

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

BENEFICIAL CORPORATION;  
BENEFICIAL FINANCE CO. OF OHIO;  
THE CONTINENTAL CORPORATION;  
THE BUCKEYE UNION INSURANCE CO.;  
and  
CAPITAL FINANCIAL SERVICES INC.;

Defendants.

Civil Action No. 79C 3551

Filed: September 24, 1979

COMPETITIVE IMPACT STATEMENT

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (15 U.S.C. 16 (d)-(h), P.L. 93-528 (December 21, 1974)) the United States of America hereby files this Competitive Impact Statement relating to the proposed Final Judgment in this civil antitrust proceeding.

I.

Nature and Purpose of the Proceeding

This is a civil action by the United States against Beneficial Corporation, Beneficial Finance Co. of Ohio, The Continental Corporation, The Buckeye Union Insurance Co., and Capital Financial Services Inc. The complaint, which was filed on August 29, 1979, alleged that the proposed acquisition by Beneficial, through Beneficial-Ohio, of all of the stock of Capital from the Continental

Corporation and Bu...ye Union Insurance Co. would violate Section 7 of the Clayton Act because competition among finance companies in the making of direct cash loans would be lessened. The case was brought to enjoin Beneficial from acquiring Capital from Continental Corporation.

## II.

### The Nature of the Alleged Violation

Finance companies are engaged primarily in the business of making direct cash loans and purchasing retail installment loans. Finance companies make direct cash loans to individuals, usually for noncommercial purposes and usually repayable in equal periodic installments. Finance companies which grant direct cash loans are licensed, regulated and supervised by agencies of the states in which they operate. As of September 30, 1978, the total amount of direct cash loans outstanding made by finance companies in the United States totaled \$23.569 billion.

Beneficial is the fourth largest independent finance company \*/ in the United States, with total capital funds of \$986.5 million as of December 31, 1978. It operates more than 1900 offices in 49 states, Puerto Rico, Canada, Australia, Japan, West Germany, and the United Kingdom. As of December 31, 1978, Beneficial had total direct cash loans outstanding of approximately \$3.199 billion.

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\*/ An independent finance company is a finance company other than one whose principal activity consists of financing the purchase of products or services sold by an affiliated company.

Capital is the twenty-first largest independent finance company in the United States, with total capital funds of \$114 million as of December 31, 1978. It operates 336 offices in 17 states. As of December 31, 1978, Capital had total direct cash loans outstanding of approximately \$341 million.

The line of commerce involved in this transaction is the making of direct cash loans by finance companies. Finance companies are the only type of business entity whose primary purpose is the making of direct cash loans to individuals. While other financial institutions such as commercial banks, savings and loan associations, and credit unions make some personal loans to consumers, these institutions primarily engage in other financial activities. All of them, unlike finance companies, are depository institutions; that is, they accept demand and/or savings deposits which serve as a major source of their funds. Commercial banks engage in a full range of financial activities, including lending to business entities. Savings and loan associations primarily grant first mortgages for the purchase of residential properties. Credit unions are limited to lending to their own members, all of whom must have a common affiliation which is usually based on employment. All of these institutions charge lower interest rates for direct cash loans than finance companies. Interest rates are often regulated by state statutes which almost universally permit finance companies to charge the highest rate of interest of any lender. As a result, finance companies are uniquely capable of lending to high risk consumers and making direct cash loans to

individuals who do not have alternative sources of credit. Thus, for a substantial group of customers, finance companies do not face competition from other financial institutions.

Finance companies conduct their direct cash loan business through offices located in particular communities. While the size of the area served by a particular office will vary depending upon population and geographic characteristics, generally a particular city is a reasonable approximation of the geographic area served by a finance company.

The complaint alleged that the effect of the proposed acquisition of Capital by Beneficial, through Beneficial-Ohio, may be substantially to lessen competition and to tend to create a monopoly in the granting of direct cash loans in various communities located in the states of Idaho, Michigan, New York, Ohio, Oregon, Pennsylvania, and Washington in violation of Section 7 of the Clayton Act. In each of more than 50 communities Beneficial and Capital have 20 percent or more of the finance company offices. The cities of Columbus, Ohio; Rochester and Rome, New York; and Flint, Michigan are among those communities. In a number of additional communities Beneficial and Capital combined have 10 percent or more of the finance company offices. The cities of Akron, Canton, Cincinnati, Dayton and Toledo, Ohio; Portland, Oregon; and Seattle and Tacoma, Washington are among those communities. In addition, in the state of Ohio, as of December 31, 1977, Beneficial had approximately 9.1 percent of the outstanding direct cash loans made by all finance companies

in Ohio, and Capital had approximately 11.7 percent for a combined total of approximately 20.8 percent. In Idaho, Michigan, New York, Pennsylvania, Oregon and Washington, Beneficial and Capital have a combined total in excess of 16 percent of the outstanding direct cash loans made by all finance companies in the state.

### III.

#### Explanation of the Proposed Final Judgment

The United States and the defendants have stipulated that a Final Judgment, in the form negotiated by the parties, may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act, provided that the United States has not withdrawn its consent. That stipulation provides that there has been no admission by any party with respect to any issue of law or fact. Under the provisions of Section 2 (e) of the Antitrust Procedures and Penalties Act, entry of the Final Judgment is conditioned upon a determination by the Court that it is in the public interest.

Section IV of the proposed Final Judgment orders Beneficial to divest itself of each Capital office listed in Appendix A of the Final Judgment. The Capital offices to be divested also are listed in Appendix A of this Competitive Impact Statement. Beneficial is required to sell all the receivables (i.e., the direct cash loans to individuals), and customer lists and, at the purchaser's option, all installment notes purchased from dealers arising from retail or wholesale sales, leases, and

leasehold improvements for each Capital office listed in Appendix A. The Final Judgment would require Beneficial to divest itself of 112 Capital offices in 85 communities in seven states.

Section IV (A) requires Beneficial to enter into a contract for sale of each office to be divested within six months from the date of entry of this Final Judgment. Section IV (B) requires Beneficial to consummate the sale of each office within one year from the date it enters into the contract for sale required by Section IV (A). Beneficial may not reacquire any of the Capital offices divested pursuant to the Final Judgment, except by enforcing a valid security interest in a Capital office obtained to insure payment from the purchaser. Any office reacquired in this manner must be divested within one year in accordance with the Final Judgment.

Section V of the proposed Final Judgment gives the government the right to object to the proposed sale of any of the Capital offices to be divested. If the government does object, Beneficial has six months from the date of the objection, or, if the Court sustains the objection, from the date of the Court's ruling, within which to enter into another contract of sale with a different purchaser.

Section VI of the proposed Final Judgment provides for the Court, upon the government's request, to appoint a trustee to sell each Capital office to be divested for which Beneficial has not entered into a contract of sale within six months of the entry of the Final Judgment or if any such contract of sale has

not been consummated within one year from the date it was entered into. The trustee has the authority to dispose of any office, at whatever price and terms obtainable, subject to the approval of the Court.

Section VII of the proposed Final Judgment orders Beneficial to maintain the Capital offices to be divested as separate, going businesses and to continue normal business operations under the "Capital" name until each office is sold. Beneficial is also required to provide the financial, business, promotion and management assistance necessary to maintain the Capital offices to be divested as separate, going businesses. In addition, Beneficial may not knowingly take any action which would reduce the amount of receivables in any Capital office to be divested on the date this Final Judgment is submitted to the Court, except that Beneficial may continue normal operations at any of its other consumer finance offices. Beneficial is also prohibited from hiring any office manager or other employee of any of the Capital offices to be divested for a period of six months from the date of sale. Section VII (C) requires Beneficial to provide the government with a monthly tabulation showing the amount of receivables outstanding at each Capital office to be divested.

Section VIII of the proposed Final Judgment requires Beneficial to provide the government, on a periodic basis, with a record of its efforts to sell each Capital office to be divested.

Section III of the proposed Final Judgment expressly provides that its terms apply to each defendant, its Board of Directors,

its officers, agents and employees, its subsidiaries, affiliates, successors, and assigns, and to all other persons in active concert or participation with any of them who receive notice of this Final Judgment by personal service or otherwise.

Under Section IX of the proposed Final Judgment, the Department of Justice would have access upon reasonable notice to the records and personnel of the defendants in order to determine the defendants' compliance with the provisions of the Final Judgment. Under Section X of the proposed Final Judgment, jurisdiction is retained by the Court for the purpose of enabling any party to apply for such orders or directions as may be necessary to carry out the Final Judgment, for modification of any of its provisions, or for punishment of violations of its provisions.

#### IV.

##### Remedies to Private Plaintiffs

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured in his business or property as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment in this proceeding will neither impair nor assist the bringing of any such private antitrust action.

Under the provisions of Section 5(a) of the Clayton Act (15 U.S.C. 16 (a)), the proposed Final Judgment may not be used as prima facie evidence in any subsequent private lawsuit



which may be brought against the defendants since it is a consent judgment that will be entered before any testimony has been taken.

## V

### Procedures Available for Modifications of the Proposed Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments to Kenneth C. Anderson, Chief, Special Regulated Industries Section, Department of Justice, Safeway Building, Room 504, Washington, D.C., 20530, within the 60-day period provided by the Act. These comments and responses to them will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should determine that some modification of the Final Judgment is necessary.

## VI

### Alternatives to the Proposed Final Judgment

The proposed Final Judgment requires Beneficial to divest 112 Capital offices in 85 communities in seven states. The divestiture of these Capital offices will eliminate the anti-competitive effects of the proposed acquisition of Capital by Beneficial in each of the relevant geographic markets where both Beneficial and Capital are substantial competitors in the making


of direct cash loans to individuals. Since the relief obtained in the Final Judgment eliminates the anticompetitive effects of the proposed acquisition in each geographic market, it is substantially similar to the relief the Department of Justice would expect to obtain after a trial on the merits. Although most provisions of the proposed judgment were revised and refined in the course of the negotiations, no relief substantially different in kind was considered by the government.


## VII

### Determinative Documents

There are no materials or documents which the government considered determinative in formulating this proposed Final Judgment. Therefore none are being filed along with this Competitive Impact Statement.

  
Seymour H. Dussman

  
James H. Phillips

  
Gordon G. Stoner

Attorneys, Department of Justice

Dated: September 24, 1979

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Moscow  
118 E. Third St., 83843

Idaho Falls  
692 E. Anderson, 83401

Boise  
1317 W. Idaho St., 83707

Boise  
5 Mile Plaza  
10418 Overland Road, 83705

Nampa  
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Payette  
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MICHIGAN

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Flint  
64296 Corunna Road, 48504

Saginaw  
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4607 Bay Road, 48608

Battle Creek  
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NEW YORK

Corning  
20 Denison Pkwy, W. 14830

Cortland  
28 N. Main St., 13045

Canandaigua  
123 S. Main St., 14424

NEW YORK (Cont'd.)

Glens Falls  
164 Glen St., 12801

Middletown  
26 North Street, 10940

Newburgh  
380 Broadway, 12550

Oswego  
Midtown Shpg. Center, 13126

Rochester  
1694 Penfield Road, 14625

Rome  
110 W. Liberty St., 13440

Seneca Falls  
102 Fall Street, 13148

Shrub Oak  
Shrub Oak Shopping Center  
1342 E. Main St., 10588

Syracuse  
Storeroom A Valley Plaza Shpg. Ctr.  
4141 S. Salina Street, 13205

(12 Offices)

OHIO

Ashtabula  
4702 Main St., 44004

Findlay  
321 S. Main St., 45840

Canton  
401 Tuscarawas St., West 44702

North Canton  
792 North Main St., 44720

Alliance  
2115 W. State St., 44601

OHIO (Cont'd)

Massillon  
46 N. Erie St., 44646

Orrville  
116 E. Market St., 44667

Kettering  
Woodlane Plaza Shopping Ctr.  
3024 Woodman Dr., 45420

Miamisburg  
45 S. Main St., 45342

Youngstown  
6949 Market St., 44512

Newark  
17 W. Main St., 43055

Hamilton  
633 High Street, 45012

Hamilton-Plaza  
Hamilton Plaza Shopping Center  
2550 Dixie Highway, 45012

Springfield  
72 W. Main St., 45501

Reynoldsburg  
1812 Brice Road, 43068

Steubenville  
123 S. Fourth St., 43952

Lorain  
42783 N. Ridge Road, 44055

London  
167 W. High St., 43140

Zanesville  
36 N. Fourth St., 43701

Fostoria  
111 Main St., 44830

Hilliard  
3636 Main St., 43026

OHIO (Cont'd)

Grove City  
3076 Southwest Blvd., 43123

Cleveland

Euclid  
22504 Lake Shore Blvd. 44123

Fairview Park  
Fairview Shopping Center  
21895 Lorain Ave., 44126

Maple Heights  
5304 Warrensville Center Road, 44137

Painesville  
1472 Mentor Ave., 44077

Parma  
5333 Ridge Road, 44129

Parma Heights  
6769 W. 130th St., 44130

Akron

Akron-Square  
Akron Square Shopping Center  
1615 S. Arlington St., 44306

Akron-Chapel Hill  
Ste. 101, 1717 Brittain Rd., 44310

Akron-W Market  
1650 W. Market St., 44313

Barberton  
155 Wooster Road, N, 44203

Kent  
1108 S. Water St., 44240

Toledo

Bowling Green  
153 E. Wooster St., 43402

Maumee  
127 W. Wayne St., 43537

OHIO (Cont'd)

Toledo (Cont'd)

Toledo-Byrne Road  
1560 S. Byrne Road, 43614

Toledo-West  
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Cincinnati

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Cincinnati-Delhi  
4950 Delhi Road, 45238

Cincinnati  
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Cincinnati-Cherry Grove  
88 Cherry Grove Plaza, 45230

Cincinnati-Colerain  
9806 Colerain Ave., 45239

Cincinnati-Kenwood  
7525 Kenwood Road

Cincinnati-Springfield Pike  
11622 Springfield Pike, 45246

Loveland  
400 Loveland Madeira Rd., 4514

Milford  
Milford Shopping Center  
963 Lila Ave., 45150

Northwood  
2912 Woodville Road, 43616

Columbus

Columbus-S. High  
1286 S. High St. 43206

Columbus-Arlington  
5025 Arlington Centre Blvd.  
Ste. 100, 43220

• Columbus-Graceland  
Graceland Shoppers Mart  
5055-59 N. High St., 43214

OHIO (Cont'd)

Columbus

Columbus-Revolving  
5025 Arlington Centre Blvd.  
Ste. 275, 43220

Columbus-Great Western  
Great Western Shprs. Mart  
3425 South Blvd., 43204

(52 Offices)

OREGON

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Salem  
455 High St., NE, 97308

Salem-Keizer  
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Portland

Portland-4th Ave.  
512 S. W. 4th Ave., 97204

Portland-82nd Ave.  
326 SE 82nd Ave., 97266

Portland-Rockwood  
18615 E. Burnside St., 97233

Portland-Barbur Blvd.  
8201 S. W. Barbur Blvd. 97223

Portland-Weatherly  
502 S.E. Morrison St., 97214

Portland-St. Jones  
8523 N. Lombard St., 97203

Portland-Walnut Park  
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Bend  
1199 N.W. Wall St., 97701

Albany  
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Corvallis  
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Baker  
11932 First St., 97814

Reinoud  
425 S. Sixth St., 97756

Hillsboro  
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Gresham  
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PENNSYLVANIA

Jeannette  
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SW, 98126

Auburn  
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Bellingham  
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Ellensburg  
405 N. Pearl St., 98926

Kirkland  
128 Central Way, 98033

Port Angeles  
120 W. First St., 98362

Puyallup  
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Tacoma-Broadway  
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