

Complaint

IN THE MATTER OF

**CALIFORNIA ASSOCIATION OF LEGAL
SUPPORT PROFESSIONALS**CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

*Docket No. C-4447; File No. 131 0205
Complaint, April 3, 2014 – Decision, April 3, 2014*

This consent order addresses California Association of Legal Support Professionals' ("CALSPRO") restraining through its Code of Ethics the ability of its members to compete on price, to solicit legal support professionals for employment, and to advertise. The complaint alleges that CALSPRO restrained competition among its members and others in violation of Section 5 of the Federal Trade Commission Act by adopting and maintaining provisions in its Code of Ethics that restrain its members from competing on price, advertising, and soliciting legal support professionals for employment. The consent order requires CALSPRO to cease and desist from restricting its members from competing on price, advertising, and soliciting legal support professionals for employment.

Participants

For the *Commission*: Armando Irizarry.

For the *Respondent*: Michael Belote, California Advocates, Inc.

COMPLAINT

The Federal Trade Commission ("Commission"), 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, having reason to believe that California Association of Legal Support Professionals ("Respondent" or "CALSPRO"), a corporation, has violated and is violating the provisions of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this Complaint, stating its charges as follows:

Complaint

RESPONDENT

1.Respondent California Association of Legal Support Professionals is a non-profit corporation organized, existing, and doing business under, and by virtue of, the laws of the State of California, with its office and principal place of business located at 2520 Venture Oaks Way, Suite 150, Sacramento, California 95833.

2.Respondent is a non-profit, professional association of over 350 company and individual members. Respondent's members are in the business of providing support services to the legal community, including but not limited to serving process, copying documents, filing documents with a court, preparing subpoenas, searching court records, locating persons, and conducting private investigations.

JURISDICTION

3.Respondent conducts business for the pecuniary benefit of its members and is therefore a "corporation," as defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

4.The acts and practices of Respondent, including the acts and practices alleged herein, are in or affecting "commerce" as defined in Section 4 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 44.

NATURE OF THE CASE

5.Respondent maintains a Code of Ethics applicable to the commercial activities of its members. Respondent's members agree to abide by the Code of Ethics as a condition of membership.

6.Respondent has acted as a combination of its members, and in agreement with at least some of those members, to restrain competition by restricting through its Code of Ethics the ability of its members to compete on price, to solicit legal support

Complaint

professionals for employment, and to advertise. Specifically, Respondent maintains the following provisions in its Code of Ethics:

- “It is not ethical to cut the rates you normally and customarily charge when soliciting business from a member firm’s client . . .”
- “It is not ethical to . . . speak disparagingly of another member.”
- “Never discuss the bad points of your competitor.”
- “It is unethical to contact an employee of another member firm to offer him employment with your firm without first advising the member of your intent.”

7. In furtherance of the combination alleged in Paragraph 6, Respondent established a Dispute Resolution Committee to uphold and maintain industry standards and ethical business practices as set forth in Respondent’s Bylaws, Code of Ethics and Manual of Policies and Procedures. The Dispute Resolution Committee provides an avenue for resolving alleged violations of the Code of Ethics, including by encouraging Respondent’s members to resolve privately disputes arising out of the Code of Ethics, and also by establishing a mechanism by which Respondent may sanction violations of the Code of Ethics.

VIOLATION CHARGED

8. The purpose, effect, tendency, or capacity of the combination, agreement, acts and practices alleged in Paragraphs 6 and 7 has been and is to restrain competition unreasonably and to injure consumers by discouraging and restricting competition among legal support professionals, and by depriving consumers and others of the benefits of free and open competition among legal support professionals.

9. The combination, agreement, acts and practices alleged in Paragraphs 6 and 7 constitute unfair methods of competition in

Decision and Order

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

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this third day of April, 2014, issues its Complaint against Respondent.

By the Commission.

DECISION AND ORDER

The Federal Trade Commission, having initiated an investigation of certain acts and practices of California Association of Legal Support Professionals (“Respondent” or “CALSPPro”) and Respondent having been furnished thereafter with a copy of a draft of complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondent with violations of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondent, its attorneys, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by 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

Decision and Order

The Commission having thereafter considered the matter and having determined that it had reason to believe that Respondent has violated the said Acts, and that a complaint should issue stating its charges in that respect, and having accepted the executed consent agreement and placed such 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 § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order (“Order”):

1. Respondent California Association of Legal Support Professionals is a non-profit corporation organized, existing, and doing business under, and by virtue of, the laws of the State of California, with its office and principal place of business located at 2520 Venture Oaks Way, Suite 150, Sacramento, California 95833.
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 HEREBY ORDERED that, as used in this Order, the following definitions, shall apply:

- A. “Respondent” or “CALSPPro” means California Association of Legal Support Professionals, its directors, boards, officers, employees, agents, representatives, councils, committees, foundations, divisions, successors, and assigns.
- B. “Antitrust Compliance Officer” means a person appointed under Paragraph IV.A. of this Order.

Decision and Order

- C. “Antitrust Counsel” means a lawyer admitted to practice law in one or more of the judicial districts of the courts of the United States.
- D. “Antitrust Laws” means the Federal Trade Commission Act, as amended, 15 U.S.C. § 41 *et. seq.*, the Sherman Act, 15 U.S.C. § 1 *et. seq.*, and the Clayton Act, 15 U.S.C. § 12 *et. seq.*
- E. “Code of Ethics” means a statement setting forth the principles, values, standards, or rules of behavior that guide the conduct of an organization and its members.
- F. “FTC Settlement Statement” means the statement attached to this Order as Appendix A.
- G. “Member” means a member of CALSPro, including company, individual, associate, and vendor members.
- H. “Organization Documents” means any documents relating to the governance, management, or direction of Respondent, including, but not limited to, bylaws, rules, regulations, Codes of Ethics, policy statements, interpretations, commentaries, or guidelines.
- I. “Regulating” means (1) adopting, maintaining, recommending, or encouraging that Members follow any rule, regulation, interpretation, ethical ruling, policy, commentary, or guideline; (2) taking or threatening to take formal or informal disciplinary action; or (3) conducting formal or informal investigations or inquiries.

II.

IT IS FURTHER ORDERED that Respondent, directly or indirectly, or through any corporate or other device, in or in connection with Respondent’s activities as a professional association in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, do forthwith cease and desist from Regulating, restricting,

Decision and Order

restraining, impeding, declaring unethical or unprofessional, interfering with or advising against:

- A. Price competition by its Members, including, but not limited to, restraining Members from offering discounts when soliciting business;
- B. Solicitation of employees by its Members, including, but not limited to, restraining Members from contacting employees unless they conform to any Code of Ethics, rule, or regulation established by Respondent; and
- C. Advertising or publishing by Members of the prices, terms or conditions of sale of legal support services, including, but not limited to, restraining its Members from making statements about competitors' products, services, or business or commercial practices;

Provided, however, that nothing in this Paragraph II shall prohibit Respondent from adopting and enforcing reasonable principles, Codes of Ethics, rules, regulations, guidelines, or policies governing the conduct of its Members with respect to representations that Respondent reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act.

III.

IT IS FURTHER ORDERED that:

- A. No later than thirty (30) days from the date this Order is issued, Respondent shall:
 - 1. Post and maintain for five years on the Code of Ethics page of CALSPro's website, the following items:
 - a. An announcement that states "CALSPro agreed to change its Code of Ethics and will not adopt, encourage its Members to follow, or enforce

Decision and Order

any Code of Ethics provision relating to price competition, solicitation of employees, or advertising that does not comply with the FTC Consent Order,”

- b. The FTC Settlement Statement; and
 - c. A link to the Federal Trade Commission’s website that contains the press release issued by the Commission in this matter; and
2. Distribute electronically or by other means a copy of the FTC Settlement Statement to its board of directors, officers, employees, and Members.
- B. No later than sixty (60) days from the date this Order is issued, Respondent shall:
1. Remove from CALSPro’s Organization Documents and website any statement that is inconsistent with Paragraph II. of this Order; and
 2. Publish on CALSPro’s website any revisions of CALSPro’s Organization Documents, the press release issued by the Commission in this matter, and the FTC Settlement Statement.
- C. Respondent shall publish, in the font that is customarily used for feature articles:
1. Any revisions of CALSPro’s Organization Documents, the press release issued by the Commission in this matter, and the FTC Settlement Statement in the next available edition of the “CALSPro Press” newsletter; and
 2. The FTC Settlement Statement in the edition of the “CALSPro Press” newsletter, or any successor publication, on or as close as possible to the first and second anniversary dates of first publication of the FTC Settlement Statement.

Decision and Order

- D. For a period of five (5) years after this Order is issued, distribute electronically or by other means, a copy of the FTC Settlement Statement to each:
 - 1. New Member no later than thirty (30) days after the date of commencement of the membership; and
 - 2. Member who receives a membership renewal notice at the time the Member receives such notice.
- E. Respondent shall maintain and make available to Commission staff for inspection and copying upon reasonable notice records adequate to describe in detail any:
 - 1. Action against any Member taken in connection with the activities covered by Paragraph II. of this Order, including but not limited to enforcement, advisory opinions, advice or interpretations rendered; and
 - 2. Complaint received from any person relating to Respondent's compliance with this Order.

IV.

IT IS FURTHER ORDERED that Respondent shall design, maintain, and operate an antitrust compliance program to assure compliance with this Order and the Antitrust Laws:

- A. No later than thirty (30) days from the date this Order is issued, Respondent shall appoint and retain an Antitrust Compliance Officer for the duration of this Order to supervise Respondent's antitrust compliance program.
- B. For a period of three (3) years from the date this Order is issued, the Antitrust Compliance Officer shall be Michael Belote, Esq., after which a new Antitrust Compliance Officer may be appointed who shall be

Decision and Order

Antitrust Counsel, a member of the Board of Directors, or an employee of Respondent.

- C. For a period of five (5) years from the date this Order is issued, Respondent shall provide in-person annual training to its board of directors, officers, and employees concerning Respondent's obligations under this Order and an overview of the Antitrust Laws as they apply to Respondent's activities, behavior, and conduct.
- D. Respondent shall implement policies and procedures to:
 - 1. Enable persons (including, but not limited to, its board of directors, officers, employees, Members, and agents) to ask questions about, and report violations of, this Order and the Antitrust Laws, confidentially and without fear of retaliation of any kind; and
 - 2. Discipline its board of directors, officers, employees, Members, and agents for failure to comply fully with this Order.
- E. For a period of five (5) years from the date this Order is issued, Respondent shall conduct a presentation at each of its annual conferences that summarizes Respondent's obligations under this Order and provides context-appropriate guidance on compliance with the Antitrust Laws.

V.

IT IS FURTHER ORDERED that Respondent shall file a verified written report with the Commission setting forth in detail the manner and form in which it intends to comply, is complying, and has complied with this Order:

Decision and Order

- A. No later than (i) ninety (90) days after the date this Order is issued, (ii) one hundred eighty (180) days after the date this Order is issued; and
- B. No later than one (1) year after the date this Order is issued and annually thereafter for four (4) years on the anniversary of the date on which this Order is issued, and at such other times as the Commission staff may request.

VI.

IT IS FURTHER ORDERED that Respondent shall notify the Commission at least thirty (30) days prior to any proposed:

- A. Dissolution of Respondent;
- B. Acquisition, merger, or consolidation of Respondent; or
- C. Any other change in Respondent, including, but not limited to, assignment and the creation or dissolution of subsidiaries, if such change might affect compliance obligations arising out of this Order.

VII.

IT IS FURTHER ORDERED that, for the purpose of determining or securing compliance with this Order, and subject to any legally recognized privilege, and upon written request and upon five (5) days' notice to Respondent, Respondent shall without restraint or interference, permit any duly authorized representative of the Commission:

- A. Access, during business office hours of the Respondent and in the presence of counsel, to all facilities, and access to inspect and copy all books, ledgers, accounts, correspondence, memoranda and all other records and documents in the possession, or under the control, of the Respondent related to compliance with this Order, which copying services

Decision and Order

shall be provided by the Respondent at its expense;
and

- B. To interview officers, directors, or employees of the Respondent, who may have counsel present, regarding such matters.

VIII.

IT IS FURTHER ORDERED that this Order shall terminate on April 3, 2034.

By the Commission.

APPENDIX A

(Letterhead of CALSPro)

Dear Member:

As you may know, the Federal Trade Commission conducted an investigation concerning the provisions in CALSPro's Code of Ethics that stated:

It is not ethical to cut the rates you normally and customarily charge when soliciting business from a member firm's client, or to speak disparagingly of another member. . . . Never discuss the bad points of your competitor.

It is unethical to contact an employee of another member firm to offer him employment with your firm without first advising the member of your intent.

The Federal Trade Commission alleges that these provisions violate the Federal Trade Commission Act because they, without

Decision and Order

sufficient justification, restrain legal support professionals from competing for clients and employees, thereby depriving clients and employees of the benefits of competition among legal support professionals.

To end the investigation expeditiously and to avoid disruption to its core functions, CALSPro voluntarily agreed, without admitting any violation of the law, to the entry of a Consent Agreement and a Decision and Order by the Federal Trade Commission. As a result, CALSPro will not enforce, and will remove, the above provisions from its Code of Ethics.

More generally, the Federal Trade Commission has prohibited CALSPro from certain activities that restrain members from engaging in price competition, soliciting employees, and advertising. CALSPro may not restrain its members from offering discounts when soliciting business. CALSPro may not restrain its members from soliciting employees, including, but not limited to, restraining its members from contacting employees unless they conform to any Code of Ethics, rule, or regulation established by CALSPro. Finally, CALSPro may not restrain its members from advertising or publishing the prices, terms or conditions of sale of legal support products and services, including, but not limited to, restraining members from making statements about competitors' products, services, or business or commercial practices. However, CALSPro is not prohibited from adopting and enforcing reasonable principles, rules, guidelines, or policies governing the conduct of its members with respect to representations that CALSPro reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act.

The Decision and Order also requires that CALSPro implement an antitrust compliance program.

A copy of the Decision and Order is enclosed. It is also available on the Federal Trade Commission website at www.FTC.gov, and through the CALSPro web site.

Analysis to Aid Public Comment

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

The Federal Trade Commission (“Commission”) has accepted, subject to final approval, an Agreement Containing Consent Order (“Consent Agreement”) from the California Association of Legal Support Professionals (hereinafter “CALSPro”). The Commission’s complaint (“Complaint”) alleges that CALSPro, acting as a combination of its members and in agreement with at least some of its members, restrained competition among its members and others in violation of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, by adopting and maintaining provisions in its Code of Ethics that restrain its members from competing on price, advertising, and soliciting legal support professionals for employment.

Under the terms of the proposed Consent Agreement, CALSPro is required to cease and desist from restricting its members from competing on price, advertising, and soliciting legal support professionals for employment.

The Commission anticipates that the competitive issues described in the Complaint will be resolved by accepting the proposed order, subject to final approval, contained in the Consent Agreement. The proposed Consent Agreement has been placed on the public record for 30 days for receipt of comments from interested members of the public. Comments received during this period will become part of the public record. After 30 days, the Commission will review the Consent Agreement again and the comments received, and will decide whether it should withdraw from the Consent Agreement or make final the accompanying Decision and Order (“the Proposed Order”).

The purpose of this Analysis to Aid Public Comment is to invite and facilitate public comment. It is not intended to constitute an official interpretation of the proposed Consent Agreement and the accompanying Proposed Order or in any way to modify their terms.

The Consent Agreement is for settlement purposes only and does not constitute an admission by CALSPro that the law has

Analysis to Aid Public Comment

been violated as alleged in the Complaint or that the facts alleged in the Complaint, other than jurisdictional facts, are true.

I. The Complaint

The Complaint makes the following allegations.

A. The Respondent

CALSPPro is a non-profit professional association of over 350 company and individual members. CALSPPro's members are in the business of providing support services to the legal community, including but not limited to serving process, copying documents, filing documents with a court, preparing subpoenas, searching court records, locating persons, and conducting private investigations.

CALSPPro maintains a Code of Ethics applicable to the commercial activities of its members. CALSPPro's members agree to abide by the Code of Ethics as a condition of membership. CALSPPro maintains the following provisions in its Code of Ethics:

- “It is not ethical to cut the rates you normally and customarily charge when soliciting business from a member firm’s client ...”
- “It is not ethical to ... speak disparagingly of another member.”
- “Never discuss the bad points of your competitor.”
- “It is unethical to contact an employee of another member firm to offer him employment with your firm without first advising the member of your intent.”

B. The Anticompetitive Conduct

The Complaint alleges that CALSPPro has violated Section 5 of the Federal Trade Commission Act by restraining through its Code of Ethics the ability of its members to compete on price, to

Analysis to Aid Public Comment

solicit legal support professionals for employment, and to advertise. CALSPro also established a Dispute Resolution Committee to uphold and maintain industry standards and ethical business practices as set forth in Respondent's Bylaws, Code of Ethics and Manual of Policies and Procedures. The Dispute Resolution Committee provides an avenue for resolving alleged violations of the Code of Ethics, including by encouraging CALSPro's members to resolve privately disputes arising out of the Code of Ethics, and also by establishing a mechanism by which Respondent may sanction violations of the Code of Ethics.

The Complaint alleges that the purpose, effect, tendency, or capacity of the combination, agreement, acts and practices of CALSPro has been and is to restrain competition unreasonably and to injure consumers by discouraging and restricting competition among legal support professionals, and by depriving consumers and others of the benefits of free and open competition among legal support professionals.

II. The Proposed Order

The Proposed Order has the following substantive provisions. Paragraph II requires CALSPro to cease and desist from restraining its members from engaging in price competition, solicitation of employees, or advertising. The Proposed Order does not prohibit CALSPro from adopting and enforcing reasonable restraints with respect to representations that CALSPro reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act.

Paragraph III of the Proposed Order requires CALSPro to remove from its website and organization documents any statement inconsistent with the Proposed Order. CALSPro must publish an announcement that it has changed its Code of Ethics, and a statement describing the Consent Agreement ("the Settlement Statement"). CALSPro must distribute the Settlement Statement to CALSPro's board of directors, officers, employees, and members. Paragraph III also requires CALSPro to provide all new members and all members who receive a membership renewal notice with a copy of the Settlement Statement.

Statement of the Commission

Paragraph IV of the Proposed Order requires CALSPro to design, maintain, and operate an antitrust compliance program. CALSPro will have to appoint an Antitrust Compliance Officer for the duration of the Proposed Order. For a period of five years, CALSPro will have to provide in-person annual training to its board of directors, officers, and employees, and conduct a presentation at its annual conference that summarizes CALSPro's obligations under the Proposed Order and provides context-appropriate guidance on compliance with the antitrust laws. CALSPro must also implement policies and procedures to enable persons to ask questions about, and report violations of, the Proposed Order and the antitrust laws confidentially and without fear of retaliation, and to discipline its leaders, employees and agents for failure to comply with the Proposed Order.

Paragraphs V-VII of the Proposed Order impose certain standard reporting and compliance requirements on CALSPro.

The Proposed Order will expire in 20 years.

* * *

Statement of the Federal Trade Commission

The Federal Trade Commission is today issuing for public comment proposed consent orders with two professional associations, the Music Teachers National Association, Inc. ("MTNA") and California Association of Legal Support Professionals ("CALSPro").¹ We take this step because we have reason to believe that these professional associations and their

¹ Both MTNA and CALSPro are non-profits but it is well established that the Commission has jurisdiction over non-profit organizations that confer, or are organized for the purpose of conferring, economic benefits to their for-profit members. See *Cal. Dental Ass'n v. FTC*, 526 U.S. 756, 767 n.6 (1999).

Statement of the Commission

respective members have violated the antitrust laws by agreeing not to engage in fundamental forms of competitive activity.

MTNA, the umbrella organization for about 500 state and local music teacher associations across the country, is a professional association of over 20,000 private music teachers. Collectively, MTNA members generate an estimated \$500 million in annual revenues. In 2004, MTNA revised its code of ethics and imposed a ban on solicitations, prohibiting teachers from actively recruiting students from one another. A number of MTNA affiliates have adopted even more aggressive competitive restrictions, including prohibitions on certain advertising, charging less than the community average, and offering scholarships or free music lessons. CALSPro, a California association of legal support service providers, is comprised of more than 350 company and individual members. CALSPro's code of ethics prohibits its members from offering discounted rates to rivals' clients, engaging in certain comparative advertising, and recruiting employees of competitors without first notifying the competitor.

Professional associations like MTNA and CALSPro typically serve many important and procompetitive functions, including adopting rules governing the conduct of their members that benefit competition and consumers. But, because trade organizations are by their nature collaborations among competitors, the Commission and courts have long been concerned with anticompetitive restraints imposed by such organizations under the guise of codes of ethical conduct.²

Competing for customers, cutting prices, and recruiting employees are hallmarks of vigorous competition. Agreements

² See, e.g., *Inst. of Store Planners*, 135 F.T.C. 793 (2003) (challenging restraints on price competition); *Nat'l Acad. of Arbitrators*, 135 F.T.C. 1 (2003) (restraints on solicitation and advertising); *Am. Inst. for Conservation of Historic & Artistic Works*, 134 F.T.C. 606 (2002) (restraints on price competition); *Cnty. Ass'n's Inst.*, 117 F.T.C. 787 (1994) (restraints on solicitation); *Nat'l Soc'y of Prof'l Eng'rs*, 116 F.T.C. 787 (1993) (restraints on advertising); *Nat'l Ass'n of Social Workers*, 116 F.T.C. 140 (1993) (restraints on solicitation and advertising); *Am. Psychological Ass'n*, 115 F.T.C. 993 (1992) (same).

Statement of the Commission

among competitors not to engage in these activities injure consumers by increasing prices and reducing quality and choice. Absent a procompetitive justification, these types of restrictions on competition are precisely the kind of unreasonable restraints of trade that the Sherman Act was designed to combat. *See, e.g., Nat'l Soc'y of Prof'l Eng'rs v. United States*, 435 U.S. 679 (1978) (condemning ethics restriction on competitive bidding). For a professional association to proscribe honest competition as “unethical” behavior is particularly problematic because, as the Supreme Court has recognized, association members can be “expected to comply in order to assure that they [do] not discredit themselves by departing from professional norms.” *Goldfarb v. Va. State Bar*, 421 U.S. 773, 792-93 (1975). Here, neither association advanced a legitimate business rationale for its restrictions. We therefore conclude that the principal tendency and likely effect of the challenged restraints is to harm consumers through higher prices, lower quality, and less choice.

Our proposed remedies will restore competition without imposing an undue burden on the parties or interfering with the legitimate functions of either organization. We have required MTNA and CALSPro to modify their codes of ethics and to cease any efforts to impede members of these associations from freely competing with one another. The MTNA order also requires the association to take affirmative steps to discourage anticompetitive conduct on the part of its state and local affiliates.

As with all of the Commission's enforcement activity, our goal in these cases is to stop the anticompetitive conduct at issue and remedy any anticompetitive effects associated with the challenged behavior. We also seek to provide guidance more broadly and deter other professional and trade organizations from imposing unjustified limits on competition. Maintaining a competitive marketplace requires that we monitor behavior among rivals and take action whenever we see competition being compromised to the detriment of consumers.

Complaint

IN THE MATTER OF

N.E.W. PLASTICS CORP.

D/B/A

RENEW PLASTICSCONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF
SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket No. C-4449; File No. 132 3126
Complaint, April 3, 2014 – Decision, April 3, 2014*

This consent order addresses N.E.W. Plastics Corp.'s green claims made while promoting two brands of plastic lumber products, Evolve and Trimax, to retailers, independent distributors and end-use consumers. The complaint alleges that Respondent falsely claimed (1) Evolve products as made from 90% or more recycled content; (2) Trimax products as made from mostly post-consumer recycled content; and (3) both Trimax and Evolve as recyclable. The complaint further alleges that Respondent did not possess or rely upon a reasonable basis to substantiate these representations. The consent order prohibits N.E.W. from making representations regarding the recycled content, the post-consumer recycled content, or the environmental benefit of any product or package unless they are true, not misleading, and substantiated by competent and reliable evidence.

Participants

For the *Commission*: Robert Frisby and Elisa K. Jillson.

For the *Respondent*: Nelson W. Phillips III, Davis & Kuelthau, S.C.

COMPLAINT

The Federal Trade Commission, having reason to believe that N.E.W. Plastics Corp., 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:

1. Respondent N.E.W. Plastics Corp., also doing business as Renew Plastics, is a Wisconsin corporation with its principal office or place of business at 112 Fourth Street, Luxemburg, Wisconsin 54217.