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For Release:
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OFFICE OF CONSUMER PROTECTION • 114 EAST STATE CAPITOL • MADISON, WISCONSIN 53702 • TELEPHONE 608/266-1851

MADISON! -- Attorney General Bronson C. La Follette today announced that the Justice Department has filed a lawsuit against the Arway Corporation, Inc. of Michigan and four of its Wisconsin Direct Distributors: Mayland Behrke, Mequon, Wisconsin; Dear W. Fliss, Colgate, Wisconsin; John C. Haugner, Jr., Dousman, Wisconsin; and Benedetto Lanza, Milwaukee, Wisconsin, for violations of the state deceptive practices act.

The complaint, filed in Milwaukee County Circuit Court, charges the defendants with misrepresenting individual or personal incomes, utilizing unrealistic hypothetical or projected incomes and failing to adequately disclose to prospective recruits the identity of the Arway Corporation and the nature of the opportunity being offered.

Arway manufactures and distributes an extensive line of products including soaps, detergents, vitamins and toiletries. It also catalogs a large number of general consumer products which are available for wholesale purchase by its distributors. Arway products are marketed through approximately 20,000 Wisconsin distributors.

The Arway distribution network is often referred to as a multi-level marketing plan wherein the top level Direct Distributors, of which there are approximately 192 in Wisconsin, receive commissions and bonuses based on the purchases made by all distributors recruited by them as well as those later enlisted by their earlier recruits. Given the nature of this commission or bonus structure, Direct Distributors continually seek large numbers of new recruits. It is estimated that approximately 15,000 new distributors are recruited each year in Wisconsin.

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Over the past few years the Wisconsin defendants have conducted semi-weekly public presentations of the Amway plan at a meeting center at the Brown-Port Shopping Center in Fox Point, Wisconsin, as well as at other statewide locations, for the purpose of obtaining new recruits into the defendants' organization. The presentation groups ranged in size from 10 to 300 people.

Defendants Behnke, Gliss, Lanza and Haugner are individually charged with:

--misrepresenting, expressly or by direct implication, their personal Amway incomes or the incomes of other Amway Distributors during public presentations or personal contacts with prospective recruits. The defendants further failed to adequately distinguish between gross, adjusted gross and net incomes, to disclose the duration of the income experience and the significant business expenses which have resulted either in net losses or net incomes below those reasonably to be expected by potential recruits.

--misrepresenting potential income by expressing or implying at public presentations that a new Amway Distributorship has, after three to nine months, a reasonable chance of earning in excess of \$12,000 a year, working six to twelve hours a week. The defendants also stated or implied that higher incomes of up to \$55,000 are available in three to five years.

The defendants, in addition to Amway, are also charged with utilizing unrealistic hypothetical examples, set forth in an Amway manual, which project on a monthly basis that distributors could earn a gross income of \$1,230 (\$14,760/year).

In order to test the validity of the defendants' representations, the Justice Department Office of Consumer Protection conducted a study in which it examined the 1979-80 income tax records of Wisconsin Direct

Distributors who represent the top 1% of all Amway Distributors. The study found that, in fact, only 139 Direct Distributorships, representing less than 1% of all Wisconsin distributorships had an average annual adjusted gross income in excess of \$12,000.

The study also found that the annual adjusted gross income for each of the 192 Direct Distributors was \$7,265 and the average for each Direct Distributorship was \$14,349 (most distributorships consist of two distributors, husband and wife). However, when business expenses are deducted, the average for all Wisconsin Direct Distributorships was in fact a net loss of \$918. More interestingly, the study found that the average annual adjusted gross income for each of the approximately 20,000 Wisconsin Amway Distributorships was \$267, or 2.2% of the projected \$12,000 income.

The Justice Department alleges that the income examples of earnings in excess of \$12,000 a year as set forth by the defendants are untrue, deceptive and misleading in that an annual income of \$12,000 is, in fact, achievable by less than seven of every 1,000 Amway Distributorships and that these income levels fail to reflect business expenses which, on the average for all Direct Distributorships, exceeded adjusted gross income by no less than \$918. The income representations also failed to meet the reasonable expectations of those to whom they were made.

In order for even one-fifth (4,000) of the 20,000 Wisconsin Amway Distributorships to reach the Amway Corporation's projected \$1,230 monthly income, each of the 1,652,251 households in the state would be required to make an annual purchase of \$400 worth of Amway products.

Reinke, Fliss, Lanza and Haugner each, at public presentations, have also allegedly urged fellow Amway Distributors to disguise or not

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disclose the nature of the presentation to be given, the type of opportunity to be made available to the prospect or, when requested, the identity of the Amway Corporation.

For example, Defendant Lanza, during a 1980 public presentation in Oshkosh, indicated: When you invite people, don't tell them too much. The idea of products can turn some people off. Don't be a SAP, and mention Sales, Amway and Products.

As such, these practices are untrue, deceptive and misleading in that they falsely disguise the true nature of the presentation and the identity of the company involved to the extent that had the prospect known the truth, he or she would not have attended the presentation.

The state is seeking to enjoin the defendants from engaging in the above mentioned acts and practices and seeks civil forfeitures for each violation of Wisconsin law. The state has moved the court to issue a temporary injunction which will be heard before Milwaukee County Circuit Court Judge Harold B. Jackson, Jr. on September 30, 1982 at 9:00 a.m.

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For more information, contact:

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603/266-1730

FTC NEWS FILE

Federal Trade Commission Washington, D.C. 20580

FOR IMMEDIATE RELEASE

May 23, 1979

FTC ORDER FORBIDS RESALE PRICE-FIXING BY AMWAY

Amway Corp., a door-to-door marketer of household and consumer products, has been ordered by the Federal Trade Commission to stop fixing retail and wholesale prices and misrepresenting the profitability of Amway distributorships.

The FTC order also cited the Amway Distributors Association, a trade association of Amway distributors, and Amway's two chief officers, Jay VanAndel and Richard M. DeVos.

In an opinion written by Commissioner Robert Pitofsky, the FTC found that Amway and its distributors agreed and combined with each other to fix the retail and wholesale prices of Amway products. The Commission also found that Amway misrepresented distributors' earning potential.

However, other charges in the complaint--including that Amway imposed unlawful non-price restrictions on its distributors and that the company's sales plan was an illegal "pyramid" scheme--were dismissed by the Commission.

Formed in 1959 by VanAndel and DeVos, Amway manufactures more than 150 products, primarily cleaning and personal-care items.

It has shown rapid sales growth in the last 20 years, and its success is largely attributed to its "direct-selling" distribution network, which eliminates the need for expensive promotion and advertising and encourages repeat customers.

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Amway retails all its products directly to consumers door-to-door, using a sales force of about 360,000 independent distributors. Under Amway's "Sales and Marketing Plan," "direct distributors" buy products at wholesale from Amway and resell those products both at retail to consumers and at wholesale to other distributors they have recruited for Amway.

The FTC found that Amway fixed its retail and wholesale prices through agreements with distributors that prevented them from selling products for less than the Amway-specified price. While Amway abolished its express agreements regarding retail prices in 1965, the Commission found that Amway had continued to maintain retail price rules in its sales plan.

For example, the opinion cited Amway's former "customer-rule" as a factor supporting retail price fixing. That rule allowed a distributor on a first sale to establish an exclusive right to resell to the same customer.

Another rule, said the Commission, is used to detect and prevent price cutting among distributors. That rule requires distributors to present their sales receipts stating the price charged to the customer before they can be compensated.

The Commission also found that Amway's claims on the amount of money distributors are likely to earn had the capacity to deceive potential distributors. FTC pointed out that Amway's career manual implies that \$200 is a typical monthly sales figure when in fact the average Amway distributor sells much less. The claims regarding a distributors actual income are even further removed from reality, the FTC said.

The initial decision in this case was filed by Administrative Law Judge James P. Timony in July 1978.

Amway Corp. is located in Ada, Mich.

Copies of the Commission's opinion are available from the Commission's Public Reference Branch, Room 130, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580; 202-523-3598

(Docket No. 9023)

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