three of those each day, adds up pretty nicely.

The Trading Room will provide you with plenty of those 3, 4, and 5 point winners you always dream about. Just one decent trade pays for this service for an entire year. We do all the research for our own trading, sharing it with our members in real time helps everyone involved."

(Exhibit B, Page of respondents' Web site devoted to their services <www.daytradingintl.com/SignUp/Services>).

C. "The Daily Picks Newsletter

. . . . These plays are short-term which are usually held only 1 to 5 days to produce gains of between 2% and 10% per trade. This compounds very rapidly. Since inception in January 1996, this service has returned an average of 167% annually. This strategy is . . . the perfect opportunity for the individual trader."

(Exhibit B, Page of respondents' Web site devoted to their services <www.daytradingintl.com/SignUp/Services>).

D. "Hot Small Caps Newsletter

. . . . This has become our fastest growing service, as well as our best performer. During 1996 and 1997 the small cap recommendations returned an average annual return of 214%. As you can see, small caps stocks, or should I say, the RIGHT small cap stocks can score remarkable gains."

(Exhibit B, Page of respondents' Web site devoted to their services <www.daytradingintl.com/SignUp/Services>).

5. Through the means described in Paragraph 4, respondents have represented, expressly or by implication, that:

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- A. Users of respondents' trading programs can reasonably expect to trade stocks profitably with little or no risk.
 - B. Since January 1996, respondents' "Daily Picks Newsletter" program has returned an average of 167 percent annually.
 - C. During 1996 and 1997, respondents' "Hot Small Caps Newsletter" program returned an average annual return of 214 percent.
6. In truth and in fact:
- A. Users of respondents' trading programs cannot reasonably expect to trade stocks profitably with little or no risk.
 - B. Since January 1996, respondents' "Daily Picks Newsletter" program has not returned an average of 167 percent annually. Respondents did not begin to offer the "Daily Picks Newsletter" until 1998.
 - C. During 1996 and 1997, respondents' "Hot Small Caps Newsletter" program did not return an average annual return of 214 percent. Respondents did not begin to offer the "Hot Small Caps Newsletter" program until 1998.

Therefore, the representations set forth in Paragraph 5 were, and are, false or misleading.

7. Through the means described in Paragraph 4, respondents have represented, expressly or by implication, that:
- A. Users of respondents' "Live Interactive Trading Room" program can reasonably expect to achieve profits on their trades more than 85 percent of the time.

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- B. Users of respondents' "Live Interactive Trading Room" program can reasonably expect to achieve substantial profits on a consistent basis (e.g., \$500 per trade, two or three times each day).
 - C. Users of respondents' "Daily Picks Newsletter" program can reasonably expect to make short term trades, held one to five days, that achieve a rate of return of between two percent and ten percent per trade.
8. Through the means described in Paragraph 4, respondents have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representations set forth in Paragraph 7, at the time the representations were made.
9. In truth and in fact, respondents did not possess and rely upon a reasonable basis that substantiated the representations set forth in Paragraph 7, at the time the representations were made. Therefore, the representation set forth in Paragraph 8 was, and is, false or misleading.
10. The acts and practices of respondents as alleged 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.

THEREFORE, the Federal Trade Commission this seventh day of June, 2000, has issued this complaint against respondents.

By the Commission.

Complaint Exhibits

Complaint Exhibits

...FOR THE FASTEST GROWING SHORT-TERM TRADERS:

Services

- Trading Room Access
- Daily Pictos
- Global Caps
- Round Robin
- Custom Start Page
- IPQ Center
- Stock Spots
- Upgrades/Downgrades

FREE!

- Earnings Calendar
- Stock Screener
- Quoted Orders
- Portfolio Tracker

Support

- Faq
- Contact Us
- Suggestion Box
- Update Info
- Billing Questions

Welcome to the fastest growing trading site on the web today. We specialize in the short-term trading of equities that are listed on the NYSE, AMEX and Nasdaq.

We offer a **2-week Free Trial** on all our services so you can see for yourself how profitable short-term trading can be. As a member you will be alerted to stocks exploding to the upside in real-time allowing you to jump aboard for a profit instead of just reading about it in the newspapers the next day.

Our daily and intra-day stock recommendations produce substantial profits within very short periods. *Imagine the advantages you will have, trading with professionals that make their entire livelihood from the equity markets. Sign up now!* View our [services](#) for more information and prices.

NEW! Spread the news and win a FREE month's membership!

Get Report!

New! Members can now customize a start page to their preferences.

(888) 790-4800





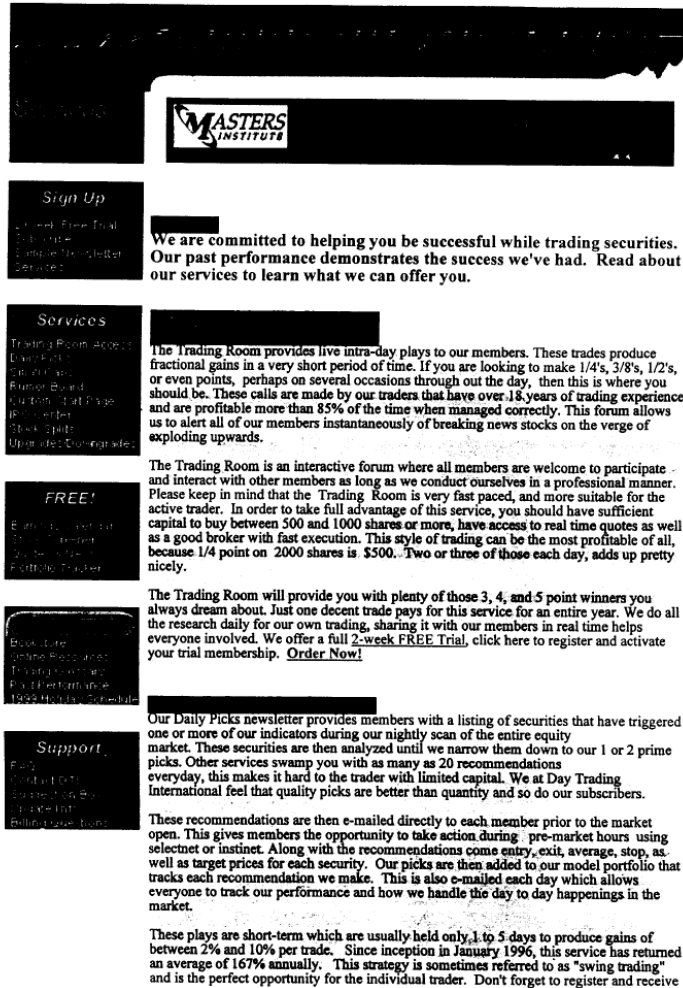

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Complaint Exhibits

Services

wysiwyg://21/http://www.daytradingintl.com/SignUp/Services-services.html



Sign Up
2 Week Free Trial
Subscribe
Sample Newsletter
Services

Services
Trading Room Access
Overnight
Candlestick
Penny Stock
Custom Chat Page
100% Profit
Stock Alerts
Updated Daily

FREE!
2 Week Free Trial
Subscribe
Sample Newsletter
Services

Support
FAQ
Contact Us
Feedback
Help

We are committed to helping you be successful while trading securities. Our past performance demonstrates the success we've had. Read about our services to learn what we can offer you.

The Trading Room provides live intra-day plays to our members. These trades produce fractional gains in a very short period of time. If you are looking to make 1/4's, 3/8's, 1/2's, or even points, perhaps on several occasions through out the day, then this is where you should be. These calls are made by our traders that have over 18 years of trading experience and are profitable more than 85% of the time when managed correctly. This forum allows us to alert all of our members instantaneously of breaking news stocks on the verge of exploding upwards.

The Trading Room is an interactive forum where all members are welcome to participate and interact with other members as long as we conduct ourselves in a professional manner. Please keep in mind that the Trading Room is very fast paced, and more suitable for the active trader. In order to take full advantage of this service, you should have sufficient capital to buy between 500 and 1000 shares or more, have access to real time quotes as well as a good broker with fast execution. This style of trading can be the most profitable of all, because 1/4 point on 2000 shares is \$500. Two or three of those each day, adds up pretty nicely.

The Trading Room will provide you with plenty of those 3, 4, and 5 point winners you always dream about. Just one decent trade pays for this service for an entire year. We do all the research daily for our own trading, sharing it with our members in real time helps everyone involved. We offer a full 2-week FREE Trial, click here to register and activate your trial membership. [Order Now!](#)

Our Daily Picks newsletter provides members with a listing of securities that have triggered one or more of our indicators during our nightly scan of the entire equity market. These securities are then analyzed until we narrow them down to our 1 or 2 prime picks. Other services swamp you with as many as 20 recommendations everyday, this makes it hard to the trader with limited capital. We at Day Trading International feel that quality picks are better than quantity and so do our subscribers.

These recommendations are then e-mailed directly to each member prior to the market open. This gives members the opportunity to take action during pre-market hours using selectnet or instinet. Along with the recommendations come entry, exit, average, stop, as well as target prices for each security. Our picks are then added to our model portfolio that tracks each recommendation we make. This is also e-mailed each day which allows everyone to track our performance and how we handle the day to day happenings in the market.

These plays are short-term which are usually held only 1 to 5 days to produce gains of between 2% and 10% per trade. Since inception in January 1996, this service has returned an average of 167% annually. This strategy is sometimes referred to as "swing trading" and is the perfect opportunity for the individual trader. Don't forget to register and receive

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Services

wysiwyg: 21 http://www.daytradingintl.com/SignUp/Services/Services.htm

your 2-week FREE Trial, and view our sample newsletter. **Order Now!**

This daily newsletter deals strictly with equities in the \$5 - \$15 range, that have explosive upside potential. Every night we scan the securities in this price range. The stocks that trigger two or more of our indicators are then run through our analytical program to determine our buy recommendations. You will receive between 1 and 3 calls per day, you won't be flooded with them.

These will then be compiled into our daily newsletter which is e-mailed to each member prior to the market open. Along with these recommendations come entry, exit, average, stop as well as target prices. Please keep in mind, we do NOT play penny stocks, nor do we have a desire to. None of these small cap recommendations will be below \$5. These stocks are then added to our model portfolio which is also contained in the daily newsletter. This way we can all see what and how well we are doing.

This has become our fastest growing service as well as our best performer. During 1996 and 1997 the small cap recommendations returned an average annual return of 214%. As you can see, small cap stocks, or should I say, the RIGHT small cap stocks can score remarkable gains. We offer you a full 2-week FREE Trial, and view our sample newsletter. **Order Now!**

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- **Premium Service \$189.00-** Includes Trading Room and Both Newsletters
 - **Trading Room *plus* Daily Picks \$169.00**
 - **Daily Picks and Small Caps Newsletters Only \$139.00**
 - **Daily Picks Newsletter \$79.00**
 - **Small Caps Newsletter \$79.00**
 - **Order Now!**
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Our guarantee is to provide you with the best service possible. If you are experiencing a problem with your account at anytime, simply contact us and we'll correct it as soon as possible. If you wish to discontinue your membership, simply e-mail us before the end of the month, and your account will be canceled at the end of the current billing cycle. Service is month-to-month, partial refunds are not given unless service is interrupted due to prolonged equipment failure.

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Exhibit B

DECISION AND ORDER

The Federal Trade Commission ("Commission"), having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection 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

Respondents, their attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by 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 respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondents Michael G. Chrisman and Michelle R. Chrisman are the co-owners of DayTrading International, a Missouri company with its principal office or place of business at 113 West Porter Street, Kirksville, MO 63501. Individually or in concert with others, they formulate, direct, or control the policies,

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acts, or practices of the company. Their address is the same as that of the company.

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. "Clearly and conspicuously" shall mean as follows:
 - A. In an advertisement communicated through an electronic medium (such as television, video, radio, and interactive media such as the Internet and online services), the disclosure shall be presented simultaneously in both the audio and visual portions of the advertisement. *Provided, however,* that in any advertisement presented solely through visual or audio means, the disclosure may be made through the same means in which the ad is presented. The audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. The visual disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it. In addition to the foregoing, in interactive media, the disclosure shall also be unavoidable and shall be presented prior to the consumer incurring any financial obligation.

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- B. In a print advertisement, promotional material, or instructional manual, the disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.
- C. On a product label, the disclosure shall be in a type size and location on the principal display panel sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.

The disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or on any label.

- 2. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
- 3. "Trading program" shall mean any program, service, course, instruction, system, training, manual or other materials involving the purchase or sale of stocks, currencies, commodity futures, options, or other financial instruments or investments.
- 4. "Day trading program" shall mean any trading program involving the purchase and sale of stocks, currencies, commodity futures, options, or other financial instruments or investments within a short period of time, usually within one day.
- 5. Unless otherwise specified, "respondents" shall mean Michael G. Chrisman and Michelle R. Chrisman, individually and doing business as DayTrading International, and their officers, agents, representatives, and employees.

Decision and Order

I.

IT IS ORDERED that respondents, directly or through any corporation, subsidiary, division, trade name, or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any trading program, in or affecting commerce, shall not represent, in any manner, expressly or by implication:

- A. The percentage, ratio, or number of trades that a user of such trading program could reasonably expect to be profitable;
- B. The amount of earnings, income, or profit that a user of such trading program could reasonably expect to attain;
- C. The rate of return that a user of such trading program could reasonably expect to attain or the length of time over which such a rate of return could reasonably be expected;
- D. The past performance of such trading program; or
- E. Any financial benefit or other benefit of any kind from the purchase or use of such trading program;

unless respondents possess and rely upon a reasonable basis substantiating the representation at the time it is made.

II.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, trade name, or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any trading program, in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication:

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- A. That since January 1996, respondents' "Daily Picks Newsletter" program has returned an average of 167 percent annually;
- B. That during 1996 and 1997, respondents' "Hot Small Caps Newsletter" program returned an average annual return of 214 percent;
- C. That users of such trading program can reasonably expect to trade profitably with little or no risk; or
- D. The extent of risk to which users of such trading program are exposed.

III.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, trade name, or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any day trading program, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the financial benefits of such program, unless they disclose, clearly and conspicuously, and in close proximity to the representation,

"DAY TRADING involves high risks and YOU can LOSE a lot of money."

Provided, the disclosure required by this Part is in addition to, and not in lieu of, any other disclosure that respondents may be required to make, including but not limited to any disclosure required by state or federal law or by a self-regulatory organization. The requirements of this Part are not intended to, and shall not be interpreted to, exempt respondents from making any other disclosure.

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IV.

IT IS FURTHER ORDERED that respondents Michael G. Chrisman and Michelle R. Chrisman, individually and doing business as DayTrading International, 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 (including packaging) 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.

V.

IT IS FURTHER ORDERED that respondents Michael G. Chrisman and Michelle R. Chrisman, individually and doing business as DayTrading International, shall deliver a copy of this order to all current and future officers, employees, and agents having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. 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. Respondents shall maintain and upon request

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make available to the Commission for inspection and copying each such signed and dated statement for a period of five (5) years after creation.

VI.

IT IS FURTHER ORDERED that respondents Michael G. Chrisman and Michelle R. Chrisman, individually and doing business as DayTrading International, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of the discontinuance of their current business or employment, or of their affiliation with any new business or employment, or of a change in the name of their business. The notice shall include respondents' new business address and telephone number and a description of the nature of the business or employment and their duties and responsibilities. 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, 601 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

VII.

IT IS FURTHER ORDERED that respondents Michael G. Chrisman and Michelle R. Chrisman, individually and doing business as DayTrading International 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.

VIII.

This order will terminate on June 7, 2020, 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

Analysis to Aid Public Comment

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 respondents 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 respondents 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.

By the Commission.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a consent order from Michael G. Chrisman and Michelle R. Chrisman, individually and doing business as DayTrading International ("respondents").

Analysis to Aid Public Comment

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Respondents sell and distribute recommendations for trading stock. Their trading products or services include the "Live Interactive Trading Room," the "Daily Picks Newsletter," and the "Hot Small Caps Newsletter." The "Live Interactive Trading Room" is an Internet chat room where respondents provide "live" day trading advice during the day on when to buy and sell stocks. The "Daily Picks Newsletter," and the "Hot Small Caps Newsletter" are in the form of e-mails delivered once per day which contain advice for stock trading. Respondents advertise on their Internet Web site, www.daytradingintl.com. This matter concerns allegedly deceptive representations of the earnings and profit potential, as well as the extent of risk involved in using respondents' stock trading program.

The Commission's proposed complaint alleges that respondents made unsubstantiated claims that users of respondents' "Live Interactive Trading Room" program can reasonably expect to achieve profits on their trades more than 85 percent of the time and achieve substantial profits on a consistent basis (e.g., \$500 per trade, two or three times each day); and that users of respondents' "Daily Picks Newsletter" program can reasonably expect to make short term trades, held one to five days, that achieve a rate of return of between two percent and ten percent per trade.

In addition, the complaint alleges that respondents misrepresented that users of their trading programs can reasonably expect to trade stocks profitably with little or no risk. The complaint also alleges that respondents misrepresented that since January 1996, their "Daily Picks Newsletter" program has

Analysis to Aid Public Comment

returned an average of 167 percent annually and that during 1996 and 1997, their “Hot Small Caps Newsletter” program returned an average annual return of 214 percent. The complaint explains that respondents did not begin to offer the “Daily Picks Newsletter” or “Hot Small Caps Newsletter” until 1998.

The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future.

Part I of the proposed order requires respondents to have a reasonable basis substantiating any representation about the percentage, ratio, or number of trades that a user of any trading program could reasonably expect to be profitable; the amount of earnings, income, or profit that a user of any trading program could reasonably expect to attain; the rate of return that a user of any trading program could reasonably expect to attain or the length of time over which such a rate of return could reasonably be expected; or the past performance of a trading program. Part I also requires respondents to possess a reasonable basis substantiating claims about any financial benefit or other benefit from any trading program.

Part II of the proposed order prohibits respondents from misrepresenting that since January 1996, respondents’ “Daily Picks Newsletter” program has returned an average of 167 percent annually or that during 1996 and 1997, respondents’ “Hot Small Caps Newsletter” program returned an average annual return of 214 percent. It also prohibits respondents from misrepresenting that users of any trading program can reasonably expect to trade with little or no financial risk and from misrepresenting the extent of risk to which users of any such program are exposed.

Analysis to Aid Public Comment

Part III of the proposed order requires respondents to disclose, clearly and conspicuously, "DAY TRADING involves high risks and YOU can LOSE a lot of money," in close proximity to any representation they make about the financial benefits of any day trading program. This disclosure is in addition to, and not instead of, any other disclosure that respondents may be required to make.

Parts IV-VII of the proposed order require respondents to keep copies of relevant advertisements and materials substantiating claims made in the advertisements; to provide copies of the order to certain personnel; to notify the Commission of changes in their employment status and any changes in the name of their business for a period of ten years; and to file compliance reports with the Commission. Part VIII provides that the order will terminate after twenty (20) years under certain circumstances.

The purpose of this analysis is to facilitate public comment on the proposed order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Complaint

IN THE MATTER OF
COLEGIO DE CIRUJANOS DENTISTAS
DE PUERTO RICO

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

Docket C-3953; File No. 9710038
Complaint, June 12, 2000--Decision, June 12, 2000

This consent order prohibits Respondent Colegio de Cirujanos Dentistas de Puerto Rico from endorsing or approving, refusing to endorse or approve, or prohibiting or declaring unethical a dentist's participation in a health plan based on the amount, manner of calculating, or other terms relating to reimbursement for dental services, or on whether the plan is open to participation by all Colegio members. The Colegio also is prohibited from 1) negotiating on behalf of any dentists with any payer or provider; 2) refusing to deal, boycotting, or threatening to boycott any payer or provider; or 3) determining any terms, conditions, or requirements upon which dentists will deal with any provider, including terms of reimbursement, and whether the plan is open to participation by all Colegio members. The order also prohibits respondent from communicating to any payer or provider any term, condition, or requirement on which Colegio members are willing or unwilling to deal with a payer or provider, and from communicating with any member concerning the desirability or appropriateness of any term or condition of a payer relating to dental services, or whether the plan is open to participation by all Colegio members, or facilitating in any manner, or transfer the exchange of, information concerning dentists' intentions to contract with any payer, or under what terms. Respondent also may not limit truthful advertising of dental services and the solicitation of costumers, though it may generate ethical rules and guidelines for it members to limit representations that would be deemed false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act, or in person solicitations to people who may be vulnerable to undue influence.