

Complaint

IN THE MATTER OF

COMPUSA INC.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-4137; File No. 0223278**Complaint, June 1, 2005--Decision, June 1, 2005*

This consent order, among other things, prohibits the respondent -- in connection with the manufacturing or marketing of any product or service sold to consumers -- from making any unsubstantiated representation about the time in which any CompUSA Rebate will be mailed or otherwise provided to qualifying consumers; from failing to provide any such rebate within the time specified (or within 30 days, if no time is specified); and from misrepresenting any material terms of any such rebate program. The order also prohibits the respondent -- in connection with the manufacturing or marketing of any product or service sold to consumers -- from making any representation about the availability of any manufacturer or other third party rebate without information indicating that the third party will pay the rebates offered in a timely manner. In addition, the order requires the respondent to pay all valid rebate requests to consumers who purchased QPS products at CompUSA.

Participants

For the Commission: *Kerry O'Brien, Linda K. Badger, Matthew D. Gold, Jeffrey A. Klurfeld, Gerard R. Butters, and Paul A. Pautler.*

For the Respondent: *Mark Walker, CompUSA, Inc., and Lee N. Abrams, Mayer, Brown, Rowe and Maw.*

COMPLAINT

The Federal Trade Commission, having reason to believe that CompUSA Inc., a corporation, ("respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

Complaint

1. Respondent CompUSA Inc. ("CompUSA") is a Delaware corporation with its principal office or place of business at 14951 North Dallas Parkway, Dallas, TX 75240.
2. Respondent is a major retailer of personal computers, computer-related hardware and software products, and other consumer electronics products. Respondent has advertised, labeled, offered for sale, sold, and distributed all of these products to the public. Among the products that CompUSA has marketed are QPS computer peripheral products, as well as CompUSA-labeled computer peripheral products. In marketing these and other products, respondent has advertised rebates, which it has funded and which third-party manufacturers, such as QPS, have funded.
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.

FALSE SHIPMENT REPRESENTATIONS

4. Respondent was involved with the creation of the rebate program for QPS-funded mail-in rebates for QPS products sold at CompUSA. In addition, respondent has disseminated or has caused to be disseminated advertisements and rebate forms for QPS-funded mail-in rebates, including but not necessarily limited to the attached Exhibits A and B. This advertisement and rebate form contain the following statements:

- A. **"SAVE! \$50**
32x10x40 FireWire
CD-RW Drive

\$129⁹⁹ After Savings & Rebate
179.99 - 20 Instant Savings
-30 Mfr. Mail-In Rebate"

Complaint

(Exhibit A, an excerpt from a typical freestanding newspaper insert that advertised a QPS-funded mail-in rebate (Offer # 8372). Respondent disseminated or caused to be disseminated similar advertisements from September 2001 to July 2002).

B. "\$30 Mail-in Rebate

QPS

32x10x40 FireWire CD-RW Drive

Rebate checks will be mailed in 6-8 weeks. If you have not received your check within 10 weeks, visit www.wheresmyrebate.com or call 800-390-2344."

[The "COMPUSA" logo is printed on the rebate form.]

(Exhibit B, a typical QPS rebate form (Offer # 8372). Respondent disseminated or caused to be disseminated similar forms to consumers from September 2001 to July 2002).

5. Many consumers who submitted valid QPS rebate requests during the time period of September 2001 until December 2001 experienced delays ranging from one to six months in receiving their promised rebates, which ranged from \$15 to \$100 in value. Many consumers who submitted valid rebate requests during the time period of January 2002 through July 2002 experienced similar delays, and thousands of consumers never received their promised rebates from QPS.
6. Despite knowledge of these significant problems, CompUSA continually advertised these QPS rebates until shortly before QPS filed for bankruptcy in August 2002.
7. Through the means described in Paragraph 4, respondent has represented, expressly or by implication, that:

Complaint

- A. Rebate checks will be mailed to purchasers of advertised QPS products within six to eight weeks of receipt of their valid requests; and
- B. Rebate checks will be mailed to purchasers of advertised QPS products within a reasonable period of time of receipt of their valid requests.

8. In truth and in fact, in numerous instances, rebate checks were not mailed to purchasers of advertised QPS products within either six to eight weeks or within a reasonable period of time of receipt of their valid requests. Therefore, the representations set forth in Paragraph 7 were, and are, false or misleading.

9. Respondent has disseminated or has caused to be disseminated advertisements for CompUSA-funded rebates, including but not necessarily limited to the attached Exhibit C. This advertisement contains the following statements:

“SAVE! \$10
3.5" Floppy Disk Drive
\$9.99 After Savings & Rebate
19.99 - 5 Instant Savings
-5 Mail-In Rebate”

(Exhibit C, an excerpt from a typical freestanding newspaper insert that advertised a CompUSA-funded rebate (Offer # 5973). CompUSA disseminated or caused to be disseminated similar advertisements from September 2001 to July 2002)

10. Respondent has disseminated or has caused to be disseminated rebate forms for CompUSA-funded rebates that contain the following statement: “Rebate checks will be mailed in 6-8 weeks. If you have not received your check within 10 weeks, visit www.wheresmyrebate.com or call 800-390-2344.” The “COMPUSA” logo is printed on these rebate forms.

Complaint

11. Through the means described in Paragraphs 9 and 10, respondent has represented, expressly or by implication, that:

- A. Respondent will mail rebate checks to consumers who purchase computer peripheral products at CompUSA within six to eight weeks of its receipt of their valid requests; and
- B. Respondent will mail rebate checks to consumers who purchase computer peripheral products at CompUSA within a reasonable period of time after it receives their valid requests.

12. In truth and in fact, in numerous instances, respondent did not mail rebate checks to consumers who purchased computer peripheral products at CompUSA within six to eight weeks or within a reasonable period of time of respondent's receipt of their valid requests. Between September 2001 and June 2002, many consumers experienced delays ranging from one week to more than three months in receiving their promised rebates. The rebates at issue ranged from \$3 to \$100 in value. Therefore, the representations set forth in Paragraph 11 were, and are, false or misleading.

**UNILATERAL MODIFICATION OF TERMS OR
CONDITIONS OF COMPUSA-FUNDED REBATE
OFFERS: UNFAIR BUSINESS PRACTICE**

13. In the advertising and sale of computer peripheral products, respondent has offered, expressly or by implication, that consumers would receive rebate checks within six to eight weeks if they purchased the advertised computer peripheral products and submitted valid rebate requests for CompUSA-funded rebate offers.

14. After receiving rebate requests for CompUSA-funded rebate offers in conformance with the offers described in Paragraph 13, respondent extended the time period in which it would deliver the

Complaint

rebates to consumers without consumers agreeing to this extension of time. Consumers often learned about this unilateral extension of time when they inquired about the status of a rebate request. Respondent then failed to deliver the rebates to consumers within the originally-promised time period.

15. Respondent's practice set forth in Paragraphs 13 and 14 was not reasonably avoidable by consumers, and caused substantial injury to consumers that was not outweighed by countervailing benefits to consumers or competition. This practice was, and is, an unfair act or practice.

16. The acts and practices of respondent 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 first day of June, 2005, has issued this complaint against respondent.

Complaint

SAVER!

\$50

Free! Fire.

32x10x40 FireWire

CD-RW Drive*

Up to 40X max. **289522**

\$129.99 After Savings & Rebate

179.99 - 20 Instant Savings

- 30 Mir. Mail-In Rebate

1210-40 CD-RW Drive

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Complaint

**\$30
Mail-in
Rebate**

(CompUSA Sku #289522)

1. Purchase 32x10x40 FireWire CD-RW Drive at CompUSA between 7/13/02 and 7/20/02. Request must be postmarked by 8/3/02.
2. Fill out this form completely. Incomplete forms will not be accepted.
3. Mail this form with a copy of your sales receipt and original UPC code from product package to:

QPS Offer #8372
P. O. Box 821
New Rochelle, NY 10802-0821

0228-087

See Reverse Side for Details

COMPUSA

Sku #289522

QPS Offer #8372

THIS REQUEST MUST BE POSTMARKED BY 8/3/02

Name: Address: City: State: ZIP: Telephone: - - E-mail:

Notification of Rebate Status

Required Signature _____

Date _____

I have complied with the requirements of this offer

TERMS AND CONDITIONS-Offer valid on purchase of specified product(s) only. Submit this rebate form completely filled out with a copy of the sales receipt and the original UPC label from package. Incomplete forms will be denied. Your request must be postmarked prior to deadline. Manufacturer is not responsible for lost or misdirected mail. Limit ONE rebate per person, receipt, household, family or address. Rebate value will not exceed purchase price. Requests from PO Boxes not accepted. Requests with invalid or undeliverable mailing address will be denied. Offer limited to end-users only. Your rebate rights cannot be transferred, and this offer is void where taxed, restricted or prohibited by law. This offer valid in US only. Keep copies of all materials submitted: originals become Manufacturer's property and will not be returned. Warning: Fraudulent submission could result in federal prosecution under mail fraud statutes (Title 18, USC Sections 1341 & 1342). This offer is no longer valid if not fully redeemed within 6 months from last valid purchase date. Rebate checks will be mailed in 6-8 weeks. If you have not received your check within 10 weeks, visit www.wheresmyrebate.com or call 800-390-2344.

Complaint

SAVE! \$10

FLOPPY DRIVE 3 1/2"

3.5" Floppy Disk Drive

260890 → \$10!

\$9.99 After Savings & Rebate

19.99 - 5 Instant Savings
- 5 Mail-In Rebate

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 Western Region 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 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 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, and having duly considered the comments received, 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. Respondent, CompUSA Inc., is a Delaware corporation with its principal office or place of business at 14951 North Dallas Parkway, Dallas, TX 75240.

Decision and Order

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.

ORDER

DEFINITIONS

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

1. Unless otherwise specified, “respondent” shall mean CompUSA Inc., a corporation, its successors and assigns and its officers, agents, representatives, and employees.
2. “Rebate” shall mean check, cash, credit towards future purchases, or any other consideration offered to consumers who purchase products or services, and which is to be provided subsequent to the purchase.
3. “Receiving a properly completed request” shall mean the time at which the respondent receives from the rebate applicant all documentation, information and other materials required by the express terms of the rebate offer and in compliance with such terms.
4. “CompUSA Rebate” shall mean any consumer rebate that is designed and intended to be funded by CompUSA.
5. “Manufacturer Rebate” shall mean any consumer rebate that is designed and intended to be funded by a manufacturer or third party other than CompUSA.
6. “QPS Rebate” shall mean any rebate offered by QPS to consumers.
7. “Eligible QPS purchaser” shall mean each consumer:

- a. who has provided all documentation, information, and other materials necessary to qualify that consumer for a QPS Rebate under the terms of any QPS Rebate offer and in compliance with such terms; and
- b. whose QPS Rebate is due or past due as of the date of service of this order.

8. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

I.

IT IS ORDERED that respondent, 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 sold to consumers, in or affecting commerce, shall not:

- A. make any representation, in any manner, expressly or by implication, about the time in which any CompUSA Rebate will be mailed, or otherwise provided to qualifying consumers unless, at the time the representation is made, it possesses and relies upon competent and reliable evidence that substantiates the representation;
- B. fail to provide any CompUSA Rebate within the time specified or, if no time is specified, within thirty (30) days of receiving a properly completed request; or
- C. misrepresent, in any manner, expressly or by implication, any material terms of any CompUSA Rebate program.

II.

IT IS FURTHER ORDERED that respondent, directly or through any corporation, subsidiary, division, or other device, in connection with the manufacturing, labeling, advertising,

Decision and Order

promotion, offering for sale, sale, or distribution of any product or service sold to consumers, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the availability of any Manufacturer Rebate unless:

- A. Respondent has an established record with the manufacturer demonstrating that the manufacturer has consistently paid rebates in a timely manner; or
- B. If Respondent does not have such an established record with the manufacturer, it has conducted a reasonable financial analysis of the manufacturer and that financial analysis demonstrates the manufacturer's ability to timely pay the rebates being offered.

III.

IT IS FURTHER ORDERED that respondent CompUSA, and its successors and assigns, shall, in accordance with this Part, provide a rebate to each eligible QPS purchaser who purchased products through CompUSA.

- A. Within ten (10) business days from the date of service of this order, respondent shall compile (1) a mailing list or database containing the name and last known mailing address of each eligible QPS purchaser, and (2) the rebate amount(s) each such person is owed. In addition, respondent shall retain a National Change of Address System ("NCOA") licensee to update this list by processing the list through the NCOA database.
- B. Within thirty (30) business days from the date of service of this order, respondent shall mail via first-class mail, postage prepaid, the rebate amount(s) owed to each such eligible QPS purchaser whose name appears on the list or database required by sub part A of this Part.

- C. For a period of seventy-five (75) days from the date of service of this order, respondent shall mail via first-class mail, postage prepaid, the rebate amount(s) owed to each eligible QPS purchaser who has not been provided a rebate pursuant to sub part B of this Part, and who contacts the respondent or the Commission in any manner. Each such rebate shall be mailed within ten (10) business days after the respondent receives such person's name and contact information and confirms that no payment has yet been made to such person.
- D. No information other than a rebate check shall be mailed to each such eligible QPS purchaser. The envelope that contains the rebate check shall contain in the upper left hand corner the following return address: CompUSA Rebate Center, P.O. Box 1974, Addison, Texas 75001-1974.
- E. Within one hundred fifty (150) days from the date of service of this order, respondent shall furnish to Commission staff the following:
1. The mailing list or database required by sub part A of this Part in computer readable form.
 2. In computer readable form, a list of the names and addresses of all consumers who were sent rebate checks pursuant to this Part, and for each name included on the list, the amount, check number and mailing date of every rebate check sent;
 3. In computer readable form, a list of the names and addresses of all consumers who contacted respondent or were referred to respondent by the Commission in accordance with sub part C of this Part;
 4. Copies of all correspondence and other communications to, from, or concerning all consumers who, after the date

Decision and Order

of service of this order, requested a rebate but were refused, and the reason(s) for denying the rebate;

5. In computer readable form, a list of the names and addresses of all consumers whose rebate checks were returned to respondent as undeliverable; and
6. All other documents and records evidencing efforts made and actions taken by respondent to identify, locate, contact and provide funds to consumers requesting a rebate.

IV.

IT IS FURTHER ORDERED that respondent CompUSA, and its 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. Specimen copies of all freestanding newspaper inserts, direct mail advertisements, newspaper advertisements, and all television, video, and radio advertisements containing the representation;
- B. A specimen copy of all rebate forms containing the representation;
- C. All materials that were relied upon in disseminating the representation; and
- D. All written or electronic complaints relating to rebates (whether received directly, indirectly or through any third party) and any responses to those complaints.

V.

IT IS FURTHER ORDERED that respondent CompUSA, and its successors and assigns, shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives whose duties include the exercise of managerial responsibility with respect to the subject matter of this order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and, for a period of three (3) years from the date of service of this order, to future personnel within thirty (30) days after the person assumes such position or responsibilities.

VI.

IT IS FURTHER ORDERED that respondent CompUSA, and its successors and assigns, shall deliver a copy of this order to all current and future manufacturers who offer or will offer a Manufacturer Rebate that consumers can obtain by purchasing products exclusively from CompUSA. Respondent shall deliver this order to such current manufacturers within thirty (30) days after the date of service of this order, and to such future manufacturers within thirty (30) days after the manufacturer enters into a business relationship with respondent.

VII.

IT IS FURTHER ORDERED that respondent CompUSA, and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation 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,

Decision and Order

with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent 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, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

VIII.

IT IS FURTHER ORDERED that respondent CompUSA, and its 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 it has complied with this order.

IX.

This order will terminate on June 1, 2025, 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.

Analysis

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order with CompUSA Inc. (“CompUSA”). CompUSA is a major retailer of personal computers, computer-related hardware and software products, and other consumer electronics products. CompUSA advertises, labels, offers for sale, sells, and distributes all of these products to the public. The Commission has separately accepted an agreement with the principals of Q.P.S., Inc. (“QPS”), which manufactured computer peripheral products sold by CompUSA.

The proposed consent order has been placed on the public record for thirty (30) days for reception 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.

This matter concerns cash rebate offers that CompUSA advertised to consumers. Among the products that CompUSA marketed were QPS computer peripheral products, as well as CompUSA-labeled computer peripheral products. In marketing these and other products, CompUSA advertised mail-in rebates, which it has funded and which third-party manufacturers, such as QPS, have funded.

The complaint alleges that CompUSA engaged in deceptive and unfair practices relating to both the QPS- funded rebates and the CompUSA-funded rebates. First, the complaint alleges that CompUSA falsely represented that QPS-funded rebate checks would be mailed to purchasers of advertised QPS products within six to eight weeks, or within a reasonable period of time. Although these rebates were designed and intended to be funded by QPS, CompUSA was involved in their creation, and disseminated advertisements and rebate forms for these rebates. From September 2001 until December 2001, many consumers

experienced delays ranging from one to six months in receiving their promised rebates, which ranged from \$15 to \$100 in value. From January 2002 through July 2002, many consumers experienced similar delays, and thousands of consumers never received their promised rebates from QPS. Despite knowledge of these significant problems, CompUSA continually advertised these QPS rebates until shortly before QPS filed for bankruptcy in August 2002.

Second, the complaint alleges that CompUSA falsely represented that it would deliver CompUSA-funded rebates to purchasers of its computer peripheral products within six to eight weeks, or within a reasonable period of time. Between September 2001 and June 2002, many consumers experienced delays ranging from one week to more than three months in receiving their promised rebates. The rebates at issue ranged from \$3 to \$100 in value.

Finally, the complaint alleges that, in the advertising and sale of computer peripheral products, CompUSA offered to deliver rebates within six to eight weeks if they purchased the advertised computer peripheral products and submitted valid rebate requests for CompUSA-funded rebate offers. After receiving rebate requests in conformance with these offers, CompUSA unilaterally extended the time period in which it would deliver the rebates to consumers without consumers agreeing to this extension of time. According to the complaint, this constituted an unfair business practice.

The proposed order contains provisions designed to prevent CompUSA from engaging in similar acts and practices in the future. Part I applies to CompUSA Rebates, which are rebates that are designed and intended to be funded by CompUSA. Specifically, Part I.A. prohibits the company from representing the time in which it will mail any CompUSA Rebate, unless it possesses competent and reliable evidence substantiating the claim. Part I.B. prohibits CompUSA from failing to provide any CompUSA rebate within the time specified, or if no time is

Analysis

specified, within thirty days. Part I.C. requires that the company not “misrepresent, in any manner, expressly or by implication, any material terms of any CompUSA Rebate program.”

Part II of the proposed order relates to CompUSA’s advertising of Manufacturer Rebates, which are rebates that are designed and intended to be funded by a manufacturer or third party other than CompUSA. This provision prohibits the company from making any representation about the availability of any Manufacturer Rebate unless (1) it has an established record with the manufacturer demonstrating that the manufacturer has consistently paid rebates in a timely manner; or (2) if it does not have such an established record with the manufacturer, CompUSA has conducted a reasonable financial analysis of the manufacturer and that financial analysis demonstrates the manufacturer’s ability to timely pay the rebates being offered.

Part III of the proposed order is a redress provision which requires CompUSA to pay all valid rebates requests to consumers who purchased QPS products at CompUSA and whose rebates are due or past due. This provision also requires CompUSA to send a rebate to any eligible QPS purchaser who contacts it or the FTC for a period of seventy-five (75) days after service of the order.

Parts IV through VIII of the proposed order are reporting and compliance provisions. Part IX is a provision “sunsetting” the order after twenty years, with certain exceptions.

The purpose of this analysis is to facilitate public comment on the proposed order, and 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

NEW MILLENNIUM ORTHOPAEDICS, LLC, ET AL.

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

Docket C-4140; File No. 0310087

Complaint, June 13, 2005--Decision, June 13, 2005

This consent order, among other things, prohibits the respondents from entering into, participating in, implementing, or otherwise facilitating any combination, conspiracy, agreement, or understanding between or among any physicians (1) to negotiate on behalf of any physician with any payor; (2) to deal, refuse to deal, or threaten to refuse to deal with any payor; (3) regarding any term, condition, or requirement upon which any physician deals, or is willing to deal, with any payor, including, but not limited to, price terms; or (4) not to deal individually with any payor, or not to deal with any payor through any arrangement other than Respondent New Millennium. The order also requires Respondent New Millennium to effect its dissolution within 120 days after the effective date of the order.

Participants

For the Commission: *Gwendolyn Fanger, Sylvia Kundig, Jeffrey A. Klurfeld, Daniel P. Ducore, and Louis Silvia.*

For the Respondents: *Michael DeFrank, Hemmer Spoor Pangburn DeFrank, and William Freedman, Dinsmore & Shohl.*

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.* (“FTC Act”), and by virtue of the authority vested in it by said Act, the Federal Trade Commission (“Commission”), having reason to believe that New Millennium Orthopaedics, LLC (“NMO”), Orthopaedic Consultants of Cincinnati, Inc., dba Wellington Orthopaedics & Sports Medicine (“Wellington”), and Beacon Orthopaedics & Sports Medicine, Ltd. (“Beacon”), herein sometimes referred to as “Respondents,” have violated Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and it appearing to