

Complaint

88 F.T.C.

IN THE MATTER OF
THE COCA-COLA COMPANY, ET AL.
CONSENT ORDERS, ETC., IN REGARD TO ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket 8824. Complaint, Nov. 20, 1970 — Decisions, Oct. 26, 1976

Consent order requiring an Atlanta, Ga., manufacturer of soft drinks and other food products, among other things to cease failing, in contests and promotional games, to disclose all terms, conditions and rules; to award all prizes to entries who conform to the conditions of entitlement to a prize; and to keep adequate records for a minimum of two years.

Consent order requiring a Westport, Conn., promotional firm, among other things to cease failing, in contests and promotional games, to meet all of the above-mentioned requirements, and additionally, in relation to the future conduct of skill contests, to base them solely on matters of established, provable fact; to use such facts as are readily available from reference materials; to disclose that skill is involved and the reference works on which answers are based; to file questions and answers with an independent organization prior to promotion implementation; and to make available to participants the correct answers and a list of winners within sixty (60) days of judging the contest.

Appearances

For the Commission: *John J. McNally* and *David C. Fix*.

For the respondents: *White & Case*, New York City; *Wake, See & Dimes*, Westport, Conn.; and *Weil, Gotshal & Manges*, New York City.

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 Coca-Cola Company, a corporation, and Glendinning Companies, Inc., a corporation, hereinafter sometimes referred to as respondents Coca-Cola and Glendinning, 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 Coca-Cola Company 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 515 Madison Ave., in the city of New York, State of New York.

Respondent Glendinning Companies, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State

of Connecticut, with its office and principal place of business located at One Glendinning Place, in the city of Westport, State of Connecticut.

PAR. 2. Respondent The Coca-Cola Company directly, and through various corporate subsidiaries, affiliates and franchisees is now, and for some time last past has been, engaged in manufacturing, distributing, advertising, offering for sale and selling concentrates, syrups, soft drinks, beverages and other food products. It has production and bottling plants and facilities in numerous American and foreign cities. Its beverages, including those popular soft drinks sold under the trade names "Coca-Cola" and "Tab," are distributed and sold to a vast segment of the general public in substantially all parts of the United States through some 900 local bottlers. Its net sales in 1968 approximated \$1,185,808,864.

PAR. 3. Respondent Glendinning Companies, Inc. is now, and for some time last past has been, engaged in developing, manufacturing, promoting, offering for sale, selling and distributing trade stimulation programs and services, and sales promotional materials including promotional games and related devices used in and to induce the sale and distribution of food, gasoline and various other products.

PAR. 4. In the course and conduct of their respective businesses, respondent Coca-Cola and respondent Glendinning have acted separately or in concert for the purpose and with the result of bringing about the use of a promotional game known as "Big Name Bingo" in connection with and in order to induce the sale and distribution of "Coca-Cola" and "Tab" to a vast segment of the general public.

The aforesaid "Big Name Bingo" promotional game utilizes "bingo" type entry cards to which game participants are required to attach game pieces in the appropriate spaces. The entry cards consist, in the main, of cardboard pieces inserted into cartons of Coca-Cola and Tab. The game pieces consist, in the main, of plastic liners inserted within the lids or caps of bottles of said product. The said entry cards and game pieces, together with tear sheets of advertising copy, in-store display pieces and other promotional game materials and devices, were made available through respondents Coca-Cola and Glendinning to bottlers and distributors of Coca-Cola and Tab, for use in connection with and in order to induce the sale and distribution of said products through usual retail channels in numerous marketing areas to a vast segment of the general public throughout the States of the United States and in the District of Columbia.

PAR. 5. In the course and conduct of its business, respondent Coca-Cola now causes, and for some time last past has caused, said beverages and other food products, including Coca-Cola and Tab, to be distributed through said production and bottling plants and facilities located in

various States of the United States, and to be sold and distributed through retail establishments for sale and distribution to a vast segment of the general public throughout the United States. Respondent Coca-Cola causes its said food products, including Coca-Cola and Tab, to be advertised in newspapers of general circulation published and disseminated throughout the various States of the United States, and the District of Columbia. Respondent Coca-Cola maintains, and at all times mentioned herein has maintained, a substantial course of trade in said beverages and other food products, including Coca-Cola and Tab, and has advertised and distributed said food products and the aforementioned promotional games including "Big Name Bingo" and related materials and devices, in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 6. In the course and conduct of its business, respondent Glendinning has caused to be manufactured, sold and distributed throughout the United States entry cards, game pieces and other materials and devices necessary for the promotion and use of various promotional games, including "Big Name Bingo" used in connection with and in order to induce the sale and distribution of Coca-Cola and Tab to a vast segment of the general public. Respondent Glendinning maintains, and at all times mentioned herein has maintained, a substantial course of trade in said promotional games, materials and devices in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 7. In the course and conduct of their business, respondents have caused advertisements to be published and disseminated in newspapers, through in-store promotional displays, on game entry cards, and by various other means, for the purpose of inducing and which have induced a vast segment of the general public to purchase Coca-Cola and Tab in order to participate in "Big Name Bingo." Many of said advertisements contain depictions of all or a substantial portion of the bingo-type grid format of the game entry cards and set forth an example of a correct or winning game piece liner to be matched up with one of the ten "questions" or spaces on the card. Many of said advertisements recite or paraphrase all or portions of the instructions and rules set out on the game entry cards, and contain statements and representations concerning the likelihood that members of the general public would receive a stated sum by submitting a correct entry in the "Big Name Bingo" promotional game.

Incorporated herein by reference are copies of the following: front and reverse sides of a sample game entry card which are designated Appendix A-1 and A-2, sample of an in-store display card designated Appendix B, and an example of a newspaper advertisement designated

Appendix C. The front side of the said game entry cards consist principally of a grid of 30 circles in six columns of five each. The two center columns comprise statements or "questions," and the outer columns comprise pictures of named famous persons, or "possible answers." Over the grid sections are set forth directions for participating in "Big Name Bingo" and on the reverse side thereof is set forth the "Official Rules" therefor.

PAR. 8. Among and including the statements, depictions and representations set forth on said game cards heretofore designated Appendix A-1 and A-2, and in other advertisements by respondents, as aforesaid, are the following:

PLAY BIG NAME BINGO WIN \$100. Here's How You Can Win \$100. * * *

(Depiction of three bottle caps, from the inside surface of one cap, a liner portraying Abraham Lincoln is being pried loose by what appears to be a knife blade).

* * * Answer the questions by glueing correct picture liners face up and clearly visible over the appropriate question. For example, get the inside "ABRAHAM LINCOLN" picture liner and glue it on the space marked "Freed Slaves" and you are already playing BIG NAME BINGO. Be sure to read the official rules carefully* * *. When you have glued on as many "answers" as you can correctly, submit your card* * *. Webster's unabridged dictionary and the Encyclopedia Britannica will serve as reference authorities* * *.

Playing Grid, Glue correct picture liners over circles* * *."

* * *Match the correct famous faces. Look for Coca-Cola and Tab Caps with the words "BIG NAME BINGO" on top* * *.

Official Rules * * *. On the playing grid you will find 10 "questions." Adjacent are pictured examples of 20 possible "answers"* * *. There are no other picture liners in the contest. Answer each question by glueing the correct picture liners face up and clearly visible over the appropriate questions (be careful, in some instances the same picture liner may be used to answer more than one question and certain questions may not be answered by any of the picture liners). When you have glued on as many "answers" as you can correctly, sign your card and send it along with your name and address to BIG NAME BINGO * * *. Westport, Connecticut* * *. The decision of the judges will be final* * *.

Certain advertisements, including that heretofore designated Appendix C, set forth directions for participating in "Big Name Bingo," including the following:

* * *Match the faces with brief descriptions and paste the faces on the game card at left. For each description, look through all 20 famous faces to see if any match correctly. For example, get the "Abraham Lincoln" picture liner and glue it in the space marked "Freed Slaves." It's that simple. Correctly completed card wins you \$100. But remember, there are 20 liners showing famous faces, and only 10 descriptions on the playing card. So play carefully. Fill in as many spaces as you can correctly* * *.

PAR. 9. The aforesaid directions, explanations, rules, depictions and other statements were published and disseminated by respondents so as to interest and attract a vast segment of the general public, including a substantial portion thereof of average sophistication and skill in semantics, and to induce their purchase of Coca-Cola and Tab in order to participate in said promotional game. By and through the use of the aforesaid directions, explanations, rules, depictions, and other statements, and by others of the same import and meaning not set out specifically herein, respondents represented to the aforesaid substantial portion of the general public, directly or by implication, that they would give \$100 to each contestant who submitted a Big Name Bingo entry card upon which the appropriate liner was affixed in a clearly visible manner over each space in the playing grid containing a "question" to which the depiction on such liner constituted a correct answer according to the cited reference authorities.

PAR. 10. In truth and in fact, many if not all contestants from among the aforesaid substantial portion of the general public, who submitted Big Name Bingo entry cards upon which the correct "answers" were affixed over the appropriate "questions," as referred to in Paragraph Nine hereof, did not receive \$100 from respondents. Contrary to the clear import of their directions, explanations, rules, depictions, and other statements and representations to the substantial portion of the general public interested and attracted thereby, as aforesaid, respondents imposed a material condition or rule, substantially at variance therewith and not disclosed to said substantial portion of the general public, by virtue of which more than one liner had to be affixed over certain of the spaces in order to entitle contestants to win \$100. As a consequence thereof, a substantial number of contestants from among the aforesaid substantial segment of the general public who had been beguiled and induced to purchase Coca-Cola or Tab in order to participate in said promotional game did not receive sums to which they would have been entitled had Big Name Bingo been conducted in accordance with the clear import, to said contestants, of respondents' aforesaid statements and representations.

Therefore, respondents' said statements and representations, acts and practices, and their failure to reveal material facts to a substantial segment of the general public and to award prizes to contestants entitled thereto from among said segment of the general public, as set forth in Paragraphs Eight, Nine and Ten hereof, were, and are, unfair, false, misleading and deceptive acts and practices.

PAR. 11. In the course and conduct of their aforesaid business, and at all times mentioned herein, respondents have been, and now are, in substantial competition, in commerce, with corporations, firms and

individuals in the sale of syrups, concentrates, beverages and other food products, and of trade stimulation programs and promotional games, of the same general kind and nature as that sold by respondents.

PAR. 12. The use by respondents of the false, misleading and deceptive statements, representations, acts and practices and their failure to reveal material facts and to award prizes to contestants entitled thereto, as aforesaid, has had, and now has, the capacity and tendency to mislead a substantial portion of the general public into the erroneous and mistaken belief that said statements and representations were and are true and complete, and into the purchase of substantial quantities of Coca-Cola and Tab by reason of said erroneous and mistaken belief.

PAR. 13. The aforesaid acts and practices of respondents, including their continuing refusal to award prizes to contestants entitled thereto, as herein alleged, were and continue to be all to the prejudice and injury of the public and the respondents' competitors and constituted, and now constitute, 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.



HERE'S HOW YOU CAN WIN
\$100.00!



1. On the playing grid you will find 10 "questions." Adjacent are pictured stamps of the 20 possible "answers," which may be found under the bottle caps of Coca-Cola and TAB (stamps are also printed on the bottom of can cartons). Picture liners are also available by mail (see Rule #1 on the other side). There are no other picture liners in the contest.

Answer the questions by gluing correct picture liners face up and clearly visible over the appropriate questions. For example, get the "Abraham Lincoln" picture liner and glue it in the space marked "Freed Slaves," and you are already playing BIG NAME BINGO. Be sure to read the Official Rules carefully.

2. When you have glued on as many "answers" as you can correctly, submit your card in accordance with Official Rules on back.

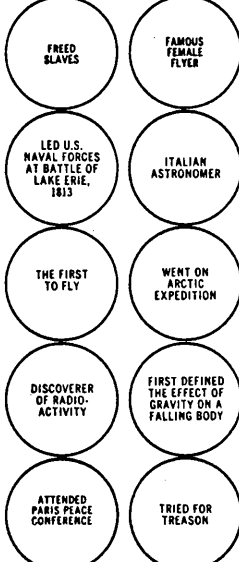
3. Webster's Unabridged Dictionary and the Encyclopedia Britannica will serve as reference authorities for definition of words and for information contained in "questions" on playing grid.

APPENDIX A-1

Possible Answers
Do Not Cut Out—Examples Only



Playing Grid
Glue correct picture liners over circles



Possible Answers
Do Not Cut Out—Examples Only



Official Rules

1. Picture liners are available under caps of Coca-Cola and Tab that have the words BIG NAME BINGO printed on top pictures are also printed on the bottom of can cartons. You may trade any picture liner for any other that you want by sending the undesired picture liner plus the name of the picture liner you want together with a stamped, self-addressed envelope to "Picture Liners," P.O. Box 582, Westport, Connecticut 06880. Additional playing cards are also available from this same address.

2. On the playing grid you will find 10 "questions." Adjacent are pictured examples of 20 possible "answers," which may be obtained as provided in Rule #1. There are no other picture liners in the contest. Answer each question by gluing the correct picture liners face up and clearly visible over the appropriate questions (be careful, in some instances the same picture liner may be used to answer more than one question and certain questions may not be answered by any of the picture liners).

3. When you have glued on as many "answers" as you can correctly, sign your card and send it along with your name and address to BIG NAME BINGO, P.O. Box 582, Westport, Connecticut 06880, for verification and awarding of prize if you are a winner. **DO NOT SEND METAL BOTTLE CAPS IN THE MAIL**—only the liners themselves. Entries must be postmarked no later than May 31, 1969. Winners will be notified by mail about June 20, 1969. Limit one prize to a family.

If your entry is judged incorrect, you will not be notified unless you enclose a stamped, self-addressed envelope with your entry. You will be notified following the official closing date of the contest. No other correspondence will be entered into regarding this contest.

4. Players submitting a card which is judged exactly correct will be awarded \$100.00. The decision of the judges will be final and entry in the contest signifies the agreement of the entrant to abide by the judges' decision. All entries become the property of The Coca-Cola Company and none will be returned.

5. Except for incidental help from family and friends, entries must be wholly the work of the person in whose name the entry is submitted, and will be disqualified for professional or compensated help. The Coca-Cola Company reserves the right to terminate this contest at any time. Contest materials are void and may be rejected if not obtained through legitimate channels, or if any part is illegible, mutilated, smeared or tampered with. No facsimiles are eligible. Void where restricted by law. Applicable taxes are the responsibility of winners. Promotion ends May 31, 1969.

6. Offer open to all U.S. residents except employees (and their families) of The Coca-Cola Company, its bottlers, marketing agencies and parties engaged in the development, production and distribution of contest materials.

© Chesebrough Companies Inc., Westport, Connecticut, 1968



APPENDIX A-2

Mail to: BIG NAME BINGO, P.O. Box 582,
Westport, Connecticut 06880

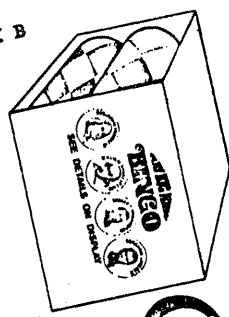
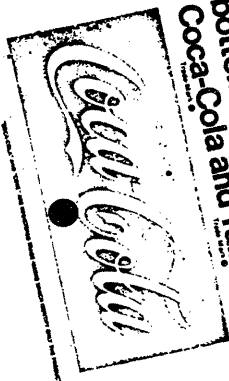
SIGNATURE _____
NAME _____
ADDRESS _____
CITY, STATE _____
SOCIAL SECURITY NO. _____
CLOSING DATE: MAY 31, 1969

PLAY BIG NAME BINGO

Match the correct famous
faces. Look for Coca-Cola and
Tab caps with the words
"BIG NAME BINGO" on top.

APPENDIX B

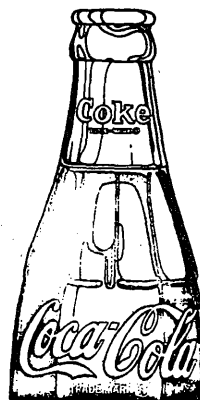
Match the correct famous
faces found on the
bottom of can wraps for
Coca-Cola and Tab.



APPENDIX C

PLAY BIG Name
BINGO
YOU CAN
WIN \$100

Just look for 20 famous faces under bottle caps of Coca-Cola. Match the faces with brief descriptions and paste the faces on the game card to left. For each description, look through all 20 famous faces to see if any match correctly. For example, "The man who painted the picture of the man in the space marker." "Freed Slavery." picture him and give it to the person who finds him. The person who finds the most completed card wins \$100. But remember, there are 20 liners showing famous faces, and only 10 descriptions on the playing card. So play carefully. Find as many spaces as you can correctly assign cards to." Big Name Bingo is available at Box 582, Westport, Connecticut 06880. Read the official rules below for complete details. Play Big Name Bingo—the most fun way to play bingo. The rules are simple. The cards for Big Name Bingo are also found under caps of Tab.



OFFICIAL RULE

- [illegible]

Possible Answers Do Not Cut Out - Answers Only		Possible Answers Do Not Cut Out - Clues Only	
			
			
			
			
			
			

FREED BLUES	FAMOUS TALL FLYER
LED U.S. NORTH FORCE OF LAST YEAR FLEE	ITALIAN ASTRONOMER
THE FIRST TO FLY	WEST OF THE EMPIRE
PROTESTER OF NATIONAL ACTIVITY	FIRST OF THE FALLING BODY
STEPPED DOWN FROM HIS SEAT	TRIED FOR REASON

SIGNATURE _____
 NAME _____
 ADDRESS _____
 CITY, STATE _____
 SOCIAL SECURITY NO. _____
 CLOSING DATE (SEP 31, 1960) _____



69-1073-2-58

(This is a B&W reprint only. The Sunday Supplement ad will be in 4 colors.)

DECISION AND ORDER AS TO THE COCA-COLA COMPANY

The Commission having issued its complaint charging the respondent named in the caption hereto with violation of the Federal Trade Commission Act, and the respondent having been served with a copy of the complaint the Commission issued, together with a proposed form of order; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the complaint issued, 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 considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 3.25(d) of its Rules now in further conformity with the procedure prescribed in Section 3.25(d) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. The Coca-Cola Company 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 310 North Ave., Atlanta, Georgia.
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 respondent The Coca-Cola Company, a corporation, its successors and assigns, officers, agents, representatives and employees, directly or through any corporation or other device, in connection with the advertising, offering for sale, sale or distribution of Coca-Cola, Tab, or any food or other product, or in connection with the sale or distribution of "Big Name Bingo," or any other promotional game, contest, sweepstake or similar device which involves or offers the awarding of a prize or anything of value to participants therein, by any means, in commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from:

Engaging in, promoting the use of, or participating in any such

promotional game, contest, sweepstake or similar device, by means of any announcement, notice or advertisement, unless:

(a) All of the requirements, terms and conditions for participating therein and for entitlement of such prizes are clearly and conspicuously set forth in each advertisement or notice which purports to explain or illustrate the operation of, manner of participation in, or the basis for or prospects of becoming entitled to or receiving a prize in connection with, any such contest or promotional game.

(b) All such prizes are in fact awarded to all participants therein whose entries conform to the stated requirements, terms and conditions for entitlement to and receipt of such prizes.

(c) There are maintained by respondent or its designee for a period of at least two years after the closing of each such promotional game or contest and the awarding of all prizes in connection therewith, full and adequate records including all entry forms submitted by participants therein, which clearly disclose the operation of such promotional game or contest, the basis or method used to determine entitlement to prizes, and the facts as to the receipt of such prizes by participants entitled thereto; which said records and documents shall be open for inspection during normal business hours by each contest participant or his duly authorized representative.

It is further ordered, That 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 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent herein shall, within sixty (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.

Commissioner Dole did not participate by reason of absence.

DECISION AND ORDER AS TO GLENDINNING COMPANIES, INC.

The Commission having issued its complaint charging the respondent named in the caption hereto with violation of the Federal Trade Commission Act, and the respondent having been served with a copy of the complaint the Commission issued, together with a proposed form of order; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the

respondent of all the jurisdictional facts set forth in the complaint issued, 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 considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 3.25(d) of its Rules now in further conformity with the procedures prescribed in Section 3.25(d) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Glendinning Companies, 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 One Glendinning Place, in the city of Westport, State of Connecticut.
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 respondent Glendinning Companies, Inc., a corporation, its successors and assigns, officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, sale or distribution of Coca-Cola, Tab, or any food or other product, or in connection with the sale or distribution of "Big Name Bingo," or any other promotional game, contest, sweepstake or similar device which involves or offers the awarding of a prize or anything of value to participants therein, by any means, in commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from:

1. Engaging in, promoting the use of, or participating in any such promotional game, contest, sweepstake or similar device, by means of any announcement, notice or advertisement, unless:

(a) All of the requirements, terms and conditions for participating therein and for entitlement of such prizes are clearly and conspicuously set forth in each advertisement or notice which purports to explain or illustrate the operation of, manner of participation in, or the basis for or prospects of becoming entitled to or receiving a prize in connection with, any such contest or promotional game.

- (b) All such prizes are in fact awarded to all participants therein

whose entries conform to the stated requirements, terms and conditions for entitlement to and receipt of such prizes.

(c) There are maintained by respondent or its designee for a period of at least two years after the closing of each such promotional game or contest and the awarding of all prizes in such connection therewith, full and adequate records including all entry forms submitted by participants therein, which clearly disclose the operation of such promotional game or contest, the basis or method used to determine entitlement to prizes, and the facts as to the receipt of such prizes by participants entitled thereto; which said records and documents shall be open for inspection during normal business hours by each contest participant or his duly authorized representative.

2. Engaging in, promoting the use of, or participating in the development or operation of any skill contest, unless:

a. The skill contest is based solely on matters of established, provable fact.

b. The factual subject matter is obtainable from readily available reference materials, *e.g.*, those available in the typical public library.

c. Contest materials and advertising disclose clearly and conspicuously that a substantial degree of skill is involved and also the specific reference works on which the answers are based, (*e.g.*, a specific dictionary, encyclopedia, atlas, or historical work), and contest rules and directions clearly provide all necessary information for the contestant to participate successfully.

d. Questions and answers with complete supporting data as outlined in paragraphs (a) and (b) and complete judging procedures are filed with an independent organization prior to promotion implementation.

e. The correct answers and a list of winners is made available to participants upon request and filed with an independent organization within 60 days of the close of judging of the competition.

For purposes of this order a skill contest is defined as any promotional contest or device in which the award of a prize or anything of value to the participants is determined on the basis of the winning answers or solutions submitted by participants through the exercise of a substantial degree of skill in determining the winning answers or solutions to the questions or problems which are the subject of the contest or device.

In the event that the Commission promulgates a final trade regulation rule concerned with skill contests, then such trade regulation rule shall completely supersede and replace paragraph 2 and such trade regulation rule shall become part of this order.

It is further ordered, That the terms of this order shall not apply to a promotional game, contest or device conducted by or under the direction

of a governmental instrumentality, or where the respondent neither knew nor had reason to know of failure to comply with the terms of this order.

It is further ordered, That 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 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That the respondent herein shall, within sixty (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.

Commissioner Dole did not participate by reason of absence.

IN THE MATTER OF
ELECTRONIC COMPUTER PROGRAMMING INSTITUTE,
INC., ET AL.

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

Docket 8952. Complaint, Jan. 24, 1974 — Order, Oct. 26, 1976

Order dismissing a complaint issued against a New York City computer programming training school corporation for alleged violations of Section 5 of the Federal Trade Commission Act. Because of the corporation's impending dissolution, and the unavailability of sufficient assets for consumer redress satisfaction, the Commission held that further proceedings would not be in the public interest and ordered the complaint dismissed.

Appearances

For the Commission: *Deidre E. Shanahan* and *D. McCarty Thornton*,
IV.

For the respondents: *Lowenthal, Freedman, Landau, Fischer & Singer*, P.C., New York City, and *Sidney Davis*, New York City.

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 Electronic Computer Programming Institute, Inc., Chestkin Computer Corp., York Mountain Computer Corp., Data Processing Resources, Incorporated, and Electronic Computer Programming Institute of Fresno, Inc., 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 Electronic Computer Programming Institute, Inc. (hereinafter sometimes referred to as ECPI) 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 350 Fifth Ave., in the city of New York, State of New York. Respondent ECPI is now, and for some time last past has been, engaged in the formulation, development, offering for sale, sale and distribution of courses of instruction intended to prepare graduates thereof for entry-level employment as computer programmers. Respondent's volume of business in said courses of instruction has been, and is, substantial.