

UNITED STATES OF AMERICA  
BEFORE FEDERAL TRADE COMMISSION

COMMISSIONERS:

Timothy J. Muris, Chairman  
Sheila F. Anthony  
Mozelle W. Thompson  
Orson Swindle  
Thomas B. Leary

_____	)	
<b>In the Matter of</b>	)	
	)	
NATIONAL ACADEMY	)	<b>Docket No. C-4070</b>
OF ARBITRATORS,	)	
	)	
a corporation.	)	
_____	)	

DECISION AND ORDER

The Federal Trade Commission (“Commission”) having initiated an investigation of certain acts and practices of the National Academy of Arbitrators (“NAA”), hereinafter sometimes referred to as “Respondent,” and Respondent having been furnished thereafter with a copy of the draft of Complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge Respondent with violations of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45; and

Respondent, its attorneys, and counsel for the Commission having thereafter executed an Agreement Containing Consent Order (“Consent Agreement”), containing an admission by Respondent of all the jurisdictional facts set forth in the aforesaid draft of Complaint, a statement that the signing of the Consent Agreement is for settlement purposes only and does not constitute an admission by Respondent that the law has been violated as alleged in such Complaint, or that the facts as alleged in such Complaint, other than jurisdictional facts, are true, and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had

reason to believe that Respondent has violated the said Act, and that a Complaint should issue stating its charges in that respect, and having accepted the executed Consent Agreement and placed such Consent Agreement on the public record for a period of thirty (30) days for the receipt and consideration of public comments, and having duly considered comments received from an interested party pursuant to Section 2.34 of its Rules, now in further conformity with the procedure described in Commission Rule 2.34, 16 C.F.R. § 2.34, the Commission hereby makes the following jurisdictional findings and issues the following Decision and Order (“Order”):

1. Respondent National Academy of Arbitrators, is a corporation organized and existing under the laws of the State of Michigan with its principal office and place of business at Suite 600-A, 1121 Boyce Road, Pittsburgh, Pennsylvania 15241.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the Respondent, and the proceeding is in the public interest.

## **ORDER**

### **I.**

**IT IS ORDERED**, that for the purposes of this Order, the following definitions shall apply:

- A. "Respondent" or "NAA" means the National Academy of Arbitrators, its officers, Executive Committee, Board of Governors, directors, committees, foundations, regions, representatives, agents, employees, successors and assigns;
- B. "Arbitrator" means someone who engages in arbitrating labor-management disputes;
- C. "Regulating" means (1) adopting, maintaining or enforcing any rule, regulation, interpretation, ethics ruling, policy or guideline; (2) taking, threatening to take or suggesting formal or informal disciplinary action; or (3) conducting formal or informal investigations or inquiries.

### **II.**

**IT IS FURTHER ORDERED** that Respondent, directly or indirectly, or through any corporate or other device, in or in connection with Respondent's activities as a professional association in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44, do forthwith cease and desist from:

- A. Regulating, restricting, impeding, declaring unethical, interfering with, or advising against the advertising or publishing by any person of the prices, terms or conditions of sale of Arbitrators'

services, or of information about Arbitrators' services that are offered

for sale or made available by Arbitrators or by any organization with which Arbitrators are affiliated;

- B. Regulating, restricting, impeding, declaring unethical, interfering with, or advising against solicitation of arbitration work, through advertising or other means, by any Arbitrator or by any organization with which Arbitrators are affiliated.

**PROVIDED THAT** nothing contained in this Part shall prohibit Respondent from formulating, adopting, disseminating to its members, and enforcing reasonable ethics guidelines governing the conduct of its members with respect to representations that Respondent reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act, and

**PROVIDED FURTHER THAT** nothing contained in this Part shall prohibit Respondent from formulating, adopting, disseminating to its members and enforcing reasonable ethics guidelines governing conduct that Respondent reasonably believes would compromise or appear to compromise the impartiality of Arbitrators. Such guidelines shall not prevent Arbitrators from disseminating or transmitting truthful information about themselves through brochures and letters, among other means; provided further, however, that in the event that the NAA determines that the dissemination or transmission of such material may create an appearance of partiality, the NAA may promulgate reasonable guidelines that require, in a manner that is not unduly burdensome, that such material and information be disclosed, disseminated or transmitted in good faith to representatives of both management and labor.

### **III.**

**IT IS FURTHER ORDERED** that Respondent shall:

- A. From the date this Order becomes final, not enforce any parts of NAA's Code of Professional Responsibility for Arbitrators of Labor-Management Disputes, NAA's Advisory Opinions, or any NAA policy statement or guideline that is inconsistent with Paragraph II of this Order, and, within ninety (90) days after this Order becomes final, publish in a prominent position on NAA's website and in the next issue of *The Chronicle*, or any successor publications, an announcement that states: "NAA will not enforce Code of Professional Responsibility provisions and Advisory Opinions relating to advertising or solicitation that do not comply with FTC Consent Order."

- B. Within ninety (90) days after the date on which this Order becomes final, remove from NAA's Advisory Opinions or any NAA policy statement or guideline (including but not limited to those appearing on the NAA website) any statement that is inconsistent with Paragraph II of this Order.
- C. Within ninety (90) days after the date on which this Order becomes final, publish on NAA's website and in the next issue of *The Chronicle*, or in any successor publications, a copy of the Order and Complaint under the heading "NAA promises changes to the Code of Professional Responsibility and will not enforce challenged provisions" with such prominence as is accorded feature articles and announcements that are regularly published on the website and *The Chronicle*. For at least one (1) year after this Order becomes final, retain a copy of the Complaint and Order on NAA's website with a link placed in a prominent position on NAA's homepage entitled "NAA Consent Order with the FTC regarding advertising and solicitation."
- D. By the close of NAA's next Annual Meeting, but not later than July 10, 2003, remove any provision in NAA's Code of Professional Responsibility for Arbitrators of Labor-Management Disputes that is inconsistent with this Order.
- E. Within ninety (90) days after the close of NAA's next annual meeting, but not later than September 7, 2003, publish and maintain the changes required by Paragraph III D on NAA's website, in *The Chronicle*, or any successor publication, and in any other place NAA publishes its Code of Professional Responsibility.

#### IV.

**IT IS FURTHER ORDERED** that Respondent shall file written reports within ninety (90) days after the date on which this Order became final, every sixty (60) days thereafter until the requirements set forth in Paragraph III of this Order have been met, and annually thereafter for five (5) years on the anniversary of the date on which this Order became final, and at such other times as the Commission may by written notice require, setting forth in detail the manner and form in which it has complied and is complying with the Order. Such reports should include in detail, but not be limited to, any action taken in connection with the activities covered by Paragraph II of this Order.

#### V.

**IT IS FURTHER ORDERED** that for a period of five (5) years after the date this Order is entered, Respondent shall maintain and make available to the Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with the activities covered by Paragraph II of this Order, including but not limited to any enforcement, advisory opinions, advice or interpretations relating to advertising or solicitation.

**VI.**

**IT IS FURTHER ORDERED** that, Respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the Respondent, such as dissolution, assignment, sale resulting in the emergence of a successor corporation or association, the creation or dissolution of subsidiaries or any other change in Respondent that may affect compliance obligations arising out of this Order, including but not limited to any rule-making, advice or interpretations relating to advertising or solicitation.

**VII.**

**IT IS FURTHER ORDERED** that this Order shall terminate on January 13, 2023.

By the Commission.

Donald S. Clark  
Secretary

**SEAL**  
**ISSUED: January 13, 2003**