

IN THE MATTER OF
**WISCONSIN DELUXE DOLL & DRESS COMPANY, DOING
BUSINESS AS WISCONSIN DELUXE CORPORATION**

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 4830. Complaint, Sept. 2, 1942—Decision, Mar. 5, 1943

Where a corporation, engaged in competitive interstate sale and distribution of blankets, clocks, tableware, and numerous other articles—

Supplied its customers with assortments of its said merchandise, together with Bingo sets, through use of which the fortunate participant who was able to mark off on his card a vertical, horizontal or diagonal line made up of five numbers drawn by operator received one of said articles being thus distributed, value of which was in excess of money paid, others receiving nothing; and

Thereby supplied to and placed in the hands of its customers or operators means of conducting lotteries in the sale of its merchandise in accordance with such plan involving sale of a chance to procure an article at much less than its normal retail price, contrary to an established public policy of the United States Government, and in competition with many who do not use any sales method contrary to public policy;

With the result that many persons were attracted by its sales plan and the element of chance involved therein, and were thereby induced to buy and sell its merchandise in preference to that of its aforesaid competitors; and with tendency and capacity, because of said game of chance, to divert trade unfairly to it from them:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and competitors, and constituted unfair methods of competition in commerce and unfair acts and practices therein.

Mr. J. W. Brookfield, Jr., for the Commission.

Mr. Harvey C. Hartwig, of Milwaukee, Wis., for respondent.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal Trade Commission, having reason to believe that Wisconsin Deluxe Doll & Dress Co., a corporation, trading as Wisconsin Deluxe Corporation, hereinafter referred to as respondent, has violated the provisions of the said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the interest of the

public, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Wisconsin DeLuxe Doll & Dress Co., is a corporation, trading as Wisconsin DeLuxe Corporation, with its principal office and place of business located at 1902 North Third Street, Milwaukee, Wis. Respondent is now, and has been for some time last past, engaged in the sale and distribution of blankets, clocks, tableware, kitchenware, luggage, fishing tackle, lamps, electric fixtures, and numerous household articles and other articles of merchandise in commerce between and among the various States of the United States and in the District of Columbia. Respondent causes and has caused said merchandise, when sold, to be transported from its aforesaid place of business in Milwaukee, Wis., to purchasers thereof at their respective points of location in the various States of the United States other than the State of Wisconsin, and in the District of Columbia. There is now and has been for some time last past a course of trade by respondent in said merchandise in commerce between and among the various States of the United States and in the District of Columbia.

In the course and conduct of said business respondent is and has been in competition with other corporations and with individuals and firms engaged in the sale and distribution of like or similar articles of merchandise in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of said business as described in paragraph 1 hereof, respondent, in selling and distributing its said merchandise, has supplied its customers with assortments of said merchandise, together with certain paraphernalia known as Bingo sets, by means of which said merchandise is sold and distributed to the purchasing or consuming public in a manner which involves the operation of a game of chance, gift enterprise or lottery scheme. One of said Bingo sets consists of a large master card or tally sheet containing 75 numbers, a number of smaller Bingo cards on each of which appears 24 numbers arranged in a square, which numbers correspond to the numbers on the tally sheet, and a number of small wooden squares on each of which appears one of the numbers from 1 to 75. Each of said Bingo cards has a different group of numbers thereon, and one of said cards appears substantially as follows:

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Nos. 1 to 15	Nos. 16 to 30	Nos. 31 to 45	Nos. 46 to 60	Nos. 61 to 75	
B	I	N	G	O	
1	16	33	46	66	
6	27	35	55	61	
5	23	Free O Free	58	68	
13	21	37	53	67	
2	20	43	56	63	
START WITH LETTER O IN CENTER, FREE 5 NUMBERS ACROSS ANY LINE WINS 12 DIFFERENT WAYS TO BINGO					2

By means of said Bingo set, said merchandise is distributed to the purchasing public in substantially the following manner: Respondent's customer, or someone designated by such customer, acts as an operator in the sale or distribution of said merchandise. The operator of the Bingo set places in the hands of each participant one of the said Bingo cards, and each participant pays the operator a designated sum of money for the privilege of participating in the distribution of each of said articles of merchandise. The operator then places the said wooden squares in a container and so mixes them that the numbers thereon are concealed until one of said wooden squares is withdrawn from the container by the operator. In the center of the participant's Bingo card is a square marked "FREE" and each participant places a marker thereon before the aforesaid drawing of said numbers is begun. The operator then proceeds with the drawing of numbers from the aforesaid mixing container and calls out the number appearing on each wooden square as said square is withdrawn from said container and the person on whose card such number appears places one of said markers over such number. This same procedure is followed until one of the participants has succeeded in marking five numbers on said card, which numbers form a straight line across the card, either horizontally, vertically, or diagonally. The sequence or distribution of the numbers which control the plac-

ing of the markers is determined wholly by chance. Upon marking the last of said five numbers the participant calls out the word "Bingo." The marked numbers are called out by the operator who checks the same with the numbers on said tally sheet, and if such numbers have been correctly marked the participant is entitled to and receives one of said articles of merchandise as a prize. The other participants receive nothing for their money. This same procedure is repeated until all of said articles of merchandise or prizes have been distributed. The articles of merchandise therein vary but each of said articles of merchandise is of greater value than the amount paid by each participant for participation in the distribution of said merchandise as above described. The said articles of merchandise are thus distributed to the purchasing public wholly by lot or chance.

Respondent has sold and distributed various Bingo sets and other devices for use in the sale and distribution of its merchandise to the consuming public by lot or chance, but the principle of operation in connection with each of said Bingo sets or devices is similar to the one hereinabove described, varying only in detail.

PAR. 3. The persons who have purchased respondent's said assortments of merchandise, together with said Bingo sets, either directly or indirectly, have used said Bingo sets in selling and distributing respondent's merchandise in accordance with the aforesaid sales plan or method. Respondent thus supplies to and places in the hands of others, the means of conducting lotteries in the sale of its merchandise in accordance with the sales plan or method hereinabove described. The use by respondent of said sales plan or method in the sale and distribution of its merchandise and the sale of said merchandise by and through the use thereof, and by the aid of said sales plan or method is a practice of a sort which is contrary to an established public policy of the Government of the United States.

PAR. 4. The sale of merchandise to the purchasing public in the manner above alleged, involves a game of chance or the sale of a chance to procure an article of merchandise at a price much less than the normal retail price thereof. Many persons, firms, and corporations who sell or distribute merchandise in competition with the respondent, as above alleged, do not use said sales plan or method or any sales plan or method involving a game of chance or the sale of a chance to win something by chance or any other sales plan or method that is contrary to public policy. Many persons are attracted by said sales plan or method employed by respondent in the sale and distribution of its merchandise, and by the element of chance involved therein, and have been and are induced to buy and sell respondent's

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merchandise in preference to merchandise offered for sale and sold by said competitors of respondent who do not use the same or equivalent sales plans or methods. The use of said sales plan or method by respondent because of said game of chance has the tendency and capacity to unfairly divert trade in commerce between and among the various States of the United States and in the District of Columbia to respondent from its said competitors who do not use the same or equivalent sales plans or methods.

PAR. 5. The aforesaid acts and practices of respondent, as hereinabove alleged, are all to the prejudice and injury of the public and of respondent's competitors, and constitute unfair methods of competition in commerce and unfair acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on September 2, 1942, issued and thereafter served its complaint in this proceeding upon respondent, Wisconsin Deluxe Doll & Dress Co., a corporation, also trading as Wisconsin Deluxe Corporation, charging it with the use of unfair methods of competition and unfair acts or practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, the Commission by order entered herein granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts, which substitute answer was duly filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute answer, and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Wisconsin Deluxe Doll & Dress Co., is a corporation, trading as Wisconsin Deluxe Corporation, with its principal office and place of business located at 1902 North Third Street, Milwaukee, Wis. Respondent is now, and has been for some time last past, engaged in the sale and distribution of blankets, clocks,

tableware, kitchenware, luggage, fishing tackle, lamps, electric fixtures, and numerous household articles and other articles of merchandise in commerce between and among the various States of the United States and in the District of Columbia. Respondent causes and has caused said merchandise, when sold, to be transported from its aforesaid place of business in Milwaukee, Wis., to purchasers thereof at their respective points of location in the various States of the United States other than the State of Wisconsin, and in the District of Columbia. There is now and has been for some time last past a course of trade by respondent in said merchandise in commerce between and among the various States of the United States and in the District of Columbia.

In the course and conduct of said business, respondent is, and has been, in competition with other corporations and with individuals and firms engaged in the sale and distribution of like or similar articles of merchandise in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of said business as described in paragraph 1 hereof, respondent, in selling and distributing its said merchandise, has supplied its customers with assortments of said merchandise, together with certain paraphernalia known as Bingo sets, by means of which said merchandise is sold and distributed to the purchasing or consuming public in a manner which involves the operation of a game of chance, gift enterprise, or lottery scheme. One of said Bingo sets consists of a large master card or tally sheet containing 75 numbers, a number of smaller Bingo cards on each of which appears 24 numbers arranged in a square, which numbers correspond to the numbers on the tally sheet, and a number of small wooden squares on each of which appears one of the numbers from 1 to 75. Each of said Bingo cards has a different group of numbers thereon, and one of said cards appears substantially as follows:

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Nos. 1 to 15 Nos. 16 to 30 Nos. 31 to 45 Nos. 46 to 60 Nos. 61 to 75

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By means of said Bingo set, said merchandise is distributed to the purchasing public in substantially the following manner: Respondent's customer, or someone designated by such customer, acts as an operator in the sale or distribution of said merchandise. The operator of the Bingo set places in the hands of each participant one of said Bingo cards, and each participant pays the operator a designated sum of money for the privilege of participating in the distribution of each of said articles of merchandise. The operator then places the said wooden squares in a container, and so mixes them that the numbers thereon are concealed until one of said wooden squares is withdrawn from the container by the operator. In the center of the participant's Bingo card is a square marked "FREE" and each participant places a marker thereon before the aforesaid drawing of said numbers is begun. The operator then proceeds with the drawing of number from the aforesaid mixing container and calls out the number appearing on each wooden square as said square is withdrawn from said container, and the person on whose card such number appears places one of said markers over such number. This same procedure is followed until one of the participants has succeeded in marking five numbers on said card, which numbers form a straight line across the card, either horizontally, vertically, or diagonally. The sequence or distribution of the num-

bers which control the placing of the markers is determined wholly by chance. Upon marking the last of said five numbers, the participant calls out the word "Bingo." The marked numbers are called out by the operator, who checks the same with the numbers on said tally sheet, and if such numbers have been correctly marked, the participant is entitled to and receives one of said articles of merchandise as a prize. The other participants receive nothing for their money. This same procedure is repeated until all of said articles of merchandise or prizes have been distributed. The articles of merchandise therein vary, but each of said articles of merchandise is of greater value than the amount paid by each participant for participation in the distribution of said merchandise as above described. The said articles of merchandise are thus distributed to the purchasing public wholly by lot or chance.

Respondent has sold and distributed various Bingo sets and other devices for use in the sale and distribution of its merchandise to the consuming public by lot or chance, but the principle of operation in connection with each of said Bingo sets or devices is similar to the one hereinabove described, varying only in detail.

PAR. 3. The persons who have purchased respondent's said assortments of merchandise, together with said Bingo sets, either directly or indirectly, have used said Bingo sets in selling and distributing respondent's merchandise in accordance with the aforesaid sales plan or method. Respondent thus supplies to and places in the hands of others the means of conducting lotteries in the sale of its merchandise, in accordance with the sales plan or method hereinabove described. The use by respondent of said sales plan or method in the sale and distribution of its merchandise, and the sale of said merchandise by and through the use thereof, and by the aid of said sales plan or method is a practice which is contrary to an established public policy of the Government of the United States.

PAR. 4. The sale of merchandise to the purchasing public, in the manner above found, involves a game of chance or the sale of a chance to procure an article of merchandise at a price much less than the normal retail price thereof. Many persons, firms, and corporations who sell or distribute merchandise in competition with the respondent, as above found, do not use said sales plan or method or any sales plan or method involving a game of chance or the sale of a chance to win something by chance or any other sales plan or method that is contrary to public policy. Many persons are attracted by said sales plan or method employed by respondent in the sale and distribution of its merchandise, and by the element of

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chance involved therein, and have been and are induced to buy and sell respondent's merchandise in preference to merchandise offered for sale and sold by said competitors of respondent who do not use the same or equivalent sales plans or methods. The use of said sales plan or method by respondent because of said game of chance has the tendency and capacity to unfairly divert trade in commerce between and among the various States of the United States and in the District of Columbia to respondent from its said competitors who do not use the same or equivalent sales plans or methods.

CONCLUSION

The aforesaid acts and practices of respondent as hereinabove found are all to the prejudice and injury of the public and of respondent's competitors, and constitute unfair methods of competition in commerce and unfair acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Wisconsin Deluxe Doll & Dress Co., its officers, representatives, agents, and employees, directly, or through any corporate or other device, in connection with the offering for sale, sale, and distribution of novelty or other merchandise in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Selling or distributing blankets, clocks, lamps, kitchenware, fishing tackle, household goods, or any other merchandise, accompanied by a Bingo set or any similar device to be used, or which may be used, by the purchaser of said merchandise, or others, as a means of disposing of said merchandise by means of a game of chance, gift enterprise or lottery scheme.

2. Supplying to or placing in the hands of others, Bingo sets or similar devices, either with assortments of blankets, clocks, lamps, kitchenware, fishing tackle, household goods, or any other merchan-

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dise, or separately, which said Bingo sets or similar devices are to be used or may be used in selling or distributing said merchandise to the public.

3. Selling or otherwise disposing of any merchandise by means of a game of chance, gift enterprise or lottery scheme.

It is further ordered, That respondent shall within 60 days after service upon it of this order file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

IN THE MATTER OF

G. S. PROPER, DOING BUSINESS AS ALBEE STUDIO

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 4871. Complaint, Nov. 19, 1942—Decision, Mar. 5, 1943

Where an individual, engaged in the District of Columbia in interstate sale and distribution of photographs, and particularly tinted or colored photographs and enlargements and miniatures, and in making various advertising and sales representations pertaining thereto by means of printed coupons distributed generally through house-to-house canvassers who represented as a "Special Advertising Offer," good for a limited time only, the sales offer set forth thereon, under which one photograph or miniature could be secured for the amount stated; he deriving his profits from the sale of additional pictures—

- (a) Made use in said various coupons of words and terms "Goldtone Portrait Colored in Oil," "Goldtone Silk Vitiva," and "Hand Colored in Oil" in describing its photographs and miniatures; and represented, through its canvassers—who called attention to the soft and beautiful luster of the pictures, represented as the results of their genuine "Goldtone" finish—that the products for which coupons were being sold were really oil paintings and portraits;

The facts being that said products were not the result of the more expensive "Goldtone" process involving the use of salts of chloride of gold with its much warmer tones, but were merely sepia or brown-tone prints; so-called "Silk Vitiva" products were not composed of, or printed on, silk or any substance containing silk, but simply printed on paper having a smooth, glossy surface, and were, further, in no sense genuine portraits or paintings done or colored in oil by the skill and brush of a painter, as implied, but merely slightly tinted or colored photographic prints;

- (b) Set forth on said coupons such legends as "Regular studio value \$5.00" in connection with the dollar offer for "One Goldtone Portrait Colored in Oil" and "Regular Studio value \$10.00" in connection with the \$2.50 offer for "One Goldtone Silk Vitiva Miniature," and in smaller type, "Good until _____". Note: For time extension mail offer to studio with self-addressed stamped envelope"; and through its agents placed particular emphasis upon the fact that aforesaid products were being obtained for \$1.00 and \$2.50, respectively, and that special prices would be made for additional pictures ordered;

The facts being that said pictures did not have any such values as \$5.00 and \$10.00 and had never sold for said amounts, and purported limited offers were not actually terminated or withdrawn as stated, but in truth comprised part of a continuous scheme of solicitation in the regular course of business;

- (c) Did not direct, through their sales agents, attention to the less conspicuous type appearing on the margin of coupons to the effect that there was only one advertising coupon to a person or family "unless additional portraits are ordered," but sold as many coupons as they were able to, giving the