

to cease using promotional games unless all prizes are awarded as repre-

sented and disclose the odds of winning and other material information, and to cease using false claims in connection with such promotions.

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 Longines-Wittnauer, Inc., a corporation, and Credit Services, Inc., a corporation, 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 Longines-Wittnauer, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 580 Fifth Avenue, in the city of New York, State of New York.

Respondent Credit Services, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 1 West 47th Street, in the city of New York, State of New York.

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

PAR. 2. Respondent Longines-Wittnauer, Inc., is now and for some time past has been engaged, among other things, in the advertising, offering for sale, sale and distribution of watches and other products at wholesale through dealers for resale to the purchasing public and of phonograph records and other products at retail to the general public. The said corporate respondent operates through various wholly-owned corporate subsidiaries including respondent Credit Services, Inc.

Respondent Credit Services, Inc., is a wholly-owned and controlled subsidiary of respondent Longines-Wittnauer, Inc., and is now and for some time past has been engaged in the advertising, offering for sale, distribution and retail sale of phonograph records and other products to the general public.

Respondents Longines-Wittnauer, Inc., and Credit Services, Inc., have sold and distributed phonograph records and other products through an organizational division generally but not always designated as "The Longines Symphonette Society." Such a designation appears on respondents' advertising, sales promotional materials, business stationery, and other printed matter used in connection with this organizational division.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time past have caused, their said products and services, when sold, to be shipped from their place of business in the State of New York to purchasers thereof located in various other 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 in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of the products of respondents, Longines-Wittnauer, Inc., and Credit Services, Inc., respondents have engaged in the solicitation of prospective customers through the United States mails. These solicitations, which utilized promotional materials concerning respondents' products, were mailed to millions of prospective customers through the country and were placed in magazines having nationwide circulation. Many of the 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 promotional materials were printed and distributed in envelopes. Each envelope contained a certificate on which a number was printed. 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 return the certificate, usually to "The Longines Symphonette Society" where it would be checked against a list of winning numbers. If the number on the certificate returned to "The Longines Symphonette Society" matched a number contained on its list of winning numbers, the recipient was entitled to a specified prize. If a recipient of a certificate which contained a winning number failed to return the certificate, the prize to which he would have been entitled if he had done so was not awarded.

Such "sweepstakes" were conducted by the respondents on numerous occasions between 1962 and the present time, including but not limited to the following:

- (a) 1969-70 Income for Life Sweepstakes.
- (b) 1969-70 Around the World Sweepstakes.
- (c) 1969-70 Lucky Cash Sweepstakes.
- (d) 1969-70 Personal Lucky Number Sweepstakes.
- (e) 1969-70 Give-A-Way Sweepstakes.

PAR. 5. In the course and conduct of their business, the respondents engaged in the above-described "sweepstakes" and other promotions for the purpose of inducing the purchase of their products; and respondents have made and are now making in their advertising and

promotional material statements and representations concerning their 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:

Special Limited Sweepstakes . . .
because you have been selected
for this invitation . . .

You May Have Already Won
\$100.00 a month for life in
Longines Symphonette's all-new

**INCOME-
FOR-LIFE
SWEEPSTAKES**

\$100.00 a month for life — 1st prize o \$500.00 a year for life — 25 prizes
\$250.00 a year for life — 25 prizes o \$100.00 a year for life — 50 prizes

101 Big Chances That Your
Lucky Number Has Already Won!

But You Must Return Your Lucky Number To Find Out If It Is One Of The Winners!
 So Return The Personal Document Enclosed With Your Lucky Policy Seal Attached.

What could possibly be nicer than the surprise of finding out that you have won a guaranteed income for the rest of your life . . . to know that every month or every year you will be receiving extra cash to pay bills, buy gifts, to insure a college education.

NOTHING TO BUY! But you must return the Lucky Number enclosed. A giant electronic computer has already selected the winning numbers. Find out if yours is one of them!

How Sweepstakes works . . . The Longines Symphonette has received the described gifts for holders of lucky numbers, generated by electronic computers under the direction of the D. L. Blair Corporation. Each Lucky Number entry submitted by an adult 21 years or older will be checked against the official list of winning numbers. Employees of The Longines Symphonette and its media and suppliers shall not

be eligible. Your entry must list the official lucky number and must be received by March 31, 1970. This sweepstakes is subject to all Federal, State and Local regulations. Prize winners will be notified by mail. Unless you return your Lucky Number, you will be giving up your chance to win a valuable FREE prize. Winning Lucky Numbers must be returned before prizes can be awarded.

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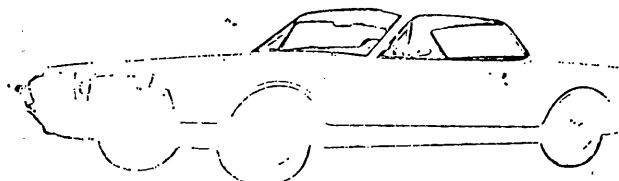
From Vermont to the Virgin Islands...from the Carolinas to California...

WINNERS, WINNERS EVERYWHERE!

Put yourself in the winners' circle... a chance to win in a Longines Symphonette Sweepstakes is yours for the asking... and it's always **FREE**...

HERE ARE SOME RECENT WINNERS!

GOLDEN MERCURY COUGAR WANTED

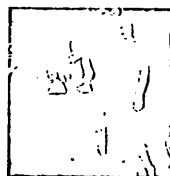


One of the big, big winners in recent weeks is Mr. Raymond C. Stenger of Rockaway Beach, New York. He and his family are thoroughly thrilled with their new Mercury Cougar.

...AND MORE BIG WINNERS!



Mrs. H. G. Philp
Southampton, New York



Mrs. M. L. Stone
Houston, Texas



Mr. C. D. Brazel
Enderlin, North Dakota

\$1,000.00 WINNER

M. W., Seattle, Washington

\$500.00 WINNERS

L. D., Charlesown, South Carolina
J. O., Willovs, California
E. R., Guaymo, Puerto Rico

T. W., Richmond, Virginia
A. C., Sacramento, California
A. G., Brewster, New York
V. K., Christiansted, Virgin Islands
C. R., Roanoke, Virginia
H. S., Gadsden, Alabama
C. F., Grand Ledge, Mississippi
K. W., Martinez, California
A. D., Norfolk, Virginia
A. S., Gloucester, Massachusetts

\$100.00 WINNERS

J. B., Atlanta, Georgia
M. B., Kinsman, Illinois
F. D., El Paso, Texas
A. E., Sellersville, Pennsylvania
F. G., Burnt Hills, New York
V. H., Burburnel, Texas
H. O., Paden City, West Virginia
R. S., Long Beach, California
G. T., Muscle Shoals, Alabama
J. V., Rio Piedra, Puerto Rico

M. B., New York, New York
F. H., Augusta, Georgia
F. H., Havana, Illinois
D. H., Memphis, Tennessee
B. W., Moscow, Idaho
G. S., Boulder, Colorado
B. H., Miami, Florida
E. Y., Kent, Washington
E. F., Milford, Connecticut
T. R., Norwood, Massachusetts
P. W., Whittier, California
E. W., Buffalo, New York

YOU COULD BE NEXT

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

(a) One prize of \$100 a month for life, 25 prizes of \$500 a year for

life, 25 prizes of \$250 a year for life, and 50 prizes of \$100 a year for life were to be awarded in the 1969-70 Income for Life Sweepstakes.

(b) One world trip for 2 plus \$2,500 cash, or \$7,500 cash, 1 Chevrolet Camaro, and 100 TV's were to be awarded in the 1969-70 Around the World Sweepstakes.

(c) 100 prizes of \$1,000, 200 prizes of \$500 and 500 prizes of \$100 were to be awarded in the 1969-70 Lucky Cash Sweepstakes.

(d) One Chevrolet Camaro and 200 AM/FM Clock radios with lamps were to be awarded in the 1969-70 Personal Lucky Number Sweepstakes.

(e) One Chevrolet Camaro, 1 prize of \$500 cash, and 200 AM/FM radios were to be awarded in the 1969-70 Give-A-Way Sweepstakes.

(f) Individuals who submitted cards or certificates bearing winning numbers in accordance with the rules has only to mail the certificates to "The Longines Symphonette Society" in order to claim and obtain a prize.

(g) Individuals who participated in respondents' "sweepstakes" had a reasonable opportunity to win the represented prizes.

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

(i) Cards, certificates, or similar printed material received by individuals contain " 'lucky' numbers" and as such are winning certificates which will entitle the recipient to a prize.

(j) Individuals who receive respondents' promotional materials have been "selected," "chosen," or are "one of the few people * * * to be invited" to participate in the respondents' "sweepstakes;" and that such selection is restricted to a significantly limited number of individuals.

(k) Simulated checks, "money" and other negotiable instruments received by individuals from the respondents are valuable and can be cashed, redeemed, or exchanged for United States currency.

(l) All individuals who participate in respondents' "sweepstakes" will receive a prize having some retail value.

(m) Individuals who agree to order respondents' products have "won" a free record album.

PAR. 7. In truth and in fact:

(a) One prize of \$100 a month for life, 25 prizes of \$500 a year for life, 25 prizes of \$250 a year for life, and 50 prizes of \$100 a year for life were not awarded to individuals who participated in the "sweepstakes." No prize of \$100 a month for life, approximately 1 prize of \$500 a year for life, no prize of \$250 a year for life, and approximately 7 prizes of \$100 a year for life were in fact awarded.

Complaint

(b) One world trip for 2 plus \$2,500 cash, or \$7,500 cash, 1 Chevrolet Camaro, and 100 TV's were not awarded to individuals who participated in the "sweepstakes." No world trip for 2 plus \$2,500 cash or \$7,500 cash, no Chevrolet Camaro, and approximately 10 TV's were in fact awarded.

(c) 100 prizes of \$1000, 200 prizes of \$500 and 500 prizes of \$100 were not awarded to individuals who participated in the "sweepstakes." Approximately 13 prizes of \$1000, 20 prizes of \$500, and 41 prizes of \$100 were in fact awarded.

(d) One Chevrolet Camaro and 200 AM/FM Clock radios with lamps were not awarded to individuals who participated in the "sweepstakes." No Chevrolet Camaro and approximately 7 AM/FM Clock radios with lamps were in fact awarded.

(e) One Chevrolet Camaro, 1 prize of \$500 cash, and 200 AM/FM radios were not awarded to individuals who participated in the "sweepstakes." No Chevrolet Camaro, no prize of \$500 cash, and approximately 25 AM/FM radios were in fact awarded.

(f) Individuals who submitted certificates bearing winning numbers in accordance with the rules were asked to or had to do more than mail the ticket to "The Longines Symphonette Society" in order to claim and obtain a prize. Such individuals were asked to or had to comply with previously undisclosed terms and conditions.

(g) Individuals who participated in respondents' "sweepstakes" were not afforded a reasonable opportunity to win the represented prizes. For example, in the 1969-70 Income for Life Sweepstakes referred to in Paragraphs 6(a) and 7(a) hereof, only one ticket carried a winning number for a first prize of \$100 a month for life. Respondents distributed approximately 25 million tickets to the public. As a result, participants in this "sweepstakes" had one chance in approximately 25 million to win a first prize.

Additionally, the length of time in which these "sweepstakes" promotions were held open to further entries is not disclosed in the promotional materials sent out by respondents. Respondents' "sweepstakes" were often conducted over a period of one year or more, thereby contributing to the lessening of a reasonable opportunity to win the represented prizes.

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

(i) Most of the certificates designated as "'lucky' number tickets" are not winning certificates and do not entitle the recipient to a prize.

(j) Individuals who receive respondents' promotional materials have not been "selected," "chosen" nor are "one of the few people . . . to be invited" to participate in the respondents' "sweepstakes" and such selection is not restricted to a significantly limited number of individuals. Respondents distribute such advertising and promotional material to millions of individuals whose names and addresses have been obtained from a list of purchasers of its products and from purchased mailing lists.

(k) Simulated checks, "money" and other negotiable instruments, received by individuals from the respondents, are not valuable and cannot be cashed, redeemed, or exchanged by recipients for United States currency.

(l) All individuals who participate in respondents' "sweepstakes" do not receive a gift having some retail value. Such individuals often receive a "Spend-Life-Cash" gift certificate which requires a purchase of respondents' products and has no retail value.

(m) Individuals who agree to order respondents' products do not "win" a free record album, but receive it as part of the consideration passing between purchaser and seller.

PAR. 8. In connection with the promotion of their products, respondents provide the same form for the use of individuals who wish to purchase the advertised products and enter their "sweepstakes" as for persons who wish merely to enter the "sweepstakes;" instructions in this regard on the form are unclear and confusing, and cause the inadvertent purchase of the advertised products by persons who intended only to enter respondents' "sweepstakes."

PAR. 9. 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 phonograph records and other products.

PAR. 10. 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 erroneous and mistaken belief that said statements and representations were and are true and has induced many members of the public to participate in respondents' "sweepstakes" and into the purchase of substantial quantities of respondents' phonograph records and other products by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of the 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,

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unfair methods of competition in commerce and unfair and deceptive acts and practices 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 respondents named in the caption herein, and the respondents 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 respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission have thereafter executed an agreement containing a consent order, an admission by the respondents 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 respondents 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 considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of thirty (30) days, and having duly considered the comment filed thereafter pursuant to Section 2.34(b) of its rules, 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 Longines-Wittnauer, Inc., 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 580 Fifth Avenue, in the city of New York, State of New York.

Respondent Credit Services, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at One West 47th Street, in the city of New York, State of New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

I

It is ordered, That Longines-Wittnauer, Inc., and Credit Services, Inc., corporations, and their 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 similar promotional devices, any of which involve 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 to participants and prospective participants the exact number of prizes which will be awarded, the exact nature of the prizes, the approximate retail value of each, and the odds of winning each such prize: *Provided, however*, That in those promotional devices in which the odds cannot be determined with reasonable accuracy, respondents shall clearly and conspicuously disclose the approximate number of individuals to whom the promotional device is being disseminated.

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

(3) Representing directly or by implication to participants and prospective participants that:

(a) An entry offered to any individual or group of prospective participants represents a better opportunity to win or receive a prize than that offered to other prospective participants;

(b) The number of participants has been significantly limited or that the opportunity to participate in respondents' promotional devices and to purchase their products is not available to other members of the public, unless the basis for such representation is clearly and conspicuously disclosed.

(4) Using the word "lucky" in any manner that represents, or representing in any other manner directly or by implication, to participants and prospective participants that any number, ticket, coupon, symbol, or other entry confers or will confer an advantage upon the recipient or is more likely to win a prize than are others, or has some value that other entries do not have.

(5) Failing to disclose clearly and conspicuously to participants and prospective participants those terms and conditions

with which persons who hold winning tickets will be asked to or must comply in order to obtain a prize.

(6) Representing directly or by implication to participants and prospective participants that prizes have been purchased, unless such prizes have, in fact, been purchased at the time the representation is made, or that prizes will be purchased by a future date, unless such prizes will, in fact, be purchased by that date.

(7) Failing to disclose to participants and prospective participants in clear and conspicuous instructions the way in which persons may enter respondents' promotional devices without making or committing themselves to a purchase, or incurring any other obligation, or performing an inspection of any product, or agreeing to any other act or condition.

(8) 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.

(9) Failing to maintain adequate records:

(a) Which disclose the facts upon which any of the representations of the type described in Paragraphs 1-7 of this order are based, and

(b) From which the validity of the representations of the type described in Paragraphs 1-7 of this order can be determined.

(10) Failing to furnish upon the request of the Federal Trade Commission:

(a) A complete list of the names and addresses of the winners of each category or denomination of prizes which does not exceed 1,000 in number, and an exact description of the prize, including its approximate 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 individuals known or reasonably estimated to have participated 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.

B. Engaging in the preparation, promotion, sale, distribution, or use of any "sweepstakes," contest, game, or similar promotional devices, any of which involve chance in commerce, as

"commerce" is defined in the Federal Trade Commission Act, unless the following are disclosed clearly and conspicuously to participants and prospective participants:

- (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) All of the terms, conditions and obligations with which individuals will be asked to or have to comply with in order to obtain a prize;
- (4) The odds of winning each prize; *Provided however*, That in those promotional devices in which the odds cannot be determined with reasonable accuracy, respondents shall clearly and conspicuously disclose the approximate number of individuals to whom the promotional device is being disseminated;
- (5) The geographic area or states in which any such device is used; and
- (6) The date the device is initiated and the date the device is to end.

II

It is ordered, That Longines-Wittnauer, Inc., Credit Services, Inc., and their officers, agents, representatives, and employees, directly or through any corporate or other device in connection with the advertising, offering for sale, sale or distribution to consumers of phonograph records or other products in commerce, as "commerce" is defined in the Federal Trade Commission Act, cease and desist from:

(1) Failing to disclose clearly and conspicuously the exact nature and approximate retail value of any gift or other item furnished without charge, or at nominal charge, or at a cost substantially below its retail value to any purchaser or prospective purchaser of respondents' products, or to any participant or prospective participant in their promotional devices.

(2) Representing directly or by implication to prospective purchasers or participants that:

(a) Any individual or group of prospective purchasers or participants has a better opportunity to receive any gift or other item furnished without charge or at a cost substantially below its retail value than that afforded other prospective purchasers or participants to whom the offer has been made;

(b) The number of individuals to whom such offer has been made has been significantly limited or that the oppor-

tunity to purchase respondents' products is not available to other members of the public, unless the basis for such representation is clearly and conspicuously disclosed.

(3) Using or distributing items that simulate currency, checks, other negotiable instruments, or any other item of value.

(4) Using the word "win," "prize," or other similar term denoting chance or skill, unless the selection of individuals receiving a record album or any other item is based on some element of chance or skill.

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

It is further ordered, That the respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents 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 corporations which may affect compliance with this order.

It is further ordered, That this order shall become effective upon final acceptance by the Commission, or on September 30, 1971, whichever shall occur later.

It is further ordered, That the respondents herein shall, within sixty (60) days after the effective date of this order, file with the Commission a report in writing setting forth in detail the manner in which they have complied with this order.

IN THE MATTER OF

ROBERTSON PHOTO-MECHANIX, INC.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF SEC. 2 (d)
OF THE CLAYTON ACT

Docket C-2121. Complaint, Dec. 27, 1971—Decision, Dec. 27, 1971

Consent order requiring a manufacturer of photomechanical equipment including large specialized cameras, of Des Plaines, Ill., to cease discriminating in paying promotional allowances among competing sellers and distributors of its equipment in violation of Section 2(d) of the Clayton Act.