

requires the parties to provide the trustee with access to information related to, among other things, the Rembrandt and Right Guard businesses as necessary to fulfill his or her obligations.

The Order to Maintain Assets that is included in the Consent Agreement requires that P&G and Gillette maintain the viability of the Rembrandt and Right Guard businesses as competitive operations until the businesses are transferred to Commission-approved acquirers.<sup>3</sup> The Commission has approved Edward Gold of PricewaterhouseCoopers as the Interim Monitor pursuant to the Consent Agreement to ensure that P&G and Gillette comply with the provisions of the Order.

There are also several provisions of the Consent Agreement designed to ensure the success of the divestiture of the Crest SpinBrush business to Church & Dwight. First, the Consent Agreement requires P&G to divest its rights and assets relating to adult battery-powered toothbrushes, including all research and development data, sales and marketing materials, and intellectual property. Second, P&G will provide Church & Dwight with a license to the Crest trademark, subject to minimum protections under trademark law, for use with the SpinBrush brand name that will be acquired outright by Church & Dwight. These provisions are designed to ensure that Church & Dwight can successfully transition the Crest SpinBrush family of products to a brand name of its choosing. Third, the Consent Agreement allows, and provides incentives for, P&G to render transitional services to Church & Dwight and retailers for a period of time to ensure the continuity and competitive viability of the products.

The Commission is satisfied that Church & Dwight is a well-qualified acquirer of the Crest SpinBrush business. Church & Dwight sells a variety of consumer products throughout the world, including oral care, personal care, and household products, and had total worldwide net sales of approximately \$1.5 billion in 2004. The company owns several well-known oral care brands, such as Arm & Hammer®, Aim®, and Mentadent™, and currently sells a variety of oral care products, including toothpaste and manual toothbrushes. Because of its existing business, Church & Dwight already has an experienced sales force that has relationships with major

retailers and dental professionals, thereby enabling it to be a successful acquirer of the SpinBrush assets.

The Consent Agreement also requires P&G to amend its joint venture agreement with Philips regarding IntelliClean. The amended agreement, which is an attachment to the order, allows Philips to independently market and sell IntelliClean. The amended agreement also eliminates all non-compete provisions allowing both P&G and Philips to develop and sell future rechargeable toothbrush products.

The purpose of this analysis is to facilitate public comment on the Consent Agreement, and is not intended to constitute an official interpretation of the proposed Decision and Order or the Order to Maintain Assets, or to modify their terms in any way.

By direction of the Commission, with Chairman Majoras and Commissioner Harbour recused.

**Donald S. Clark,**

*Secretary.*

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## FEDERAL TRADE COMMISSION

[File No. 052 3136]

### Superior Mortgage Corporation; Analysis of Proposed Consent Order 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 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 27, 2005.

**ADDRESSES:** Interested parties are invited to submit written comments. Comments should refer to “Superior Mortgage, File No. 052 3136,” to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission/ Office of the Secretary, Room 159-H, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Comments containing confidential material must be filed in paper form, must be clearly

labeled “Confidential,” and must comply with Commission Rule 4.9(c). 16 CFR 4.9(c) (2005).<sup>1</sup> The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions. Comments that do not contain any nonpublic information may instead be filed in electronic form as part of or as an attachment to e-mail messages directed to the following e-mail box: [consentagreement@ftc.gov](mailto:consentagreement@ftc.gov).

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments, whether filed in paper or electronic form, will be considered by the Commission, and will be available to the public on the FTC Web site, to the extent practicable, at <http://www.ftc.gov>. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC Web site. More information, including routine uses permitted by the Privacy Act, may be found in the FTC’s privacy policy, at <http://www.ftc.gov/ftc/privacy.htm>.

#### FOR FURTHER INFORMATION CONTACT:

Jessica Rich, Bureau of Consumer Protection, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326-3224.

**SUPPLEMENTARY INFORMATION:** Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46(f), and § 2.34 of the Commission 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 September 28, 2005), on the World Wide Web, at <http://>

<sup>1</sup> The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission’s General Counsel, consistent with applicable law and the public interest. See Commission Rule 4.9(c), 16 CFR 4.9(c).

<sup>3</sup> The Order to Maintain Assets also requires that P&G and Gillette maintain the viability of the Soft & Dri and Dry Idea businesses.

[www.ftc.gov/os/2005/09/index.htm](http://www.ftc.gov/os/2005/09/index.htm). A paper copy can be obtained from the FTC Public Reference Room, Room 130-H, 600 Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326-2222.

Public comments are invited, and may be filed with the Commission in either paper or electronic form. All comments should be filed as prescribed in the ADDRESSES section above, and must be received on or before the date specified in the DATES section.

#### Analysis of Agreement Containing Consent Order To Aid Public Comment

The Federal Trade Commission has accepted a consent agreement, subject to final approval, from Superior Mortgage Corp. ("Superior Mortgage"). Superior Mortgage is a mortgage lender specializing in residential mortgage loans with headquarters in Tuckerton, New Jersey. Superior Mortgage collects sensitive customer information, including customer names, Social Security numbers, credit histories, and bank and credit card account numbers, and is a "financial institution" subject to the Gramm-Leach-Bliley Act's Standards for Safeguarding Customer Information Rule, 16 CFR part 314 ("Safeguards Rule").

The proposed consent order has been placed in 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 and take other appropriate action or make final the agreement's proposed order.

This matter concerns Superior Mortgage's alleged violations of the Safeguards Rule, as well as alleged security misrepresentations to consumers on Superior Mortgage's Web site. The Safeguards Rule, which became effective on May 23, 2003, requires financial institutions to implement reasonable policies and procedures to ensure the security and confidentiality of customer information, including:

- Designating one or more employees to coordinate the information security program;
- Identifying reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information, and assessing the sufficiency of any safeguards in place to control those risks;
- Designing and implementing information safeguards to control the risks identified through risk assessment,

and regularly testing or otherwise monitoring the effectiveness of the safeguards' key controls, systems, and procedures;

- Overseeing service providers, and requiring them by contract to protect the security and confidentiality of customer information; and
- Evaluating and adjusting the information security program in light of the results of testing and monitoring, changes to the business operation, and other relevant circumstances.

The Commission's complaint alleges that Superior Mortgage failed to implement the protections required by the Safeguards Rule and, specifically, that it failed to: (1) Assess risks to its customer information until more than a year after the Safeguard Rule's effective date; (2) institute appropriate password policies to control access to company systems and documents containing sensitive customer information; (3) encrypt or otherwise protect sensitive customer information before sending it by e-mail; and (4) take reasonable steps to ensure that its service providers were providing appropriate security for customer information and addressing known security risks in a timely fashion.

The complaint also alleges that Superior Mortgage violated section 5 of the Federal Trade Commission Act ("FTC Act") by representing that the personal information it obtained from consumers through <http://www.supmort.com> was encrypted using SSL from the time of submission until receipt by Superior Mortgage, when in fact that information was encrypted only while it was being transmitted between a visitor's Web browser and the Web site's server (using SSL); once the information reached the server, it was decrypted and e-mailed to Superior Mortgage's headquarters and branch offices in clear, readable text.

The proposed order contains provisions designed to prevent Superior Mortgage from future practices similar to those alleged in the complaint. Specifically, part I of the proposed order prohibits Superior Mortgage from misrepresenting the extent to which it maintains and protects the privacy, confidentiality, or security of any personal information collected from or about consumers. Part II of the proposed order prohibits Superior Mortgage from violating the Safeguards Rule. Part III of the proposed order requires that Superior Mortgage obtain, within 180 days after being served with the final order approved by the Commission, and on a biennial basis thereafter for ten (10) years, an assessment and report from a qualified, objective, independent third-

party professional, certifying that: (1) Superior Mortgage has in place a security program that provides protections that meet or exceed the protections required by the Safeguards Rule, and (2) Superior Mortgage's security program is operating with sufficient effectiveness to provide reasonable assurance that the security, confidentiality, and integrity of nonpublic personal information has been protected. This provision is substantially similar to comparable provisions obtained in prior Commission orders under the Safeguards Rule and Section 5 of the FTC Act. See, e.g., Sunbelt Lending Servs., Inc., FTC Docket No. C-4129 (Jan. 7, 2005); Tower Records, FTC Docket No. C-4110 (June 2, 2004).

Part III of the proposed order also requires Superior Mortgage to retain documents relating to compliance. For the assessments and supporting documents, Superior Mortgage must retain the documents for three (3) years after the date that each assessment is prepared.

Parts IV through VII of the proposed order are reporting and compliance provisions. Part IV requires dissemination of the order now and in the future to persons with supervisory responsibilities. Part V ensures notification to the FTC of changes in corporate status. Part VI mandates that Superior Mortgage submit compliance reports to the FTC. Part VII is a provision "sunsetting" the order after twenty (20) years, with certain exceptions.

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 proposed order or to modify its terms in any way.

By direction of the Commission.

**Donald S. Clark,**

*Secretary.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

[Document Identifier: OS-0990-0268]

### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Office of the Secretary; HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the