

transactions, pursuant to § 225.28(b)(iii) of the Board's Regulation Y; IFB Investment Services, Inc., Valparaiso, Indiana, and thereby engage in financial and investment advisory activities, pursuant to § 225.28(b)(6) of the Board's Regulation Y, and provide securities brokerage services and riskless principal transactions, pursuant to § 225.28(b)(7) of the Board's Regulation Y; and 33.3 percent of Forrest Holdings, Inc., and its wholly-owned subsidiary, Forrest Financial Corporation, both of Lisle, Illinois, and thereby engage in leasing, pursuant to § 225.28(b)(3)(i) & (ii) of the Board's Regulation Y.

2. *Pinnacle Financial Services, Inc.*, St. Joseph, Michigan; to acquire and merge with CB Bancorp, Inc., Michigan, City, Indiana, and thereby indirectly acquire Community Bank, FSB, Michigan City, Indiana, and thereby engage in operating a savings association, pursuant to § 225.28(b)(4)(ii). Applicant, through a wholly-owned subsidiary of Community Bank, Community Financial Services, Inc., Michigan City, Indiana, and its subsidiary, Community Brokerage Services, Inc., Michigan City, Indiana, also proposes to engage in financial and investment advisory activities, pursuant to § 225.28(b)(6)(ii), (iii), (iv), (v), and (vi) of the Board's Regulation Y, and provide securities brokerage services, pursuant to § 225.28(b)(7)(i) and (ii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 30, 1997.

**William W. Wiles,**

*Secretary of the Board.*

[FR Doc. 97-14653 Filed 6-4-97; 8:45 am]

BILLING CODE 6210-01-F

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## FEDERAL TRADE COMMISSION

[Docket No. 9260]

### Jenny Craig, Inc.; Jenny Craig International, Inc.; 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 amended complaint that accompanies the consent agreement and terms of the consent order—embodied in the consent agreement—that would settle these allegations.

**DATES:** Comments must be received on or before August 4, 1997.

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

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Klurfeld, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103. (415) 356-5270. Matthew Gold, Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA 94103. (415) 356-5270.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and section 3.25 of the Commission's Rules of Practice (16 CFR 3.25), 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 accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for May 29, 1997), on the World Wide Web, at "http://www.ftc.gov/os/actions/htm." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 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 has accepted an agreement, subject to final approval, to a proposed consent order from Jenny Craig, Inc., and Jenny Craig International, Inc. (hereinafter "Jenny Craig" or "respondents"), marketers of the Jenny Craig Weight Loss Program. The Jenny Craig Weight Loss Program is offered to the public nationwide through company-owned and franchised clinics.

The proposed consent order has been placed on the public record for sixty (60) days for the 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 any comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

The Commission's complaint alleged that the respondents deceptively advertised: (1) their program's success in helping customers achieve and maintain weight loss; (2) the time frame within which consumers will achieve their desired weight loss goals; (3) the purchase price of the program; and (4) the extent to which Jenny Craig customers would recommend the program to others. The complaint further alleged that respondents engaged in the deceptive practice of failing to warn clients whom they monitor of the health importance of following the diet protocol.

### Weight Loss and Weight Maintenance Success Claims

The complaint against Jenny Craig alleges that the company failed to possess a reasonable basis for claims it made regarding the success of its customers in losing weight and maintaining the weight loss achieved on the program. Through consumer testimonials and other advertisements, Jenny Craig represented that its customers typically are successful in reaching their weight loss goals and in maintaining, either long-term or permanently, the weight loss achieved under the Jenny Craig program.

The proposed consent order seeks to address the alleged success misrepresentations cited in the accompanying complaint in several ways. First, the proposed order, in Part I.A., requires the company to possess a reasonable basis consisting of competent and reliable scientific evidence substantiating any claim about the success of participants on any diet program in achieving or maintaining weight loss. To ensure compliance, the proposed order further specifies what this level of evidence shall consist of when certain types of success claims are made:

(1) In the case of claims that weight loss is typical or representative of all participants using the program or any subset of those participants, that evidence shall be based on a representative sample of: (a) all participants who have entered the programs where the representation relates to such persons; or (b) all participants who have completed a

particular phase of the program or the entire program, where the representation *only* relates to such persons.

(2) In the case of claims that any weight loss is maintained long-term, that evidence shall be based upon the experience of participants who were followed for a period of at least two years after their completion of the respondents' program, including any periods of participation in respondents' maintenance program.

(3) In the case of claims that weight loss is maintained permanently, that evidence shall be based upon the experience of participants who were followed for a period of time after completing the program that is either: (a) generally recognized by experts in the field of treating obesity as being of sufficient length to constitute a reasonable basis for predicting that weight loss will be permanent; or (b) demonstrated by competent and reliable survey evidence as being of sufficient duration to permit such a prediction.

Second, Part I.B. of the proposed order requires the respondents, when making any claim that participants of any diet program have successfully maintained weight loss, to disclose the fact that "For many dieters, weight loss is temporary." In addition, Part I.C. requires respondents to disclose the following information relating to that claim:

(1) the average percentage of weight loss maintained by those participants (e.g., "60% of achieved weight loss was maintained"),

(2) the duration over which the weight loss was maintained, measured from the date that participants ended the active weight loss phase of the program, and the fact that all or a portion of the time period covered includes participation in respondents' maintenance program(s) that follows active weight loss, if that is the case (e.g., "Participants maintain an average of 60% of weight loss 22 months after active weight loss (includes 18 months on a maintenance program).") and

(3) the proportion of the total participant population that those participants represent, if the participant population referred to is not representative of the general participant population for that program (e.g., "Participants on maintenance—30% of our clients—kept off an average of 66% of the weight for one year (includes time on maintenance program).") (In lieu of that factual disclosure, respondents may state: "Jenny Craig makes no claim that this result is representative of all participants in the Jenny Craig program.")

Third, for maintenance success claims made in broadcast advertisements of thirty-seconds or less duration, the proposed order, in Part I.D., provides that Jenny Craig, in lieu of making the factual disclosures set out in Part I.C., may (1) include in such advertisements the statement "Check at our centers for details about our maintenance record," and (2) provide consumers at point-of-sale with a document containing certain maintenance information, which includes the factual disclosures required by Part I.C. The proposed order specifies that this document must be signed by the client and retained in the company's client file.

The proposed order makes clear that the alternative disclosure requirement contained in Part I.D. does not relieve Jenny Craig of the obligation to substantiate any maintenance success claim in accordance with Part I.A. of the proposed order. In addition, the proposed order specifies that, if Jenny Craig makes a maintenance success claim that uses numbers or descriptive terms that convey a quantitative measure, such as "most of our customers maintain their weight loss long term," Jenny Craig would have to make all the disclosures required by Part I.C. in the ad and provide the disclosures at point-of-sale.

Fourth, Part I.E. of the proposed order addresses weight-loss and weight-loss maintenance success claims, made through endorsements or testimonials, that are not representative of what Jenny Craig Weight Loss Program participants generally achieve. Part I.E. requires respondents to disclose either what the generally expected success would be for Jenny Craig customers, or the limited applicability of the endorser's experience to what consumers may generally expect to achieve. The proposed order's treatment of testimonial claims is in accordance with the Commission's "Guides Concerning Use of Endorsements and Testimonials in Advertising" 16 CFR 255.2(a). Under the proposed order, Jenny Craig may disclose "generally expected success" by use of the following format in the relevant advertisement: "Weight loss averages \_\_\_lbs. over \_\_\_weeks." Alternatively, respondents may disclose in the advertisement the average number of pounds lost by their customers, and provide to each potential customer, prior to entering into an agreement, a form containing more detailed weight loss information. Respondents may disclose "limited applicability" by use of one of several alternative statements, such as "This result is not typical. You may be less successful."

Finally, the proposed order, in Part I.L., generally prohibits the company from misrepresenting the performance or efficacy of any weight loss program.

#### *Rate of Weight Loss Claims*

The Commission's complaint further alleges that Jenny Craig failed to possess a reasonable basis for its claim made during initial sales presentations that consumers will typically reach their desired weight-loss goals within the time frame set by the company's computer program. To address this practice, Part I.I. of the proposed order prohibits Jenny Craig from representing that prospective participants will reach a specified weight within a specified period of time, unless respondents possess and rely upon competent and reliable scientific evidence substantiating the representation. Part I.J. of the proposed order would prevent respondents from misrepresenting the rate or speed at which any program participant has experienced or will experience weight loss.

#### *Price Claims*

The Commission's complaint against Jenny Craig also alleges that the company falsely represented that the price it advertised for its diet program is the only cost associated with losing weight on the diet program, when, in fact, there are substantial additional mandatory expenses that far exceed the advertised price. The complaint further alleges that respondents failed to disclose adequately to consumers the existence and amount of all mandatory expenses associated with participation in the diet program.

The proposed consent order seeks to address these practices in four ways. First, Part I.F. of the proposed order prohibits untrue representations that an advertised price for a weight loss program is the only cost associated with losing weight on that program. Second, for any advertisement containing a price at which any weight loss program can be purchased, Part I.G. of the proposed order requires Jenny Craig to disclose either the existence and amount of all mandatory costs or fees associated with the program offered or a statement identifying a list of all products or services that participants must purchase at an additional cost. This disclosure must be made orally under the proposed order if the price representation is made orally in broadcast media.

Third, Part I.H. of the proposed order requires the respondents to disclose over the telephone to callers who inquire or are told about the cost of any weight loss program, the existence and amount of any mandatory costs or fees

associated with participation in the program. Finally, Part I.L. generally prohibits the company from misrepresenting the price of any weight loss program.

#### *Health Risks Claims*

According to the complaint, Jenny Craig provides its customers with diet protocols that require the customers to come into one of proposed respondents' centers once a week for monitoring of their progress, including weighing in. In the course of regularly ascertaining weight loss progress, respondents, in some instances, have been presented with weight loss results indicating that customers are losing weight significantly in excess of their projected goals, which is an indication that they may not be consuming all of the food prescribed by their diet protocol. According to the complaint, such conduct could, if not corrected promptly, result in health complications. The Commission's complaint alleges that Jenny Craig failed to disclose to consumers who were losing weight significantly in excess of their projected goals that failing to follow the diet protocol and consume all of the food prescribed could result in health complications.

The proposed consent order seeks to address this allegation in two ways. First, the proposed order, in Part I.K., requires Jenny Craig to disclose in writing to all participants, when they enter the program, that failure to follow the program protocol and eat all of the food recommended may involve the risk of developing serious health complications. Second, the proposed order, in Part I.L., generally prohibits any misrepresentation concerning the safety of any weight loss program.

#### *Customer Satisfaction Claims*

The complaint also alleges that Jenny Craig deceptively advertised that "nine out of ten" Jenny Craig clients would recommend Jenny Craig to their friends. The complaint further alleges that the company's claim that competent and reliable studies or surveys substantiate the "nine out of ten" claim was false.

The proposed order seeks to address these claims in two ways. First, Part I.M. would require respondents to possess competent and reliable evidence (which when appropriate must be competent and reliable scientific evidence) for any representation that participants on any weight loss program recommend or endorse the program. Second, Part I.N. would prevent respondents from misrepresenting the existence, contents, validity, results, conclusions, or

interpretations of any test, study, or survey.

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 in any way their terms.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 97-14678 Filed 6-4-97; 8:45 am]

BILLING CODE 6750-01-M

## GENERAL ACCOUNTING OFFICE

### Federal Accounting Standards Advisory Board; Meeting

**AGENCY:** General Accounting Office.

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92-463), as amended, notice is hereby given that the Federal Accounting Standards Advisory Board will meet on Thursday, June 3, 1997, from 9:00 A.M. to 4:00 P.M. in the Elmer Staats Briefing Room, room 7C13 of the General Accounting Office building, 441 G St., NW., Washington, DC.

The purpose of the meeting is to discuss the following issues: (1) Proposed amendments to the Property, Plant, and Equipment standard, (2) comments on the Management's Discussion and Analysis (MD&A) document, and (3) pensions.

Any interested persons may attend the meeting as an observer. Board discussions and reviews are open to the public.

**FOR FURTHER INFORMATION CONTACT:**

Wendy Comes, Executive Director, 441 G St., NW., Room 3B18, Washington, DC 20548, or call (202) 512-7350.

**Authority:** Federal Advisory Committee Act, Pub. L. No. 92-463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101-6.1015 (1990).

Dated: June 2, 1997.

**Wendy M. Comes,**

*Executive Director.*

[FR Doc. 97-14724 Filed 6-4-97; 8:45 am]

BILLING CODE 1610-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Notice of Meetings of the National Bioethics Advisory Commission (NBAC); Correction

The Notice published on March 24, 1997, at 62 FR 13887, is corrected as follows:

The date and times for the meeting to be held on June 7, 1997, are corrected to read:

**DATES:** Saturday, June 7, 1997: full Commission Meeting, 7:30 a.m.-11:30 a.m.; Human Subjects Subcommittee, 1:00 p.m.-5:00 p.m.; and Genetics Subcommittee, 1:00 p.m.-4:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Ms. Henrietta Hyatt-Knorr, National Bioethics Advisory Commission, MSC-7508, 6100 Executive Boulevard, Suite 3C01, Rockville, Maryland 20892-7508, telephone 301-402-4242, fax number 301-480-6900.

Dated May 27, 1997.

**Henrietta Hyatt-Knorr,**

*Acting Deputy Director, National Bioethics Advisory Commission.*

[FR Doc. 97-14208 Filed 6-4-97; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Inspector General

#### Statement of Organization, Functions and Delegations of Authority

This Notice amends Part A (Office of the Secretary) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (HHS) to reflect recent changes in Chapter AF, Office of Inspector General (OIG). Chapter AF was last published in its entirety on May 13, 1996 (61 FR 22059).

The statement of organization, functions and delegations of authority reflects the original transfer of the statutory basis for the Office of Inspector General from Public Law 94-505 to Public Law 95-452 (and made under the Inspector General Act Amendments of 1988, Public Law 100-504), and conforms to and carries out the statutory requirements for operating the Office of Inspector General. A number of revisions have been made to reflect the consolidation of the Inspector General Division of the Office of the General Counsel and the Office of Litigation Coordination into the new Office of Counsel to the Inspector General (OCIG), and the incorporation of OCIG into the OIG organizational structure. In addition, several technical changes have been made to reflect revised component functions and duties in accordance with new or amended authorities and responsibilities resulting from the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191). These organizational changes have been made in an effort to assist the