



fit to be tied

SOMETIMES, MUSCLING OUT OF A BALLY'S GYM MEMBERSHIP IS THE TOUGHEST WORKOUT OF ALL

BY SABRINA RUBIN ERDELY

IM WINWARD DROVE BY THE HEALTH CLUB EVERY DAY ON THE way to work. He scarcely noticed it at first; the gray building was just part of the landscape as he headed past Franklin Mills on the way to I-95. In time, though, Winward found himself giving second glances to the Bally Total Fitness facility. He'd eye the parking lot crammed with cars, the gym-bag-laden patrons logjamming the glass front doors. Then he'd suck in his gut and drive on.

A diminutive 29-year-old with a sedentary job as an electrical engineer, Winward had a tendency toward pudginess. He'd recently lost 25 pounds in preparation for his wedding, with the help of a LifeStep stair-stepping machine at a gym in his old Northeast neighborhood. But he hadn't joined a health club since he and his new wife had moved to Bensalem a few months ago—and was it his imagination, or were his pants nipping at his waist again? Zooming along Knights Road, Winward would gaze at the red sign emblazoned with the white cursive B. He'd seen Bally's commercials, full of smiling silver-spandex-clad hardbodies lifting weights, kickboxing and jogging. Winward wondered whether Bally had any LifeStep machines. One Friday after work, he decided to find out.

ILLUSTRATION BY MATT MAHURIN

Inside Bally, Jim Winward was greeted by a pulsing dance-music beat. The space was filled with gleaming exercise machines, whirring treadmills, televisions flickering in synch, women in sports bras, men in fingerless mesh gloves hefting barbells. Winward was shown the pool, the free-weight area, the aerobics studio. Against one wall, he spied a row of a dozen LifeStep machines. Amazingly, they were empty.

"This is what I'm here for," Winward gushed to Rick, his tour guide.

"Well, we have plenty of them," said Rick, smiling like an old friend. Rick offered Winward a special membership rate: three years for just \$30 a month, with \$50 paid up front. The deal had actually ended the day before, Rick added, but he thought he could get it extended just this once. Winward wanted to take the contract home to discuss it with his wife, but Rick warned that this was the last chance to get in on the deal: "Who *knows* what the rates will be tomorrow?" he asked ominously.

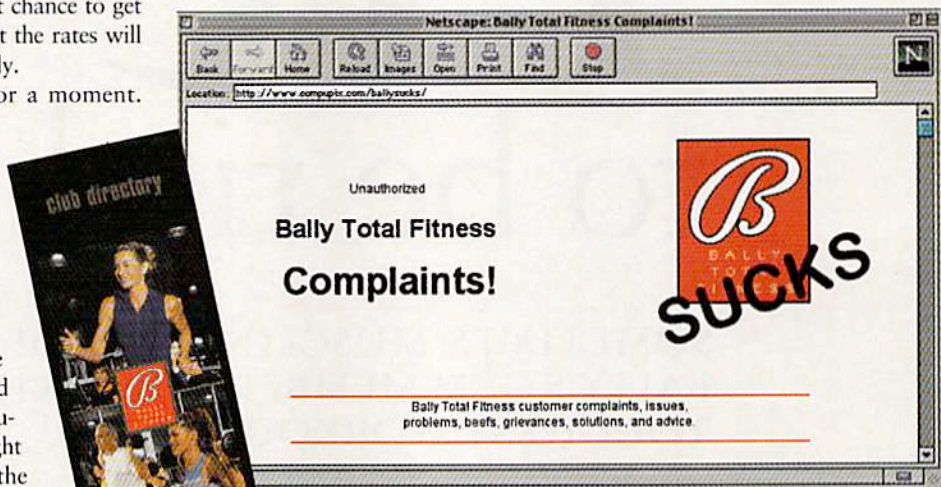
Winward thought about it for a moment. Then he signed.

Six days later, he arrived for his first workout, delighted to find the LifeSteps once again devoid of people. Soon, however, he says he discovered why: Every machine was either jerky and uneven or simply not working. He says he sought out the manager, who said the club had parts on order but wouldn't speculate as to when the LifeSteps might be fixed, noting that they were the gym's lowest priority. "Well, they're the highest priority to *me!*" Winward exclaimed, taken aback at the manager's indifference. "If I can't use them, I might as well quit." The next day, following the manager's instructions, Winward sent a letter to Bally's East Coast headquarters in Baltimore, canceling his membership. He never went back to Bally again.

That was November 1997. Today, more than two years later, with a blemished credit report and collection agencies hounding him for \$1,363 in unpaid membership dues and interest, Jim Winward regrets ever having walked into Bally Total Fitness. "That company is sadistic," he says heatedly. "I thought I was signing up to use some stepper machines and lose weight. I never expected I'd end up like this."

ONE OUT OF EVERY SEVEN HEALTH-club members in America belongs to Bally Total Fitness. By far the nation's largest commercial health-club operator, the company has 360 facilities across North America and four million members—the Delaware Valley alone boasts 10 clubs and 100,000 members. (Full disclosure: the author was a member at the Center City Bally for four years, until last month.) The company shows no signs of slowing its growth, having swallowed up such national competitors as Holiday Health & Fitness, Jack La Lanne and the Vertical Club. It plans to open more clubs this year, including one on Aramingo Avenue, and is developing a Gold's Gym-like franchise program that could add another 25 clubs a year starting in 2001.

In other words, Bally Total Fitness has fulfilled the dream articulated by company chairman Arthur Goldberg: to mass-market fitness the way McDonald's does hamburgers. When Goldberg took over in 1990, Bally Entertainment was practically bankrupt. After cutting costs and putting the company on a kind of fiscal fitness program, Goldberg decided to spin off the gym chain as a separately traded entity in 1996 and installed Lee Hillman as president and CEO. Hillman's presence was the jump-start Bally Total Fitness needed. By 1998, the company was in the black once again (with revenues of \$742.5 million), and Bally Total Fitness had become a hot stock, having shot up from around \$5 a share in 1996 to \$34 last September. The company has branched out into auxiliary products like apparel, home gym equipment, and a line of nutritional supplements that brings in \$9 million a year. And recently, Bally has created part-



When Andrew Faber had a beef with Bally Total Fitness, he sought revenge via the Internet with his Bally Sucks web site, above. A federal judge upheld his right to criticize the company—and noted there was little danger his site would be confused with Bally's own.

nerships with everyone from Procter & Gamble (to promote Noxzema and Pert in its locker rooms) to sports heroes (as the "official training facility of the NFL Players") to Kessler Rehabilitation Corp., a New York physical therapy firm that plans to open rehab clinics in as many as 100 Bally clubs.

But Bally's growth may come at the expense of its members. "They don't care about the client, only the sale," says Marc Rabinoff, professor of human performance, sport and leisure studies at Denver's Metropolitan State College and a frequent expert witness in health-club injury cases. "Bally's is the worst, the biggest violator of care in the industry. Frankly, it's incredible they're still in business."

In response to *Philadelphia Magazine* inquiries, Bally Total Fitness cited its overall attrition rate of 17 percent—less than half the average of the fitness industry as a whole—as evidence of client satisfaction. Curiously, Bally's 1999 SEC filings state that only 62 percent of members renew when their original two- or three-year contracts expire. Fitness experts and local employees report that many frustrated members simply stop going to Bally gyms before their terms run out—a fact they say the company shrugs off. "They count on you paying up front, locking you in for a couple of years, and they don't care if they ever see you again," says a former Bally salesman. "It's a short-term vision." No wonder. With an average of more than 11,000 members per club, Bally would have to call in the National

Guard if everybody actually showed up.

Many of the complaints from members about Bally Total Fitness have to do with high-pressure and misleading sales tactics, the difficulty of canceling memberships, and inaccessible instructors. One ex-member has taken it upon himself to provide a forum for grievances on his "Bally Sucks" web site. Another site, set up by a nonprofit group called the Consumer Aid Education Center, offers step-by-step advice on dealing with Bally Total Fitness's most common cancellation problems. The Federal Trade Commission maintains a file of complaints against Bally and recently sued a collection agency used by the company, alleging that it harassed and misled Bally members to get them to settle their debts; the collection agency settled last February, agreeing to pay a \$300,000 civil penalty. Lawsuits have sprung up concerning contractual disputes, injuries and

The fitness industry has never been so competitive, with more Americans joining health clubs than ever before—there are 29.5 million gym members nationwide, a 22 percent jump since 1995. It used to be enough for a facility to house a few pieces of equipment and a couple of personal trainers. Now, a gym has to carve out a niche for itself. Some clubs do so through the amenities they offer—like the Sporting Club, whose squash courts and in-house dry cleaning attract the executive crowd. At Gold's Gym, hard-core lifting equipment lures bodybuilders. Other gyms are defined by their neighborhoods: Philadelphia Sports Club on 5th Street, for instance, caters to Society Hill families and yuppies; the 12th Street Gym draws gay men. Bally Total Fitness has its niche figured out, and it's quite distinct from all the rest.

"Bally's is the Kmart of fitness," explains Laura Keeler,

“Why are you calling so early?”
Jim Winward asked the Bally rep who woke him at 8:30 on a Saturday. “Because I can,” the man answered. Five minutes later, another Bally rep called.

even death—a wrongful death suit settled in Houston last month alleged that a member who died of a heart attack at a Bally facility in 1998 might have survived if he'd been given CPR. Unfortunately, the lawsuit claimed, the only CPR-trained employee on the premises was busy schmoozing potential members. (Bally Total Fitness refused to comment on the lawsuit.)

Bally spokesman Dave Southern maintains that many of the gripes hark back to Bally's pre-1996 management team and therefore “are, quite simply, ‘the sins of the past.’” Adds Southern, in a written statement, “Since Mr. Hillman began filling his new role, Bally Total Fitness has been aggressively investing in our facilities, our training programs and our support infrastructure to make our members' experiences with Bally Total Fitness the best they can be.” Indeed, Bally has recently upgraded many of its facilities, has installed new equipment in others, and has introduced personal trainer services in all its clubs.

But fitness experts say those changes aren't enough. “I've been testifying against Bally's for 15 years, and I can tell you, it's as bad as it's ever been,” says Marc Rabinoff. “And it is so egregious, because they should know better by now.”

HOLIDAY SPECIAL! SIGN UP FOR JUST \$5 to start!” exclaims a sandwich board outside Bally Total Fitness at 15th and Walnut streets. Behind the front desk, a cluster of instructors stand with arms folded and eyes narrowed, looking more like action figures poised for battle than sales reps waiting for potential members to wander in.

January is the time of year when gym membership rolls swell, inspired by New Year's resolutions and holiday flab. There's always a wait to get your membership card swiped; locker rooms are crammed; people stand in line for treadmills; aerobics classes fill up. And tramping through it all is a constant parade of prospective members.

founder of Rittenhouse Square Fitness Club, a direct local Bally competitor. “That's their selling point—they're a big franchise that's low-price.” Bally wouldn't provide an annual membership cost, but its dues range from \$20 to \$45 per month—at the low end, less than almost any other gym in town, including the Sporting Club (\$1,100 per year), Main Line Health and Fitness (\$750), the YMCA (\$564), Pennsport Athletic Club (\$499) and Rittenhouse Square Fitness Club (\$375). Bally's many locations are another major draw—locally, it has facilities in Center City, Northeast Philly, Willow Grove, Franklin Mills, King of Prussia, Media, Langhorne, Maple Shade, Deptford and Voorhees, and for an extra fee, members can work out in any Bally gym nationwide.

Thanks to its convenience and low price, Bally tends to attract younger, somewhat transient customers. A youthful clientele normally means a more social gym—Sweat, for instance, which caters to students and young professionals in Center City West, is an exuberant place where members enthusiastically network among the canary-yellow machinery. But at Bally's 15th Street gym, there's not much small talk among clients waiting for aerobics classes or in line for water fountains, and when someone stumbles on the treadmill, nobody even glances over. You won't find Ed Rendell kibitzing in the sauna or John Bolaris flexing in front of the mirrors. The women's locker room, in most health clubs buzzing with gossipy chatter, is strangely noiseless. The men's locker room is even more forbidding, with a blue-blazered security guard stationed by the door. Employees tend to be unavailable and curt, even rude. At the Center City location about this time last year, the staff would blast raunchy hip-hop music over the P.A. system near closing time—a trick that would empty out the gym in minutes.

The every-man-for-himself attitude is enforced from the beginning, when, after the cheery club tour, a prospective member is hustled into a private office to negotiate membership dues. Unlike those of other gyms, Bally's (continued on page 125)

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(continued from page 67)

rates are based on a complicated combination of up-front payments and financing arrangements. Employees refuse to quote even ballpark figures over the phone. Instead, salespeople will ask prospective members how much they're willing to pay per month and up front, and the bargaining proceeds from there. According to one former local Bally salesman, the salesperson sizes you up and "takes you for whatever they can."

Upon joining, members soon find out that the employees lingering behind the front desk at their new health club—the ones whose nameplates identify them as "personal instructors," "program directors," "managers" and "assistant managers"—are less likely to be fitness professionals than commission-driven salespeople who must work hard to satisfy quotas. A sales rep at the highest level is expected to bring in as much as \$60,000 worth of membership contracts—about 45 to 60 new members—per month, according to a

"They pack 'em in like sardines, and there's no supervision," says an aerobics instructor who has taught at Bally. "I've never seen anyplace like it."

former rep. Each club is supposed to bring in \$300,000 to \$500,000 in new revenue each month, says the ex-employee. "It's not so much a fitness organization as it is a sales force," says another former salesman. "Once you become a member, you become irrelevant."

One Bally member charged in a complaint to the Federal Trade Commission that upon joining in December 1997 he was told his contract was for a month-to-month plan, and only later discovered he'd actually agreed to a three-year deal. The former local salesman recounts another tactic used at Bally clubs: The salesperson explains to a prospective member that a membership can be canceled if you move more than 25 miles away—but neglects to mention that according to Bally contracts in Pennsylvania, if your new home is within five miles of another Bally facility, you're not allowed to quit. "When they find out the truth later and come in mad, they're just told, 'You should have read the



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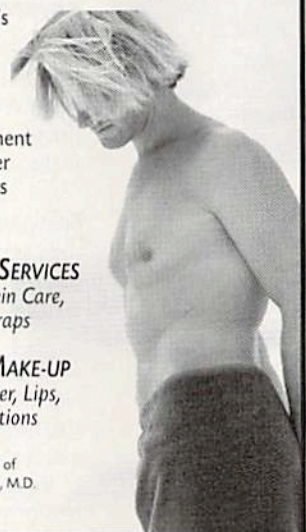
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contract!" says the former employee.

Bally insists it doesn't tolerate unethical or unprofessional behavior from its salespeople and that when presented with evidence of such behavior, it takes swift action. In addition, says Bally spokesman Dave Southern, "It is important to note the number of complaints generated in this area has dropped dramatically over the past three years."

Perhaps the strangest contractual imbroglio involves Chris Sparks, who as a college student in 1992 won a free 30-day Bally membership. In July 1998, Sparks, a West Chester special ed teacher, tried to refinance his mortgage and was shocked to find a \$1,300 Bally debt on his credit report. He called Bally, he says, only to be told that since he didn't cancel during the 30-day period, he was automatically signed up for a *lifetime* membership. "I should have read those forms more carefully," he laments. "But who ever heard of anything like this? It's ridiculous!"

Southern says the chain's 30-day trial memberships do not automatically convert

CAVEAT FLEXOR

Five things you must do before joining a gym

Read your contract. Comb the fine print. Understand the gym's cancellation policy, how many days you're given to change your mind about joining, and how long a term you're signing up for. Look for hidden charges for things like spinning classes and towels. And don't be bullied—if you feel rushed, ask to take the contract home.

Kick the tires. Most facilities will gladly give you a free (or cheap) one-day pass; go before or after work, when gyms are busiest, to get the best sense of the atmosphere, not to mention the locker room. Check that the gym offers classes you enjoy, that the equipment works, and that it's not too crowded. Make sure you're comfortable with the clientele, too: If you work out in ratty gym shorts but everyone there favors spandex thongs and makeup, now's the time to find out.

Ask around. Speak to members. Better yet, talk to instructors, who often work at more than one club. When in doubt, call the Better Business Bureau.

Consider your payment plan. For God's sake, don't let a gym debit your bank account. It's safer to pay by check or credit card.

Sleep on it. Don't make rash decisions. Health clubs offer special rates on a regular basis, so even if the particular offer being dangled before you ends soon, there'll be another one before long. —S.R.E.

to paid memberships. Sparks says he was told by a Bally rep that one of the forms he signed in accepting his free membership had committed him to the lifetime deal.

Some members say that complaining is useless, since in most cases, it's nearly impossible to prove *what* they were told by salespeople prior to signing their contracts. And once the contract is signed, there's little one can do; after the first three days, the only way to cancel a membership is to die, develop a disability, or move. You can also quit if your club closes and there are no other Ballys within 10 miles. Those who refuse to pay are contacted by Bally's debt collection department; from there, the debt is swiftly passed to a collection agency. And though Bally Total Fitness maintains that any member who wants out can cancel after providing appropriate documentation, some members say it can be very difficult to cancel, even for reasons that are written into the contracts.

In a 1994 lawsuit, the Federal Trade Commission charged that Bally failed to honor its members' valid cancellation requests, made unauthorized charges and debits to members' credit cards and bank accounts, and harassed people into paying up. In the ensuing consent order, Bally agreed to pay a \$120,000 fine and offer refunds to certain members. In the mid-'90s, Bally settled similar lawsuits, all concerning contractual disputes, brought by the attorneys general of Massachusetts, California, Washington and Wisconsin. Bally comments that the FTC's lawsuit "dealt with allegations of improper actions occurring prior to 1990. Therefore it is clearly irrelevant to an examination of Bally Total Fitness as it operates today."

The "Bally Sucks" web site, started by frustrated California member Andrew Faber in 1997, has become an outlet for annoyed club members and employees nationwide. Bally Total Fitness sued Faber for trademark infringement in 1998, but a judge ruled against the health club, stating that although the site features the Bally logo, it's unlikely a web surfer would mistake it for a true Bally site, since the logo has the word SUCKS stamped across it. Faber's original grievance with Bally has been resolved; however, he has continued to expand his site to include advice on dealing with collection agencies and possible ways to get out of seemingly ironclad contracts.

Bally management points out that with four million members, "There will, unfortunately, from time to time be some incidents giving rise to complaints." It's also worth noting that many of the complaints have to do with Perimeter Credit, a collection agency that purchases Bally debts. Last February, Perimeter settled an FTC lawsuit

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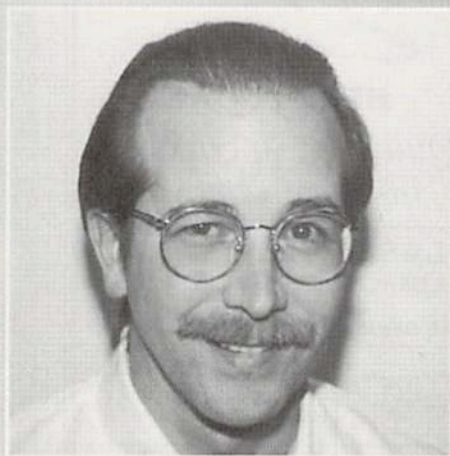
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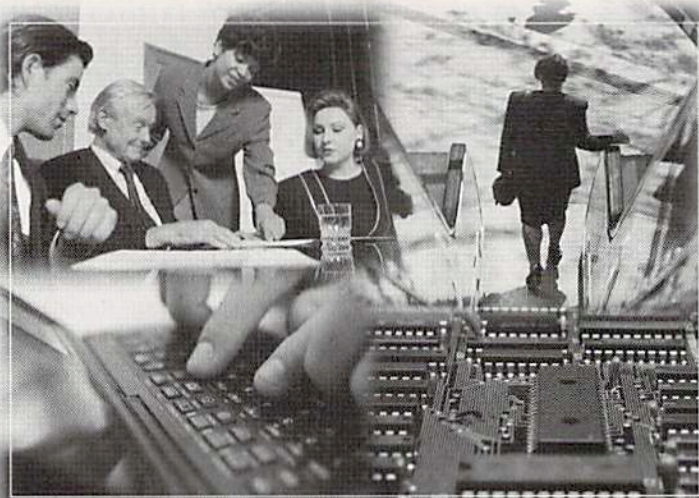
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by agreeing to pay a \$300,000 civil penalty for violations of the Fair Debt Collection Practices Act.

Some members have found that the only way to escape from Bally's grip is to take matters into their own hands. One Center City resident successfully canceled her membership by changing her mailing address to her brother's house in Lancaster. Another option that sometimes works is to get a lawyer. Entrepreneur Shannon Slusher canceled his membership in 1992 when he was hired to run a company in Russia and moved from Arizona to Moscow. But during his five years abroad, Slusher discovered that Bally was still trying to debit his U.S. bank account. Slusher sent copies of his one-way plane ticket and company letterhead, only to be told they were insufficient evidence of his move. Eventually, Slusher moved to Center City and, while establishing a new business, discovered an \$850 Bally debt on his credit report. He filed a suit in small claims court, to which he says Bally immediately responded with an offer to drop the debt—and give him a free lifetime membership.

Slusher was infuriated. "The last thing I wanted was go back to that place," he fumes. Instead, he insisted on settling for a token \$100, far less than the value of the membership he'd been offered (not to mention his lawyer's fees). "It was worth it," he says soberly.

WHEN YOU JOIN A GYM, YOU naturally assume you can turn to its fitness staff for help and advice. At Bally, however, some of the fitness staff double as salespeople. The job title "personal instructor" doesn't necessarily denote a fitness professional, but merely designates entry-level employees who make a base salary of just above minimum wage—plus commissions on any members they recruit. New hires, according to experts and former employees, are given a week-long course in fitness basics. Marc Rabinoff, the Denver-based fitness professor who frequently testifies in health-club cases, is dismayed at the meager training. "You're basically requiring them to cram a four-year undergraduate curriculum in exercise science, and that's not reasonable," he says.

Bally disagrees, pointing out that it has been adding certified personal trainers to its club staffs. The company also says it has revamped its internal fitness training: "Over the past two or three years, there has been a dramatic increase in ... the standards we set for our fitness staff mem-

bers, and the training programs we provide to our personnel are among the finest and most rigorous in the fitness industry.”

But it's not uncommon for an instructor to be summoned away for a phone call in the middle of an orientation—showing a new member how to use club equipment—and never return. “They pack 'em in like sardines, and there's no supervision,” recalls an aerobics instructor who has taught at a half-dozen gyms in the city. She says that once, in 1997, when a woman in her Bally class fell and injured her knee, it took repeated requests for an employee to come to the woman's aid. “The staff could care less—I've never seen anyplace like it,” she marvels.

And then there's the case of Joe Jupin. Jupin was a serious cyclist, and in 1991, he decided to lift weights to increase his leg strength. He became a familiar face in the free-weight room at the Oxford Valley Bally. On May 14, 1991, Jupin asked a fellow member to spot him as he squatted with 455 pounds across his shoulders. Jupin began to falter, but his spotter was distracted. Joe Jupin crashed to the ground, and the falling bar snapped his neck.

At that moment, another member was having his card swiped at the front desk, oblivious of the accident that had just taken place in the weight room. But he realized something was awry, he later testified, when

he witnessed the manager yell to an employee, “This guy's killing our sales! We've got to get him up off the floor!”

Doctors told Jupin he was lucky to have survived and predicted he'd be a quadriplegic. But after years of recuperation and a major operation, he is able to walk with a cane. “You don't think something like this can happen to you, not at a well-known club like Bally's,” says Jupin. He sued Bally, for negligence, and the manufacturer of the squat rack, saying its safety bars were defective. Both defendants settled the case out of court; Jupin says Bally settled for \$75,000 and the equipment company for \$800,000. Bally spokesman Dave Southern says, “As this action arose from an event that occurred in 1991, well before the current management team assumed responsibility, Mr. Jupin's accident—while sad—has no bearing whatsoever on an assessment of the company today.”

In a January 1996 deposition, a Bally senior administrative director defended the company by suggesting that Jupin was getting what he paid for. Because Bally memberships are so inexpensive, the executive explained, members should expect to receive less care than they might elsewhere: “I mean, you buy a Yugo or buy a Jaguar,” he testified. “You don't have dual air bags in one. Is that the safest way to build a car? Absolute-

ly. Why doesn't Yugo put a double bag in? The same thing.”

I MEAN, WHAT ELSE AM I SUPPOSED TO DO?’ Jim Winward asks at a South Philly luncheonette, indicating a manila folder full of Bally paperwork. “I guess I should just be thankful I joined Bally's *after* we got the house.”

When Winward tried to cancel his membership due to the broken LifeStep machines, just a week after he'd joined, he was surprised to find that he was locked into his three-year contract. In a written response, Bally insists that Winward's original complaint had nothing to do with broken equipment: “He requested termination of his contract for ‘non-use’—which is not a stipulation for termination in the contract. When this request was turned down, Mr. Winward attempted to invoke a number of other rationales for terminating his membership, including the ‘broken LifeStep’ theory.” However, Winward's first letter to Bally, sent via certified mail the day after his first workout, goes on at great length about the broken LifeStep machines. Bally also maintains that there were never more than three broken LifeSteps at a time at the Franklin Mills facility. Winward claims that as a seasoned LifeStepper and an electrical engineer to boot, “I know a broken

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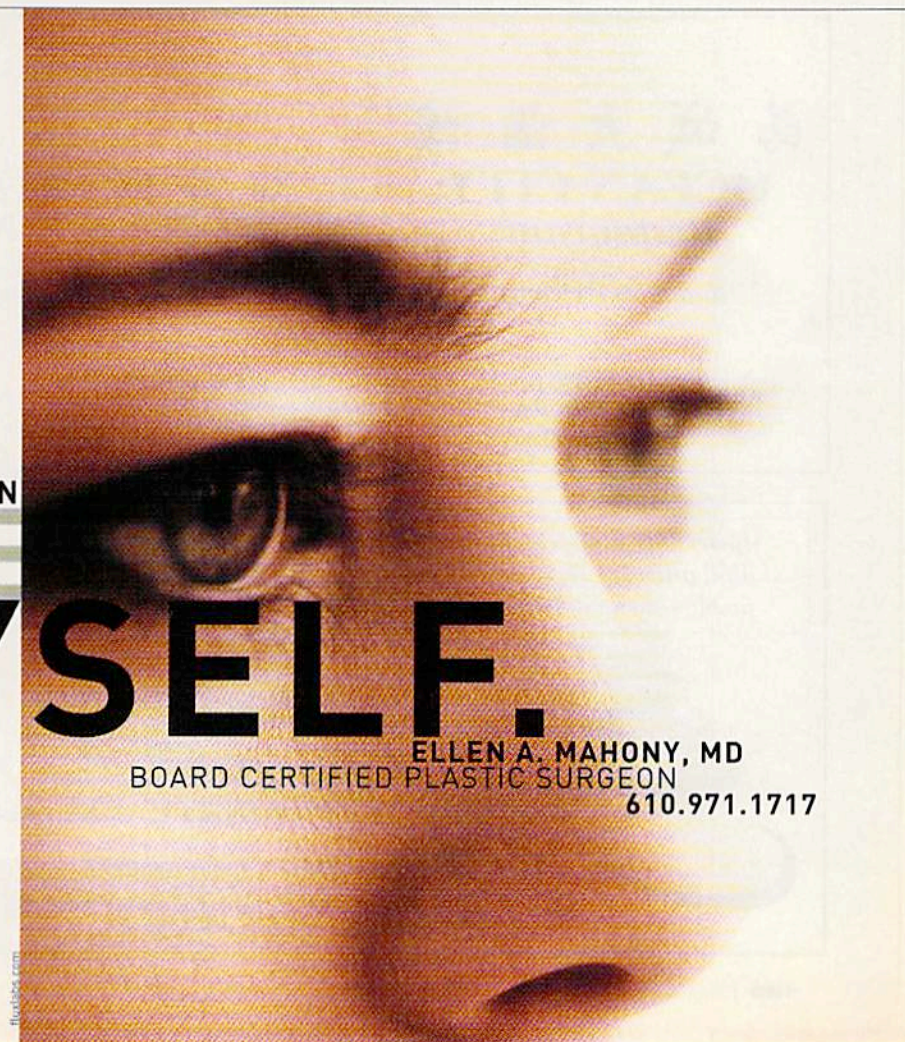
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machine when I see one."

Winward tried reasoning with Bally representatives, then elected simply not to pay. Calls from Bally started pouring in at dinnertime, at work, and early on weekends, waking Winward and his wife. Winward tried to stay calm. But each person he spoke with had no knowledge of his dispute—and although he demanded to speak with supervisors, there was never an authority who could settle the matter. Winward wrote increasingly desperate letters to the company. He received form letters in return.

"Why are you calling me so early?" he demanded of a representative who woke him at 8:30 a.m. on a Saturday. "Because I can," the man answered. Five minutes later, the phone rang again—with a different rep, unaware of the previous call. Teeth clenched, Winward told her he didn't appreciate her calling at such an early hour. "Well, if you paid your bill, I wouldn't have to call," she retorted. Winward changed his home phone number and prayed the matter would blow over. Instead, he started getting calls at work—from collection agencies.

By June 1999, Winward was practically defeated as he sat down to fire off yet another useless round of letters. He reread his Bally contract, to refresh his memory, and couldn't believe his eyes. His contract, he realized, had been dated incorrectly. He had joined on November 7, 1997, but his contract was dated November 4th—in a handwriting not his. Someone, he claims, had predated his contract, effectively erasing his three-day cancellation grace period. With renewed vigor, Winward wrote letters to attorneys general and the Better Business Bureau. Their responses were disappointingly the same: Nothing could be done. The Better Business Bureau forwarded him Bally Total Fitness's response to their inquiry. It was a short letter: "Mr. Winward's request to cancel remains denied."

Winward snorts. "Denied. Can you believe that? Denied?"

The calls from collection agencies have slowed to about one a month. Winward hopes it's a sign that they're losing steam. He's not counting on it. "My wife says I can't fight them," he says. "But I don't care what happens, I'll never pay. This can follow me for the rest of my life." He thinks for a moment. "I guess it could," he says, looking forlorn. After two years of waging this losing battle, his ego has taken a beating. His good credit has been ruined. And as he stares down at his plate, Jim Winward is reminded of one last problem.

"I still need to lose weight," he adds miserably.

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