

large profits: (1) That users of Respondents' commodity and stock option trading program can reasonably expect to earn large profits, or as much as six figures annually; (2) that users of Respondents' commodity and stock option trading program can reasonably expect consistent investment returns of 100% to 500% on their trades; and (3) that users of Respondents' commodity and stock option trading program can reasonably expect 90% or more of their trades to yield returns of 100% or better. Part I also requires respondents to possess a reasonable basis substantiating claims about the amount of earnings, income, or profit that a prospective user of any trading program could reasonably expect to attain, or about any financial benefit or other benefit from any trading program offered by respondents.

Part II of the proposed order prohibits respondents from misrepresenting that users of any trading program can reasonably expect to trade with little or no financial risk and from misrepresenting the extent of risk to which users of any such program are exposed.

Part III of the proposed order requires respondents to disclose, clearly and conspicuously, "Stock, commodity futures, and stock or commodity options trading involve HIGH RISKS and YOU can LOSE a lot of money," in close proximity to any representation that make about the financial benefits of any trading program. This disclosure is in addition to, and not instead of, any other disclosure that respondents may be required to make.

Part IV of the proposed order prohibits respondents from representing without a reasonable basis that the experience represented by any user, testimonial or endorsement of any trading program represents the typical or ordinary experience of members of the public who use the program; or respondents must disclose either what the generally expected results would be for users of the trading program, or the limited applicability of the endorser's experience to what users may generally expect to achieve, that is, that users should not expect to experience similar results.

Parts V and VI of the proposed order require respondents to keep copies of relevant advertisements and materials substantiating claims made in the advertisements and to provide copies of the order to certain personnel. Part VII requires W.F.S. Enterprises, Inc. to notify the Commission of any changes in the corporate structure that might affect compliance with the order. Parts VIII and IX require that individual respondents Rabb Sabin and Arthur

Smith, respectively, to notify the commission of changes in their employment status for a period of ten years. Part X requires W.F.S. Enterprises, Inc. to file compliance reports with the Commission. Part XI provides that the order will terminate after twenty (20) years under certain circumstances.

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

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

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## **FEDERAL TRADE COMMISSION**

**[File No. 002 3024]**

### **R.S. of Houston Workshop, 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 December 29, 2000.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Peter Lamberton, FTC/H-238, 600 Pennsylvania Ave., NW., Washington, DC 20580. (202) 326-3274.

**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 thirty (30) 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 October 31, 2000), on the World Wide Web, at "http://www.ftc.gov/opa/2000/10/topten.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326-3627.

Public comment is invited. Comments should be directed to: FTC/Office of the Secretary, Room 159, 600 Pennsylvania Ave., NW., Washington, DC 20580. Two paper copies of each comment should be filed, and should be accompanied, if possible, by a 3½ inch diskette containing an electronic copy of the comment. 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 has accepted, subject to final approval, an agreement containing a consent order from R.S. of Houston Workshop, a company, and Ronald J. Schoemmel and Valdimar Thorkelsson, fifty percent owners and principals of the company, individually and as officers of the company (together, "respondents").

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) 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.

Respondents sell a training program for a trading method on the Internet for the daily buying and selling of stocks (also known as "day trading"). They advertise on their Internet Web site, [www.rsofhouston.com](http://www.rsofhouston.com). This matter concerns allegedly deceptive representations of the earnings and profit potential, as well as the extent of risk involved in using respondents' trading programs and trading methods.

The Commissions' proposed complaint alleges that respondents made unsubstantiated claims that users of respondents' trading programs and trading methods could reasonably expect to earn large profits, as much as six figures annually (*i.e.*, more than \$182,000); that users of respondents'

trading programs and trading methods could reasonably expect consistent investment returns of \$2,500 to \$3,500 per week; that users of respondents' trading programs and trading methods could reasonably expect to succeed at day trading for a lifetime of profitable and enjoyable trading; and that testimonials appearing in the advertisements for respondents' trading programs and trading methods reflected the typical or ordinary experience of members of the public who use the program. In addition, the complaint alleges that respondents misrepresented that users of respondents' trading programs and trading methods could trade in volatile markets with LOW RISK.

The proposed consent order contains provisions designed to prevent respondents from engaging in similar acts and practices in the future.

Part I of the proposed order requires respondents to have a reasonable basis substantiating any representation that users of respondents' day trading program can reasonably expect to earn large profits: (1) That users of respondents' trading program or trading method can reasonably expect to earn large profits, or as much as \$2,000 to \$5,000 per day on some days; (2) that users of respondents' trading program or trading method can reasonably expect to earn profits of \$500 to \$750 or more per day; (3) that users of respondents' trading program or trading method can reasonably expect to approach trading as a business and earn a consistent living from the markets; and (4) that users of respondents' trading program or trading method can reasonably expect to trade in volatile markets with low risk. Part I also requires respondents to possess a reasonable basis substantiating claims about the amount of earnings, income, or profit that a prospective user of any trading program or trading method could reasonably expect to attain, or about any financial benefit or other benefit from the purchase or use of any such trading program or trading method.

Part II of the proposed order prohibits respondents from misrepresenting that users of any trading program can reasonably expect to trade with little or no financial risk and from misrepresenting the extent of risk to which users of any such program are exposed.

Part III of the proposed order requires respondents to disclose, clearly and conspicuously, "DAYTRADING involves HIGH RISKS and YOU can LOSE a lot of money." in close proximity to any representation they make about the financial benefits of any

trading program. This disclosure is in addition to, and not instead of, any other disclosure that respondents may be required to make.

Part IV of the proposed order prohibits respondents from representing without a reasonable basis that the experience represented by any user, testimonial or endorsement of any trading program represents the typical or ordinary experience of members of the public who use the program; or respondents must disclose either what the generally expected results would be for users of the trading program, or the limited applicability of the endorser's experience to what users may generally expect to achieve, that is, that users should not expect to experience similar results.

Parts V and VI of the proposed order require respondents to keep copies of relevant advertisements and materials substantiating claims made in the advertisements and to provide copies of the order to certain personnel. Part VII requires R.S. of Houston Workshop to notify the Commission of any changes in the corporate structure that might affect compliance with the order. Parts VIII and IX require that individual respondents Ronald J. Schoemmel and Valdimar Thorkelsson, respectively, to notify the Commission of changes in their employment status for a period of seven years. Part X requires respondents to file compliance reports with the Commission. Part XI provides that the order will terminate after twenty (20) years under certain circumstances.

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

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

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## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **National Institutes of Health**

#### **Proposed Collection; Comment Request Drug Accountability Form and Drug Transfer Form**

**SUMMARY:** In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for public comment on proposed data collection projects, the National Institutes of Health (NIH), National Cancer Institute (NCI) will publish

periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

#### **Proposed Collection**

*Title:* Drug Accountability Form and Drug Transfer Form.

*Type of Information Collection*

*Request:* Revision. (OMB No. 0925-0240, expires 4/30/2002).

*Need and use of Information*

*Collection:* The regulations of the Food and Drug Administration (FDA) require investigators to establish a record of the receipt, use, and disposition of all investigational agents. The National Cancer Institute (NCI), as a sponsor of investigational drug trials, has the responsibility for assuring to the FDA that systems for drug accountability are being maintained by investigators in its clinical trials program. In order to fulfill these requirements, we have developed a standardized investigational Drug Accountability Report Form (NIH 2564) designed to account for drug inventories and usage by protocol. The Transfer Investigational Drug Form (NIH-2564-1) permits intra-institutional transfer of agents to NCI approved protocols for use by the investigator or other NCI registered investigators on approved protocols. The data obtained from the drug accountability record is used to track the dispensing of investigational anticancer drugs from receipt from NCI to dispensing or administration to patients. NCI uses the accountability data to ensure that investigational drug supplies are not diverted for inappropriate protocol or patient use. The drug accountability information is used to validate patient protocol reporting forms during site audits conducted at each of the Cooperative Groups. The intent is to ensure the investigational agents are used according to protocol guidelines and to ensure the patient's safety and protection.

*Frequency of response:* Daily.

*Affected public:* State or local governments, businesses or other for profit, Federal agencies or employees, non-profit institutions, and small business or organizations. *Types of Respondents:* Investigators and their designees, pharmacists, nurses, pharmacy technicians, data managers. The annual reporting burden is divided into two major areas. These are the audits of Drug Accountability Forms by Government and its contractors and the use of the forms by clinical research sites. The burden is as follows: The annualized respondents' burden for record keeping is estimated to require 3,648 hours for drug accountability and