

*It is further ordered,* That the initial decision of the hearing examiner, as modified, be, and it hereby is, adopted as the decision of the Commission.

*It is further ordered,* That respondents shall, within sixty (60) days from the date of service of this order and every sixty (60) days thereafter until divestiture is fully effected, submit to the Commission a detailed report of their actions, plans, and progress in complying with the divestiture provisions of this order, and fulfilling their objectives. All reports shall include, among other things that will be from time to time required, a summary of all contacts and negotiations with potential purchasers of the stock, assets, properties, rights or privileges to be divested under this order, the identity of all such potential purchasers, and copies of all written communications to and from such potential purchasers.

Commissioner MacIntyre did not participate.

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IN THE MATTER OF

HOLIDAY UNIVERSAL INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT

*Docket C-1851. Complaint, Jan. 19, 1971—Decision, Jan. 19, 1971*

Consent order requiring an operator of various health club facilities and an advertising agency, both located in Baltimore, Maryland, to cease misrepresenting that the price of any membership is special or reduced or that an increase is imminent, that its health program will alter body size, extend life, prevent heart attacks, and reduce weight without calorie control, that all facilities are available at all clubs and that any service is guaranteed unless all aspects of the guarantee are disclosed, using deceptive "before and after" photographs, making repeated telephone calls to obtain payments on any debt, misrepresenting that any debt has been turned over to an independent collector, failing to disclose that any paper about to be signed is a contract or promissory note, obtaining signature on any contract which fails to provide a four day cancellation clause and a provision that it may be cancelled if the customer moves beyond a 25 mile limit, and misrepresenting that application for membership will be held without acceptance pending further investigation.

COMPLAINT

PARAGRAPH 1. Respondent Holiday Universal, Inc. (hereinafter sometimes referred to as "Holiday"), is a corporation organized, existing and doing business under and by virtue of the laws of the

State of Maryland with its office and principal place of business located at 2321 North Point Boulevard, in the city of Baltimore and the State of Maryland. Holiday Universal, Inc. owns all of the shares and controls and directs the acts and practices of the following named corporate respondents (hereinafter sometimes collectively referred to as "Health Clubs") all of which are organized, existing and doing business under and by virtue of the laws of the State of Maryland with their offices and principal places of business located at the following addresses:

Holiday Health of Pimlico, Inc.,  
5343 Park Heights Avenue,  
Baltimore, Maryland.

Holiday Health Studios of Glen Burnie, Inc.,  
408 Ritchie Highway, N.W.,  
Glen Burnie, Maryland.

Holiday Health Studios of North Point, Inc.,  
323 North Point Boulevard,  
Baltimore, Maryland.

Holiday Health of Bethesda, Inc.,  
7904 Wisconsin Avenue,  
Bethesda, Maryland.

Holiday Health of Silver Spring, Inc.,  
8533 Georgia Avenue,  
Silver Spring, Maryland.

Holiday Health of Washington, D.C., Inc.,  
1718 "L" Street, N.W.,  
Washington, D.C.

Holiday Health of 40 West, Inc.,  
Pike Park Mall Shopping Center,  
6516 Baltimore National Pike,  
Baltimore, Maryland.

Holiday Health of Huntington, Inc.,  
839-50 New York Avenue,  
Huntington, New York.

Holiday Health of Falls Church, Inc.,  
Seven Corners Medical Building,  
Fairfax County, Virginia.

Holiday Health of Hempstead, Inc.,  
188 Hempstead Turnpike,  
Hempstead, Long Island, New York.

General Health of Laurias, Inc.,  
6577 Roosevelt Boulevard,  
Philadelphia, Pennsylvania.

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General Health of Windsor, Inc.,  
1700 Benjamin Franklin Parkway,  
Philadelphia, Pennsylvania.

General Health of Park City, Inc.,  
3900 Ford Road,  
Philadelphia, Pennsylvania.

Holiday Health of Towson, Inc.,  
Towson Plaza Shopping Center,  
Towson, Maryland.

Century Health Spa of Plainview, Ltd.,  
359 South Oyster Bay Road,  
Plainview, New York.

Holiday Health Spa, Inc.,  
c/o Country Squire Motor Lodge,  
Route #70,  
Cherry Hill, New Jersey.

Spa International, Inc.,  
12117 Rockville Pike,  
Pike Shopping Center,  
Rockville, Maryland.

American Spas, Inc.,  
405 Highway #18,  
East Brunswick, New Jersey.

Holiday Health of Hampton, Inc.,  
Federal Avenue and Capital Beltway,  
Capital Heights, Maryland.

By and through said health clubs, respondent Holiday Universal, Inc., sells memberships in and operates health club facilities in various States of the United States and the District of Columbia.

Respondent Holiday Universal, Inc., owns all of the shares and controls the acts and practices of the corporate respondent Great American Financial Management Corporation, a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland with its office and principal place of business located at 2321 North Point Boulevard in the city of Baltimore and State of Maryland, which corporation in turn, owns all of the shares and controls and directs the acts and practices of the following named corporate respondents (hereinafter sometimes collectively referred to as "Great American") also organized, existing and doing business under and by virtue of the laws of the State of Maryland with their principal places of business located at the following addresses:

1) Trans State Investments, Inc., 2321 North Point Boulevard, Baltimore, Maryland.

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2) Trans State Investments of Glen Burnie, Inc., 95 Aquahart Road, Glen Burnie, Maryland.

3) National Loan Corporation, 2321 North Point Boulevard, Baltimore, Maryland.

4) National Loan Corporation of Glen Burnie, Inc., 95 Aquahart Road, Glen Burnie, Maryland.

By and through said corporate respondents, respondent Holiday Universal, Inc., finances the purchase of health club memberships and collects monthly payments from members of the aforesaid health clubs.

Respondents Frank Bond, Norman Pessin, Donald Goldman and Maury Scarborough are individuals and officers of said corporate respondent Holiday Universal, Inc. They formulate, direct and control the acts and practices of said corporation and of the subsidiary corporations, including the acts and practices hereinafter set forth. Their address is the same as that of Holiday Universal, Inc.

Respondent Bernard Sandler Advertising, Inc. (hereinafter some times referred to as "Sandler Advertising"), is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland with its principal office and place of business located at 809 St. Paul Street, in the city of Baltimore, and State of Maryland.

Respondent Bernard Sandler is an individual and officer of Bernard Sandler Advertising, Inc. He formulates, directs and controls the acts and practices of said corporation including the acts and practices hereinafter set forth. His address is the same as that of the said corporation.

All of the aforementioned respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time last past have been engaged in the advertising, offering for sale and sale of health club memberships of various types; the financing of the purchase of club memberships by the general public; the collection of members' club dues; and the general management and supervision of said health clubs located in various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their business as aforesaid, the respondents, Holiday Universal, Inc., and Sandler Advertising, have caused, and do now cause, advertisements for said health clubs and to appear in newspapers of interstate circulation, including but not limited to *The Washington Post*, *The Washington Evening Star*, *The Washington Daily News*, and on radio and television programs

of interstate transmission, as well as in telephone directories in the District of Columbia and elsewhere, all of which are designed and intended to induce persons to purchase said health club memberships.

In the course and conduct of their business as aforesaid, Holiday Universal, Inc., and its Great American subsidiaries finance memberships in its health clubs and collect dues from its health club members located in various States of the United States and in the District of Columbia.

In the course and conduct of their business, respondents Sandler Advertising and Bernard Sandler are now, and for some time last past have been, the advertising representatives of Holiday Universal, Inc., and now prepare and place, and for some time last past have prepared and placed, for publication, advertising material, including the advertising referred to herein, which is designed to promote the sale of the said health club memberships.

Accordingly, all of said respondents have maintained, and do now maintain, a course and conduct of business in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business as aforesaid, and for the purpose of inducing the purchase of health club memberships, respondents have made and are now making numerous statements and representations in advertisements inserted in newspapers of general circulation and other promotional material with respect to the price of said memberships and the benefits and facilities available for those who become members.

Typical and illustrative of said statements and advertising representations, but not all inclusive thereof are the following:\*

If you are a size 42 \* \* \* You'll be a perfect waist size 39 in 60-90 days!

If you are a size 39 \* \* \* You'll be a perfect waist size 36 in 60-90 days.

If you are a size 36 \* \* \* You'll be a perfect waist size 34 in 60-90 days.

\* \* \* \* \*

Phase 1 Now Closing Out.

Phase 2 to begin shortly with a 25% increase.

ACT NOW! SAVE ½!

\* \* \* \* \*

Wonderful news for you ladies!

You can

**SLENDERIZE**

**BEAUTIFY**

**REPROPORTION**

your figure easily without dieting at **HOLIDAY.**

\* \* \* \* \*

\* Pictorial newspaper advertisement was omitted in printing.

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At Holiday we turn corners into curves. A mere wisp of a 60-90 day program Exclusive exercise holds in your tummy and curves your upper hip, then reaches down in back to round your derriere. Naturally.

Representative and illustrative, albeit neither verbatim nor all inclusive, of oral statements and representations made to prospective purchasers by respondent Holiday Universal, Inc., and its subsidiary corporate health clubs and their salesmen, representatives and agents, are the following:

I am calling to ask you one question and that is, do you have 15 minutes to spend so that I can show you how you can live five more active, healthy years?

\* \* \* \* \*

Do you have 15 minutes to spend so I can show you how you can prevent a heart attack? Would you be interested in learning how?

\* \* \* \* \*

It would be well for you, if you are interested in maintaining your health, appearance and vitality, to sign a contract with us now because we are running reduced rates today and tomorrow the rates will be substantially increased for the same membership.

\* \* \* \* \*

Everyone here at Holiday is getting his membership paid for by bringing in friends.

\* \* \* \* \*

You're in luck since we happen to have a few memberships left on our advertising special.

\* \* \* \* \*

We are open Monday through Friday from 10 to 10 and Saturday from 10 to 8. You can come and go at your convenience without having to worry about a schedule.

\* \* \* \* \*

On the special, we are offering your wife, (husband), a week's free membership so that she (he) can get in at the reduced price.

\* \* \* \* \*

We assure you we can add more years to any individual's life. Why should a man put himself in a position of economic peril because he never insured his ability to work by keeping himself healthy. Suppose a man could work twenty more years than he could have normally by keeping fit. This means a total of up to several hundred thousand dollars and that's the kind of a price tag you can place on a program at Holiday.

\* \* \* \* \*

If you keep yourself in shape you definitely will increase the years of your life. This a life or death matter. Your decision today on whether to join Holiday or not is your decision in favor of a longer life or a shorter life.

\* \* \* \* \*

The only way that you can exercise all of the muscles in your body, and do it properly, is with the professional guidance and scientific equipment which is available only here at Holiday.

PAR. 5. By and through the use of said advertisements, and others of similar import and meaning but not expressly set out herein, and by oral statements and representations made by salesmen, agents and representatives of the respondent health clubs, respondents Holiday Universal, Inc., and its corporate subsidiary health clubs, and Bernard Sandler Advertising, Inc., have represented and are now representing directly or by implication that:

1. There are a limited number of memberships which are available for sale at each of the health clubs at a "special" or reduced price.
2. The prices of memberships and services which are being offered are special prices available only for a limited period of time.
3. In 60 to 90 days, or some similarly short period of time, it is possible for every patron to achieve a substantial reduction in the size of dresses which women wear or the size of men's waists.
4. The results which are depicted in "before" and "after" photographs contained in advertisements, and employed as part of the oral sales presentation, will be achieved by any person participating in the Holiday program.
5. Attendance and participation in the Holiday program assures that one's life span will be extended 10 to 15 years or for some specified longer or shorter period.
6. Attendance and participation in the Holiday program will insure against or prevent heart attacks.
7. Holiday's exercise program is unique.
8. Holiday's exercise program is the only possible way to improve a woman's figure or a man's physique, and is the only way to retain youthful appearance, beauty and vigor.
9. Holiday sells monthly programs, 60 to 90 day programs and programs extending for a similarly limited period of time.
10. The Holiday exercise program will slenderize, beautify and proportion every woman's figure, without regulating caloric intake.
11. Most or many members receive their memberships free of charge by inducing others to become members of Holiday.
12. The health clubs are open 10 a.m. to 10 p.m. on weekdays and 10 a.m. to 8 p.m. on Saturdays, and all advertised facilities are available at all clubs to any patrons during these hours.

PAR. 6. In truth and in fact:

1. There is no limit on the number of memberships available for sale at each of the health clubs. In fact, sales personnel are con-

stantly encouraged to sell memberships as well as to re-sign present members for extended memberships and additional services.

2. The prices at which memberships and services are sold are not special prices nor are they available for only a limited time. They are the usual and customary prices charged for Holiday Health club memberships and services and they have been substantially the same for an extended period of time.

3. It is not possible for every person who might become a patron of these clubs to achieve a specified reduction in dress size or waist size in a stated period of time.

4. The results depicted in "before" and "after" photographs contained in advertising and employed as part of the oral sales presentation will not be achieved by every person participating in the Holiday program, and, in fact, were not achieved by the persons so depicted through participation in Holiday's program or attendance at Holiday facilities.

5. Attendance and participation in the Holiday program will not assure that one's life will be extended for 10 to 15 years or for any other determinable period of time.

6. Attendance and participation in the Holiday program will not insure against or prevent heart attacks.

7. Holiday's exercise program is not unique.

8. Holiday's exercise program is not the only possible way to improve a woman's figure or a man's physique and is not the only way to retain youthful appearance, beauty or vigor.

9. Holiday does not sell monthly programs, 60 to 90 day programs or programs for a similarly limited period of time. Its regular membership is customarily for a period of two years.

10. The Holiday exercise program will not slenderize, beautify and repropotion every woman's figure without dieting.

11. Most Holiday members do not pay for their memberships by inducing others to become members of Holiday.

12. While the health clubs are open during the hours represented, they are not all available to any patron, but rather some of the facilities are limited on specific days of the week to either male or female members. Furthermore, all advertised facilities are not available at each of respondents' health clubs.

Therefore, the statements and representations set forth in Paragraphs Four and Five were and are false, misleading and deceptive.

PAR. 7. In the course and conduct of its business respondent Holiday Universal, Inc., through its subsidiary Great American, and



Great American's subsidiary corporations, has called on Holiday patrons by telephone and in person, at home and at their places of employment, both day and night, in efforts to collect monies alleged to be due for club memberships.

PAR. 8. In the course and conduct of its business respondent Holiday Universal, Inc., through its subsidiary, Great American, and Great American's subsidiary corporations, has represented to patrons of Holiday health clubs, through the use of letters and documents sent to said patrons through the United States mails, that the accounts of such patrons (with Holiday Health Studios) have been turned over to a private attorney engaged in the business of collecting past due accounts and that this attorney will institute legal processes in five days, or some similarly short span of time, if he is not contacted or payment is not received. Great American and its subsidiary corporations have represented, directly or by implication, to said patrons and others, that Great American and its subsidiaries are holders in due course of instruments executed by health club members, and have certain legal rights as a result thereof.

PAR. 9. In truth and in fact, the aforesaid accounts never leave the physical control of Great American or its subsidiaries, and, in fact, are not turned over to an attorney outside of the employ of Great American or its subsidiaries, for the purpose of taking legal actions, nor is legal action instituted in all cases within the time specified in the lawyer's collection letter.

None of respondents become holders in due course of any instruments executed by purchasers of health club memberships. Therefore, the statements and representations as set forth in Paragraph Eight were and are false, misleading and deceptive.

PAR. 10. Respondents, Holiday and its corporate subsidiaries, by means of oral statements and representations of their salesmen and representatives, have misrepresented, or have failed to disclose:

1. The identity, nature, and terms of documents which customers are required to sign.
2. The circumstances under which memberships may be terminated.
3. The fact that customers' notes and contracts would be transferred to collection agencies for collection.

PAR. 11. Respondents, Holiday and its corporate subsidiaries, have represented that customers would obtain "guaranteed results" without disclosing the nature and extent of the guarantee, the manner in which the guarantor will perform, or the identity of the guarantor.

PAR. 12. Respondents, Holiday and its corporate subsidiaries, after

inducing customers to enroll in its health clubs by use of the aforesaid unfair and deceptive acts and practices, require such customers to execute membership agreements which contain provisions authorizing any attorney of any Court of Record to appear for such customers in Courts of Record, if such agreements are not paid when due, and confess judgment against them for any amount appearing due under such agreements, plus 15 percent attorneys' fees and cost of suit, and which further release all errors and waive all rights of appeal and stays of execution thereon. By the terms of said agreements, demand or presentment for payment, notice of dishonor, protest and notice of protest are also waived by such customers.

The terms and conditions of said agreements, including the terms and conditions set forth above, are not disclosed, or are misrepresented, to such customers at the time their signatures are obtained thereon.

Respondents do, in fact, obtain confess judgments against health club members without notice to such members.

PAR. 13. Respondents, Holiday and its corporate subsidiaries, have represented to their prospective customers that, contrary to fact, they will hold customer's applications for membership without accepting same, until further confirmation by the customer.

PAR. 14. In the course and conduct of their aforesaid business and at all times mentioned herein respondents have been and now are in substantial competition in commerce with corporations, firms and individuals engaged in the same general kind and nature of business as that engaged in by the respondents.

PAR. 15. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices have had, and do now have, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said advertisements and representations were and are true, and into the purchase of substantial numbers of respondents' health club memberships by reason of said erroneous and mistaken beliefs, and into the payment of certain monies to respondents which might otherwise have been disputed.

PAR. 16. The aforesaid acts and practices of respondents as herein alleged were and are all to the prejudice and injury of the public and of respondents' competitors and constituted and now constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

## DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents 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 respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents 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 respondents that the 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 respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Holiday Universal Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland with its office and principal place of business located at 2321 North Point Boulevard in the city of Baltimore, State of Maryland.

Holiday Universal, Inc., owns all of the shares and controls and directs the acts and practices of the following named corporate respondents, all of which are organized, existing and doing business under and by virtue of the laws of the State of Maryland:

Holiday Health of Pimlico, Inc.,  
Holiday Health Studios of Glen Burnie, Inc.,  
Holiday Health Studios of North Point, Inc.,  
Holiday Health of Bethesda, Inc.,  
Holiday Health of Silver Spring, Inc.,  
Holiday Health of Washington, D.C., Inc.,  
Holiday Health of 40 West, Inc.,  
Holiday Health of Huntington, Inc.,

Holiday Health of Falls Church, Inc.,  
Holiday Health of Hempstead, Inc.,  
General Health of Laurias, Inc.,  
General Health of Windsor, Inc.,  
General Health of Park City, Inc.,  
Holiday Health of Towson, Inc.,  
Century Health Spa of Plainview, Ltd.,  
Holiday Health Spa, Inc.,  
Spa International, Inc.,  
American Spas, Inc.,  
Holiday Health of Hampton, Inc.,  
Great American Financial Management Corporation,  
Trans State Investments of Glen Burnie, Inc.,  
National Loan Corporation,  
National Loan Corporation of Glen Burnie, Inc.,

Respondent Frank Bond, Norman Pessin, Donald Goldman and Maury Scarborough are officers of Holiday Universal, Inc., and of the various subsidiary corporations heretofore named. They formulate, direct and control the policies, acts and practices of said corporations.

Respondent Bernard Sandler Advertising, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Maryland with its office and principal place of business located at 809 St. Paul Street, Baltimore, Maryland.

Respondent Bernard Sandler is an officer of said respondent Bernard Sandler Advertising, Inc. He formulates, directs and controls the policies, acts and practices of said corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

*It is ordered*, That the respondents, Holiday Universal Inc., a corporation, and Holiday Health of Pimlico, Inc., Holiday Health Studios of Glen Burnie, Inc., Holiday Health Studios of North Point, Inc., Holiday Health of Bethesda, Inc., Holiday Health of Silver Spring, Inc., Holiday Health of Washington, D.C., Inc., Holiday Health of 40 West, Inc., Holiday Health of Huntington, Inc., Holiday Health of Falls Church, Inc., Holiday Health of Hempstead, Inc., General Health of Laurias, Inc., General Health of Windsor, Inc., General Health of Park City, Inc., Holiday Health of Towson, Inc., Century Health Spa of Plainview, Ltd., Holiday Health Spa, Inc., Spa International, Inc., American Spas, Inc., Holiday Health of Hampton, Inc., Great American Financial Management Corpora-

tion, Trans State Investments, Inc., Trans State Investments of Glen Burnie, Inc., National Loan Corporation, National Loan Corporation of Glen Burnie, Inc., corporations and their officers, and Frank Bond, Norman Pessin, Donald Goldman, and Maury Scarborough, individually and as officers of said corporations and respondents' agents, representatives, salesmen and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, and sale of health club memberships or other services or products in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

I. Representing, directly or by implication

(A) That fewer health club memberships are available for sale than are in fact available.

(B) That the price charged for any club membership or service is a special or reduced price unless:

(1) Respondents maintain accounting records with respect to each sale, indicating:

(a) The type of membership and/or services,

(b) The price charged for such membership and/or services,

(c) The terms of each such membership or service,

(d) The name and address of each customer purchasing any such membership or services.

(2) Such price represents a significant reduction from the usual and customary price charged for the same or similar memberships or services.

(C) That a price increase is imminent unless the respondents' management by appropriate corporate action has previously theretofore determined the amount of such increase and the effective date thereof and such increase takes place on the date determined.

(D) That any person will alter their body size or configuration in any specific way or in any specified period of time as a result of participation in respondent's health club program.

(E) That attendance and participation in respondents' programs will insure an extended life span or will insure against or prevent heart attacks or any other bodily malfunctions.

(F) That respondents' exercise programs are unique.

(G) That respondents' programs are the only way to improve a person's figure or physique, appearance, vitality or virility.

(H) That health club memberships are available for any period of time less than the shortest period for which a significant number of memberships are in fact sold to the public.

(I) That respondents' programs are effective in reducing a person's weight without regulating caloric intake.

(J) That a substantial number of respondents' health club members had paid for their memberships by inducing others to join respondents' clubs.

(K) That any facilities are available unless such facilities are available at all clubs referred to in any particular advertisement and are available to persons of either sex at all said clubs during all of said clubs' business hours. If the facilities are not available to all members at all hours at each club referred to in such advertisement, such representation shall be qualified by a clear and conspicuous disclosure in immediate conjunction therewith: *Providing*, That "such facilities and hours may differ at each location." Such disclosure shall appear in a type size larger than the size used to set out the facilities.

(L) That any of the respondents are holders in due course of any notes, contracts or other documents signed or executed by respondents' customers.

(M) That any service or product is guaranteed without disclosing clearly and conspicuously and in immediate conjunction therewith:

- (1) The nature and extent of such guarantee;
- (2) The manner in which the guarantor will perform thereunder;
- (3) The identity of the guarantor.

II. Use of "before and after" or comparison photographs indicating any change of body configuration unless:

(A) The person so depicted has attended respondents' health clubs, *and* the results depicted were achieved through participation in respondents' health club programs; or

(B) The photographs are accompanied by the following statement to appear in clear and conspicuous fashion in immediate conjunction therewith: "Posed photographs."

III. Placing repeated telephone calls to, or making repeated personal contact with, any person at their home, place of

employment, or any other place, for the purpose of obtaining payment on any debt or obligation after such person has clearly indicated he will not heed such telephone or personal requests for payment.

IV. Misrepresenting, directly or by implication that a customer's account has been turned over to an attorney or an independent organization engaged in the business of collecting past due accounts.

V. Failing to clearly and conspicuously disclose in writing in a manner which can be easily understood by any customer and before obtaining his signature on any application for membership, note, contract, agreement, or other document and failing to require all salesmen and other representatives, by means of both oral and written instructions, that they disclose orally in a manner which can be easily understood by any customer, and before obtaining his signature on any application for membership, note, contract, agreement or other document:

(A) That the document is a contract and will become legally binding upon said customer upon its acceptance by the respondents.

(B) The terms and conditions of any promissory note or other instrument of indebtedness in such document.

(C) Each and every circumstance or condition under which a customer's membership may be cancelled or terminated, and any terms, conditions or costs to the customers of such cancellation or termination.

VI. Taking judgment on any note, agreement or other instrument executed by the respondents' health club customers, which contains any provision whereby any party thereto authorizes a confession of judgment against said party or waives any legal rights or defenses which said party would have under a suit on a simple contract, unless the defendant in such suit receives notice from the respondent in accordance with the rules of court of the local jurisdiction where such suit is instituted of his right to assert any defense in such suit which he would have if the suit were a suit on a simple contract in such jurisdiction and unless the defendant is afforded an opportunity for a hearing on the merits in such proceeding prior to judgment.

VII. Obtaining customer's signatures on any application for membership, contract, note or other document which fails to:

(A) Contain a clause allowing customers to avoid said agreement or obligation, within four business days of the date of execution of said document, upon the tender of a

certificate from the customer's physician that participation in respondents' health club programs would impair the health of said customer during the term of said contract: *Provided*, Such certificate is accurate and correct.

(B) Contain a clause which provides for termination of the membership in respondents' health clubs by any member who permanently moves his place of residence beyond a twenty-five (25) mile radius of any health club owned or operated by respondents or by any other person or firm which is a member of a trade or other association to which respondents belong and with whom they have an agreement offering reciprocal membership in a health club with similar facilities without additional charge to such member.

VIII. Representing to any of the respondents' customers that any application for membership, contract, note, or other documents executed by said customer will: (1) be held without acceptance pending further confirmation of the terms and conditions thereof by said customers and not be accepted by respondents until such confirmation or (2) not be accepted by respondents in the normal course of business unless such representation is specifically contained in the terms of the written agreement or in a separate written instrument.

IX. Failing to deliver a copy of this order to cease and desist to all operating divisions of the corporate respondents, to all franchises or licensees and to all officers, managers and salesmen both present and future and to any other person now engaged or who shall become engaged in the sale of health club memberships or collection of club dues as respondents' agent, representative or employee; and failing to secure a signed statement from each of said persons acknowledging receipt of a copy thereof.

*It is further ordered*, That respondents Bernard Sandler Advertising, Inc., a corporation, and Bernard Sandler, individually and as an officer of said corporation, and respondents' agents, representatives, salesmen and employees, directly or through any corporate or other device, do forthwith cease and desist from disseminating or causing the dissemination of any advertising of health clubs, or other products or services, containing any representation or misrepresentations prohibited by Paragraphs I or II hereof.

*It is further ordered*, That respondents notify the Commission at least 30 days prior to any proposed change in any of the corporate respondents, such as dissolution, assignment or sale resulting in the



