

agreement; (6) the number, length, and dates of negotiation and mediation sessions held, including the nature and extent of all other voluntary arrangements utilized; (7) if approval of binding arbitration is requested, a statement as to whether any of the proposals to be submitted to the arbitrator contain questions concerning the duty to bargain, a statement of each party's position concerning such questions, and a description of the arbitration procedures to be used; (8) if the impasse arises from an agency determination not to establish or terminate a compressed work schedule under the Federal Employees Flexible and Compressed Work Schedules Act, the schedule or proposed schedule which is the subject of the agency's determination and the finding on which the determination is based, including, in the case where the finding is made by a duly authorized delegatee, evidence of a specific delegation of authority to make such a finding; (9) the name and signature of the party or parties filing the request; and (10) an estimate of the total annual reporting hours and record keeping burden.

**Members of the Affected Public:** Federal employees representing Federal agencies in their capacity as employer, and Federal employees and employees of labor organizations that are representing those labor organizations, are the members of the public who may file the Request for Assistance form.

**Estimation of the Total Numbers of Hours Needed to Prepare the Information Collection:** It should normally take a party no longer than one hour to complete the Request for Assistance form for filing with the Panel. In FY 1997, 148 requests for assistance were filed with the Panel.

**Authority:** Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chap. 35, as amended.

Dated: March, 19, 1998.

**H. Joseph Schimansky,**

*Executive Director, Federal Service Impasses Panel.*

[FR Doc. 98-7586 Filed 3-24-98; 8:45 am]

BILLING CODE 6727-01-P

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## FEDERAL TRADE COMMISSION

[File No. 972-3025]

### Civic Development Group, Inc., et al.; Analysis To Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violations of

federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before May 26, 1998.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

**FOR FURTHER INFORMATION CONTACT:**

Eileen Harrington or Hugh Stevenson, FTC/H-238, Washington, D.C. 20580. (202) 326-3127 or 326-3511.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 18, 1998), on the World Wide Web, at "<http://www.ftc.gov/os/actions97.htm>." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326-3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

### Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted an agreement to a proposed consent order from Civic Development Group, Inc., and Community Network, Inc., corporations, and Scott Pasch and David Keezer, individually and as officers of Civic Development Group, Inc., and Richard McDonnell, individually and as an officer of Community Network, Inc. ("Respondents").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns representations made by Respondents when they solicit consumers by telephone to contribute money to the non-profit organization, the American Deputy Sheriffs' Association ("ADSA").

The Commission's complaint in this matter charges Respondents with engaging in unfair or deceptive acts or practices in connection with soliciting consumers by telephone to contribute to the ADSA. According to the complaint, in the course of making such solicitations, Respondents misrepresent to consumers that: money contributed by consumers to the ADSA had in the past benefitted law enforcement offices in the town, city, county, or state in which the consumers reside; money contributed to the ADSA by consumers had been used in the past to purchase bullet-proof vests for law enforcement offices in the town, city, county, or state in which the consumers reside, and money contributed to the ADSA by consumers had been used in the past to pay death benefits to the survivors of deceased law enforcement officers who resided or worked in the town, city, county, or state in which the consumers reside.

The complaint also alleges that Respondents misrepresented that: Money contributed to the ADSA by consumers would be used to benefit law enforcement offices in the town, city, county, or state in which the consumers reside; money contributed to the ADSA by consumers would be used to purchase bullet-proof vests for law enforcement offices in the town, city, county, or state in which the consumers reside; and money contributed to the ADSA by consumers would be used to pay death benefits to the survivors of deceased law enforcement officers who reside or work in the town, city, county, or state in which the consumers reside.

The consent order contains provisions designed to remedy the violations charged and to prevent Respondents from engaging in similar deceptive or unfair acts or practices in the future.

Paragraph I of the order prohibits Respondents, in connection with a telephone solicitation, from misrepresenting the purpose for which

charitable contribution has been or will be used.

Paragraph II of the order prohibits Respondents, in connection with a telephone solicitation, from misrepresenting the geographic location of the charity, organization or program that has benefitted or will benefit from the charitable contribution.

Paragraph III of the order prohibits Respondents, in connection with a telephone solicitation, from misrepresenting any fact material to the decision of any person to make a charitable contribution.

Paragraph IV of the order requires that Respondents, in connection with telephone solicitations, adopt an education and monitoring program designed to ensure compliance with Paragraph I through III of the order. As part of this education and monitoring program, Respondents must tape-record and review 1,000 solicitation telephone calls every thirty days.

Paragraph V of the order provides that in any action brought by the Commission to enforce the order, unless Respondents know or reasonably should have known of the violation, there shall be a rebuttable presumption that Respondents exercised good faith in complying with Parts I through III of the order, if Respondents show by a preponderance of the evidence that they have established and maintained the education and monitoring program mandated in Paragraph IV of the order.

Paragraph VI of the order requires Respondents, for a period of five (5) years, to maintain and permit representatives of the Commission access to Respondents' business premises to inspect and copy all documents relating in any way to any conduct that is the subject of this order.

Paragraph VII of the order requires that Respondents, for a period of five (5) years, permit representatives of the Commission to interview and depose, under oath, at the Respondents' business premises, the officers, directors, or employees of any such business with regard to compliance with the terms of this order.

Paragraph VIII of the order prohibits Respondents from providing the means and instrumentalities to, or otherwise assisting and facilitating any person who Respondents know or should know makes false or misleading representations about the purpose for which charitable contributions have been or will be used, the geographic location of the charity, organization or program that has benefitted or will benefit from charitable contributions or any fact material to any person to make any charitable contribution.

Paragraph IX of the order requires that Respondents, for a period of five (5) years from the date of entry of the order, deliver a copy of the order to all current and future principals, officers, directors, and managers of Respondents' companies or of any affiliated companies having responsibilities with respect to the subject matter of the order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order.

Paragraph X of the order requires that Respondents Civic Development Group, Inc. and Community Network, Inc. notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order. Provided, however, that, with respect to any proposed change in the corporation about which Respondents learn less than thirty (30) days prior to the date such action is to take place, Respondents shall notify the Commission as soon as is practicable after obtaining such knowledge.

Paragraph XI of the order requires that Respondents Community Network, Inc., Civic Development Group, Inc., and their successors and assigns and Respondents Scott Pasch, David Keezer, and Richard McDonnell, within sixth (60) days after the date of service of the order, and again 180 days following entry of the order, and again at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Paragraph XII of the order requires that Respondents Scott Pasch, David Keezer, and Richard McDonnell, for a period of ten (10) years after the date of issuance of the order, notify the Commission of the discontinuance of their current business or employment, or of their affiliation with any new business or employment.

Paragraph XIII of the order provides for a twenty (20) year sunset provision.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify any of their terms.

By direction of the Commission, Commissioner Azcuenaga and Commissioner Swindle not participating.

**Donald S. Clark,**  
Secretary.

**Statement of Chairman Robert Pitofsky and Commissioner Sheila F. Anthony**

Today, we issue the attached administrative settlement for public

comment. The proposed agreement would resolve serious allegations about misrepresentations made by respondents in connection with their telephone fundraising efforts on behalf of a non-profit organization. We present our views on one particular provision in the proposed Order to ensure that it is not misconstrued to suggest to some that the Commission is steering in a new direction.

Part V of the Order provides respondents with a limited rebuttable presumption that they have exercised good faith in complying with key injunctive provisions of the Order, if respondents show, by a preponderance of the evidence, that they have established and maintained the education and compliance program mandated in Part IV. In this case, including this provision is acceptable.

Part IV of the Order establishes numerous and significant monitoring and education requirements designed to ensure that respondents make no deceptive representations in connection with any charitable solicitations by telephone. These requirements include, but are not limited to: disseminating a brochure that discusses the obligations of a professional fundraiser to current and future employees and agents (Part IV.A); monitoring a random and representative sample of employees and agents in each location from which solicitations are made to ensure compliance with the injunctive provisions (Part IV.C); and taping a random and representative sample of telephone solicitations in each location in which solicitations are made and reviewing a random sample of at least 1000 such calls every 30 days to ensure compliance with the injunctive provisions (Part IV.D). Part IV.E further requires that respondents terminate any employee or agent who makes more than one material representation that violates the injunctive provisions in any consecutive twelve-month period.

Given the circumstances of this case as well as the strength and scope of the monitoring and education requirements in Part IV, we are of the view that the limited rebuttable presumption delineated in Part V is acceptable. (Under current law, good faith is among those factors relevant to determining an appropriate civil penalty amount where an order has been violated. See *United States v. Danube Carpet Mills, Inc.* 737 F.2d 998, 993-94 (11th Cir. 1984); *United States v. Reader's Digest Ass'n*, 662 F.2d 955, 967-68 (3d Cir. 1981), cert. denied, 455 U.S. 908 (1982)). This provision does not establish a defense to any subsequent enforcement actions. Similarly, it in no way precludes the

Commission from taking action should it determine that respondents are not in full compliance with any final order. Furthermore, the Commission continues to adhere to its Policy Statement Concerning Errors and Omissions Clauses in Consent Decrees, 59 F.R. 34440 (July 5, 1994). We consider it highly unlikely that other facts would present themselves—in the administrative or federal court context—that would warrant application of the same or a similar rebuttable presumption.

#### Statement of Commissioner Mozelle W. Thompson

I am writing to express my concurrence with the Statement of Chairman Robert Pitofsky and Commissioner Sheila F. Anthony on the proposed consent agreement that the Commission accepted today for public comment in *Civic Development Group, Inc.* I have voted to support this proposed agreement in recognition of the allegation of serious harm caused by respondents through their fraudulent telemarketing fundraising and the need to place such respondents under order. However, one provision of the order raises issues addressed by my two aforementioned colleagues and that I wish also to address through this Statement.

Part V of the Order in *Civic Development Group* states that in any Commission action to enforce the order, "there shall be a rebuttable presumption that the respondents have exercised good faith in complying with [substantive provisions of the order] if the respondents show, by a preponderance of the evidence, that they have established and maintained the education and compliance program mandated in Paragraph IV of the order \* \* \*."

I question the propriety of accepting a consent agreement that results in shifting the burden of proof to benefit a party that the Commission is claiming engaged in unlawful conduct. There are serious risks in permitting any party or adjudicative body to interfere with the Commission's well-supported prosecutorial discretion, and it could be argued that the limited rebuttable presumption in Part V allows respondent's compliance with the procedural requirements to detract from the Commission's ability to pursue substantive violations.

For purposes of this case only, I accept the order's burden-shifting provision and concur with the Chairman, Commissioner Anthony, and staff that this order is acceptable based on the unique and specialized aspects of

this case. Accordingly, in my view, the order presented here should not be regarded as having precedential value.

I trust that staff will continue to work closely with the company to monitor its compliance with the stringent requirements of Part IV as well as all other requirements of the order.

[FR Doc. 98-7700 Filed 3-24-98; 8:45 am]

BILLING CODE 6750-01-M

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Centers for Disease Control and Prevention

##### Healthy People 2010 Planning Process; Amendment

A notice published in the **Federal Register** on February 17, 1998 [63 FR 7810]. The notice is amended as follows:

On page 7810, third column, under the heading **SUPPLEMENTARY INFORMATION** on line 27, website is incorrect. It should read at <http://www.cdc.gov/nceh/programs/hp2010/>

All other information and requirements of the February 17, 1998, notice remain the same.

Dated: March 19, 1998.

**Joseph R. Carter,**

*Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 98-7691 Filed 3-24-98; 8:45 am]

BILLING CODE 4163-18-U

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Food and Drug Administration

[Docket No. 97N-0456]

##### Agency Information Collection Activities; Submission for OMB Review; Comment Request

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

**DATES:** Submit written comments on the collection of information by April 24, 1998.

**ADDRESSES:** Submit written comments on the collection of information to

Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

**FOR FURTHER INFORMATION CONTACT:** Karen L. Nelson, Office of Information Resources Management (HFA-250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-1482.

**SUPPLEMENTARY INFORMATION:** In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

##### Conditions for the Use of Narcotic Drugs for Treatment of Narcotic Addiction Reporting and Recordkeeping Requirements (21 CFR 291.505) (OMB Control Number 0910-0140—Reinstatement)

Section 303(g) of the Controlled Substances Act (21 U.S.C. 823(g)) provides for a separate controlled substances registration for practitioners who dispense narcotic drugs to individuals for maintenance treatment or detoxification treatment. This separate registration is conditioned on the Secretary of the Department of Health and Human Services (the Secretary) determining that the applicant is a practitioner who is qualified (under standards established by the Secretary) to engage in the treatment with respect to which registration is sought. Section 303(g) requires that the Secretary (and, by delegation, FDA and the National Institute of Drug Abuse): (1) Establish standards for practitioners who dispense narcotic drugs to persons for maintenance and/or detoxification treatment; (2) determine whether practitioners who wish to conduct such treatment are qualified under the standards; and (3) determine whether such practitioners will comply with the standards regarding the quantities of narcotic drugs that may be provided for unsupervised use by persons in such treatment.

Regulations found at 21 CFR 291.505 were issued under this authority. These regulations establish reporting requirements that include an application for approval of use of narcotic drugs in a narcotic addiction treatment program that must be submitted to, and approved by, FDA before the treatment program (which may be an individual or an organization) may receive shipments of narcotic drugs. Additional submissions are required when significant changes