

## Nonmerger Enforcement Actions (FY 1996 - FY 2012)

Matter:

Enforcement  
Date: Industry:

### Consent Order Accepted for Comment

- 1. 1010080a -Sigma / McWane Inc** 1 /4 /2012 Manufacturing – Industrial Goods  
<http://www.ftc.gov/os/caselist/1010080/index.shtm>

The Federal Trade Commission has filed complaints against the three largest U.S. suppliers of ductile iron pipe fittings, which are used in municipal water systems around the United States. The FTC charged that the three companies, McWane, Inc., Star Pipe Products, Ltd., and Sigma Corporation, illegally conspired to set and maintain prices for pipe fittings, and that McWane illegally maintained its monopoly power in the market for U.S.-made pipe fittings. Sigma has settled the FTC's charges and has agreed not to engage in similar anticompetitive tactics in the future. The complaint against McWane and Star will be heard before an administrative law judge later this year (see Admin Complaint D9351/1010080). \*\*Update\*\*: On Feb 28, 2012, the FTC approved a final order settling charges that Sigma Corporation engaged in illegal anticompetitive practices. Neither McWane nor Star agreed to settle the FTC's charges but the Commission removed its complaint against Star from the administrative process. The complaint against McWane, however, is still scheduled to be heard by an Administrative Law Judge at the Commission later this year. On March 20, 2012, Star Pipe Products, Ltd. agreed to settle Federal Trade Commission charges that it conspired with the two other largest manufacturers to increase the prices at which pipe fittings were sold nationwide.

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- 2. 1010115 - Pool Corp.** 11/21/2011 Professional Services (Non Health Care) – Other  
<http://www.ftc.gov/os/caselist/1010115/index.shtm>

Pool Corporation (PoolCorp), the largest distributor of swimming pool products in the United States, has agreed to stop anticompetitive tactics that it allegedly has been using to keep out new competitors in local markets around the nation, as part of a settlement that resolves charges by the Federal Trade Commission. PoolCorp distributes products used in the construction, renovation, repair, service, and maintenance of residential and commercial swimming pools. The FTC charged that for the past eight years, PoolCorp, based in Covington, Louisiana, used its monopoly power to thwart entry by new competitors by blocking them from buying pool products directly from manufacturers. The strategy significantly raised the costs incurred by its rivals, thereby lowering sales, increasing prices, and reducing the number of choices available to consumers, the agency alleged.

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- 3. 0910013 - HPBH Enterprises, Inc.** 5 /10/2011 Health Care – Professional Services  
<http://www.ftc.gov/os/caselist/0910013/index.shtm>

An association representing 900 physicians in the Amarillo, Texas, area agreed to a Commission order barring it from jointly negotiating the prices it charges insurance providers. The FTC alleged in a complaint filed with the order that the association, Southwest Health Alliances, Inc., d/b/a BSA Provider Network, has violated federal law since 2000 by fixing the prices its member doctors would charge insurers. This led to higher prices for consumers and businesses.

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- 4. 0510199 - Minnesota Rural Health Cooperatives** 6 /18/2010 Health Care – Professional Services  
<http://www.ftc.gov/os/caselist/0510199/index.shtm>

The Minnesota Rural Health Cooperative (MRHC), comprised by a group of doctors and hospitals in southwestern Minnesota, agreed to a settlement with the Federal Trade Commission that prohibits anticompetitive tactics the group allegedly used to increase health insurance reimbursement rates. The MRHC is made up of approximately 25 hospitals and 70 doctors, representing most of the hospitals and half of the primary care physicians in southwestern Minnesota. According to the FTC's complaint, when members join the MRHC, they agree that the group's board of directors will negotiate and contract with health insurers on their behalf and that they will abide by the MRHC contracts. The settlement order bars the MRHC from using coercive tactics to extract favorable contract terms from health plans. In addition, the order requires the MRHC to offer to renegotiate all current contracts with health plans and to submit any revised contracts for state approval.

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- 5. 0810157 - Amerco / Avis Budget Group** 6 /9 /2010 Transportation – Auto & Trucks  
<http://www.ftc.gov/os/caselist/0810157/index.shtm>

U-Haul International, Inc. and its parent company settled Federal Trade Commission charges that they violated the FTC Act by inviting U-Haul's closest competitor, Avis Budget Group, Inc., to collude on prices for truck rentals. U-Haul and Budget control more than 70 percent of the "do-it-yourself" one-way truck rental business in the United States. The FTC's complaint alleges that on several occasions between 2006 and 2008, U-Haul tried to increase rates for one-way truck rentals by privately and publicly communicating with Budget, the second-largest truck rental company in the United States. The proposed settlement order against U-Haul and its parent company AMERCO bars them from colluding or inviting collusion. Specifically, the companies are prohibited from inviting a competitor to divide markets, allocate customers, or fix prices, as well as participating in, maintaining, organizing, implementing, enforcing, offering, or soliciting any other company to engage in such conduct. The order also includes monitoring and compliance provisions to ensure U-Haul and AMERCO comply with its terms.





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**18. 0510044 - Colegio de Optometras de Puerto Rico**      7 /30/2007      Health Care – Professional Services

<http://www.ftc.gov/os/caselist/0510044/index.shtm>

The Commission charged in July 2007 a group of optometrists in Puerto Rico with violating the FTC Act by orchestrating agreements among members of the Colegio de Optometras to refuse, or threaten to refuse, to accept vision and health care contracts except on collectively agreed-upon terms. Two leaders of the group were also charged with facilitating the agreement by urging members not to participate in the vision network. The Commission's consent order settling these charges bars the group and the two leaders from engaging in such conduct, while allowing them to undertake certain kinds of joint contracting arrangements by which physician participants control costs and improve quality by managing the provision of services. FTC staff worked with the Office of Monopolistic Affairs of Puerto Rico's Department of Justice on this case.

**19. 0610229 - Motor Oil Importers of Puerto Rico**      6 /14/2007      Energy – Petroleum

<http://www.ftc.gov/os/caselist/0610229/index.shtm>

The Commission charged that a motor oil lubricant importer illegally conspired with its competitors to restrict the importation and sale of these products in Puerto Rico, which resulted in higher prices paid by consumers. According to the FTC's complaint, during 2005 and 2006, American Petroleum joined with numerous others in the Puerto Rico lubricants industry to lobby for the delay, modification, or repeal of Puerto Rico Law 278, which imposes an environmental recovery fee of 50 cents per quart. With the effective date of the law approaching, the importers adopted a strategy of refusing to import lubricants as a means of forcing a change. The consent order settling the charges bars American Petroleum from conspiring with its competitors to restrict output, refuse to deal, or boycott any lubricant buyer or potential buyer.

**20. 0610026 - Missouri State Board of Embalmers & Funeral Directors**      3 /9 /2007      Professional Services (Non Health Care) – Funeral

<http://www.ftc.gov/os/caselist/0610026/index.shtm>

Under the terms of the proposed consent order, the Missouri Board of Embalmers and Funeral Directors (Board) agreed to settle charges that it deterred competitive entry in the retail sale of caskets by adopting a rule that only licensed funeral directors could sell caskets to consumers on an at-need basis. Under the proposed settlement, the Board must include in various forms of communications to the public that it is not necessary to obtain a license from the Board to offer for retail sale caskets and other funeral merchandise to customers in Missouri.

**21. 0310021 - Advocate Health Partners**      12/29/2006      Health Care – Professional Services

<http://www.ftc.gov/os/caselist/0310021/0310021.shtm>

The final consent order settles charges that the conduct of several organizations representing more than 2,900 independent Chicago-area physicians for agreeing to fix prices and for refusing to deal with certain health plans except on collectively determined terms. The order will prohibit the respondents from engaging in such anticompetitive conduct in the future.

**22. 0610268 - Williamsburg Area Association of Realtors, Inc.**      10/12/2006      Professional Services (Non Health Care) – Real Estate

<http://www.ftc.gov/os/caselist/0610268/0610268.shtm>

The Commission settled charges that Williamsburg Area Association of Realtors, Inc. adopted rules that withheld valuable benefits of the Multiple Listing Services (MLSs) they control from consumers who chose to enter into non-traditional listing contracts with real estate brokers. The consent order settling the FTC's charges will prohibit Williamsburg Area Association of Realtors, Inc. from discriminating against non-traditional listing arrangements.

**23. 0610267 - Realtors Association of Northeast Wisconsin, Inc.**      10/12/2006      Professional Services (Non Health Care) – Real Estate

<http://www.ftc.gov/os/caselist/0610267/0610267.shtm>

The Commission settled charges that Realtors Association of Northeast Wisconsin, Inc. adopted rules that withheld valuable benefits of the Multiple Listing Services (MLSs) they control from consumers who chose to enter into non-traditional listing contracts with real estate brokers. The consent order settling the FTC's charges will prohibit Realtors Association of Northeast Wisconsin, Inc. from discriminating against non-traditional listing arrangements.

**24. 0510217 - Monmouth County Association of Realtors**      10/12/2006      Professional Services (Non Health Care) – Real Estate

<http://www.ftc.gov/os/caselist/0510217/0510217.shtm>

The Commission settled charges that Monmouth County Association of Realtors (Monmouth) adopted rules that withheld valuable benefits of the Multiple Listing Services (MLSs) they control from consumers who chose to enter into nontraditional listing contracts with real estate brokers. The consent order settling the FTC's charges will prohibit Monmouth from discriminating against non-traditional listing arrangements.

| Matter:   | Enforcement Date: | Industry:   |
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| <p><b>25. 0510065 - Northern New England Real Estate Network, Inc.</b></p> <p>The Commission settled charges that Northern New England Real Estate Network, Inc. adopted rules that withheld valuable benefits of the Multiple Listing Services (MLSs) they control from consumers who chose to enter into non-traditional listing contracts with real estate brokers. The consent order settling the FTC's charges will prohibit Northern New England Real Estate Network, Inc. from discriminating against non-traditional listing arrangements.</p>  | 10/12/2006        | <p>Professional Services (Non Health Care) – Real Estate</p> <p><a href="http://www.ftc.gov/os/caselist/0510065/0510065.shtm">http://www.ftc.gov/os/caselist/0510065/0510065.shtm</a></p> |
| <p><b>26. 0610087 - IRES MLS for Northern Colorado</b></p> <p>The Commission settled charges that Information and Real Estate Services, LLC (IRES) adopted rules that withheld valuable benefits of the Multiple Listing Services (MLSs) they control from consumers who chose to enter into non-traditional 26 listing contracts with real estate brokers. The consent order settling the FTC's charges will prohibit IRES from discriminating against non-traditional listing arrangements.</p>   | 10/11/2006        | <p>Professional Services (Non Health Care) – Real Estate</p> <p><a href="http://www.ftc.gov/os/caselist/0610087/0610087.shtm">http://www.ftc.gov/os/caselist/0610087/0610087.shtm</a></p> |
| <p><b>27. 0510137 - New Century Health Quality Alliance, Inc.</b></p> <p>The Commission approved a final consent order settling Commission charges alleging that two independent practice associations (IPAs) and 18 member physician practices in the Kansas City, MO area, refused to deal with health care plans, except on collectively agreed-upon prices and other terms.</p>   | 8 /24/2006        | <p>Health Care – Professional Services</p> <p><a href="http://www.ftc.gov/os/caselist/0510137/0510137.shtm">http://www.ftc.gov/os/caselist/0510137/0510137.shtm</a></p>                   |
| <p><b>28. 0510170 - Puerto Rico Association of Endodontists, Corp.</b></p> <p>The Commission approved a final consent order settling charges alleging that thirty competing association members acted unlawfully by agreeing to set the prices they would charge dental insurance plans, and by refusing to deal with plans that would not accept the collectively determined prices.</p>   | 7 /20/2006        | <p>Health Care – Professional Services</p> <p><a href="http://www.ftc.gov/os/caselist/0510170/0510170.shtm">http://www.ftc.gov/os/caselist/0510170/0510170.shtm</a></p>                   |
| <p><b>29. 0510219 - Austin Board of Realtors</b></p> <p>The Commission entered into a final consent order settling charges against the Austin Board of Realtors (ABOR) for its practice of preventing consumers with listing agreements for potentially low-cost, unbundled brokerage services from marketing their listings on public real estate-related Internet sites. In settling the charges, ABOR is prohibited from adopting or enforcing any rule that treats one type of real estate listing agreement more advantageously than any other, or from interfering with its members ability to enter into any lawful listing agreement with home sellers.</p> | 7 /12/2006        | <p>Professional Services (Non Health Care) – Real Estate</p> <p><a href="http://www.ftc.gov/os/caselist/0510219/0510219.shtm">http://www.ftc.gov/os/caselist/0510219/0510219.shtm</a></p> |
| <p><b>30. 0510008 - Valassis Communications, Inc.</b></p> <p>Valassis, a leading producer of free-standing newspaper inserts (FSIs) in the United States, has settled charges that it attempted to collude with News America Marketing, its only FSI rival, to eliminate competition between the two companies. Under the consent order settling the FTC's complaint, Valassis is barred from engaging in collusive agreements with other FSI publishers or attempting to collude with its competitors.</p>   | 3 /14/2006        | <p>Publishing - Newspapers/Inserts/Books</p> <p><a href="http://www.ftc.gov/os/caselist/0510008/0510008.shtm">http://www.ftc.gov/os/caselist/0510008/0510008.shtm</a></p>                 |
| <p><b>31. 0410097 - Health Care Alliance of Laredo, L.C.</b></p> <p>A physicians' independent practice association in Texas agreed to settle charges that it engaged in unlawful collective bargaining to set fees its members would accept from health insurance plans and advised its members against dealing individually with plans. The Commission charged that both practices resulted in higher medical costs for consumers. The consent order settling the FTC's charges will prohibit the IPA from engaging in such anticompetitive conduct in the future.</p>   | 2 /13/2006        | <p>Health Care – Professional Services</p> <p><a href="http://www.ftc.gov/os/caselist/0410097/0410097.shtm">http://www.ftc.gov/os/caselist/0410097/0410097.shtm</a></p>                   |
| <p><b>32. 0410100 - Partners Health Network, Inc.</b></p> <p>A physician-hospital organization operating in northwestern South Carolina, agreed to settle charges that it orchestrated and carried out agreements among its physician members to set the prices they would accept from health plans, and to refuse to deal with health plans that did not agree to its collectively determined prices. The consent order settling the FTC's charges prohibits the PHO from collectively negotiating with health plans on behalf of its physicians and from setting terms of dealing with purchasers.</p>  | 8 /2 /2005        | <p>Health Care – Professional Services</p> <p><a href="http://www.ftc.gov/os/caselist/0410100/0410100.shtm">http://www.ftc.gov/os/caselist/0410100/0410100.shtm</a></p>                   |

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**33. 0310181 - San Juan IPA**

5 /16/2005

Health Care – Professional Services

<http://www.ftc.gov/os/caselist/0310181/0310181.shtm>

San Juan IPA, Inc., a physicians' independent practice association operating in northwestern New Mexico, agreed to settle Commission charges that it orchestrated and carried out agreements among its member doctors to set the price that they would accept from health plans, to bargain collectively to obtain the group's desired price terms, and to refuse to deal with health plans except on collectively determined price terms. According to the complaint, the effect of this conduct was higher prices for medical services for the area's consumers. The consent order prohibits the association from collectively negotiating with health plans on behalf of its physicians and from setting their terms of dealing with such purchasers. This consent involves 120 physicians who make up about 80 percent of the doctors practicing independently in the area of Farmington, New Mexico.

**34. 0310087 - New Millennium Orthopedics LLC**

4 /21/2005

Health Care – Professional Services

<http://www.ftc.gov/os/caselist/0310087/0310087.shtm>

The Commission settled charges with two small groups of orthopedic physicians in the Cincinnati area that had formed an independent practice association that jointly negotiated contracts regarding the rates its physician members would charge health plans and other payors for their services. In addition to the usual prohibitions on joint negotiations, the Commission's order disbanded the IPA and prohibited future collective bargaining.

**35. 0410099 - Preferred Health Services**

2 /25/2005

Health Care – Professional Services

<http://www.ftc.gov/os/caselist/0410099/0410099.shtm>

The order prohibits Preferred Health Services from orchestrating collective agreements and other terms for physician services when negotiating with health insurance plans and other third party payers. According to the complaint these agreements among the physician-hospital organization of doctors and the Oconee Memorial Hospital in northwestern South Carolina to collectively negotiate fees and terms of services could lead to higher health care costs and limited physician access.

**36. 0310135 - White Sands Health Care System, LLC**

9 /15/2004

Health Care – Professional Services

<http://www.ftc.gov/os/caselist/0310135/0310135.shtm>

A consent order settled charges that the White Sands Health Care System refused to deal with health care insurers that resisted the collectively negotiated prices set by its member physicians and nurse anesthetists. The complaint alleged that these practices increased costs for health care for consumers in the Alamogordo, New Mexico area. White Sands, a physician-hospital organization, consists of Alamogordo Physicians, an independent practice association; Gerald Champion Regional Medical Center, and 31 nonphysician health care providers, including all five nurse anesthetists in the area.

**37. 0410014 - Virginia Board of Funeral Directors and Embalmers**

8 /11/2004

Professional Services (Non Health Care) – Funeral

<http://www.ftc.gov/os/caselist/0410014/0410014.shtm>

The Virginia Board of Funeral Directors and Embalmers settled charges that it prohibited Virginia funeral directors and service providers from engaging in truthful advertising to notify consumers of prices and discounts for funeral products and services. Under terms of the consent order, the Board is prohibited from engaging in such practices in the future and is required to amend its regulation prohibiting Board licensees from advertising funeral services including those services that can be contracted prior to the death of the person whose funeral is being planned.

**38. 0310155 - Clark County Attorneys**

6 /4 /2004

Professional Services (Non Health Care) – Legal

<http://www.ftc.gov/os/caselist/0310155/0310155.shtm>

Private attorneys in Clark County, Washington who provide criminal legal services for indigent defendants under a county contract settled charges that they illegally entered into an agreement known as the "Indigent Defense Bar Consortium Contract" to collectively demand higher fees for certain types of cases and refuse to accept specific additional cases unless the Clark County complied with their demands. The county was forced to substantially increase the reimbursement rate for each of the case categories specified in the Consortium Contract. According to the Commission, the conduct of the attorneys was identical to the boycott staged by criminal defense attorneys in Washington, DC which was ruled to be price fixing by the U.S. Supreme Court in the matter of Superior Court Trial Lawyers Association. Robert Lewis, James Sowder, Gerald Wear, and Joel R. Yoseph, the four attorneys who led the activities and served as the representatives of the 43 attorneys who signed the Consortium Contract, were named in the complaint and in the consent order.

**39. 0310134 - Southeastern New Mexico Physicians, IPA**

5 /24/2004

Health Care – Professional Services

<http://www.ftc.gov/os/caselist/0310134/0310134.shtm>

A Roswell, New Mexico physicians' association, Southeastern New Mexico Physicians IPA, settled charges that it and two of its employees entered into collective agreements among physician members on fees and refused to deal with health plans that did not accept the collective agreed-upon terms. According to the complaint, these practices increased the price of health care in the Roswell area. The consent order prohibits the IPA and its employees named in the consent from orchestrating agreements between physicians to negotiate with health insurance plans on behalf of any physician and deal or refuse to deal individually with any third party payer.

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**40. 0210119h - Tenet Healthcare Corporation and Frye Regional Medical Center, Inc**

12/22/2003

Health Care – Professional Services

<http://www.ftc.gov/os/caselist/0210119/0210119tenet.shtm>

A consent order prohibits Frye Regional Medical Center, Inc., an acute care hospital in Hickory, North Carolina, and its parent company Tenet Healthcare Corporation from entering into any agreement to negotiate fees on behalf of any physician practicing in four North Carolina counties and from refusing to deal with insurance companies and other payers. Also refer to related administrative complaint issued to Piedmont Health Alliance. This settlement is the first case in which the Commission has named a hospital as a participant in an alleged physician price-fixing conspiracy.

**41. 0310001 - Memorial Hermann Health Network**

11/19/2003

Health Care – Professional Services

<http://www.ftc.gov/os/caselist/0310001/0310001.shtm>

Memorial Hermann Health Network Providers settled charges that it negotiated fees and other services for medical care provided by its member physicians in the Houston, Texas area in an effort to obtain higher fees and more advantageous terms. According to the complaint these alleged price fixing practices increased costs for consumer, employers, and health plans.

**42. 0210115e - New Hampshire Motor Transport Association**

10/24/2003

Professional Services (Non Health Care) – Movers

<http://www.ftc.gov/os/caselist/0210115.shtm>

The New Hampshire Motor Transport Association settled charges that it filed tariffs containing rules that called for automatic increases in intrastate rates. In addition, the organization agreed to void its collectively filed tariffs current in effect in New Hampshire.

**43. 0110222 - South GA Health Partners (SGHP)**

9 /9 /2003

Health Care – Professional Services

<http://www.ftc.gov/os/caselist/0110222.shtm>

A Georgia physician-hospital organization and its other associated physician groups settled charges that they entered into agreements to fix physician and hospital prices and refused to deal with insurance companies, except on collectively agreed-upon terms.

**44. 0210242 - Surgical Specialists of Yakima**

9 /9 /2003

Health Care – Professional Services

<http://www.ftc.gov/os/caselist/0210242.shtm>

The Surgical Specialists of Yakima, Cascade Surgical Partners, Inc., P.S. and Yakima Surgical Associates, P.S. settled charges that they jointly entered into agreements for their members to fix prices and terms for the provision of medical services when dealing with health care insurers.

**45. 0210115d - The Iowa Movers and Warehouseman's Association**

8 /1 /2003

Professional Services (Non Health Care) – Movers

<http://www.ftc.gov/os/caselist/c4096.shtm>

The Iowa Movers and Warehousemen's Association settled allegations that it filed collectively established tariffs for intrastate moving rates in Iowa - a practice which did not meet the requirements of the state action doctrine. Under the state action doctrine, some practices of private firms are protected against scrutiny by the federal antitrust laws.

**46. 0210115c - Minnesota Transport Services Association**

8 /1 /2003

Professional Services (Non Health Care) – Movers

<http://www.ftc.gov/os/caselist/c4097.shtm>

A consent order settled charges that the household goods movers association filed collectively established rate tariffs for its members in Minnesota, conduct that was not protected by the state action doctrine. Under a state action doctrine, some private companies may be protected from the federal antitrust laws if the state authority regulates and regularly reviews the operations and practices of the companies.

**47. 0210178 - Physician Networks Consulting**

7 /17/2003

Health Care – Professional Services

<http://www.ftc.gov/os/caselist/0210178.shtm>

The Physician Network Consulting, L.L.C. of Baton Rouge Louisiana; Michael J. Taylor; Professional Orthopedic Services, Inc; The Bone and Joint Clinic of Baton Rouge, Inc.; Baton Rouge Orthopaedic Clinic, L.L.C.; and Orthopaedic Surgery Associates of Baton Rouge, L.L.C. settled charges that they entered into agreements to fix prices and other terms on which they would deal with United HealthCare of Louisiana, Inc., a health insurance company. Physician Network Consulting is an agent for Professional Orthopedic Services' members.

**48. 0210017 - Maine Health Alliance**

7 /15/2003

Health Care – Professional Services

<http://www.ftc.gov/os/caselist/0210017.shtm>

A network of doctors, hospitals, and its executive director, William R. Diggins, settled charges that they illegally engaged in price-fixing activities that raised health care costs in five Maine counties by negotiating jointly with third-party payers in a effort to obtain higher compensation and more advantageous contract terms for its members.

| Matter:   | Enforcement Date: | Industry:  |
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| <b>49. 0210188 - Washington University Physician Network</b><br><br>A consent order prohibits a St. Louis, Missouri physicians' organization from negotiating with third party payers on behalf of its member physicians and from refusing to deal with health insurance companies.   | 7 /9 /2003        | Health Care – Professional Services<br><br><a href="http://www.ftc.gov/os/caselist/0210188.shtm">http://www.ftc.gov/os/caselist/0210188.shtm</a>             |
| <b>50. 0110197 - Southwest Physician Associates</b><br><br>A physician group in the Dallas/Fort Worth, Texas area settled charges that it collectively bargained on behalf of its members to negotiate fee schedules with third party payers and other health insurance companies. According to the complaint, issued with the consent order, these practices decreased competition and increased prices for the provision of medical services to area consumers.   | 6 /3 /2003        | Health Care – Professional Services<br><br><a href="http://www.ftc.gov/os/caselist/0110197.shtm">http://www.ftc.gov/os/caselist/0110197.shtm</a>             |
| <b>51. 0210006 - Anesthesia Service Medical Gro</b><br><br>Two anesthesiologists groups settled charges that they entered into joint agreements to establish fees and services from Grossmont Medical Hospital in San Diego County. Specifically, the groups agreed on fees that both would demand from health care insurance companies and other third party payers for taking call for obstetrics and providing services to uninsured emergency room patients. Together, the two groups are composed of approximately 200 physicians that provide competing anesthesiology services in the San Diego area.  | 5 /29/2003        | Health Care – Professional Services<br><br><a href="http://www.ftc.gov/os/caselist/c4085.shtm">http://www.ftc.gov/os/caselist/c4085.shtm</a>                 |
| <b>52. 0310002 - Carlsbad Physician Association</b><br><br>A New Mexico physician organization settled charges that it and its members entered into agreements to fix prices and to refuse to deal with third party payers and other health care plans except on collectively agreed-upon terms.  | 5 /1 /2003        | Health Care – Professional Services<br><br><a href="http://www.ftc.gov/os/caselist/c4081.shtm">http://www.ftc.gov/os/caselist/c4081.shtm</a>                 |
| <b>53. 0210144 - The Institute of Store Planner</b><br><br>Under the terms of a final consent order, The Institute of Store Planners is required to remove from its Code of Ethics any provision that prohibits its members from providing their services for free and any provision that prohibits competition with other members for work on the basis of price. Its members provide architectural store design and store and merchandise planning to retail stores.  | 4 /17/2003        | Professional Services (Non Health Care) – Other<br><br><a href="http://www.ftc.gov/os/caselist/0210144.shtm">http://www.ftc.gov/os/caselist/0210144.shtm</a> |
| <b>54. 0210115a - Indiana Household Movers and Warehousemen</b><br><br>The corporation that represents household goods movers in Indiana settled charges that it filed collective intrastate rate tariffs with the State's Department of Revenue on behalf of its members. According to the complaint issued with the consent order, these collective filings reduced competition for household goods moving services within the state.   | 3 /17/2003        | Professional Services (Non Health Care) – Movers<br><br><a href="http://www.ftc.gov/os/caselist/c4077.shtm">http://www.ftc.gov/os/caselist/c4077.shtm</a>    |
| <b>55. 0110046 - BMS-Buspar</b><br><br>Bristol-Myers Squibb Company (BMS) settled charges that it engaged in illegal business practices to delay the entry of three low price generic pharmaceuticals that would be in direct competition with three of its branded drugs. The complaint alleged that BMS purposely made wrongful listings in the Orange Book of the U.S. Food & Drug Administration and that it also paid a potential competitor over \$70 million to delay the entry of its generic drug. The three drugs involved in the complaint are: Taxol (containing the active ingredient paclitaxel) – used to treat ovarian, breast, and lung cancers; Platinol (containing the active ingredient cisplatin) – used for the treatment of various forms of cancer; and BuSpar (containing the active ingredient buspirone) – used to manage anxiety disorders.  | 3 /6 /2003        | Health Care – Prescription Drugs<br><br><a href="http://www.ftc.gov/os/caselist/c4076.shtm">http://www.ftc.gov/os/caselist/c4076.shtm</a>                    |
| <b>56. 0010221 - BMS - Taxol</b><br><br>Bristol-Myers Squibb Company (BMS) settled charges that it engaged in illegal business practices to delay the entry of three low price generic pharmaceuticals that would be in direct competition with three of its branded drugs. The complaint alleged that BMS purposely made wrongful listings in the Orange Book of the U.S. Food & Drug Administration and that it also paid a potential competitor over \$70 million to delay the entry of its generic drug. The three drugs involved in the complaint are: Taxol (containing the active ingredient paclitaxel) – used to treat ovarian, breast, and lung cancers; Platinol (containing the active ingredient cisplatin) – used for the treatment of various forms of cancer; and BuSpar (containing the active ingredient buspirone) – used to manage anxiety disorders. | 3 /6 /2003        | Health Care – Prescription Drugs<br><br><a href="http://www.ftc.gov/os/caselist/c4076.shtm">http://www.ftc.gov/os/caselist/c4076.shtm</a>                    |

- 57. 0210181 - BMS - Cisplatin**      3 /6 /2003      Health Care – Prescription Drugs  
<http://www.ftc.gov/os/caselist/c4076.shtm>
- Bristol-Myers Squibb Company (BMS) settled charges that it engaged in illegal business practices to delay the entry of three low price generic pharmaceuticals that would be in direct competition with three of its branded drugs. The complaint alleged that BMS purposely made wrongful listings in the Orange Book of the U.S. Food & Drug Administration and that it also paid a potential competitor over \$70 million to delay the entry of its generic drug. The three drugs involved in the complaint are: Taxol (containing the active ingredient paclitaxel) – used to treat ovarian, breast, and lung cancers; Platinol (containing the active ingredient cisplatin) – used for the treatment of various forms of cancer; and BuSpar (containing the active ingredient buspirone) – used to manage anxiety disorders.
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- 58. 0110242 - Natl. Academy of Arbitrators**      11/22/2002      Professional Services (Non Health Care) – Other  
<http://www.ftc.gov/os/caselist/0110242.shtm>
- The National Academy of Arbitrators is prohibited from adopting policies that restrict its members from advertising truthful information about their services, including prices and conditions of services, under terms of a consent order. The association is required to remove all provisions that do not conform to the provisions in the consent order from: (1) its Code of Professional Responsibility for Arbitrators of Labor-Management Disputes; (2) its Formal Advisory Opinions; (3) any Statements of Policy; and (4) its Web site.
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- 59. 0110244 - Amer. Inst. for Conservation**      9 /10/2002      Professional Services (Non Health Care) – Other  
<http://www.ftc.gov/os/caselist/c4065.shtm>
- A consent order settled charges that the American Institute for Conservation of Historic and Artistic Works adopted and enforced provisions in its rules of conduct that prohibited professional conservators to work for free or at reduced fees. The association agreed to remove all provisions from its Code of Ethics, and its Commentaries to the Guidelines for Practice that are inconsistent with the order. Professional conservators manage and preserve cultural objects (including historical scientific, religious, archaeological and artistic objects).
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- 60. 0110175 - Professionals in Women's Care**      8 /20/2002      Health Care – Professional Services  
<http://www.ftc.gov/os/caselist/c4063.shtm>
- Eight Denver, Colorado physician groups specializing in obstetrics and gynecology and their non-physician agent settled allegations that the practice group and other physicians entered into collective contracts in an effort to increase prices and terms of services when dealing with health insurance firms and other third-party payers. The consent order prohibits the following respondents from entering into such agreements in the future: R.T. Welter and Associates, Inc.; R. Todd Welter; Consultants in Obstetrics and Gynecology, P.C.; Mid Town Obstetrics & Gynecology, P.C.; Mile High OGIGYN Associates, P.C.; The OB-GYN, P.C.; The Women's Health Group, P.C.; Cohen and Womack, M.D., P.C.; and Westside Women's Care, L.L.P.
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- 61. 0110196 - System Health Providers**      8 /20/2002      Health Care – Professional Services  
<http://www.ftc.gov/os/caselist/c4064.shtm>
- System Health Providers and its parent corporation, Genesis Physicians Group, Inc., settled charges that they collectively bargained with health insurance firms to accept proposed fee schedules; discouraged members from entering into contracts directly with payers; and refused to deal with health insurance firms and other third-party payers except on collectively agreed upon terms. The order prohibits the recurrence of the alleged practices and actions.
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- 62. 0110132 - Biovail / Elan (Generic Adalat CC)**      6 /27/2002      Health Care – Prescription Drugs  
<http://www.ftc.gov/opa/2002/06/biovailelan.shtm>
- A consent order settled charges that Biovail and Elan Corporation entered into an agreement that contained substantial monetary incentives not to compete in the market for specified dosages of generic forms of Adalat CC, a drug used to treat hypertension. The final consent order requires the companies to terminate their agreement and prohibits them from entering into similar agreements in the future. This is the Commission's first enforcement action involving an allegedly anticompetitive agreement between two competing generic drug manufacturers.
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- 63. 0110173 - Physician Integrated Systems**      5 /13/2002      Health Care – Professional Services  
<http://www.ftc.gov/os/caselist/0110173.shtm>
- A consent order settled charges that a Denver, Colorado physician organization and its members, its president, Dr. M. J. Guese, and its non-physician consultant, M. A. Brauchler, increased fees for services through collective boycotts and agreements in a effort to fix the prices they would receive from health care insurance payers. The order prohibits the organization and its members and other respondents from entering into any agreement with insurance payers or providers to negotiate on behalf of the physicians group.
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- 64. 0110174 - Aurora Assn. Primary Care Phys**      5 /6 /2002      Health Care – Professional Services  
<http://www.ftc.gov/os/caselist/0110174.shtm>
- A consent order settled charges that the organization of internists, pediatricians, family physicians and general practitioners in the Aurora, Colorado area engaged in boycotts and entered into collective negotiations with health care insurers in an effort to increase the costs of physician services. The order prohibits the organization from entering into any agreement with insurance payers or providers to negotiate fees on behalf of the physicians group.





**Matter:****Enforcement****Date:****Industry:**

- 81. 9710065 - Chrysler Dealers, Unn**      8 /5 /1998      Transportation – Auto & Trucks  
<http://www.ftc.gov/os/caselist/c3832.shtm>  
 An association of 25 automobile dealerships settled charges that they agreed to boycott Chrysler if the manufacturer continued to allocate vehicles based on total sales. Competing dealers marketed vehicles offering lower prices on the Internet and were taking substantial sales from other dealers in the Northwest. The consent order prohibits the dealers from threatening to enter into any boycott or refusal to deal with any automobile manufacturer or consumer.
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- 82. 9710110 - South Lake Tahoe Lodging Asso**      7 /20/1998      Professional Services (Non Health Care) – Other  
<http://www.ftc.gov/os/caselist/c3830.shtm>  
 Consent order prohibits the association from entering into agreements that restrict its members from posting or advertising room rates for lodgings in the South Lake Tahoe area of Northern California and Nevada.
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- 83. 9410095 - M.D. Physicians of Southwest LA Inc**      6 /19/1998      Health Care – Professional Services  
<http://www.ftc.gov/os/caselist/c3824.shtm>  
 A group of physicians in the area of Lake Charles, Louisiana settled charges that they illegally conspired to fix the prices for professional services by engaging in joint price negotiations with third-party payers. The final consent order prohibits such practices but does allow the MDP to engage in legitimate joint conduct.
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- 84. 9610005 - Institutional Pharmacy Network**      5 /18/1998      Health Care – Retail/Pharmacies  
<http://www.ftc.gov/os/caselist/c3822c2823.shtm>  
 A final order prohibits five institutional pharmacies from engaging in any joint price negotiation or price agreements for the provision of prescription drugs in an attempt to maximize reimbursement rates with managed care organizations.
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- 85. 9710039 - Fastline Publications, Inc.**      5 /4 /1998      Manufacturing – Industrial Goods  
<http://www.ftc.gov/os/caselist/c3819.shtm>  
 Fastline settled charges that it deprived consumers of the benefits of competition among farm equipment dealers when the publisher entered into agreements with the dealers to ban price advertising for new equipment in an attempt not to disclose those dealers who offered discounted prices. The consent order prohibits such practices in the future.
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- 86. 9710004 - Great Lakes Chemical Corporation**      3 /27/1998      Manufacturing – Chemicals/Industrial Gases  
<http://www.ftc.gov/os/caselist/c3815.shtm>  
 The consent order settled charges that Ethyl and The Associated Octel Company Ltd. entered into an agreement whereby Ethyl agreed to stop manufacturing lead antiknock compounds and, in return, Octel agreed to supply Ethyl with a limited volume of lead antiknock compounds. The complaint issued with the consent order charged that the agreement eliminated competition between the two firms. Under tern of the consent order, Octel must modify the agreement with Ethyl to remove price and volume restrictions and both firms are prohibited from disclosing to one another the prices that they charge their customers.
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- 87. 9510006 - Container Board Mfrs**      2 /26/1998      Manufacturing – Industrial Goods  
<http://www.ftc.gov/os/caselist/c3806.shtm>  
 Consent order prohibits Stone Container from manipulating the market for linerboard, a corrugated box component, to effect future price increases; encouraging its competitors to support a coordinated price increase in the industry; and engaging in other joint pricing actions that involve thud-party sales in the market
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- 88. 9510083 - Sensormatic**      1 /16/1998      Information and Technology – Software/Databases  
<http://www.ftc.gov/os/caselist/c3795.shtm>  
 Checkpoint Systems, Inc. and Sensormatic Electronics Corporation, the two largest marketers of electronic article surveillance systems used in retail stores to prevent shoplifting, agreed to nullify and void the section of their June 1993 agreement that restricts negative advertising and promotional claims about each other's products or services. The consent order also prohibits each firm from entering into any agreement that restricts truthful, non-deceptive advertising, comparative advertising or promotional and sales activities.
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- 89. 9310028 - Urological Stone Surgeons, Inc**      1 /6 /1998      Health Care – Professional Services  
<http://www.ftc.gov/os/caselist/c3791.shtm>  
 Consent order settles allegations that Urological Stone Surgeons, Parkside Kidney Stone Centers, Urological Services. Ltd and two physicians engaged in a price-fixing conspiracy to raise the price for professional urologist services for lithotripsy procedures in the Chicago metropolitan area. The complaint alleges that the parties agreed to use a common billing agent, established a uniform fee for lithotripsy services, prepared and distributed fee schedules, and negotiated contracts with third party payers on behalf of all urologists using the Parkside facility. The consent order prohibits such practices in the future and requires the parties to notify the Commission at least 45 days before forming or participating in an integrated joint venture to provide lithotripsy professional services.

Matter:

Enforcement

Date:

Industry:

**90. 9510106 - American Cyanamid**

1 /27/1997

Manufacturing – Chemicals/Industrial Gases

<http://www.ftc.gov/os/caselist/c3739.shtm>

The final consent order settles charges that American Cyanamid entered into written agreements with its retail dealers to offer substantial rebates to dealers who sold the company's agricultural chemical products at or above specified minimum resale prices. The order prohibits American Cyanamid from conditioning the payment of rebates or other promotionals on the resale prices its dealers charge for its products.

**91. 9110008 - MT Associated Physicians**

10/21/1996

Health Care – Professional Services

<http://www.ftc.gov/os/caselist/c3704.shtm>

Consent order prohibits Montana Associated and Billings Physician from engaging in any agreement with physicians to negotiate or refuse to deal with any health care maintenance organization or preferred provider organization and from fixing the fees charged for physician services.

**92. 9010061a -Waterous Co.**

6 /7 /1996

Manufacturing – Industrial Goods

<http://www.ftc.gov/os/caselist/c3693.shtm>

Waterous and Hale Products, Inc. agreed to settle charges that for more than 50 years they sold fire pumps on an exclusive basis to fire truck manufacturers in an attempt to allocate the customers each would serve, thereby making it more difficult for other pump makers to enter the market. The two consent orders prohibit each company from enforcing any requirement that fire truck manufacturers refrain from purchasing mid-ship mounted fire pumps from any other company, or that they purchase or sell only the relevant Waterous or Hale pumps.

**93. 9210050 - New Balance Athletic Shoe Inc.**

6 /7 /1996

Retail – Merchandise/Clothing

<http://www.ftc.gov/os/caselist/newbalance.shtm>

Consent order settles charges that New Balance fixed and controlled the resale prices of its shoes in an effort to raise retail prices for its athletic footwear.

**94. 9510124 - Precision Moulding**

6 /7 /1996

Manufacturing – Other

<http://www.ftc.gov/os/caselist/c3682.shtm>

Precision Moulding agreed to settle charges that it attempted to fix prices in the market for stretcher bars used to construct frames for artists' canvases. The complaint alleges that representatives of Precision Moulding invited a new competitor in the industry to raise its prices, suggesting that the competitor's prices were too low.

**95. 9510059 - RxCare**

1 /18/1996

Health Care – Retail/Pharmacies

<http://www.ftc.gov/opa/1996/01/rxcare.shtm>

Consent order bars Tennessee's largest provider of pharmacy network services from enforcing a "most favored nation" clause that prohibits its network pharmacies from accepting lower reimbursement rates for the prescriptions they fill for patients covered by other health networks or third party payers. In addition, the consent order requires RxCare to remove the MFN clause from existing contracts with pharmacies already in the network.

**96. 9310097 - Dell Computer Inc**

10/26/1995

Information and Technology – Hardware

<http://www.ftc.gov/opa/1996/06/dell2.shtm>

Final consent order resolves charges of unlawful practices in standard-setting. The order prohibits Dell from enforcing its patent rights against computer manufacturers that adopt VL-bus technology design standard in the central processing unit of computers that use 486 chips. The consent order is the first time a federal antitrust agency has taken an enforcement action against an entity that attempted to restrain competition through abuse of a voluntary standard-setting process.

## Part III Administrative Complaint

### 1. 1010080c -FTC v McWane Inc 1 /4 /2012 Manufacturing – Industrial Goods

<http://www.ftc.gov/os/adjpro/d9351/index.shtm>

The Federal Trade Commission has filed complaints against the three largest U.S. suppliers of ductile iron pipe fittings, which are used in municipal water systems around the United States. The FTC charged that the three companies, McWane, Inc., Star Pipe Products, Ltd., and Sigma Corporation, illegally conspired to set and maintain prices for pipe fittings, and that McWane illegally maintained its monopoly power in the market for U.S.-made pipe fittings. Sigma has settled the FTC's charges and has agreed not to engage in similar anticompetitive tactics in the future. The complaint against McWane will be heard before an administrative law judge later this year (see Part 2 Consent 1010080). On March 20, 2012, Star Pipe Products, Ltd. agreed to settle Federal Trade Commission charges that it conspired with the two other largest manufacturers to increase the prices at which pipe fittings were sold nationwide.

### 2. 1010080b -FTC v McWane Inc 1 /4 /2012 Manufacturing – Industrial Goods

<http://www.ftc.gov/os/adjpro/d9351/index.shtm>

The Federal Trade Commission has filed complaints against the three largest U.S. suppliers of ductile iron pipe fittings, which are used in municipal water systems around the United States. The FTC charged that the three companies, McWane, Inc., Star Pipe Products, Ltd., and Sigma Corporation, illegally conspired to set and maintain prices for pipe fittings, and that McWane illegally maintained its monopoly power in the market for U.S.-made pipe fittings. Sigma has settled the FTC's charges and has agreed not to engage in similar anticompetitive tactics in the future. The complaint against McWane will be heard before an administrative law judge later this year (see Part 2 Consent 1010080). On March 20, 2012, Star Pipe Products, Ltd. agreed to settle Federal Trade Commission charges that it conspired with the two other largest manufacturers to increase the prices at which pipe fittings were sold nationwide.

### 3. 0810137 - North Carolina Dental Board 6 /17/2010 Health Care – Professional Services

<http://www.ftc.gov/os/adjpro/d9343/index.shtm>

The FTC issued an administrative complaint on 7/17/2010 alleging that the state dental board in North Carolina is harming competition by blocking non-dentists from providing teeth-whitening services in the state. The FTC charged that the North Carolina Board of Dental Examiners (the "Dental Board") has impermissibly ordered non-dentists to stop providing teeth-whitening services, which has made it harder to obtain these services and more expensive for North Carolina consumers. According to the FTC's administrative complaint, teeth-whitening services are much less expensive when performed by non-dentists than when performed by dentists. A non-dentist typically charges between \$100 and \$150 per whitening session, while a dentist typically charges between \$300 and \$700, with some dental procedures costing as much as \$1,000. In an Initial Decision issued July 14, 2011, the ALJ found that non-dentists compete with dentists to provide teeth whitening services in North Carolina and that the Dental Board's concerted action to exclude non-dentist-provided teeth whitening services from the market had a tendency to harm competition. The ALJ further found that the Dental Board's action had no valid pro-competitive justification and constituted an unreasonable restraint of trade and an unfair method of competition. He accordingly issued an order requiring the Dental Board to stop engaging in the challenged conduct. On July 28, 2011 the parties appealed the ALJ's initial decision. On December 7, 2011, the Commission issued an Opinion concluding that the Dental Board violated of Section 5 of the FTC Act, and agreed with the ALJ that the Dental Board's conduct "constituted concerted action, . . . had a tendency to harm competition and did in fact harm competition," and had no legitimate pro-competitive justification. The Commission concluded that the Dental Board's conduct could be deemed illegal under the "inherently suspect" mode of analysis because the challenged conduct had a clear tendency to suppress competition and lacked any countervailing procompetitive virtue. In addition, the Commission found that there was direct evidence of anticompetitive effects. On February 10, 2012 the Dental Board filed a notice of appeal in the Fourth Circuit court.

### 4. 0610247 - Intel Corporation 12/16/2009 Information and Technology – Hardware

<http://www.ftc.gov/os/adjpro/d9341/index.shtm>

In December of 2009, the Commission sued Intel Corp., the world's leading computer chip maker, charging that the company had illegally used its dominant market position for a decade to stifle competition and strengthen its monopoly. In its complaint, the FTC alleges that Intel has waged a systematic campaign to shut out rivals' competing microchips by cutting off their access to the marketplace. In the process, Intel deprived consumers of choice and innovation in the microchips that comprise the computers' central processing unit, or CPU. These chips are critical components that often are referred to as the "brains" of a computer. According to the FTC complaint, Intel's anticompetitive tactics were designed to put the brakes on superior competitive products that threatened its monopoly in the CPU microchip market. In August of 2010, Intel agreed to a settlement agreeing to provisions that will open the door to renewed competition and prevent Intel from suppressing competition in the future.

Matter:

Enforcement

Date:

Industry:

5. **0610088 - Real Comp II** 10/10/2006 Professional Services (Non Health Care) – Real Estate

<http://www.ftc.gov/os/adipro/d9320/index.shtm>

The Commission issued an administrative complaint charging Realcomp with violating Section 5 of the FTC Act by prohibiting information on Exclusive Agency (EA) Listings and other forms of nontraditional listings from being transmitted from the multiple listing service (MLS) it maintains to public real estate web sites. The complaint further alleged that the conduct was collusive and exclusionary, because the brokers enacting the rules were essentially agreeing among themselves how to compete with one another, and were withholding the valuable benefits of the MLS from nontraditional real estate brokers. Commission staff appealed the ALJ's initial decision of December 13, 2007 dismissing the complaint. In November, 2009 the Commission issued an Opinion finding that Realcomp II had violated federal law. Following an appeal by RealComp, the United States Court of Appeals for the Sixth Circuit upheld the FTC order. On August 15, 2011 Realcomp appealed to the Supreme Court. On October 11, 2011 the Supreme Court denied Realcomp's petition for CERT.

6. **0610266 - MiRealSource, Inc.** 10/10/2006 Professional Services (Non Health Care) – Real Estate

<http://www.ftc.gov/os/adipro/d9321/index.shtm>

The Commission filed a Part 3 administrative complaint challenging a set of rules adopted by MiRealSource, Inc. to keep Exclusive Agency Listings from being listed on its MLS, as well as other rules that restricted competition in real estate brokerage services. The complaint alleges that the conduct was collusive and exclusionary, because in agreeing to keep non-traditional listings off the MLS or from public Web sites, the brokers enacting the rules were, in effect, agreeing among themselves to limit the manner in which they compete with one another, and withholding valuable benefits of the MLS from real estate brokers who did not go along. On February 5, 2007 the Commission approved a consent order for public comment settling the complaint. Under the terms of the proposed consent order, MiRealSource has agreed to abandon such collusive conduct and provide its services to all member brokers representing potential home sellers, regardless of the type of listing contract that they choose. Part III Consent made final on 3/20/2007.

7. **0210119i - Piedmont Health Alliance** 12/22/2003 Health Care – Professional Services

<http://www.ftc.gov/os/adipro/d9314/index.shtm>

With an administrative complaint issued on December 22, 2003 the Commission charged Piedmont Health Alliance, Inc. with collectively setting prices it demanded for physician services with third party payers. According to the complaint, the physician-hospital organization entered into signed agreements on behalf of its member physicians to participate in all contracts negotiated and to accept the negotiated physician fees. The complaint further alleges that these practices eliminated price competition among physicians in the North Carolina counties of Alexander, Burke, Caldwell and Catawba. The complaint also names ten individual physicians who participated in the alleged price fixing services. On August 10, 2004, the organization and physicians agreed to settle charges that they fixed prices for medical services. A final consent order prohibited Piedmont Health Alliance, Inc. and the ten physicians from entering into any such agreements with physicians in the area that negotiate fees or terms of services with health insurance companies or other third party payers. Also refer to settlement entered with Tenet Healthcare Corporation (Frye Regional Medical Center, Inc.).

8. **0210075 - North Texas Specialty Physicians** 9 /16/2003 Health Care – Professional Services

<http://www.ftc.gov/os/adipro/d9312/index.shtm>

An administrative law judge upheld the administrative complaint that charged that the North Texas Specialty Physicians (NTSP), a physician group practicing in Forth Worth, Texas, collectively determined acceptable fees for physician services in negotiating contracts with health insurance plans and other third party payers; thus engaging in horizontal price fixing. On January 14, 2005, NTSP filed a notice of appeal of the initial decision. On December 1, 2005, the Commission issued a unanimous decision upholding the allegations that NTSP negotiated agreements among participating physicians on price and other terms, refused to negotiate with payers except on terms agreed to among its members, and refused to submit payors offers to members if the terms did not satisfy the group's demands. The Commission concluded that the group's contracting activities with payors amounts to unlawful horizontal price fixing and that respondent's efficiency claims were not legitimate and not supported by the evidence. The respondent appealed the Commission decision to the U.S. Court of Appeals for the Fifth Circuit. On March 7, 2007, the Fifth Circuit Court of Appeals heard oral arguments in the appeal by respondents of the Commission's opinion in NTSP. The Court agreed with the Commission that the anticompetitive effects of NTSP's practices were obvious. Per remand by the Court, the Commission modified one provision of its remedial order, issuing a Final Order in September 2008. On February 28, 2009, the U.S. Supreme Court denied NTSP's petition for review.

9. **0210128 - South Carolina State Board of Dentistry** 9 /12/2003 Health Care – Professional Services

<http://www.ftc.gov/os/adipro/d9311/index.shtm>

The Commission settled a September 15 2003 administrative complaint charging the South Carolina State Board of Dentistry with unlawfully restraining competition by enacting a rule that required a dentist to examine every child before a dental hygienist could provide preventive dental care – such as cleanings – in schools. The Board, which is a state regulatory agency composed primarily of practicing dentists, claimed that its actions were immune from antitrust challenge under the state action doctrine, but that argument was rejected in a 2004 Commission opinion holding that the Board's conduct was directly contrary to state law. In 2006, the court of appeals dismissed the Board's interlocutory petition for review for lack of jurisdiction, and the Supreme Court denied certiorari in January 2007. The FTC's 2007 consent requires the Board to publicly support the current state public health program that allows hygienists to provide preventive dental care to schoolchildren, especially those from low-income families.

| Matter: | Enforcement Date: | Industry: |
|---------|-------------------|-----------|
|---------|-------------------|-----------|

**10. 0210115b -Alabama Trucking Association**      7 /9 /2003      Professional Services (Non Health Care) – Movers  
<http://www.ftc.gov/os/adjpro/d9307/index.shtm>

With an administrative complaint issued on July 8, 2003 the Commission charged that the association of household goods movers engaged in the collective filing of tariffs on behalf of its members who compete in the provision of moving services in the state of Alabama. Under terms of a final consent order, Alabama Trucking Association, Inc. agreed to stop filing tariffs containing collective intrastate rates and to void collectively filed tariffs currently in effect in Alabama.

**11. 0210115f -Movers Conference of Mississippi**      7 /9 /2003      Professional Services (Non Health Care) – Movers  
<http://www.ftc.gov/os/caselist/d9308.shtm>

With an administrative complaint issued on July 8, 2003 the Commission charged that the association composed of competing household goods movers filed collective rates for intrastate moving services in the state of Mississippi. According to the complaint, these activities were not protected under the state action doctrine and are not immune from federal antitrust scrutiny. Under terms of a final consent order the Movers Conference agreed to stop filing tariffs containing collective intrastate rates.

**12. 0210115g -Kentucky Household Goods Carriers Association, Inc.**      7 /9 /2003      Professional Services (Non Health Care) – Movers  
<http://www.ftc.gov/os/adjpro/d9309/index.shtm>

An administrative law judge upheld an administrative complaint that charged a group of affiliated intrastate movers with engaging in horizontal price-fixing by filing collective rates on behalf of its member motor common carriers for the intrastate transportation of property within the Commonwealth of Kentucky. The judge also ruled that the association's conduct was not protected by the state action doctrine because the State of Kentucky did not supervise the rate-making practices of the group. On July 12, 2004, the Kentucky Household Goods Carriers Association, Inc. filed an appeal of the initial decision with the Commission. The oral argument was held January 24, 2005. On June 22, 2005, the Commission issued a unanimous opinion upholding the Initial Decision finding that the Kentucky Household Goods Carriers Association, Inc., consisting of competing firms, engaged in illegal price-fixing by jointly filing tariffs containing collective rates on behalf of its members, and that the state action doctrine does not immunize that activity from antitrust liability. On August 22, 2006, the Sixth Circuit Court of Appeals affirmed the opinion of the Commission in Kentucky Household Goods Carriers Association, Inc., finding that the Association's ratemaking activities constituted unlawful price fixing and were not exempt from the antitrust laws under the state action doctrine. The administrative complaint issued on July 8, 2003 by the Commission charged that the association composed of competing household goods movers filed collective rates for intrastate moving services in the state of Kentucky. According to the complaint, these activities were not protected under the state action doctrine and are not immune from federal antitrust scrutiny.

**13. 0210143 - California Pacific Medical Group**      7 /8 /2003      Health Care – Professional Services  
<http://www.ftc.gov/os/adjpro/d9306/index.shtm>

With an administrative complaint issued on July 8, 2003 the Commission charged a San Francisco, California physicians' organization with engaging in an agreement under which its competing members agreed collectively on the price and other terms on which they would enter into contracts with health plans or other third party payers. The complaint also alleged that Brown and Toland directed its physicians to end their preexisting contracts with payers and required its physician members to charge specified prices in all Preferred Provider Organization contracts. A final consent order prohibits Brown and Toland from negotiating with payers on behalf of physicians, refusing to deal with payers, and setting terms for physicians to deal with payers, unless the physicians are clinically or financially integrated.

**14. 0110214 - Union Oil of California**      3 /4 /2003      Energy – Petroleum  
<http://www.ftc.gov/os/adjpro/d9305/index.shtm>

An administrative law judge dismissed a complaint in its entirety against Union Oil of California that charged the company with committing fraud in connection with regulatory proceedings before the California Air Resources Board regarding the development of reformulated gasoline. The judge ruled much of Unocal's conduct was permissible activity under the Noerr-Pennington doctrine and that the resolution of the issues outlined in the complaint would require an in depth analysis of patent law which he believed were not with the jurisdiction of the Commission. In July 2004, the Commission reversed the judge's ruling and reinstated charges that Unocal illegally acquired monopoly power in the technology market for producing a "summer-time" low-emissions gasoline mandated for sale and use by the California Air Resources Board for use in the state for up to eight months of the year. While the case was pending before the administrative law judge, a consent agreement was signed.

Matter:

Enforcement

Date:

Industry:

15. 0110017 - Rambus, Inc.

6 /18/2002

Information and Technology – Hardware

<http://www.ftc.gov/os/caselist/d9302.shtm>

The Commission filed a complaint with an administrative law judge charging that between 1991 and 1996 Rambus, Inc. joined and participated in the JEDEC Solid State Technology Association (JEDEC), the leading standard-setting industry for computer memory. According to the complaint, JEDEC rules require members to disclose the existence of all patents and patent applications that relate to JEDEC's standard-setting work. While a member of JEDEC, Rambus observed standard-setting work involving technologies which Rambus believed were or could be covered by its patent applications, but failed to disclose this to JEDEC. In 1999 and 2000, after JEDEC had adopted industry-wide standards incorporating the technologies at issue and the industry had become locked in to the use of those technologies, Rambus sought to enforce its patents against companies producing JEDEC-compliant memory, and in fact has collected substantial royalties from several producers of DRAM (dynamic random access memory). (February 17, 2004) The administrative law judge dismissed all charges against Rambus, ruling that Commission staff had failed to sustain their burden of proof with respect to all three violations alleged in the complaint. The Initial Decision found that Rambus' conduct before the JEDEC standard-setting organization did not amount to deception and did not violate any extrinsic duties, such as a duty of good faith to disclose patents or patent applications. The Initial Decision also found that there was insufficient evidence that there were viable alternatives to Rambus' technology before the standard setting organization. (August 2, 2006) The FTC issued an opinion by Commissioner Pamela Jones Harbour concluding that Rambus unlawfully monopolized markets for four computer memory technologies that have been incorporated into industry standards DRAM chips. Drams are widely used in personal computers, servers, printers, and cameras. The Commission found that, through a course of deceptive conduct, Rambus was able to distort a critical standard-setting process and engage in an anticompetitive "hold up" of the computer memory industry. The Commission held that Rambus's acts of deception constituted exclusionary conduct under 21 Section 2 of the Sherman Act and contributed significantly to Rambus's acquisition of monopoly power in the four relevant markets. (February 5, 2007) Chairman Majoras issued the opinion of the Commission on remedy in the Rambus matter. In this opinion, the Commission prescribed a set of remedies barring Rambus from making misrepresentations or omissions to standard-setting organizations, requiring Rambus to license its SDRAM and DDR SDRAM technology and setting limits to the royalty rates it can collect under the licensing agreements including with those firms that may have already incorporated its DRAM technology, and requiring Rambus to employ a Commission-approved compliance officer to ensure it discloses relevant patent information to any standard-setting organizations in which it participates. (April 4, 2007) Rambus appealed the Commission's order to the U.S. Court of Appeals for the District of Columbia Circuit, which heard oral arguments in February 2008. In April of 2008, the Court issued an opinion that set aside the Commissions final orders and remanded for further proceedings consistent with the Court's opinion. On February 23, 2009, the Supreme Court denied the Commission's Petition for Writ of Certiorari. On May 14, 2009 the Commission formally dismissed the complaint in the Rambus matter.

16. 0010231 - Polygram Holding Inc. (The Three Tenors)

7 /31/2001

Manufacturing – Consumer Goods (non Food & Bev.)

<http://www.ftc.gov/os/caselist/d9298.shtm>

The Commission upheld the ruling of an administrative law judge and prohibited PolyGram from entering into any agreement with competitors to fix the prices or 22 restrict the advertising of products they have produced independently. The administrative complaint, issued on July 30, 2001, generally known as The Three Tenors and involving respondents PolyGram Holding, Inc.; Decca Music Group Limited; UMG Recordings Inc.; and Universal Music & Video Distribution Corporation charged PolyGram with entering into an illegal price fixing agreement not to advertise or discount earlier albums and video recordings of concerts featuring the Three Tenors in an effort to promote the latest concert, thought to be less appealing to the public. The Commission ordered the respondents to cease and desist from entering into any combination, conspiracy, or agreement - with producers or sellers at wholesale of audio or video products - to "fix, raise, or stabilize prices or price levels" in connection with the sale in or into the United States of any audio or video product. In July 2005, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the Commission's decision in Polygram Holding Inc., validating the Commission's approach to analyzing horizontal conduct among competitors.

17. 9910256 - Schering-Plough / Upsher Smith

4 /2 /2001

Health Care – Prescription Drugs

<http://www.ftc.gov/os/adipro/d9297/index.shtm>

The United States Court of Appeals for the Eleventh Circuit set aside and vacated the Commission decision that found that Schering-Plough entered into agreements with Upsher-Smith Laboratories, Inc. and American Home Products to delay the entry of generic versions of Schering's branded K-Dur 20, a prescribed potassium chloride supplement. The Commission filed a petition for writ of certiorari with the U.S. Supreme Court in August 2005, arguing that the lower court failed to recognize how some agreements limiting entry during the term of a patent can still be improper; the decision jeopardizes particularly important consumer interests; and the court of appeals misapplied the substantial evidence standard of review. The Supreme Court denied the petition. In the complaint dated March 30, 2001 the Commission alleged that Schering - Plough, the manufacturer of K-Dur 20 - a prescribed potassium chloride, used to treat patients with low blood potassium levels - entered into anticompetitive agreements with Upsher-Smith Laboratories and American Home Products Corporation to delay their generic versions of the K-Dur 20 drug from entering the market. According to the charges, Schering-Plough paid Upsher-Smith \$60 million and paid American Home Products \$15 million to keep the low-cost generic version of the drug off the market. The charges against American Home Products were settled by a consent agreement. An initial decision filed July 2, 2002 dismissed all charges against Schering - Plough and Upsher-Smith Laboratories. On December 8, 2003 the Commission reversed the administrative law judge's initial decision that had dismissed all charges. The Commission found that Schering-Plough Corporation entered into agreements with Upsher-Smith Laboratories, Inc. and American Home Products to delay the entry of generic versions of Schering's branded K-Dur 20. According to the opinion, the parties settled patent litigation with terms that included unconditional payments by Schering in return for agreements to defer introduction of the generic products. The Commission entered an order that would bar similar conduct in the future.

**18. 9810368 - Andrx-Hoechst Generic Cardizem**      3 /16/2000      Health Care – Prescription Drugs  
<http://www.ftc.gov/os/caselist/d9293.shtm>

A consent order settled allegations in an administrative complaint that charged that Hoechst agreed to pay Andrx Corporation millions of dollars not to market and distribute a generic version of Hoechst's branded Cardizem CD, a once-a-day diltiazem drug product used in the treatment of hypertension and angina. The consent order prohibits the companies from entering into agreements designed to restrict the entry of generic competitors in an attempt to monopolize relevant markets .

**19. 9510028 - Intel Corp**      6 /8 /1998      Information and Technology – Hardware  
<http://www.ftc.gov/os/caselist/d9288.shtm>

An administrative complaint charged that Intel Corporation used its monopoly power to deny three companies continuing access to technical information necessary to develop computer systems based on Intel microprocessors. A consent order (August 3, 1999) prohibits Intel, among other things, from withholding certain advance technical information from a customer as a means of intellectual property licenses. The order protects Intel's rights to withhold its information or microprocessors for legitimate business reasons.

**20. 9510029 - Summit Technology**      3 /24/1998      Health Care – Medical Equipment/Devices  
<http://www.ftc.gov/os/caselist/d9286.shtm>

On June 4, 1999 an administrative law judge dismissed charges against VISX, a key developer of laser eye surgery equipment and technology, known as photorefractive keratectomy (PRK). According to the 1998 administrative complaint., VISX and Summit Technology, the only two firms legally able to market equipment for PRK, placed their competing patents in a patent pool and shared the proceeds each and every time a Summit or VISX laser was used. The administrative law judge also dismissed charges that VISX acquired a key patent by inequitable conduct and fraud on the U.S. Patent and Trademark Office, ruling that complaint counsel failed to present evidence that an act of fraud was committed since information was not willfully withheld from the patent office. A final order settled the price fixing allegations in the 1998 complaint. On February 7, 2001, the Commission dismissed its complaint after the U.S. patent and Trademark Office issued a Reexamination Certificate of U.S. Patent No. 5,108,388.

**21. 9610027 - Mesa County Physicians, IPA**      5 /12/1997      Health Care – Professional Services  
<http://www.ftc.gov/os/caselist/d9284.shtm>

A Colorado physicians' organization settled charges alleging that the Mesa County IPA conspired with its members to increase prices for physician services and thereby prevented third party payers such as preferred provider organizations, health maintenance organizations, and employer health care purchasing cooperatives from offering alternative health insurance programs to consumers in Mesa County.

**22. 9410040 - Toys "R" Us, Inc.**      5 /22/1996      Retail – Merchandise/Clothing  
<http://www.ftc.gov/os/caselist/9410040/index.shtm>

An Administrative Law Judge issued an initial decision that, if made final, would prohibit Toys "R Us from entering into agreements with toy manufacturers and others that result in restrictions on sales to warehouse clubs. TRIJ threatened to stop buying products that were sold to warehouse clubs, which resulted in major toy makers halting the sale of certain products to clubs. The AW found that these practices reduced competition and led to higher toy prices. The initial decision would prohibit the toy chain from entering into any agreement with a supplier to restrict sales to any toy discounter; from facilitating agreements among suppliers that would limit sales to any retailer; and for five years, from refusing to or announcing it will refuse to purchase from a supplier because the supplier sells to a toy discounter. On October 14, 1998 the Commission issued its decision that Toys "R Us had orchestrated horizontal and vertical agreements with and among toy manufacturers to restrict the availability of popular toys to warehouse clubs. On December 7, 1998, Toys "R" Us filed a notice of appeal in the U.S. District Court for the Seventh Circuit. In August 2000, the Commission's complaint was upheld by Seventh Circuit Court of Appeals.

## Permanent Injunction

1. **0710060 - Watson Unimed** 2 /2 /2009 Health Care – Prescription Drugs  
<http://www.ftc.gov/os/caselist/0710060/index.shtml>

In February, the Commission filed a complaint in federal district court challenging and agreement between Solvay Pharmaceuticals and two generic drug manufacturers in which Solvay paid for the delayed release of generic equivalents to its own testosterone-replacement drug, AndroGel, typically used in the treatment of men with low testosterone levels due to advanced age, certain cancers, and HIV/AIDS. According to the Commission's complaint, in an effort to prevent Watson Pharmaceuticals and Par Pharmaceuticals from acquiring patents for their competing testosterone replacement drugs, Solvay paid the companies to delay entry for a nine year period, ending in 2015.

2. **0610182 - Cephalon, Inc.** 2 /13/2008 Health Care – Prescription Drugs  
<http://www.ftc.gov/os/caselist/0610182/index.shtml>

The Commission filed a complaint in federal district court charging Cephalon, Inc. with preventing competition to its branded drug Provigil. The conduct under challenge includes paying four firms to refrain from selling generic versions of Provigil until 2012. Cephalon's anticompetitive scheme, according to the Commission, denies patients access to lower-cost, generic versions of Provigil and forces consumers and other purchasers to pay hundreds of millions of dollars a year more for Provigil. According to the complaint, Cephalon entered into agreements with four generic drug manufacturers that each planned to sell a generic version of Provigil. Each of these companies had challenged the only remaining patent covering Provigil, one relating to the size of particles used in the product. The complaint charges that Cephalon was able to induce each of the generic companies to abandon its patent challenge and agree to refrain from selling a generic version of Provigil until 2012 by agreeing to pay the companies a total amount in excess of \$200 million. In so doing, Cephalon achieved a result that assertion of its patent rights alone could not.

3. **0410034 - Warner Chilcott/Barr** 11/4 /2005 Health Care – Prescription Drugs  
<http://www.ftc.gov/os/caselist/0410034/0410034.shtml>

The Commission settled with Barr Laboratories concluding its federal court action challenging an agreement between Warner Chilcott and Barr in which, the Commission alleged, Barr agreed not to sell a lower-priced generic substitute of Warner Chilcott's branded Ovcon 35, an oral contraceptive drug, for several years for \$20 million. On November 5, 2005 a complaint was filed in District Court for the District Columbia seeking to put an end to an agreement between drug manufacturers Galen Chemicals Ltd. (now known as Warner Chilcott) and Barr Laboratories that denies consumers the choice of a lower priced generic version of Warner Chilcott's Ovcon® oral contraceptive. According to the FTC's complaint, Barr planned to launch a generic version of Ovcon as soon it received regulatory approval from the Food and Drug Administration. Warner Chilcott expected to lose half its Ovcon sales within the first year if Ovcon faced competition from a generic equivalent. Faced with this prospect, instead of competing with Barr, Warner Chilcott entered into an agreement 24 with Barr, preventing entry of Barr's generic Ovcon into the United States for five years. In exchange for Barr's promise not to compete, Warner Chilcott paid Barr \$20 million. In September 2006, under the threat of a preliminary injunction sought by the Commission, Warner Chilcott waived the exclusionary provision in its agreement, and the next day Barr announced its intention to start selling generic Ovcon in the United States. Under the terms of the October 2006 order settling the Commission's charges, Warner Chilcott agreed to certain terms to protect generic entry into the market.

4. **0210197 - Alparma Inc.** 8 /12/2004 Health Care – OTC Drugs/Devices  
<http://www.ftc.gov/os/caselist/0210197/0210197.shtml>

The Commission authorized staff to file a complaint in federal district court charging that Alparma, Inc. and Perrigo Company drove up the prices for over-the-counter store-brand children's liquid ibuprofen through an agreement eliminating competition between the two firms and allowing Perrigo to raise its prices creating higher profits to then be shared between the firms. According to the complaint, while both Alparma and Perrigo filed for U.S. Food and Drug Administration approval to sell a generic version of children's liquid Motrin, Alparma was eligible to sell its product at least six months before approval would be granted to Perrigo. The two companies entered into an agreement not to compete whereby Perrigo would sell the children's liquid ibuprofen for seven years and Alparma, while would not marketing a competing product, would receive an up-front payment and a royalty on Perrigo's sales of the product. To settle the charges, Alparma and Perrigo paid a total of \$6.25 million in illegal profits and agreed not to enter into agreements not to compete when one party to the agreement is a first filer of an abbreviated new drug application.

5. **9810146 - Mylan Pharmaceuticals, Inc.** 12/21/1998 Health Care – Prescription Drugs  
<http://www.ftc.gov/os/caselist/x990015ddc.shtml>

Complaint filed in the U.S. District Court for the District of Columbia charged Mylan with restraint of trade, monopolization and conspiracy to monopolize the market for two generic drugs used to treat anxiety, lorazepam and clorazepate, through exclusive dealing arrangements. The complaint seeks consumer redress of at least \$120 million and to enjoin the alleged illegal exclusive licensing agreements. Federal District Court Judge Hogan released a 46 page decision upholding the Commission's authority to seek restitution in antitrust injunction actions under Section 13(b) of the Federal Trade Commission Act. November 29, 2000: Commission approved a \$100 million settlement—the largest monetary settlement in Commission history. The opinion settled Commission concerns that Mylan, Gyma Laboratories of America, Inc., Cambrex Corporation and Profarmaco S.R.L. conspired to deny Mylan's competitors ingredients necessary to manufacture lorazepam and 40 clorazepate. On April 27, 2001, the U.S. District Court for the District of Columbia granted preliminary approval to a plan of distribution to injured consumers who paid the increased prices and state agencies, including Medicaid programs, that purchased the drugs while the illegal agreements were in effect. The court granted final approval of the settlement February 1, 2002. The funds were distributed by the states.

**6. 9710011 - College of Physicians**

9 /29/1997

Health Care – Professional Services

<http://www.ftc.gov/os/caselist/9710011.shtm>

The Commission authorized staff to file a complaint and settlement in federal district court to settle allegations that the College and three physician groups engaged in an illegal boycott in an effort to coerce the government to make price-related changes under Puerto Rico's government-managed care plan for the indigent. According to the complaint, filed by the Commission and Puerto Rico's Attorney General in the U.S. District Court of Puerto Rico on October 2, 1997, the College and physicians engaged in an eight day boycott of all physician services for non-emergency patient care, which caused many people to be treated at area hospital emergency rooms and; forced others to completely forego medical care. The proposed settlement would prohibit such practices in the future and in addition, the proposed order will require the College to pay \$300,000 to the catastrophic fund administered by the Puerto Rico Department of Health.

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