

## IN THE MATTER OF

## CHARLES E. WELLER

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

*Dkt. C-3149. Complaint, Dec. 24, 1984—Decision, Dec. 24, 1984*

This Consent Order, among other things, requires Charles E. Weller to cease misrepresenting the value or potential value of oil and gas rights or other investments offered; the degree of risk involved in such investments; or the value or potential for increase in value of any mineral right or other investment offering. The respondent is also required to substantiate any representation or claim concerning the value or potential earnings of any investment; make prescribed disclosures in sales brochures and oral sales presentations advising consumers that oil and gas lease rights are high risk investments; and place \$60,000 into an escrow account to be used for consumer redress.

*Appearances*

For the Commission: *David J. Federbush and Arthur B. Cornell.*

For the respondent: *Stephen V. Wilson, Hochman, Salkin and DeRoy, Beverly Hills, California.*

## COMPLAINT

The Federal Trade Commission ("Commission"), pursuant to the provisions of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 41 *et seq.*, as amended, and by virtue of the authority vested in it by said Act, having reason to believe that Charles E. Weller ("respondent") has violated the provisions of said Act, and believing that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges as follows:

## RESPONDENT AND RESPONDENT'S BUSINESS

PARAGRAPH 1. Respondent Charles E. Weller was, until April 1983, a Director and President of Alaska Land Leasing, Incorporated ("ALL"), an Alaska corporation with its principal office currently located at 11726 San Vicente Boulevard, Los Angeles, California, and previously located at 28990 Pacific Coast Highway, Malibu, California. He was also, until April 1983, General Counsel and Executive Vice President of Federal Lease Filing Corporation ("FLFC"), a California corporation with its principal office located at 28990 Pacific Coast Highway, Malibu, California. Individually or in concert with

others, he was directed, controlled, or formulated business practices of ALL and FLFC.

PAR. 2. Beginning around August 1982 and continuing thereafter, ALL has maintained a substantial course of trade in the sale of leases to the oil and gas exploration and development rights to public lands located in the state of Alaska. ALL has purchased or had related companies or third persons purchase, and resold such leases pertaining to tracts of federal lands managed by the United States Bureau of Land Management ("BLM lands"), including leases pertaining to substantial acreage in the Minchumina and Denali leasing blocks in central Alaska. ALL has also purchased or had related companies purchase, and resold such leases pertaining to tracts of Alaska state lands, including leases pertaining to substantial acreage made available through state sale 34 in the Prudhoe Bay Uplands. ALL subdivided these leases to pertain to smaller tracts, often as small as 40 to 640 acres, and has promoted the sale of these leases to consumers across the United States through telephone sales presentations and written promotional material. FLFC, a filing service for the federal lottery for leases to BLM lands in the lower 48 states, has similarly promoted the sale of such leases to consumers, and during the time of Weller's employment there sold such leases pursuant to an agreement with ALL.

PAR. 3. Defendant's course of trade is in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. 44.

#### RESPONDENT'S VIOLATIONS OF SECTION FIVE OF THE FTC ACT

PAR. 4. Respondent, personally or through the actions of ALL and FLFC, has falsely represented to their customers, expressly or by implication, that leases to BLM lands in the Minchumina and Denali blocks they have offered for sale are leases to lands which have good or high potential for oil and gas production. In fact, these lands have little or no potential for oil and gas production.

PAR. 5. Respondent, personally or through the actions of ALL and FLFC, has falsely represented to their customers, expressly or by implication, that the leases to state sale 34 lands in the Kavik and Semik areas of the Prudhoe Bay Uplands they have offered for sale are leases to lands which have good or high potential for oil and gas production. In fact, these lands have little or no potential for oil and gas production.

PAR. 6. Respondent, personally or through the actions of ALL and FLFC, has falsely represented to their customers, expressly or by implication, that their leases to the lands described in paragraphs Four and Five were selected or recommended for purchase by their geologist or team of geologists, experts, or analysts for their

gas production potential. In fact, no geologist or team of geologists, experts or analysts selected or recommended that ALL or FLFC purchase leases in those areas.

PAR. 7. Respondent, personally or through the actions of ALL and FLFC, has falsely represented to their customers, expressly or by implication, that the leases they have offered for sale to lands described in paragraphs Four and Five are low-risk investments or that these leases are likely to increase in value and produce substantial income. In fact, these leases are high-risk investments and are unlikely to increase in value or produce income.

PAR. 8. Respondent, personally or through the actions of ALL and FLFC, has represented to their customers, expressly or by implication, that the leases they have offered for sale have good or high potential for oil and gas production. Respondent, through the actions of ALL and FLFC, has deceptively failed to disclose to their customers that subdividing leases into interests pertaining to 640 or fewer acres in itself makes it unlikely that the lease property will be explored or developed for oil and gas production.

PAR. 9. Each of respondent's misrepresentations of or failures to disclose material facts, as described in paragraphs Four through Eight above, was deceptive in violation of section 5(a) of the FTC Act.

#### CONSUMER INJURY

PAR. 10. Respondent's misrepresentations of and failures to disclose material facts have induced consumers to spend substantial sums of money to purchase leases offered for sale by ALL and FLFC. The leases described in paragraphs Four and Five are of little or no value and ALL's and FLFC's customers have therefore lost virtually all the money they invested to purchase those leases.

Commissioner Azcuenaga abstained.

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, his attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said

agreement is for settlement purposes only and does not constitute an admission by respondent that the facts as alleged in the complaint are true or that any law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comment filed thereafter by an interested person pursuant to Section 2.34 of its Rules, and having thereafter accepted a modification to the consent agreement, approved by respondent and counsel for the Commission, which permits the Commission to transfer funds paid by respondent for redress purposes to the receiver appointed in the Commission's related federal district court action to be disbursed appropriately by the receiver under court supervision, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Charles E. Weller was, until April 1983, a Director and President of Alaska Land Leasing, Incorporated, an Alaska corporation with its principal office then located at 28990 Pacific Coast Highway, Malibu, California. He was also executive vice president and general counsel of Federal Lease Filing Corporation, a California corporation with its principal office located at 28990 Pacific Coast Highway, Malibu, California, until April 1983.

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 respondent Charles E. Weller, his successors and assigns, and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or promotion of any mineral right, including any oil and gas lease right, or other investment offering in or affecting commerce, as "com-

merce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Misrepresenting, directly or by implication,

(a) the value, or potential for increase in value, of any mineral right or other investment offering, including, but not limited to, the potential for oil or gas discovery or production on any property, the proximity of any property to a proven oil or gas reserve, the geologic structure of any property, or the existence of, or access to, any pipeline to transport oil or gas from any property;

(b) the past or likely future success of anyone in realizing profits, obtaining income, or gaining anything of value from any mineral right or other investment offering, including, but not limited to, the resale value of any oil and gas lease right or the royalty income from any oil and gas lease right;

(c) the degree of risk in any investment offering or in the acquisition of any mineral right;

(d) the findings, conclusions or substance of any report, analysis, recommendation or other advice by defendant or anyone else, including a geologist, concerning the geologic potential, value or potential for increase in value of any mineral right or other investment offering;

(e) any purchase, offer to purchase or bid by anyone, including an oil company, for any mineral right or other investment offering;

(f) any mineral exploration, discovery or production, including drilling, on any property or the production status of any dry, capped, suspended or abandoned oil or gas well;

(2) Representing, directly or by implication, the value or potential for increase in value of any mineral right or other investment offering either by reference to any land or fixtures thereon, by reference to any earnings, profits or income anyone has made or may make, or by any other reference, or representing, directly or by implication, any other of the matters referred to in part (1)(a)-(f) above, unless at the time such representation is made respondent or his successors and assigns possess and rely upon competent and reliable evidence that substantiates the representation.

(3) Failing to disclose clearly and conspicuously (as set forth below) in every sales brochure given or shown to any prospective purchaser (other than one of the top 200 oil and gas producing companies as ranked by total assets in the then current *U.S.A. Oil Industry Directory* published by the PennWell Publishing Company of Tulsa, Oklahoma) of any mineral right or other investment offering statements (a)-(e) below, and failing to disclose clearly and conspicuously (as set forth below) in every sales contract and sales or service agreement

given or shown to any of those prospective purchasers statements (a)-(f) below:

(a) "The [partnerships in (where applicable)] oil and gas leases we offer are extremely speculative and very high risk investments. Do not invest unless you can afford and are prepared to lose all the money invested."

(b) When any geologist has reported to respondent that respondent's lease property or the area in which that lease property is located has little or no potential for oil or gas reserves,

"(A) [g]eologist(s) report(s) to us that this area has little or no potential to contain oil or gas. A copy of (all) the geologist report(s) on this area is (are) available upon request."

(c) When offering lease rights to 640 or fewer contiguous acres of property that contain no proven oil or gas reserves,

"Even if oil or gas were located on our lease property, a lease property size in this area of 640 or fewer acres will make it unlikely that oil or gas drilling will occur."

(d) When making any reference to oil company ownership of, bidding for or attempts to purchase leases to property that is nearby, or in the same leasing block as, respondent's lease property,

"Oil company ownership of or attempts to acquire other leases in this area don't mean that oil or gas is likely to be found on or anywhere near our lease property. In fact, no oil company attempted to acquire the lease(s) we're offering to you" (when such is the case).

(e) When making any reference to any oil or gas discovery, production or exploration on property that is nearby or in the same leasing block as respondent's lease property,

"Oil or gas found nearby, or in the same leasing block as, our lease property doesn't assure that oil or gas is located on our lease property. The likelihood of reserves depends on geologic structure, which can be different even for adjoining areas."

(f) "This agreement [or contract] shall not be deemed valid or complete unless the customer has signed and dated the required declaration of understanding printed herein."

The statements required above shall be disclosed in sales or service agreements and sales contracts in print at least as large as the capitalized corporate name within the text of the contract or agreement, but in no event smaller than 10 point type. Such statement shall be printed in 100% black ink against a white background, and boxed. The copy of the foregoing statements included on each sales or service agreement or sales contract shall also include a signature line for the