

Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 3, 2000.

#### A. Federal Reserve Bank of

**Richmond** (A. Linwood Gill, III, Vice President), 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *FNB Corporation*, Christiansburg, Virginia; to acquire SWVA Bancshares, Inc., Roanoke, Virginia, and thereby indirectly acquire Southwest Virginia Savings Bank, FSB, Roanoke, Virginia, and thereby engage in operating a savings association, pursuant to § 225.28 (b)(4)(ii) of Regulation Y, and Southwest Virginia Service Corporation, Inc., Roanoke, Virginia, and thereby engage in acting as an agent in the sale of credit related insurance, pursuant to § 225.28(b)(11)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, October 3, 2000.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 00-25771 Filed 10-5-00; 8:45 am]

**BILLING CODE 6210-01-P**

## FEDERAL RESERVE

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 10:00 a.m., Wednesday, October 11, 2000.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

#### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Lynn S. Fox, Assistant to the Board; 202-452-3204.

**SUPPLEMENTARY INFORMATION:** You may call 202-452-3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank

holding company applications scheduled for the meeting; or you may contact the Board's Web site at <http://www.federalreserve.gov> for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: October 4, 2000.

**Robert deV. Frierson,**

*Associate Secretary of the Board.*

[FR Doc. 00-25910 Filed 10-4-00; 10:36 am]

**BILLING CODE 6210-01-P**

## FEDERAL TRADE COMMISSION

[File No. 001 0098]

### Manheim Auctions, Inc., Cox Enterprises, Inc., ADT Automotive Holdings, Inc., and Tyco International, Ltd.; Analysis to Aid Public Comment

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** The consent agreement in this matter settles alleged violated 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 October 31, 2000.

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

**FOR FURTHER INFORMATION CONTACT:** John B. Kirkwood, FTC Northwest Region, 915 Second Avenue, Suite 2896, Seattle, Washington 98174, (206) 220-4484.

**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 2, 2000), on the World Wide

Web, at "<http://www.ftc.gov/os/2000/09/index.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 Avenue, 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 the Complaint and Proposed Consent Order To Aid Public Comment

#### I. Introduction

The Federal Trade Commission ("Commission") has accepted for public comment an Agreement Containing Consent Order ("proposed order") with Manheim Auctions, Inc. ("Manheim"), Tyco International, Ltd. ("Tyco"), ADT Automotive Holdings, Inc. ("ADT"), and Cox Enterprises, Inc. ("Cox") (collectively "Proposed Respondents"). The proposed order seeks to remedy the anticompetitive effects of Manheim's proposed acquisition of ADT's wholesale motor vehicle auctions by requiring Manheim to divest eight of the acquired ADT auctions in locations where Manheim already owns auctions and its ownership of these acquired auctions would likely injure competition. Moreover, the proposed order seeks to remedy the anticompetitive effects of Manheim's 1996 acquisition of an auction in the Phoenix, Arizona area by requiring Manheim to divest one of its Phoenix-area auctions.

#### II. Description of the Parties and the Proposed Acquisition

Manheim, a Delaware corporation, is a wholly-owned subsidiary of Cox and is the largest auto auction company in the United States. Manheim operates 65 auctions nationwide and reported sales of 4.1 million vehicles in 1999. Manheim has acquired 55 auctions in the last 10 years. ADT, a Delaware corporation, is a wholly owned subsidiary of Tyco and is the third-largest auction company in the United States. ADT operates 28 auctions

nationwide and reported sales of 1.3 million automobiles in 1999.

By the terms of a Stock Purchase Agreement dated January 13, 2000, Manheim will acquire all of ADT's outstanding voting stock for approximately \$1 billion.

In a separate transaction that occurred in 1996, Manheim acquired JM Family Enterprises, Inc., its sole competitor in the provision of wholesale motor vehicle auction services in the greater metropolitan area of Phoenix, Arizona.

### III. The Proposed Complaint

The proposed complaint alleges that the relevant line of commerce (*i.e.*, the product market) in which to analyze this transaction is the provision of wholesale motor vehicle auction services ("WMVA services") by major vehicle auctioneers. These services include marshaling motor vehicles before auctions, preparing condition reports, reconditioning the motor vehicles, promoting and marketing auctions to potential buyers, auctioning motor vehicles, and reporting the results of those auctions.

Major wholesale auctions serve automakers and large institutional lessors that sell large quantities of used motor vehicles. They are equipped with advanced computer systems and technology that allow them to deal with larger customers than the smaller wholesale auto auctions can handle. Moreover, this technological sophistication and the resulting benefits and services simultaneously attract a large number of buyers and sellers to each auction. These attributes distinguish major wholesale auction services from the broader market, which consists of services provided by small, independent wholesale auctions that serve regional customers. Typically, major wholesale auctions serve a trade area consisting of a large city and the surrounding metropolitan area.

The proposed complaint further alleges that Manheim's proposed acquisition of ADT, if consummated, may substantially lessen competition in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, and Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45, in the following trade areas (*i.e.*, the geographic markets): (a) The greater metropolitan area of Kansas City, Missouri; (b) the Colorado Front Range, which includes the greater metropolitan areas of Denver and Colorado Springs; (c) the greater metropolitan area of Atlanta, Georgia; (d) the greater metropolitan area of San Francisco, California; (e) the greater metropolitan area of Seattle, Washington; and (f) the

I-4 Corridor of Florida, which includes the greater metropolitan areas of Tampa, Orlando, and Daytona Beach. The acquisition would substantially increase concentration and create a monopoly in the provision of WMVA services, as evidenced by post-acquisition Herfindahl-Hirschman Indices ("HHIs") of 10,000 in each of these geographic markets. After the proposed acquisition, Manheim would have the ability to unilaterally increase prices charged for WMVA services and to substantially decrease the quality and range of services offered to auction customers in these areas.

The proposed complaint also alleges that in 1996 Manheim acquired JM Family Enterprises, Inc., its sole competitor in the provision of WMVA services in the greater Phoenix, Arizona area. The effect of that acquisition, which also resulted in an HHI of 10,000, may have been to substantially lessen competition and create a monopoly in violation of Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act. Manheim may have both unilaterally increased prices charged for WMVA services and reduced the quality and range of services offered to auction customers in the greater Phoenix area.

The proposed complaint further alleges that new entry into the relevant geographic markets will not likely, timely or sufficient to prevent or counteract these anticompetitive effects. Building an auction requires substantial amounts of capital and entails significant assumption of risk. Other companies have recently required more than two years to complete construction of major auctions. Moreover, even if built, a competing auction would not likely provide significant competition to an existing firm. Because of the large capital investment required, major auctions must sell a high volume of motor vehicles to be profitable, while sellers are reluctant to use the services of an auction that does not have an existing base of strong buyers and buyers are reluctant to attend an auction that does not have a significant number of participating sellers. Consequently, existing auctions possess a considerable first-mover advantage over new entrants. Thus, even if a competitor entered the market, it might not attract enough business to restore competition. In the Phoenix area, no new competitors have entered since 1996.

### IV. Terms of the Agreement Containing Consent Order

The proposed order is designed to remedy the alleged anticompetitive effects of the proposed acquisition.

Under the terms of the proposed order, the Proposed Respondents must divest to ADESA eight of the acquired ADT auctions and one Manheim auction that currently operate in the geographic markets described above.

The Commission's goal in evaluating possible purchasers of divested assets is to maintain the competitive environment that existed prior to the acquisition. A proposed buyer of divested assets must not itself present competitive problems.

The Commission is satisfied that ADESA is a well-qualified acquirer of the divested assets. Based in Indianapolis, Indiana, ADESA is a large chain with 30 auction sites throughout the United States. ADESA possesses the necessary industry expertise to replace the competition that existed prior to the proposed acquisition in the divestiture markets. Furthermore, ADESA poses no separate competitive issues as the acquirer of the divested assets.

The proposed order requires that Proposed Respondents divest the nine auctions to ADESA, in accordance with an agreement between Manheim and ADESA, within 3 months after Manheim acquires ADT. If, at the time the Commission decides to make the proposed order final, the Commission notifies the Proposed Respondents that ADESA is not an acceptable acquirer, or that the agreement with ADESA is not an acceptable manner of divestiture, then Proposed Respondents must immediately rescind the transaction and divest the auction, within 6 months after the proposed order becomes final, to an acquirer approved by the Commission.

The proposed order also includes a provision requiring Proposed Respondents to use their best efforts to maintain the auctions as they would in the ordinary course of business until the divestiture occurs. Moreover, the proposed order prohibits Proposed Respondents from soliciting and hiring employees away from the divested auctions for a period of one year after the divestitures occur.

Additionally, for a period of 10 years after the proposed order becomes final, Proposed Respondents must provide written notice to the Commission prior to acquiring any interest in any wholesale auction facility. Furthermore, Proposed Respondents must provide the Commission with a report of compliance with the proposed order within 30 days after the proposed order becomes final and every 30 days thereafter until they have complied with their divestiture obligations. Respondents are also required to provide annual reports during the term

of the proposed order. For Manheim and Cox, the term of the proposed order is 10 years; for ADT and Tyco, the term ends when the eight ADT auctions are transferred to Manheim.

In the event that Proposed Respondents fail to divest the required auctions within the time allotted, the proposed order enables the Commission to appoint a trustee to divest any assets necessary to satisfy the requirements of the proposed order. Appointment of a trustee is in addition to civil penalties and other relief available from Proposed Respondents for non-compliance with any provision of the proposed order.

#### V. Opportunity for Public Comment

The proposed order has been placed on the public record for 30 days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will again review the proposed order and the comments received and will decide whether it should withdraw from the proposed order or make it final. By accepting the proposed order subject to final approval, the Commission anticipates that the competitive problems alleged in the proposed complaint will be resolved. The purpose of this analysis is to invite public comment on the proposed order, including the proposed divestitures, to aid the Commission in its determination of whether to make the proposed order final. This analysis is not intended to constitute an official interpretation of the proposed order, nor is it intended to modify the terms of the proposed order in any way.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 00-25661 Filed 10-5-00; 8:45 am]

BILLING CODE 6750-01-M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Findings of Scientific Misconduct

**AGENCY:** Office of the Secretary, HHS.  
**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

*Caroline E. Garey, Boston College:* Based on the Report and Addendum of the Boston College Research Misconduct Investigation Committee and additional

analysis conducted by ORI in its oversight review, the U.S. Public Health Service (PHS) finds that Ms. Caroline E. Garey, former doctoral student, Boston College, engaged in scientific misconduct by falsifying research supported by National Institute of Neurological Disorders and Strokes (NINDS), National Institutes of Health (NIH), grant R01 NS23355.

Specifically, as a graduate student at Boston College, Ms. Garey falsified restriction fragment length polymorphism (RFLP) data for ABP and DBA backcross mice DNA samples by misrepresenting results from multiple assays of identical backcross ABP DNA samples as being from different animals and misrepresenting the autoradiograms of backcross ABP DNA samples as the results from experiments on backcross DBA mice. Ms. Garey reported this falsified data in her doctoral dissertation, "Defect in the ceruloplasmin gene associated with epilepsy in the EL mouse," and in an article in *Nature Genetics* 6:426-431, 1994. She caused her falsified data to be reported by her laboratory director in NINDS, NIH, grant application 2 R01 NS23355-08A1 and at an international workshop on epilepsy on September 24, 1994. Ms. Garey also fabricated a translation table that she used to assign falsified RFLP data to individual backcross DBA mice. As a result of falsifying these assays over a minimum of two and one-half years, none of Ms. Garey's research can be considered reliable and the *Nature Genetics* publication has been retracted. These actions adversely and materially affected the laboratory's ongoing research on the genetic causes of epilepsy.

Ms. Garey also has engaged in a pattern of dishonest conduct that indicates that she is not presently responsible to be a steward of Federal funds. This pattern of behavior includes (1) a history of falsely claiming that she has performed scientific experiments when she has not, and (2) repeated instances in which she has misrepresented her credentials to prospective employers, colleagues, customers, and the general public as including a Ph.D. degree even though Boston College refused to grant her a doctoral degree because of her scientific misconduct.

The publication affected is:

- Garey, C.E., Schwarzman, A.L., Rise, M.L., & Seyfried, T.N. "Ceruloplasmin gene defect associated with epilepsy in EL mice." *Nature Genetics* 6:426-431, 1994 (retracted in *Nature Genetics* 11:104, 1995).

While Ms. Garey does not admit to the allegations of scientific misconduct, she has entered into a Voluntary Exclusion Agreement with PHS in which she has voluntarily agreed for a period of five (5) years, beginning on September 25, 2000:

(1) To exclude herself from any contracting or subcontracting with any agency of the United States Government and from eligibility for, or involvement in, nonprocurement transactions (*e.g.*, grants and cooperative agreements) of the United States Government as defined in 45 CFR part 76 (Debarment Regulations);

(2) To exclude herself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee.

#### FOR FURTHER INFORMATION CONTACT:

Director, Division of Investigative Oversight, Office of Research Integrity, 5515 Security Lane, Suite 700, Rockville, MD 20852, (301) 443-5330.

**Chris Pascal,**

*Director, Office of Research Integrity.*

[FR Doc. 00-25568 Filed 10-5-00; 8:45 am]

BILLING CODE 4160-17-P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Ethics Subcommittee of the Advisory Committee to the Director, Centers for Disease Control and Prevention; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following subcommittee meeting.

*Name:* Ethics Subcommittee of the Advisory Committee to the Director, CDC.

*Time and Date:* 9:30 a.m.-5 p.m., October 16, 2000.

*Place:* Centers for Disease Control and Prevention, 1600 Clifton Road, NE, Building 16, Room 5126, Atlanta, Georgia 30333.

*Status:* Open to the public, limited only by the space available. The meeting room accommodates approximately 25 people.

*Purpose:* This subcommittee will anticipate, identify, and propose solutions to strategic and broad ethical issues facing CDC.

*Matters To Be Discussed:* Agenda items will include updates from the Associate director for Science, Dixie E. Snider, M.D., M.P.H.; a discussion on ethical considerations of studies to evaluate the risk of transmission of Human Herpes virus (HHV-8) in international settings; and anticipating issues involved in future decisions regarding this issue.