

Complaint

IN THE MATTER OF

THE REUBEN H. DONNELLEY CORPORATION

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF  
THE FEDERAL TRADE COMMISSION ACT

*Docket C-2060. Complaint, Oct. 8, 1971—Decision, Oct. 8, 1971*

Order requiring a major advertising agency headquartered in New York City handling the promotion of contests games and other promotional devices for a soap and detergent company, the Procter & Gamble Co., to cease failing to disclose the exact number and nature of the prizes in its contests, the numerical odds of winning a prize, failing to award all the prizes, and failing to disclose the names of the major winners; in announcing the contests the respondent is required to disclose the number and nature of the prizes, the odds of winning each prize, and the geographic area involved; respondent is also required to maintain adequate records and furnish the Federal Trade Commission upon request the names and addresses of all the winners and other details of the contests. With respect to services for the Reader's Digest Association, Inc., Paragraphs A(2) and B(3) shall not become effective until December 1, 1971.

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 the Procter & Gamble Company, and Reuben H. Donnelley Corporation, corporations, hereinafter referred to as respondents have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent the Procter & Gamble Company is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 301 East 6th Street, Cincinnati, Ohio.

Respondent Reuben H. Donnelley Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 825 Third Avenue, New York, New York.

The aforementioned respondents cooperate and act together in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondent the Procter & Gamble Company is now and for some time past has been engaged in the manufacture, advertising, offering for sale, sale and distribution of food products, toilet goods, household paper products and cleaners, soaps, detergents, and other products to the public.

Respondent Reuben H. Donnelley Corporation is now and for some time past has been engaged in the preparation, participation in and operation of contests games, "sweepstakes" and other sales promotional devices including, but not limited to, the type of sales promotional devices hereinafter set forth.

PAR. 3. In the course and conduct of their business as aforesaid, respondents cause and for some time past have caused their said products and services to be sold, shipped, and distributed from their respective places of business or from the state of manufacture to purchasers thereof located in various States of the United States and in the District of Columbia, and maintain and at all times mentioned herein have maintained a substantial course of trade in said products or services in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their businesses, and for the purpose of inducing the purchase of the products of respondent Procter & Gamble Company, respondents have engaged in the solicitation of prospective customers through the United States mails, in advertisements in magazines having an interstate circulation, and in promotional materials distributed through retail grocery outlets throughout the United States. Many of said solicitations utilized a promotional device commonly known as a "sweepstakes." These "sweepstakes," which respondents have employed since at least 1962, were conducted in a similar manner.

Millions of copies of advertisements or promotional materials were printed and distributed to the public. Each contained a ticket on which a number was printed, or an invitation to the recipient to choose one of a stated range of numbers. Before distribution to the public, some of the numbers were designated as winning numbers and others were designated as losing numbers. Recipients were directed to check their numbers against a list of winning numbers posted in retail grocery outlets or otherwise made available, or to return the ticket or other form bearing their number to respondents or their agents where it would be checked against a list of winning numbers. If the number held or chosen by the recipient matched a number contained on a list of winning numbers, the recipient was entitled to a specified prize. If a recipient of a ticket or form which contained a winning number failed to return the ticket or form to respondents or their agents, the prize to which he would have been entitled if he had done so was not awarded. Similarly, if persons invited to choose winning numbers chose fewer winning numbers than available prizes, all available prizes were not awarded.

Such "sweepstakes" were conducted by respondents on numerous occasions between January 1, 1968, and May 31, 1969, including but not limited to the following promotions:

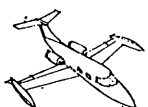
- (a) Procter & Gamble "Write Your Own Ticket" Sweepstakes
- (b) Procter & Gamble "Cinderella Magic Gift" Sweepstakes
- (c) Procter & Gamble "Summer Funstakes" Sweepstakes
- (d) Procter & Gamble "Join the Jet Set" Sweepstakes

PAR. 5. In the course and conduct of its business, respondent has engaged in the above-described "sweepstakes" and other promotions of a similar nature for the purpose of inducing the purchase of its products. Respondent has made and is now making in its advertising and promotional material statements and representations concerning its products and "sweepstakes."

Typical and illustrative of the statements and representations made in said advertising and promotional material, but not all inclusive thereof, are the following:

**"JOIN THE JET SET"**  
2 BIG SWEEPSTAKES • 2 CHANCES TO WIN

Check the Jet Set number on the reverse side against the winning numbers on the "Join the Jet Set" display at your favorite store.



**1. PRIZE: \$10,000**—You and five friends can jet anywhere in North & South America including Hawaii (up to 15,000 miles round trip) with a Jet Set for you exclusive use 9 weeks plus \$35,000 to \$45,000 cash.



**2. PRIZE: \$12,000**—A one week all expense paid trip for two to romantic Hawaii or \$2,000.



**3. PRIZE: \$500 cash**—Airplane tickets for two to glamorous Las Vegas or \$500 cash.



**4. PRIZE: \$500 cash**—A retro cashmere sweater with a Peter Pan collar. No limit to the number of winners! All entrants selecting the correct number will win! See rules on reverse side.

**10,000—THIRD PRIZES**  
A collectors' item of a U.S. Silver Dollar.

P. O. BOX 467, NEVADA, IOWA 50201  
ADDRESS CORRECTION REQUESTED



BLK. RT.  
U.S. POSTAGE  
**PAID**  
NEVADA, IOWA  
PERMIT No. 115

**VALUABLE PROCTER & GAMBLE COUPONS ENCLOSED**

PG456 DETACH COUPON CAREFULLY

TAKE THIS COUPON TO YOUR STORE

**SAVE 5¢ on CREST**

WHEN YOU BUY 1 TUBE

RIGHT AWAY SAVING ANY 5¢

THIS COUPON GOOD ONLY ON CREST ANY OTHER USE CONSTITUTES FRAUD

**FROEGER & CAMBLE**

652731

MAGIC GIFT CARD CINDERELLA SAYS:

**PIN**

Hold this portion behind Cinderella's Magic Screen. If your store does not have a Magic Screen, you can look at your gift card through the upper half of a full bottle of Liquid Pearl to determine your gift or mail for a screen as per rule 1.

TAKE THIS COUPON TO YOUR STORE

**5**

THIS COUPON GOOD ONLY ON TICKETS ANY OTHER USE CONSTITUTES FRAUD

**FROEGER & CAMBLE**

652811

DETACH COUPON CAREFULLY

You've Won the \$25,000 Grand Award

10 1968 Imperials

100 SAMSONITE® LUGGAGE SETS

54-inch simulated PEARL NECKLACE by Galsworthy & Co.

High Fashion CIRCLE PIN with simulated Pearl and Turquoise inserts

Just take your magic gift card to your favorite store...

Place it behind my magic screen to see which gift you have won

Then if you want your gift, just buy Crest Liquid Pearl and Secret...

And send the labels and your gift card to: Cinderella's Magic Gift, P. O. Box 445, Maple Plain, Minnesota 55359 by June 30, 1968

I will And thank you Cinderella!

PAR. 6. By and through the use of the above-quoted statements and representations, and others of a similar import and meaning not expressly set out herein, respondents represented, directly or by implication, that:

(a) One grand prize of \$10,000 plus airplane tickets for two anywhere in the world, 10 first prizes of \$1,000 plus airplane tickets for two anywhere in the world, 100 second prizes of airplane tickets for two anywhere in the world, and over 100,000 third prizes of Rand McNally World Atlases were to be awarded to individuals who held winning tickets in respondents' "Write Your Own Ticket" Sweepstakes.

(b) Prizes including one first prize of \$25,000 cash, 10 second prizes of Chrysler Imperial automobiles, and 100 third prizes of 3-piece luggage sets were to be awarded to individuals who held winning tickets in respondents' "Cinderella Magic Gift" Sweepstakes.

(c) One first prize of a Plymouth automobile or \$5,000 cash, 1 second prize of a swimming pool or \$3,000 cash, 100 third prizes of barbecue grills, and 130,898 fourth prizes of transistor radios were to be awarded to individuals who held winning tickets in respondents' "Summer Funstakes" Sweepstakes.

(d) 50,026 prizes worth approximately \$92,000 at retail, and consisting of one grand prize of the use of a six passenger jet plane for 15,000 miles anywhere in North and South America for two (2) weeks plus \$5,000 in cash, or an alternative award of \$20,000 cash, 5 first prizes of a one-week all expense paid trip for two to Hawaii, or alternative awards of \$2,000 cash, 20 second prizes of airline tickets for two persons to Las Vegas, or alternative awards of \$600 cash, and 50,000 third prizes of U.S. Silver Dollars were to be awarded to individuals who held winning tickets in respondents' "Join the Jet Set" Sweepstakes.

(e) Individuals entered or participating in respondents' "sweepstakes" were afforded a reasonable opportunity to win the represented prizes.

(f) All of the represented prizes for individuals who held winning tickets in respondents' "sweepstakes" had been purchased before or during the time the "sweepstakes" were in progress.

(g) Individuals who participate in respondents' "sweepstakes" will receive a gift having significant retail value.

PAR. 7. In truth and in fact:

(a) One grand prize of \$10,000 plus airplane tickets for two anywhere in the world, 10 first prizes of \$1,000 plus airplane tickets for two anywhere in the world, 100 second prizes of airplane tickets for two anywhere in the world, and over 100,000 third prizes of Rand McNally World Atlases were not awarded to individuals who participated in the "sweepstakes." No awards were made of the grand prize or the first prizes. Approximately 6 airplane tickets for two anywhere in the world and 249 Rand McNally World Atlases were in fact awarded.

(b) Prizes including one first prize of \$25,000 cash, 10 second prizes of Chrysler Imperial automobiles, and 100 third prizes of 3-piece luggage sets were not awarded to individuals who participated in the "sweepstakes." No awards were made of the first or second prizes. Approximately seven 3-piece luggage sets were in fact awarded.

(c) One first prize of a Plymouth automobile or \$5,000 cash, 1 second prize of a swimming pool or \$3,000 cash, 100 third prizes of barbecue grills, and 130,898 fourth prizes of transistor radios were not awarded to individuals who participated in the "sweepstakes." No awards were

made of the first or second prizes. Approximately 20 barbecue grills and 211 transistor radios were in fact awarded.

(d) 50,026 prizes worth approximately \$92,000 at retail were not awarded to individuals who participated in the "sweepstakes." No awards were made of the grand prize or of the first or second class prizes. Approximately 559 third prizes worth approximately \$559 were in fact awarded.

(e) Individuals entered or participating in respondents' "sweepstakes" were not afforded a reasonable opportunity to win the represented prizes. For example, in the "Join the Jet Set" sweepstakes, referred to in Paragraphs 6(d) and 7(d) herein, respondents distributed approximately 30,000,000 coupons to the public. Winning numbers were printed on 50,026 of the coupons. All other coupons contained a non-winning number. Of the 50,026 coupons, one was a grand prize-winning coupon, five were first prize-winning coupons, 20 were second prize-winning coupons, and 50,000 were third prize-winning coupons. As a result of such a distribution of winning coupons, individuals entered or participated in respondents' "Join the Jet Set" sweepstakes had one chance in approximately 30 million to win a grand prize, one chance in approximately six million to win a first prize, one chance in approximately 1.5 million to win a second prize, and one chance in approximately 600 to win a third prize.

(f) Most of the enumerated prizes were not purchased by respondents either before or during the time said "sweepstakes" were in progress. Most of the prizes were purchased only after the termination of the "sweepstakes."

(g) Individuals who participate in respondents' "sweepstakes" do not receive a gift having significant retail value. Said individuals often receive a costume jewelry pin or similar trinket.

PAR. 8. In the course and conduct of their businesses and at all times mentioned herein, respondents have been in substantial competition in commerce with corporations, firms and individuals in the sale of their respective products and services.

PAR. 9. The use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had and now has the capacity and tendency to mislead members of the purchasing public into the mistaken belief that said statements and representations were and are true, and has induced members of the public to participate in respondents' sweepstakes and into the purchase of substantial quantities of respondent the Procter & Gamble Company's products by virtue of said mistaken belief.

PAR. 10. The aforesaid acts and practices of respondents as herein alleged were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition in commerce, in violation of Section 5 of the Federal Trade Commission Act.

#### DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption herein, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission have thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said 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, 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 the respondent has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission thereby issues its complaint, makes the following jurisdictional findings, and enters the following order.

1. Respondent the Reuben H. Donnelley Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its office and principal place of business located at 825 Third Avenue, New York, New York.

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

*It is ordered*, That Reuben H. Donnelley Corporation, a corporation, and its officers, agents, representatives and employees, directly

or through any corporate or other device, in connection with the preparation, advertising, sale, distribution or use of any "sweepstakes," contest, game or any similar promotional device involving chance in commerce, as "commerce" is defined in the Federal Trade Commission Act, cease and desist from:

A. (1) Failing to disclose clearly and conspicuously the exact number of prizes which will be awarded, the exact nature of the prizes, and the approximate retail value of each prize offered.

(2) Failing to disclose clearly and conspicuously the approximate numerical odds of winning each prize which will be awarded; *Provided*, That if such approximate numerical odds are not reasonably capable of calculation, the respondent will disclose clearly and conspicuously the approximate number of recipients to whom the offer is directed if such facts may reasonably be determined.

(3) Failing to award and distribute all prizes of the type and value represented.

(4) Representing directly or by implication that prizes other than cash prizes have been purchased unless they have in fact been purchased at the time that the representation is made.

(5) Failing to furnish upon request to any individual a complete list of the names and states of residence of winners of major prizes, identifying the prize won by each.

(6) Misrepresenting in any manner by any means any element, feature, or aspect of any "sweepstakes," contest, game or any similar promotional device involving chance.

B. Engaging in the preparation, promotion, sale, distribution, or use of any "sweepstakes," contest, game, or similar promotional device involving chance, unless the following are disclosed clearly and conspicuously in the advertising and promotional material concerning said devices which are prepared or disseminated by the respondent:

(1) The total number of prizes to be awarded;

(2) The exact nature of the prizes, their approximate retail value, and the number of each;

(3) The approximate numerical odds of winning each prize which will be awarded; *Provided*, That if such approximate numerical odds are not reasonably capable of calculation, the respondent will disclose clearly and conspicuously the approximate number of recipients to whom the offer is directed if such facts may reasonably be determined;

(4) The geographic area or states in which any such device is used; and

(5) The date the device is opened for participation and the date the device is to end.

*It is further ordered,* That respondent Reuben H. Donnelley Corporation shall;

(1) File with the Commission, within sixty (60) days after service upon it of this order, a report in writing setting forth in detail the manner and form in which it has complied with the provisions of this order;

(2) Maintain for a period of five (5) years after the date on which the "sweepstakes," contest, game or any similar promotional device involving chance is opened for participation adequate records

(a) which disclose the facts upon which any of the representations of the type described in the preceding paragraphs of this order are based, and

(b) from which the validity of the representations of the type described in the preceding paragraphs of this order can be determined;

(3) Furnish upon the request of the Federal Trade Commission:

(a) a complete list of the names and addresses of the winners of each prize, and an exact description of the prize, including its retail value;

(b) a list of the winning numbers or symbols, if utilized, for each prize;

(c) the total number of coupons or other entries distributed;

(d) the total number of known participants in the promotion;

(e) the total number of prizes in each category or denomination which were made available; and

(f) the total number of prizes in each category or denomination which were awarded.

*It is further ordered,* That the respondent shall forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered,* That respondent notify the Commission at least thirty (30) days prior to any proposed change in its corporate form such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance with this order.

## Decision and Order

79 F.T.C.

*It is further ordered,* That with respect to the respondent's services for the Reader's Digest Association, Inc., Paragraphs A (2) and B (3) of this order shall not become effective until December 1, 1971; it is also ordered that sixty (60) days thereafter the respondent shall file with the Commission a second report in writing setting forth in detail the manner and form in which it has complied with the terms of those paragraphs with respect to its services for the Reader's Digest Association, Inc.

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