

Complaint

88 F.T.C.

IN THE MATTER OF
MEDICAL SERVICE CORPORATION OF SPOKANE
COUNTY, ET AL.

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

Docket C-2853. Complaint, Dec. 3, 1976 — Decision, Dec. 3, 1976

Consent order requiring a Spokane, Wash., operator of a "Blue Shield" health care payment plan and an association of participating physicians, among other things, to cease boycotting health maintenance organizations (HMO's), HMO physicians or other physicians who practice on other than a fee-for-service basis.

Appearances

For the Commission: *Jonathan E. Gaines* and *Selig S. Merber*.

For the respondents: *Arthur W. Harrigan, Jr., Lane, Powell, Moss & Miller*, Seattle, Wash.

COMPLAINT

The Federal Trade Commission, having reason to believe that the above-named respondents have violated and are violating the provisions of Section 5 of the Federal Trade Commission Act, as amended (15 U.S.C. §45), and that a proceeding by it in respect thereof would be in the interest of the public, hereby issues this complaint, stating its charges as follows:

RESPONDENTS

PARAGRAPH 1. Medical Service Corporation of Spokane County (hereinafter "MSC") is a corporation organized and existing under the laws of the State of Washington, with its principal offices in Spokane, Washington.

PAR. 2. Medical Service Bureau of Spokane County (hereinafter "MSB") is an unincorporated association of physicians. Except as hereinafter alleged, membership in MSB is open to all members of the medical societies of Adams, Benton, Douglas, Ferry, Franklin, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, and Stevens Counties of the State of Washington (hereinafter "Eastern Washington"). Over 300 physicians, constituting over 90 percent of all physicians in Eastern Washington, are members of MSB.

TRADE AND COMMERCE

PAR. 3. In Eastern Washington, physicians are compensated for

services on either a fee-for-service basis or a prepayment basis. Health care plans which compensate physicians by the prepayment method are known as health maintenance organizations (hereinafter "HMO's"). In 1975, approximately \$15 million of paid physician services were rendered in Eastern Washington. Over 95 percent of such services were supplied on a fee-for-service basis.

PAR 4. Except to the extent that competition has been restrained as herein alleged, physicians providing services on a fee-for-service basis are in competition with each other and with HMO's in the provision of physician services.

PAR. 5. MSC is engaged in the business of establishing and administering plans pursuant to which it contracts with physicians rendering services on a fee-for-service basis to provide such services to consumers who subscribe to the plan. Physicians who enter into such contracts are known as participating physicians. MSC's contracts with subscribers and participating physicians usually provide that MSC will reimburse participating physicians for covered services rendered to subscribers and that such reimbursement will constitute payment in full of the participating physicians' fees for such services. Most MSC contracts with subscribers apply, with minor exceptions, only to services rendered by participating physicians.

PAR. 6. At least 25 percent of the population of Eastern Washington subscribes to an MSC plan. Over 90 percent of all practicing physicians in Eastern Washington are participating physicians in MSC. MSC is the only entity in Eastern Washington which is affiliated with National Association of Blue Shield Plans and offers consumers health benefit plans utilizing participating physicians. Physicians value the status of participating physicians and are disadvantaged by deprivation of such status.

JURISDICTION

PAR 7. Substantial Federal government funds flow across State lines into Eastern Washington to pay physicians' fees and encourage the development of HMO's. In the conduct of their business, MSB and MSC, collectively and severally, engage, *inter alia*, in the following activities which could also be engaged in by HMO's:

(a) receiving, treating, and contracting for the treatment of patients from other States and countries;

(b) receiving and administering substantial sums of money from the Federal government and from private insurers engaged in interstate commerce to pay physician fees;

(c) paying out substantial sums of money across State lines to health

care providers or plans which have rendered or paid for services to MSC subscribers, which services MSC is obligated to pay for;

(d) investing claim reserves in the interstate money market;

(e) participating in reciprocal arrangements for the provision of medical care to subscribers of medical care plans throughout the country which belong to the National Association of Blue Shield Plans, in the course of which MSC sends and receives substantial sums of money across State lines;

(f) prescribing medicines which are shipped in interstate commerce.

ACTS AND PRACTICES

PAR. 8. MSC and MSB have individually, collectively and collusively engaged in the following acts, practices, and methods of competition for the purpose, and with the effect, of boycotting HMO's and physicians providing services to or for HMO's.

(a) Since its formation in 1933, MSC has followed the practice of:

(i) entering into provider contracts only with physicians who are or could be members of MSB;

(ii) refusing to enter into provider contracts with physicians who enter into similar contracts with other persons or organizations.

(b) From its formation in 1933 until in or about October 1974, MSB has followed the practice of:

(i) refusing membership to any physician who agrees to provide services to or for an HMO; and

(ii) permitting its members to become participating physicians only in MSC.

(c) Since in or about October 1974, MSB has provided in its By-Laws that:

(i) membership would be granted to physicians who have contracted to provide services to an HMO only if the HMO is approved by MSB; and

(ii) members are permitted to become participating physicians for organizations other than MSC only if such organizations are approved by MSB.

PAR. 9. In Eastern Washington, as a result of the acts, practices, and methods of competition alleged in paragraphs one through eight hereinabove,

(a) the prices of physician services have been stabilized and otherwise interfered with;

(b) competition among physicians has been restrained;

(c) entry of HMO's into the physician services market and the growth of HMO's have been restrained;

(d) the development of organizations offering health benefit plans utilizing participating physician contracts has been restrained; and

(e) consumers have been deprived of the benefits of competition among physicians, fee-for-service medical care plans, and physician prepayment medical care plans.

VIOLATION

Par. 10. The acts, practices, and methods of competition alleged herein individually and in conjunction with each other, constitute unfair methods of competition or unfair acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act by the respondents herein, individually and collectively.

DECISION AND ORDER

The Federal Trade Commission having issued a complaint charging that the respondents named in the caption hereof have violated the provisions of Section 5 of the Federal Trade Commission Act, 15 U.S.C. §45; and

Respondents and complaint counsel having executed an agreement containing a consent order, an admission by the respondents of the Commission's jurisdiction and the jurisdictional facts set forth in the aforesaid complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission that the law has been violated, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter 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 comments filed thereafter pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.32 of the Commission's Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondent Medical Service Corporation of Spokane County is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its principal place of business located at Spokane, Washington.

2. Medical Service Bureau of Spokane County is an unincorporated association with its principal place of business located at Spokane, Washington.

3. The Federal Trade Commission has jurisdiction of this proceeding and of the Respondents, and this proceeding is in the public interest.

ORDER

I

It is ordered, That the following definitions shall apply in this order.

A. "MSB" means respondent Medical Service Bureau of Spokane County, its successors and assigns, its officers and directors, and all the members thereof as of January 1, 1976, individually and collectively.

B. "MSC" means respondent Medical Service Corporation of Spokane County, its successors and assigns, and its officers, directors, and members.

C. "Participating physician" means a physician who is paid or reimbursed by MSC for service rendered to an MSC subscriber or policyholder (including covered dependents), pursuant to a participating physician agreement with MSC.

D. "Health maintenance organization" means a health care payment plan which compensates physicians by a prepayment method, as opposed to the fee-for-service method.

II

It is further ordered, That neither MSC nor MSB shall directly or indirectly enter into, adhere to, promote or follow any course of conduct, practice or policy, or any agreement or understanding which (a) discriminates against any health maintenance organization, or (b) discriminates against any lawfully practicing physician, or excludes any lawfully practicing physician from being a participating physician in MSC, by reason of the fact that such physician practices medicine, in whole or in part, on other than a fee-for-service basis, or by reason of the fact such physician is associated in any way with a health maintenance organization.

III

It is further ordered, That within sixty (60) days following the date of issuance of this order MSC shall revise its Charter and By-Laws and MSB shall revise its By-Laws, to conform with the requirements of this order.

IV

It is further ordered, That MSC shall mail a copy of this order and of the complaint in this proceeding to each trustee, member, and officer of MSC and to each person who was a member of MSB as of January 1, 1976.

v

It is further ordered, That nothing in this order shall be construed to exempt MSC or MSB from compliance with the antitrust laws or the Federal Trade Commission Act, and that the fact that any activity is not prohibited by this order shall not bar a challenge to it under such laws and statute.

vi

It is further ordered, That MSB and MSC shall, within sixty (60) days after service upon it of this order, and that MSC annually for each of the five (5) years thereafter, shall file or cause to be filed with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

vii

It is further ordered, That MSC notify the Commission at least thirty (30) days prior to any proposed change in MSC such as dissolution, assignment or sale resulting in the emergence of a successor corporation, or any other change in the corporation which may affect compliance obligations arising out of this order.

Order

88 F.T.C.

IN THE MATTER OF
KRAFTCO CORPORATION, ET AL.

Docket 9035. Interlocutory Order, Dec. 8, 1976

Commission directs parties to submit memoranda responding to relative merits of ALJ's proposed order and the consent order in IBM case, File 761 0063.

Appearances

For the Commission: *Ronald A. Bloch, Clinton R. Batterton, and Joseph Tasker, Jr.*

For the respondents: *David C. Bogan and C. Lee Cook, Jr., Chadwell, Keyser, Ruggles, McGee & Hastings, Chicago, Ill.; Howard Hoosin and William G. Taffe, Glenview, Ill.; William E. Willis, Sullivan & Cromwell, New York City; and Frederic L. Ballard, Ballard, Spahr, Andrews & Ingersoll, Philadelphia, Pa.*

ORDER REQUIRING ADDITIONAL BRIEFING

The Commission recently accepted and placed upon the public record for comment a consent order against International Business Machines Corporation, File No. 761 0063, pertaining to an allegedly unlawful interlocking directorate. At oral argument in Dkt. 9035 counsel were invited to comment upon the IBM order, but the necessity and purpose of such comment were left subject to question. The Commission desires the views of the parties in this matter concerning the following:

Assuming *arguendo* that the Commission finds that SCM has violated the law and that a remedial order is deemed appropriate, is the remedial approach taken in the IBM consent order preferable (and in what respects and why) to the order recommended in this case by the administrative law judge?

Receipt of the views of respondent SCM will, of course, be without prejudice to the position expressed in its brief that the consent order signed by respondent Kraftco is the appropriate one, but the Commission seeks the views of respondent as to the relative merits of the ALJ's proposed order and the IBM order. Therefore,

It is ordered, That within fifteen days from receipt of this order, the parties shall submit memoranda in response to the above-mentioned question.

IN THE MATTER OF
COMMERCIAL PROGRAMMING UNLIMITED, INC., ET AL.
CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND TRUTH IN LENDING ACTS

Docket 9029. Complaint, Apr. 23, 1975 — Decision, Dec. 9, 1976

Consent order requiring a New York City training school for data processing and computer programming, among other things to cease misrepresenting employment opportunities and demands for graduates of their training courses; misrepresenting the effectiveness of their job placement service; and misrepresenting the advantages of taking additional courses. Respondents must advise prospective students of their right to cancellation and refund and provide certain written disclosures relating to job placement and dropout rates of former students. Additionally, respondent is required to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such disclosures as are required by Regulation Z of the said Act.

Appearances

For the Commission: *Alice T. Petizon* and *Joseph C. Galardi*.

For the respondents: *David Edelman* and *Walter S. Jennings*, New York City.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act and the Truth in Lending Act and the implementing regulation promulgated thereunder, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Commercial Programming Unlimited, Inc., a corporation, and Walter Small, individually and as an officer of said corporation, hereinafter referred to as respondents, have violated the provisions of said Acts and implementing regulation, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PAR. 1. Respondent Commercial Programming Unlimited, Inc., is a corporation, organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 853 Broadway, New York, New York.

Respondent Walter Small is an individual and an officer of the corporate respondent. He formulates, directs and controls the policy, acts and practices of the corporation, including the acts and practices

hereinafter set forth. His business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the offering for sale and sale of courses of instruction in electronic data processing, including courses in computer programming, console operation and keypunch to the public.

COUNT 1

Alleging violations of Section 5 of the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference herein as if fully set forth verbatim.

PAR. 3. In the course and conduct of their business, and for the purpose of inducing prospective students to enroll in their courses of instruction, respondents engage in the advertising of said courses of instruction in newspapers of interstate circulation, and the sale of said courses to consumers located in various States of the United States. In the further course and conduct of their business, respondents also cause pamphlets, brochures, checks and other documents and communications pertaining to said courses to be transmitted by the United States mail and other means in or affecting commerce. Respondents maintain, and at all times mentioned herein have maintained, a substantial course of trade in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business and for the purpose of inducing prospective students to enroll in said courses of instruction, respondents have made statements orally and in writing, both specific and implied, in newspaper advertisements and other advertising and promotional material, and directly to said prospective students in the sales presentations made by their sales persons and other representatives. The following are typical and illustrative of the aforesaid statements and representations, but not all inclusive thereof:

- (a) Jobs waiting – thousands of new trainees needed in Data Processing field.
- (b) Interviews now being conducted to select candidates for intensive program * * * to satisfy acute need for IBM trained data processing employees in business and government.
- (c) * * * Leaders in the field predict that in the next 20 years it will be practically impossible for well-trained people to be out of work.
- (d) * * * The growth of the data processing industry has been so phenomenal that an acute shortage of well-trained qualified personnel exists.
- (e) There is a demand for well-trained people in this field and it will not be satisfied for many years.
- (f) Business firms using IBM equipment are making very attractive offers to urgently needed graduate trainees. Pay is high. Raises are frequent. Opportunity for advancement is unlimited.

(g) Trainees need give up their present jobs only when they accept better jobs in the data processing field.

(h) CPU (Commerical Programming Unlimited) offers on-the-job assistance and counseling, and also maintains a FREE PLACEMENT SERVICE.

(i) To become a computer programmer, there are no rigid requirements. One does not have to understand the electronics of a computer and mathematical training is not a necessity. Of primary importance is that one have good reasoning ability and a logical orderly mind.

(j) * * * Ask whether an aptitude test is required before acceptance for a programming course as this is a requirement for most legitimate schools. The authentic IBM Programmers Aptitude Test is given at CPU to applicants at no charge.

(k) Many authorities consider them (respondents' texts and instructional manuals) to be among the finest in the entire field of data processing.

(l) No other school can compare with the quality of the course.

PAR. 5. By and through the use of the above quoted statements and representations, and others of similar import and meaning but not expressly set out herein, respondents represent and have represented, directly or by implication, that:

1. All that is necessary for the placement of respondents' graduates as programmers, console operators, or as trainees in these areas is the completion of the applicable courses offered by respondents.

2. Requirements such as a college education or job experience are not necessary or advantageous for the placement of graduates of said courses in positions in the electronic data processing field.

3. There is a significant or substantial need or demand for all or most of respondents' graduates in positions for which respondents train such persons.

4. Respondents had a reasonable basis from which to conclude that:

(a) there was at the time such representations were made, or

(b) there would be at the time that persons then enrolling graduated from respondents' courses,

a significant or substantial need or demand for all or most of respondents' graduates in positions for which respondents train such persons.

5. Respondents maintain a free placement service to assist their graduates in obtaining employment, and this placement service has been successful in obtaining jobs for graduates who have sought its assistance.

6. All or substantially all of respondents' graduates are able, on graduation, to secure the positions for which respondents have trained them, and can expect virtually continuous employment in such positions for the next twenty years.

7. Respondents had a reasonable basis from which to conclude that:

- (a) At the time such representations were made a substantial number of respondents' graduates were being hired, or
- (b) A substantial number of persons then enrolling in respondents' courses would upon graduation, be hired

in positions for which respondents train such persons, and that they can expect virtually continuous employment in such positions for the next twenty years.

8. Students who wish to enroll in said courses of instruction are given an aptitude test endorsed by IBM which determines their suitability for computer programming and their chances for success in the computer programming field.

9. Acceptance in or admission to said courses of instruction is determined to a substantial degree by a prospective student's aptitude for computer programming as determined by the IBM aptitude test given to such students prior to enrollment.

10. There is a reasonable basis from which to conclude that a substantial number or percentage of the graduates of said courses of instruction earn high pay and receive frequent raises.

PAR. 6. In truth and in fact:

1. The completion of respondents' courses is not sufficient in many instances to enable graduates of said courses to secure placement as programmers, console operators, or as trainees in these areas.

2. In most instances college education or job experience is advantageous for the placement of respondents' graduates in positions in the electronic data processing field and in many instances college education or job experience is necessary for such placement.

3. At the time it was so represented there was not a significant or substantial need or demand for all or most of respondents' graduates, in positions for which respondents train such persons.

4. Respondents had no reasonable basis from which to conclude that:

- (a) there was at the time such representations were made, or
- (b) there would be at the time that persons then enrolling graduated from respondents' courses,

a significant or substantial need or demand for all or most of respondents' graduates in positions for which respondents train such persons.

5. While respondents ostensibly maintain a placement office, this office provides graduates with little or no advice or assistance in securing employment, but tries instead through a variety of means to discourage them from using its service. The placement assistance

furnished by respondents is not free, but rather is included in the tuition cost of respondents' courses.

6. All or substantially all of respondents' graduates are not able, on graduation, to secure the positions for which respondents have trained them, and they cannot expect virtually continuous employment in such positions for the next twenty years.

7. Respondents had no reasonable basis from which to conclude that:

- (a) at the time such representations were made a substantial number of respondents' graduates were being hired, or
- (b) a substantial number of persons then enrolling in respondents' courses would upon graduation, be hired

in positions for which they have been trained or that they can expect virtually continuous employment in such positions for the next twenty years.

8. The IBM aptitude test given by respondents is not a reliable indicator of the individual's suitability for computer programming or his chances for success in the computer programming field.

9. Acceptance in or admission to said courses of instruction is not determined by programming aptitude as measured by the IBM aptitude test, since persons who did not qualify for the course based on such tests were accepted in said program.

10. Respondents had no reasonable basis from which to conclude that a substantial number or percentage of the graduates of said courses of instruction earn high pay and receive frequent raises.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof were, and are, false, misleading, deceptive and unfair acts and practices.

PAR. 7. Through the use of the aforesaid advertisements and otherwise, respondents have represented directly or by implication that there was at the time of the representations or would be at the time of graduation from respondents' courses a significant or substantial need or demand for all or most of respondents' graduates in positions for which respondents train such persons; that graduates of said courses would be virtually assured of securing employment in positions for which they have been trained, and that they could expect virtually continuous employment in such positions for the next twenty years; and that a substantial percentage or number of graduates of such courses of instruction earn high pay and receive frequent raises. At the time of the said representations respondents had no reasonable basis adequate to support such representations. Therefore the aforesaid acts and practices were, and are, unfair acts or practices.

PAR. 8. In the further course and conduct of their aforesaid business, and for the purpose of inducing prospective students to enroll in their courses of instruction, respondents have made representations, both specific and implied, directly to said prospective students in the oral sales presentations made by their sales persons and other representatives, that it is advantageous to take more than one of said courses of instruction to gain proficiency in a particular area of data processing and to enhance their employment prospects, and that respondents own a computer located on the premises of their place of business which is readily accessible and will enable students to gain sufficient practical experience to aid in securing employment.

PAR. 9. In truth and in fact, computer programming, console operation and keypunch are distinct occupational categories, and knowledge of one category is not of substantial benefit for employment in any other. Furthermore, since employment prospects for graduates of said courses are not promising, additional courses of instruction do not serve to enhance a student's employment prospects. Furthermore, respondents do not own a computer, but instead rent on a part-time basis a machine at a location distant from their place of business, which does not provide students ready access to a computer to gain adequate practical experience to obtain employment. Therefore, the statements and representations as set forth in Paragraph Eight hereof were, and are, false, misleading, deceptive and unfair.

PAR. 10. Respondents offered for sale courses of instruction intended to prepare graduates thereof for entry-level employment as computer operators, computer programmers or computer technicians without disclosing in advertising or through their sales representatives: (1) the percentage of recent graduates of each school for each course offered, that were able to obtain employment in the positions for which they were trained; (2) the employers that hired any such recent graduates for each course offered; (3) the initial salary any such recent graduates received for each course offered; and (4) the percentage of recent enrollees of each school for each course offered that have failed to complete their course of instruction. Knowledge of such facts would be an indication of the probability of graduating from respondents' courses and would indicate the possibility of securing future employment upon graduating and the nature of such employment. Thus, respondents have failed to disclose material facts, which if known to a consumer would be likely to affect his or her consideration of whether or not to purchase such course of instruction. Therefore, the aforesaid acts and practices were, and are, false, misleading, deceptive or unfair acts or practices.

PAR. 11. Through the aforesaid acts and practices, respondents have

induced persons to pay or to contract to pay to respondents substantial sums of money for courses of instruction which were of little use or value to said persons in obtaining employment in the jobs for which they were purportedly trained. Respondents have received the said sums of money and have failed to offer refunds or to refund said sums of money or to rescind the contractual obligations of said persons.

Therefore, the aforesaid acts and practices, the receipt of and failure to offer to refund or to refund said sums of money, and the failure to rescind said contractual obligations were, and are, unfair or deceptive acts or practices.

PAR. 12. In the course and conduct of their 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 sale of courses covering the same or similar subjects.

PAR. 13. The use by respondents of the aforesaid false, misleading, unfair or deceptive statements, representations, acts and practices, and their failure to disclose material facts, as aforesaid, have had, and now have, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were, and are, true and complete, and to induce a substantial number thereof to purchase respondents' courses by reason of said erroneous and mistaken belief.

PAR. 14. 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 or affecting commerce and unfair or deceptive acts or practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act.

COUNT II

Alleging violations of the Truth in Lending Act, and the implementing regulation promulgated thereunder, and of the Federal Trade Commission Act, the allegations of Paragraphs One and Two hereof are incorporated by reference herein as if fully set forth verbatim.

PAR. 15. In the ordinary course of their business as aforesaid, respondents regularly extended consumer credit, as "consumer credit" is defined in Regulation Z, the implementing regulation of the Truth in Lending Act, duly promulgated by the Board of Governors of the Federal Reserve System.

PAR. 16. Subsequent to July 1, 1969, in the ordinary course of their business as aforesaid, and in connection with their credit sales, as "credit sales" are defined in Regulation Z, respondents have caused and

are causing their customers to enter into contracts for the sale of respondents' services.

PAR. 17. By and through the use of these contracts, respondents have not provided their customers with all credit cost information, as required by Regulation Z, the implementing regulation of the Truth in Lending Act, in that they have:

1. Failed to use the term "total downpayment" to describe the sum of all fees included in the downpayment, as required by Section 226.8(c)(2) of Regulation Z.

2. Failed to use the term "amount financed" to describe the amount of credit of which the customer has the actual use, as required by Section 226.8(c)(7) of Regulation Z.

3. Failed to disclose the sum of the payments scheduled to repay the indebtedness, and to describe that sum as the "total of payments," as required by Section 226.8(b)(3) of Regulation Z.

4. Failed to disclose the "annual percentage rate" accurately to the nearest quarter of one percent, in accordance with Section 226.5 of Regulation Z, as required by Section 226.8(b)(2) of Regulation Z.

PAR. 18. Pursuant to Section 103(q) of the Truth in Lending Act, respondents' aforesaid failure to comply with the provisions of Regulation Z constitute violations of that Act and, pursuant to Section 108 thereof, respondents have thereby violated the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore issued its complaint charging the respondents named in the caption hereof with violation of Section 5 of the Federal Trade Commission Act, as amended, and the Truth in Lending Act and Regulation Z, and the respondents having been served with a copy of that complaint; and

The Commission having withdrawn the matter from adjudication for the purpose of considering settlement by the entry of a consent order; 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 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 set forth in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of

sixty (60) days, now in further conformity with the procedures prescribed in Section 3.25(d) of its Rules, the Commission hereby makes the following jurisdictional findings, and enters the following order.

1. Respondent Commercial Programming Unlimited, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 853 Broadway, New York, New York.

Respondent Walter Small is an officer of the corporate respondent. He formulates, directs, and controls the acts and practices of the corporate respondent including the acts and practices hereinafter set forth. His address is the same as that of the corporate respondent.

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

I

It is ordered, That respondents Commercial Programming Unlimited, Inc., a corporation, its successors and assigns, and its officers, and Walter Small, individually and as an officer of the corporate respondent, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division, franchise or other device in connection with the creating, advertising, promoting, offering for sale, sale or distribution of courses of study, training or instruction in the field of electronic data processing or any other course in any field, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, orally, in writing or in any other manner, directly or by implication, that:

(a) College education is not necessary in all cases or advantageous for the placement of persons as computer programmers or computer programmer trainees; job experience is not necessary in all cases or advantageous for the placement of persons in the field of electronic data processing; or otherwise representing that persons with a high school education or its equivalent will achieve employment in the electronic data processing field, unless in every such instance it is disclosed, in immediate and conspicuous conjunction therewith, that college education or job experience is advantageous for placement; or misrepresenting in any manner the qualifications necessary to achieve employment in any field.

(b) There is a substantial demand, or demand of any size or proportion, for persons completing any of the courses offered by the

