

Complaint

IN THE MATTER OF

**PUERTO RICO ASSOCIATION OF
ENDODONTISTS CORP.**CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-4166; File No. 051 0170
Complaint, August 24, 2006 – Decision, August 24, 2006

This consent order addresses charges that the respondent, the Puerto Rico Association of Endodontists Corp. (PRAE), orchestrated and implemented agreements among its endodontist members on price and other competitively significant terms, refused or threatened to refuse to deal with payors except on collectively agreed-upon terms, and negotiated fees and other competitively significant terms with payors in contracts for PRAE's member endodontists. The respondent has approximately 30 member endodontists, who are engaged in providing professional services to patients throughout Puerto Rico. The order prohibits PRAE from entering into or facilitating agreements among endodontists (1) to negotiate on behalf of any endodontist with any payor, (2) to deal, refuse to deal, or threaten to refuse to deal with any payor, (3) regarding any term upon which any endodontist deals, or is willing to deal, with any payor, and (4) not to deal individually with any payor or through any arrangement other than PRAE. In addition, PRAE is prohibited from exchanging or facilitating the transfer of information among endodontists concerning any endodontist's willingness to deal with a payor, or the terms or conditions, including price terms, on which the endodontist is willing to deal. PRAE is prohibited from attempting to engage in any such action and from encouraging, pressuring, or attempting to induce any person to engage in any such action. The order requires PRAE to distribute the complaint and order to its members, certain payors, and specified others. Other provisions impose various obligations on PRAE to report or provide access to information to the Commission to facilitate monitoring PRAE's compliance with the order.

Participants

For the *Commission*: *Leonard L. Gordon, Jr. and Theodore Zang.*

For the *Respondent*: *James E. Toro Monserrate.*

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COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et seq.*, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the Puerto Rico Association of Endodontists, Corp. has violated Section 5 of the Federal Trade Commission Act, 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, hereby issues this Complaint stating its charges in that respect as follows:

RESPONDENT

1. Respondent Puerto Rico Association of Endodontists, Corp. is a non-profit corporation, organized, existing, and doing business under and by virtue of the laws of Puerto Rico, with its office and principal place of business at PMB #92, 400 Kalaf Street, San Juan, Puerto Rico 00918. Prior to its incorporation in September 2003, many of the endodontists that now are members of Puerto Rico Association of Endodontists, Corp., acting together as an unincorporated association, belonged to, participated in, and represented to the public that they were members of the Puerto Rico Association of Endodontists. As used herein, the term “PRAE” therefore refers to both the corporation and the predecessor unincorporated association known as the Puerto Rico Association of Endodontists.

JURISDICTION

2. According to its Certificate of Incorporation, PRAE was formed by endodontists to serve as a professional association for endodontists and to thereby provide information and education to the members of the association and to the public in general concerning dental surgery. At all times relevant to this Complaint, member endodontists of PRAE have been engaged in

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the business of providing endodontic care for a fee. Except to the extent that competition has been restrained as alleged herein, member endodontists of PRAE have been, and are now, in competition with each other for the provision of endodontic services.

3. PRAE was founded by, is controlled by, and operates for the pecuniary benefit of the endodontists who belong to PRAE. In its internal and external communications, PRAE refers to the endodontists who belong to PRAE as members of PRAE. Accordingly, the participating endodontists are “members” of PRAE, and PRAE therefore is a “corporation,” as those terms are used in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

4. The general business practices of PRAE, including the acts and practices herein alleged, are in or affecting “commerce” as defined in the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

OVERVIEW OF MARKET AND ENDODONTIST COMPETITION

5. PRAE has approximately 30 member endodontists licensed to practice endodontics in Puerto Rico, who are engaged in the business of providing professional services to patients throughout the island. The PRAE membership includes all or almost all of those professionals practicing endodontics in Puerto Rico.

6. Endodontists often contract with health insurance plans and other third party payors (“payors”) to establish the terms and conditions, including price terms, under which such endodontists will render services to the payors’ subscribers. Endodontists entering into such contracts often agree to lower compensation to obtain access to additional patients made available by the payors’ relationship with insureds. These contracts may reduce payors’

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costs, enable them to lower the price of insurance, and reduce out-of-pocket medical expenditures by subscribers to the payors' health insurance plans.

7. Similarly, endodontists entering into such contracts with payors often agree to accept, as payment in full for services rendered, an agreed upon fee from the payor and co-payment from the subscriber. Where such a term is included in the payor-endodontist contract, the endodontist agrees not to "balance bill" the patient for any balance or difference between the agreed upon payments and the endodontist's desired rate. Agreements not to balance bill reduce the cost of endodontic care to patients.

8. Absent agreements among competing endodontists on the terms, including price, on which they will provide services to subscribers or enrollees in health care plans offered or provided by payors, competing endodontists decide individually whether to enter into contracts with payors to provide services to their subscribers or enrollees, and what prices they will accept pursuant to such contracts.

RESTRAINT OF TRADE

9. PRAE's member endodontists, including its officers and the members of its Board of Directors, constitute numerous discrete economic interests. The conduct of PRAE constitutes combined or concerted action by its participating endodontists.

10. PRAE, acting as a combination of competing endodontists, and in combination with endodontists, has restrained competition among its member endodontists by, among other things:

A. facilitating, negotiating, entering into, and implementing agreements among its participating endodontists on price and other competitively significant terms;

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B. refusing or threatening to refuse to deal with payors except on collectively agreed-upon terms; and

C. negotiating fees and other competitively significant terms with payors in contracts for PRAE's member endodontists.

PRAE's ILLEGAL ACTS AND PRACTICES

11. PRAE has engaged in various acts and practices, as more fully described below, that unlawfully restrain competition among PRAE's member endodontists. PRAE has undertaken these acts and practices with the knowledge of its officers, directors, and member endodontists, and often at their explicit instruction.

12. In January 2003, PRAE formed a Pre-Payments Committee for the purpose of negotiating with payors on behalf of PRAE members so as to secure higher reimbursement rates for PRAE members.

13. Beginning as early as January 2003, PRAE, acting through its Pre-Payments Committee, began to negotiate with various payors regarding the rates that those payors paid PRAE members. By March 2003, the PRAE Pre-Payments Committee had met with representatives of two payors and had convinced those payors to increase the rates paid to PRAE members. At a March 2003 PRAE meeting, the PRAE Pre-Payments Committee reported on its successful price negotiations with certain payors and stated that it would send a letter on behalf of the PRAE to several other payors as part of an effort by PRAE to have those payors raise the rates paid to PRAE members.

14. In March 2003, PRAE sent a letter to at least four payors requesting a meeting "with the intention of revising the fees paid to Endodontists" that participate in the payor's dental plan. Thereafter, the Pre-Payments Committee contacted payors to urge the payors to raise their rates. In one such discussion, the payor

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representative informed the Committee member that the Committee's negotiation on behalf of PRAE members was illegal under the antitrust laws. In response, the PRAE representative informed the payor that other payors had been disinclined to accede to the rate increases proposed by the PRAE, and that those payors now were facing potential problems with their networks.

15. PRAE's efforts to negotiate higher rates from payors for its members succeeded. In response to the various efforts of PRAE's Pre-Payment Committee, in 2003 at least five payors raised the rates that they paid PRAE members.

16. In early 2004, PRAE's Pre-Payment Committee began a campaign to raise rates again, this time by seeking to end the payors' ban on balance billing. PRAE sought this change in contract terms to permit its members to raise the prices directly paid by patients and to avoid the cost-containment function of a ban on balance billing.

17. In furtherance of this plan, in early 2004, the PRAE Pre-Payments Committee contacted several payors to request that the payors waive their ban on balance billing. The Committee followed those discussions with a letter in June 2004, which the Committee sent to at least seven payors. The letter urges each payor to eliminate their ban on balance billing so that the insurance company did not have to absorb the price increase that the PRAE members desired. The letter states that waiver of the ban "could result in all Endodontists in Puerto Rico becoming dental participants of your Dental Plan since there would be no financial discrepancies. This could be of great usefulness in your marketing strategy." To emphasize the collective nature of the demand being made by the PRAE, and the potential risk to payors of failing to acquiesce to that demand, twenty-three members of PRAE co-signed the letter. The Pre-Payments Committee followed the letter with repeated phone calls to the payors urging an end to ban on balance billing.

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18. Thus far, the payors pressured by the PRAE to end the ban on balance billing have resisted the coordinated action of the PRAE.

LACK OF SIGNIFICANT EFFICIENCIES

19. The acts and practices described in Paragraphs 10 through 18, including PRAE's negotiation of fees and other competitively significant terms under which each endodontist is paid on a fee-for-service basis, have not been, and are not, reasonably related to any efficiency-enhancing integration of their respective practices. PRAE's member endodontists do not share substantial financial risk and are not otherwise integrated in ways that would create the potential for increased quality and reduced cost of endodontic care that the endodontists provide to patients.

ANTICOMPETITIVE EFFECTS

20. PRAE's acts and practices as described herein have had, or tend to have, the effect of restraining trade unreasonably and hindering competition in the provision of endodontic services in Puerto Rico area in the following ways, among others:

- A. price and other forms of competition among PRAE's participating endodontists were unreasonably restrained;
- B. prices for endodontist services were increased; and
- C. health plans, employers, and individual consumers were deprived of the benefits of competition among endodontists.

**VIOLATION OF THE FEDERAL TRADE COMMISSION
ACT**

21. The combination, conspiracy, acts, and practices described above constitute unfair methods of competition in violation of

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Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45. Such combination, conspiracy, acts, and practices, or the effects thereof, are continuing and will continue or recur in the absence of the relief herein requested.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this twenty-fourth day of August, 2006, issues its Complaint against Respondent PRAE.

By the Commission.

DECISION AND ORDER

The Federal Trade Commission (“Commission”), having initiated an investigation of certain acts and practices of the Puerto Rico Association of Endodontists, Corp. (“PRAE”), hereinafter sometimes referred to as “Respondent,” and PRAE having been furnished with a copy of the draft Complaint that Counsel for the Commission proposed to present to the Commission for its consideration and which, if issued, would charge Respondent with violations of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondent, its attorney, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order to Cease and Desist (“Consent Agreement”), containing an admission by Respondent of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of said Consent 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

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waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered this matter and having determined that it had reason to believe that Respondent has violated the said Act, and that a Complaint should issue stating its charges in that respect, and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby issues its Complaint, makes the following jurisdictional findings and issues the following Order:1.

1. Respondent PRAE is a not-for-profit corporation, organized, existing, and doing business under and by virtue of the laws of the Commonwealth of Puerto Rico, with its principal address located at PMB #92, 400 Kalaf Street, San Juan, Puerto Rico 00918.
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**I.**

IT IS ORDERED that, as used in this Order, the following definitions shall apply:

- A. "Respondent PRAE" means the Puerto Rico Association of Endodontists, Corp., its officers, directors, members, employees, agents, attorneys, representatives, predecessors, successors, and assigns; the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, predecessors, successors, and assigns of

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each of its officers, directors, members, employees, agents, attorneys, representatives, successors, and assigns; the subsidiaries, divisions, groups, and affiliates controlled by it, and the respective officers, directors, employees, agents, attorneys, representatives, successors, and assigns of each.

- B. "Participate" in an entity means (1) to be a partner, shareholder, owner, member, or employee of such entity, or (2) to provide services, agree to provide services, or offer to provide services, to a payor through such entity. This definition applies to all tenses and forms of the word "participate," including, but not limited to, "participating," "participated," and "participation."
- C. "Payor" means any person that pays, or arranges for payment, for all or any part of any endodontist services for itself or for any other person. Payor includes any person that develops, leases, or sells access to networks of endodontists.
- D. "Endodontist" means a person involved in the branch of dentistry concerned with the etiology, prevention, diagnosis, and treatment of diseases and injuries affecting the dental pulp, tooth root, and periapical tissue.
- E. "Person" means both natural persons and artificial persons, including, but not limited to, corporations, unincorporated entities, and governments.
- F. "Principal address" means either (1) primary business address, if there is a business address, or (2) primary residential address, if there is no business address.

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II.

IT IS FURTHER ORDERED that Respondent PRAE, directly or indirectly, or through any corporate or other device, in connection with the provision of endodontist services in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, cease and desist from:

- A. Entering into, adhering to, participating in, maintaining, organizing, implementing, enforcing, or otherwise facilitating any combination, conspiracy, agreement, or understanding between or among any endodontists with respect to their provision of endodontist services:
 - 1. to negotiate on behalf of any endodontist 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 endodontist 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 PRAE;
- B. Facilitating in any manner the exchange or transfer of information between or among endodontists concerning any endodontist’s willingness to deal with a payor, or the terms or conditions, including any price terms, on which the endodontist is willing to deal with a payor;
- C. Attempting to engage in any action prohibited by Paragraphs II.A or II.B above; and

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- D. Encouraging, suggesting, advising, pressuring, inducing, or attempting to induce any person to engage in any action that would be prohibited by Paragraphs II.A through II.C above.

III.

IT IS FURTHER ORDERED that Respondent PRAE shall:

- A. Within thirty (30) days after the date on which this Order becomes final, send a copy of this Order and the Complaint by:
1. first-class mail, with return receipt requested or delivery confirmation, or electronic mail, with return confirmation, to each endodontist that is a member of Respondent PRAE;
 2. first-class mail, with return receipt requested or delivery confirmation, or electronic mail, with return confirmation, to each present officer, director, manager, and employee of Respondent PRAE; and
 3. first-class mail, return receipt requested, to the chief executive officer of each payor with whom Respondent PRAE has a record of being in contact since January 1, 2001.
- B. For a period of three (3) years after the date this Order becomes final:
1. Distribute a copy of this Order and the Complaint by:
 - a. first-class mail, with return receipt requested or delivery confirmation, or electronic mail, with return confirmation, to each endodontist that joins

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Respondent PRAE, and that did not previously receive a copy of this Order and the Complaint from Respondent PRAE, within thirty (30) days of the day that such membership begins;

- b. first-class mail, with return receipt requested or delivery confirmation, or electronic mail, with return confirmation, to each person who becomes an officer, director, manager, or employee of Respondent PRAE, and who did not previously receive a copy of this Order and the Complaint from Respondent PRAE, within thirty (30) days of the day that he or she assumes such responsibility with Respondent PRAE; and
2. Annually publish a copy of this Order and the Complaint in an official annual report or newsletter sent to all members of Respondent PRAE, with such prominence as is given to regularly featured articles.
- C. File a verified written report within sixty (60) days after the date on which this Order becomes final, annually thereafter for three (3) years on the anniversary of the date this Order becomes final, and at such other times as the Commission may by written notice require. Each such report shall include:
1. A detailed description of the manner and form in which Respondent PRAE has complied and is complying with this Order;
 2. The name, address, and telephone number of each payor with which Respondent PRAE has had any contact; and
 3. Depending on the method of delivery used, copies of the delivery confirmations, electronic mail

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confirmations, or signed return receipts required by this Order.

IV.

IT IS FURTHER ORDERED that Respondent PRAE shall notify the Commission at least thirty (30) days prior to any proposed (1) dissolution of Respondent PRAE, (2) acquisition, merger, or consolidation of Respondent PRAE, or (3) other change in Respondent PRAE that may affect compliance obligations arising out of this Order, including but not limited to assignment, the creation or dissolution of subsidiaries, or any other change in Respondent PRAE.

V.

IT IS FURTHER ORDERED that Respondent PRAE shall notify the Commission of any change in its principal address within twenty (20) days of such change in address.

VI.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, Respondent PRAE shall permit any duly authorized representative of the Commission:

- A. Access, during office hours and in the presence of counsel, to inspect and copy all books, ledgers, accounts, correspondence, memoranda, calendars, and other records and documents in its possession, or under its control, relating to any matter contained in this Order; and
- B. Upon five (5) days' notice, and in the presence of counsel, and without restraint or interference from it, to interview officers, directors, or employees of the Respondent.

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VII.

IT IS FURTHER ORDERED that this Order shall terminate on August 24, 2026.

By the Commission.

Analysis to Aid Public Comment

**ANALYSIS OF CONSENT ORDER TO AID PUBLIC
COMMENT**

The Federal Trade Commission has accepted, subject to final approval, an agreement containing a proposed consent order with Puerto Rico Association of Endodontists Corp. (“PRAE”). The agreement settles charges that PRAE violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, by orchestrating and implementing agreements among endodontist members of PRAE on price and other competitively significant terms; refusing or threatening to refuse to deal with payors except on collectively agreed-upon terms; and negotiating fees and other competitively significant terms with payors in contracts for PRAE’s member endodontists. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order, or to modify their terms in any way. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by PRAE that it violated the law or that the facts alleged in the complaint (other than jurisdictional facts) are true.

The Complaint

The allegations of the complaint are summarized below.

PRAE is a nonprofit corporation, organized, existing, and doing business under and by virtue of the laws of the Commonwealth of Puerto Rico (“Commonwealth” or “Puerto Rico”), with its office and principal place of business in San Juan, Puerto Rico.

Analysis to Aid Public Comment

PRAE has approximately 30 member endodontists, who are engaged in the business of providing professional services to patients throughout Puerto Rico. PRAE membership includes all or almost all of those professionals who are licensed practicing endodontists in the Commonwealth. Except to the extent that competition has been restrained, member endodontists of PRAE have been, and are now, in competition with each other for the provision of endodontic services.

In January 2003, PRAE formed a Pre-Payments Committee, which then began negotiating with payors on behalf of PRAE members in order to secure higher reimbursement rates for PRAE members. By March 2003, the PRAE Pre-Payments Committee had met with representatives of two payors and convinced those payors to increase the rates paid to PRAE members.

Also in March 2003, PRAE sent a letter to at least four insurance companies requesting a meeting “with the intention of revising the fees paid to Endodontists” that participate in the insurer’s dental plan. Thereafter, the Pre-Payments Committee contacted these payors to urge them to raise their rates. In one such discussion, the payor representative informed the Committee member that the Committee’s negotiation on behalf of PRAE members was illegal under the antitrust laws. In response, the PRAE representative informed the payor that other payors had been disinclined to accede to the rate increases proposed by the PRAE, and that those payors now were facing potential problems with their networks.

PRAE’s efforts to negotiate higher rates from payors for its members succeeded. In response to the various efforts of PRAE’s Pre-Payment Committee, in 2003 at least five payors raised the rates that they paid PRAE members.

In early 2004, PRAE’s Pre-Payment Committee began a campaign to raise rates again, this time by seeking to end the

Analysis to Aid Public Comment

payors' ban on balance billing¹. PRAE sought this change in contract terms to permit its members to raise the prices directly paid by patients and to avoid the cost-containment function of a ban on balance billing.

In furtherance of this plan, in early 2004, the PRAE Pre-Payments Committee contacted several payors to request that the payors waive their ban on balance billing. The Committee followed those discussions with a letter in June 2004, which the Committee sent to at least seven payors. The letter urges each payor to eliminate their ban on balance billing so that the payor did not have to absorb the price increase that the PRAE members desired. The letter states that waiver of the ban "could result in all Endodontists in Puerto Rico becoming dental participants of your Dental Plan since there would be no financial discrepancies. This could be of great usefulness in your marketing strategy." To emphasize the collective nature of the demand being made by the PRAE, and the potential risk to payors of failing to acquiesce to that demand, twenty-three members of PRAE co-signed the letter. The Pre-Payments Committee followed the letter with repeated phone calls to the payors urging an end to ban on balance billing. Thus far, the payors pressured by PRAE to end the ban on balance billing have resisted the coordinated action of PRAE.

PRAE engaged in no efficiency-enhancing integration sufficient to justify joint negotiation of fees or other terms. By the acts set forth in the Complaint, PRAE violated Section 5 of the FTC Act.

¹ Endodontists entering into contracts with payors often agree to accept, as payment in full for services rendered, an agreed upon fee from the payor and co-payment from the subscriber. Where such a term is included in the payor-endodontist contract, the endodontist agrees not to "balance bill" the patient for any balance or difference between the agreed upon payments and the endodontist's desired rate. Agreements not to balance bill reduce the cost of endodontic care to patients.

Analysis to Aid Public Comment

The Proposed Consent Order

The proposed order is designed to remedy the illegal conduct charged in the complaint and prevent its recurrence. The proposed order is similar to recent consent orders that the Commission has issued to settle charges that physician groups engaged in unlawful agreements to raise fees they receive from health plans.

The proposed order's specific provisions are as follows:

Paragraph II.A prohibits PRAE from entering into or facilitating agreements among endodontists: (1) to negotiate on behalf of any endodontist with any payor; (2) to deal, refuse to deal, or threaten to refuse to deal with any payor; (3) regarding any term upon which any endodontist deals, or is willing to deal, with any payor; and (4) not to deal individually with any payor or through any arrangement other than PRAE.

Other parts of Paragraph II reinforce these general prohibitions. Paragraph II.B prohibits PRAE from exchanging or facilitating the transfer of information among endodontists concerning any endodontist's willingness to deal with a payor, or the terms or conditions, including price terms, on which the endodontist is willing to deal. Paragraph II.C prohibits PRAE from attempting to engage in any action prohibited by Paragraphs II.A or II.B. Paragraph II.D prohibits PRAE from encouraging, pressuring or attempting to induce any person to engage in any action that would be prohibited by Paragraphs II.A through II.C.

Paragraphs III.A and B require PRAE to distribute the complaint and order to its members, payors with which it has been in contact since the beginning of 2001, and specified others.

Paragraphs IV, V, and VI of the proposed order impose various obligations on PRAE to report or provide access to

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information to the Commission to facilitate monitoring PRAE's compliance with the order.

The proposed order will expire in 20 years.

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IN THE MATTER OF

AUSTIN BOARD OF REALTORSCONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATIONS
OF SEC. 7 OF THE CLAYTON ACT AND SEC. 5 OF THE FEDERAL
TRADE COMMISSION ACT*Docket C-4167; File No. 051 0219**Complaint, August 29, 2006 – Decision, August 29, 2006*

This consent order addresses charges that the Austin Board of Realtors engaged in a concerted refusal to deal except on specified terms with respect to a key input for the provision of real estate services. The respondent adopted a rule that prevented information on certain real estate listings provided to the Austin/Central Texas Realty Information Service (ACTRIS) from being included in Multiple Listing Service websites available to the general public. The order prohibits the respondent from treating Exclusive Agency Listings, or any other lawful listing agreements with sellers of property, in a less advantageous manner than Exclusive Right to Sell Listings, including but not limited to, adopting any policy, rule, or practice pertaining to the transmission, downloading, or displaying of information pertaining to such listings. The order prohibits the respondent from adopting or enforcing any policy to deny, restrict, or interfere with the ability of its members or ACTRIS participants to enter into Exclusive Agency Listings or other lawful listing agreements with the sellers of properties. The order contains a general proviso that preserves to the Austin Board of Realtors the ability to adopt or enforce any policy, rule, practice, or agreement that it can show is reasonably ancillary to the legitimate and beneficial objectives of the Multiple Listing Service. In addition, the order requires the Austin Board of Realtors to notify its members and ACTRIS participants of the order, to notify the Commission of changes in the Board's structure, and to file regular written reports of its compliance with the terms of the order.

Participants

For the *Commission*: Joel Christie and Peggy Bayer Femenella.

For the *Respondent*: Joseph R. Knight, Baker Botts LLP.