

IN THE MATTER OF
BEDE AIRCRAFT, INC., ET AL.

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

Docket C-2934. Complaint, Oct. 26, 1978 — Decision, Oct. 26, 1978

This consent order, among other things, requires a Washington, D.C. manufacturer and marketer of aircraft and related products, and its subsidiaries, to provide and administer as prescribed an approximately \$9,000,000 redress fund for consumers who purchased or made deposits on its products. The firm is required to cease misrepresenting the availability, performance, reliability, and safety of its aircraft; or using any other unfair or deceptive act or practice in the advertising and sale of its products. Additionally, until such time that existing obligations are satisfied, the order requires that all of the firm's stock be placed in the hands of an approved trustee who would oversee its operations, and invoke the provisions of the federal Bankruptcy Act if necessary.

Appearances

For the Commission: *Kenneth R. Bennington.*

For the respondents: *Dale Curtis Hogue* and *William R. Bernard*,
Hogue, Crothers & Bernard, Washington, D.C.

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 Bede Aircraft, Inc., a corporation, Bede General Corporation, a corporation; Bede Wing, Inc., a corporation; James R. Bede, individually and as an officer, director and stockholder of said corporations; hereinafter referred to as respondents, have violated 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 the enumerated paragraphs below.

Allegations of respondents' present acts and practices include respondents' past acts and practices. Allegations in the present tense include the past tense. Allegations of respondents' representations or statements include those made directly or by implication, those made in sales contracts, advertising, promotional materials and sales communications, and representations made orally, visually, or in writing.

For purposes of the allegations enumerated herein, the following definitions apply:

The phrase "advance payment or deposit" means a payment or deposit tendered to respondents in connection with the order or sale of any product, under circumstances in which shipment to the buyer will not take place on the same day on which such payment or deposit is tendered;

"BD-5 homebuilt aircraft" means any aircraft materially within the design parameters of the single-seat, single-engine aircraft commonly referred to by respondents as the "BD-5," which is advertised for sale or sold for full or partial assembly from a kit or from parts, materials or plans supplied wholly or partially by respondents;

"BD-5D aircraft" means any aircraft materially within the general design parameters of the single-seat, single-engine aircraft commonly referred to by respondents as the "BD-5," which is advertised for sale or sold as a production aircraft (as the word "production" is defined herein);

"BD-7 aircraft" means any aircraft materially within the general design parameters of the two to four place, low-wing aircraft commonly referred to by respondents as the "BD-7;"

"FAA" means the Federal Aviation Administration, an agency of the United States Government;

"production" means, in describing any product, that such product is commercially manufactured or fabricated in significant numbers for ultimate distribution or sale in the usual course of business, as opposed to being manufactured or fabricated in small numbers as a model or prototype, or for limited distribution or use not in the usual course of trade;

"proper refund request" means a written notification reasonably calculated to put the refundor on notice that the refundee wishes to exercise a present or future right to a refund. In the latter instance, the refund request becomes "proper" when the right to refund actually vests;

"ship, shipping or shipment" refer to the act by which merchandise is physically placed by respondents in possession of the carrier, or if there is no carrier, in possession of the buyer or his agent; or in the case of aircraft, transfer of the FAA title certificate;

"specialized tools, machines or processes" means tools or machines which a homebuilder of average ability and resources would not reasonably be expected to own, or in the case of processes, those which such homebuilder would not be reasonably expected to be capable of personally performing.

PARAGRAPH 1. Respondent Bede Aircraft, Inc. is a corporation organized, existing and doing business under and by virtue of the

laws of the State of Kansas, with an office located at 1128 Sixteenth St., N.W., Washington, D. C.

Respondent Bede General Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with an office located at 1128 Sixteenth St., N.W., Washington, D. C.

Respondent Bede Wing, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with an office located at 1128 Sixteenth St., N.W., Washington, D.C.

Respondent James R. Bede is sole stockholder and an officer and director of respondents Bede Aircraft, Inc., and Bede General Corporation. Respondent Bede is a stockholder, officer and director of respondent Bede Wing, Inc.

Respondent James R. Bede formulates, directs and controls the acts and practices of respondents Bede Aircraft, Inc., Bede General Corporation, and Bede Wing, Inc. The business address of respondent Bede is 1128 Sixteenth St., N.W., Washington, D.C.

Respondents have cooperated and acted together to bring about the acts and practices hereinafter set forth.

PAR. 2. Respondents are now, and for some time have been, engaged in the business of advertising, offering for sale and selling homebuilt aircraft kits, production aircraft, and aircraft parts plans, materials and accessories. Respondents' aforesaid business is carried on both directly and indirectly, and through the use of licensees or franchisees.

Respondents furnish the means and instrumentalities for a sales program whereby members of the general public, by means of advertisements placed in media of general circulation, promotional brochures and other media, and by means of statements, representations, acts and practices as hereinafter set forth, are induced to sign contracts, make deposits for future deliveries, or otherwise obligate themselves for the purchase of various of respondents' products.

In the manner aforesaid, respondents dominate, control, furnish the means, instrumentalities, services and facilities for, and condone, approve, and accept the pecuniary and other benefits following from the acts and practices hereinafter set forth of respondents' employees, franchisees and licensees. By and through the use of the acts, practices, statements and representations set forth herein, respondents place in the hands of others the means and instrumentalities by and through which such others mislead and deceive the public in the manner and as to the things herein alleged.

PAR. 3. Respondents' volume of business is substantial and their

acts and practices as hereinafter set forth are in or affect commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended.

PAR. 4. In the course and conduct of their business, and all times mentioned herein, respondents have been and now are in substantial competition in or affecting commerce, with corporations, firms and individuals in the sale of aircraft, aircraft kits and aircraft parts, plans, materials and accessories.

COUNT ONE

Alleging certain violations of Section 5 of the Federal Trade Commission Act. The allegations of Paragraphs One through Four hereof are incorporated by reference in Count One as if fully set forth verbatim.

PAR. 5. In the further course and conduct of their business, respondents have prepared financial statements, including balance sheets, income statements and other documents purporting to reflect material aspects of respondents' financial status; respondents have transmitted such financial statements to third parties, representing to such third parties that such statements accurately and truthfully reflect respondents' financial status as of the time to which such statements purport to relate.

Respondents have failed to prepare such financial statements in accordance with generally accepted accounting standards, and have failed to disclose such failure in a clear and conspicuous manner. Respondents have misrepresented the truthfulness and accuracy of such financial statements under circumstances in which respondents knew or should have known that such documents portrayed respondents' financial status and ability to fulfill its consumer obligations in a significantly more positive manner than was in fact the case.

By so failing to prepare financial statements in accord with generally accepted accounting standards, by nondisclosure of such failure and by so misrepresenting the truthfulness and accuracy of such statements, respondents have engaged in unfair and deceptive acts or practices.

PAR. 6. In the further course and conduct of their business, respondents have represented that Bede Aircraft, Inc. is a solvent, ongoing enterprise, capable of fulfilling its obligations and duties, and that the corporation maintains a solid financial basis and every prospect for a continued viable, active business existence.

In truth and in fact, Bede Aircraft, Inc. has, during much of its corporate existence, been insolvent as "insolvent" is defined in the

Bankruptcy Act, 11 USCA 1; Bede Aircraft, Inc., has also from time to time committed acts of bankruptcy, as such acts are defined in the Bankruptcy Act, 11 USCA 21. Respondent Bede Aircraft, Inc. has been in a precarious financial position during much of its corporate existence, unable to pay its debts as they come due, and has engaged in business under circumstances raising reasonable doubts about the corporation's ability to discharge its consumer obligations and duties, and to continue a viable, active business existence.

Respondents have misrepresented material facts with respect to the solvency and business health of Bede Aircraft, Inc.; respondents have also failed to disclose relevant and material facts with respect to the solvency of Bede Aircraft, Inc. in the course and conduct of business with customers, who, had they been aware of such facts, may have substantially altered or abated their dealings with respondents. By so misrepresenting material facts, and by so failing to disclose relevant and material facts, respondents have engaged in unfair and deceptive acts or practices.

PAR. 7. In the further course and conduct of their business under the circumstances set forth in Paragraph Six, respondents have failed to avail themselves of the various remedial procedures of the Bankruptcy Act, including reorganization, rehabilitation, or liquidation. By so failing to avail themselves of such remedial devices, respondents have prejudiced the ability of their customers, to receive the benefits of contracts and agreements with respondents, or in the alternative, to receive restitution of amounts paid or deposited with respondents.

By so failing to avail themselves of the remedial devices of the Bankruptcy Act and by so prejudicing the rights of their customers, respondents have engaged in unfair acts or practices.

PAR. 8. During the course and conduct of their business, respondents represented that Bede General Corporation actually existed as a business entity legally authorized to do business as a corporation. Respondents further represented that Bede General Corporation was an entity separate from respondents' other business operations, with all of the tangible and intangible attributes of an active, viable, corporation.

In truth and in fact, during much of the period concerned in this complaint Bede General Corporation did not legally exist as a corporate entity; respondents failed to comply with the laws of any jurisdiction entitled to authorize corporate existence, and further failed to supply Bede General Corporation with business and financial attributes other than those constituting an illusory corporate existence. Respondents further failed to disclose such facts

to customers who, had they been aware of such facts may have substantially altered or abated their dealings with respondents.

By so failing to supply Bede General Corporation with the legal attributes of incorporation as well as the attributes implied by respondents' representations, and by further failing to disclose material facts with respect to such circumstances, respondents have engaged in unfair and deceptive acts or practices.

COUNT TWO

Alleging violations of Section 5 of the Federal Trade Commission Act, with respect to the BD-5 homebuilt aircraft. The allegations of Paragraphs One through Four hereof are incorporated by reference in Count Two as if fully set forth verbatim.

PAR. 9. In the further course and conduct of their business, respondents have represented that they have actually available for sale, ready to ship, complete kits for the assembly of the BD-5 homebuilt aircraft.

In truth and in fact, respondents do not have available for immediate shipment complete BD-5 homebuilt aircraft kits, nor do such complete kits exist. Significant elements, including key parts, assembly plans and instructions, and engine and drive system subassemblies, have not been fully developed or procured, and are not available to respondents for shipment to buyers of the BD-5 homebuilt aircraft kit. Therefore, the acts and practices described in Paragraph Nine are deceptive.

PAR. 10. In the further course and conduct of their business, respondents have represented that upon remittance of the proper contract amount for the purchase of the BD-5 homebuilt aircraft kit, respondents will begin and complete delivery of various kit installments according to a predetermined schedule calculated to provide the homebuilder with necessary parts, plans and materials in a logical sequence and at reasonable intervals.

In truth and in fact, at all times concerned herein, respondents could not complete delivery of necessary kit elements in a logical sequence or at reasonable intervals, since significant elements have been unavailable to respondents and the date of availability of such elements is not known to respondents with reasonable certainty. Therefore, the acts and practices described in Paragraph Ten are deceptive.

PAR. 11. In the further course and conduct of their business, respondents have represented that BD-5 homebuilt aircraft kits contain production engines and drive systems which are capable of

certain affirmatively stated criteria with respect to performance, reliability and safety.

In truth and in fact, engine and drive system subassemblies have not been developed or produced, beyond the prototype or experimental stage. Accordingly, no production engines or drive systems exist which meet respondents' representations with respect to performance, reliability and safety. Respondents have failed to disclose that representations with respect to performance, reliability and safety are based upon design inferences and expectations, rather than upon data derived from the actual use and testing of production engines and drive systems. Therefore, the acts and practices described in Paragraph Eleven are unfair and deceptive.

PAR. 12. In the further course and conduct of their business, respondents have represented that no more than 800 work hours are required for the homebuilder to fully assemble the BD-5 homebuilt aircraft.

In truth and in fact, homebuilders of average ability have found that substantially more than 800 work hours are necessary to assemble the BD-5 homebuilt aircraft. Respondents lacked a reasonable basis for such representations and have failed to remedy or correct such representations as evidence has accumulated tending to show that respondents' estimates and representations were significantly below the results of actual homebuilder experience. Therefore, the acts and practices described in Paragraph Twelve are unfair and deceptive.

PAR. 13. In the further course and conduct of their business, respondents have represented that the homebuilder will need only simple hand tools for assembly of the BD-5 homebuilt aircraft kit.

In truth and in fact, with respect to certain subassemblies, specialized tools, machines or processes are necessary to complete the aircraft kit according to respondents' specifications and plans. Respondents have failed to disclose that the homebuilder must acquire specialized equipment, or resort to a third party such as a commercial welding or machine shop for completion of certain kit assembly operations. Therefore, the acts and practices described in Paragraph Thirteen are unfair and deceptive.

PAR. 14. In the further course and conduct of their business, respondents have represented that money deposited or paid for some or all subassemblies of the BD-5 homebuilt aircraft would, to the extent that further research and development was necessary to perfect such subassemblies, actually be used directly or indirectly for such purposes.

In truth and in fact, significant amounts of money deposited or

paid by buyers for some or all subassemblies of the BD-5 homebuilt aircraft has been diverted by respondents to research and development with respect to other of respondents' products, as well as other uses, not related to development of the BD-5 homebuilt aircraft, under circumstances in which further research and development was necessary in order to perfect certain subassemblies of BD-5 homebuilt aircraft. Therefore, the acts and practices described in Paragraph Fourteen are deceptive.

PAR. 15. In the further course and conduct of their business, respondents have represented that the BD-5 homebuilt aircraft may be easily and safely flown by an inexperienced pilot.

In truth and in fact, respondents' representations with respect to pilot skill and experience are based on design inference and expectations rather than upon actual flight experience sufficient to evaluate requisite pilot proficiency. Respondents lack a reasonable basis for representations with respect to such requisite pilot skill and experience, and have failed to disclose that the representations made are not based upon actual flight experience sufficient to evaluate requisite pilot proficiency. Therefore, the acts and practices described in Paragraph Fifteen are unfair and deceptive.

PAR. 16. The aforesaid false, misleading and deceptive representations made by respondents, have the tendency or capacity to mislead substantial number of consumers, and to induce said consumers to purchase substantial quantities of products from respondents and respondents' licensees or franchisees based upon such tendency or capacity to mislead.

PAR. 17. In the further course and conduct of their business, respondents have entered into agreements, or otherwise obligated themselves to refund payments and deposits received from customers; respondents have concurrently agreed or otherwise obligated themselves to promptly issue such refunds.

Respondents have consistently failed to issue properly requested refunds. Respondents have engaged in numerous practices designed to deceive customers as to the customer's actual right to a refund, the circumstances under which refunds will be made, and the date on which a refund will be made. Respondents have further engaged in practices designed to coerce customers into acquiescing to refund delay. Respondents have received numerous legitimate refund requests which have gone unsatisfied for in excess of three years.

By so obligating themselves to issue properly requested refunds in a prompt manner and then failing to issue such refunds, and by engaging in the above-enumerated practices designed to resist and

delay issuance of properly requested refunds, respondents have engaged in unfair acts and practices.

PAR. 18. In the further course and conduct of their business, respondents have had the use and benefit of, and have retained substantial amounts of money received as advance payments and deposits as a result of the unfair and deceptive acts as set forth in Count Two, herein.

Respondents have failed to pay interest upon money received as a result of such unfair acts and practices.

By so retaining money received, and by so failing to pay interest, respondents have engaged in unfair acts and practices.

PAR. 19. The acts and practices as herein alleged, are to the prejudice and injury of the public and respondents' competitors, and constitute unfair methods of competition in or affecting commerce and unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5 of the Federal Trade Commission Act.

COUNT THREE

Alleging violations of Section 5 of the Federal Trade Commission Act, with respect to the BD-5D aircraft. The allegations of Paragraphs One through Four hereof are incorporated by reference in Count Three as if set forth verbatim.

PAR. 20. In the further course and conduct of their business, respondents have represented that the BD-5D aircraft will be manufactured, assembled, and ready for delivery as of a specified future date. Accordingly, respondents represented that there existed, at the time such representations were made, a reasonable basis for such representations.

In truth and in fact, respondents lack a reasonable basis for representations made with respect to a specific date on which the BD-5D aircraft will be manufactured, assembled and ready for delivery. Respondents lack sufficient knowledge or expertise to predict, *inter alia*, the time necessary for procurement of requisite FAA airframe certification and engine certification, and the time necessary to fully develop, test, perfect and produce an engine capable of meeting respondents' representations with respect to performance, reliability and safety. Therefore, the acts and practices described in Paragraph Twenty are unfair and deceptive.

PAR. 21. In the further course and conduct of their business, respondents have represented that engines and drive systems exist which are capable of certain specifically stated criteria with respect to performance, reliability and safety.

In truth and in fact, engine and drive system assemblies have not

been developed or produced beyond the prototype or experimental stage. Accordingly, no production engines or drive systems exist, meeting respondents' representations with respect to performance, reliability and safety. Respondents have failed to disclose that representations with respect to performance, reliability and safety are based on design inferences and expectations, rather than upon data derived through use and testing of production engines and drive systems. Therefore, the acts and practices described in Paragraph Twenty-One are unfair and deceptive.

PAR. 22. In the further course and conduct of their business, respondents have represented that the BD-5D aircraft can be easily and safely flown by an inexperienced pilot.

In truth and in fact, respondents have failed to disclose that representations with respect to pilot skill and experience are based on inference and expectations rather than upon actual flight experience sufficient to evaluate requisite pilot proficiency. Respondents lack a reasonable basis for representations with respect to such pilot skill and experience, and have failed to disclose that the representations made are not based upon actual flight experience sufficient to evaluate requisite pilot proficiency. Therefore, the acts and practices described in Paragraph Twenty-Two are unfair and deceptive.

PAR. 23. In the further course and conduct of their business, respondents have represented that money deposited or paid for the BD-5D aircraft would be used, directly or indirectly, for further research and development necessary to perfect certain subassemblies of such aircraft.

In truth and in fact, significant amounts of money deposited or paid by buyers of the BD-5D aircraft has been diverted by respondents to research and development with respect to other of respondents products, as well as other uses, not related to development of the BD-5D aircraft, under circumstances in which substantial research and development of the BD-5D aircraft was necessary before production of such aircraft could begin. Therefore, the acts and practices described in Paragraph Twenty-Three are deceptive.

PAR. 24. In the further course and conduct of their business, respondents have represented that the BD-5D aircraft has been certified or otherwise approved by the FAA.

In truth and in fact, BD-5D aircraft has never been certified or otherwise approved by the FAA. Therefore, the acts and practices described in in Paragraph Twenty-Four are deceptive.

PAR. 25. These aforesaid false, misleading and deceptive representations which have been made by respondents, have the tendency or

capacity to mislead a substantial number of consumers, and to induce said consumers to purchase substantial quantities of products from respondents and respondents' licensees or franchisees based upon tendency or capacity to mislead.

PAR. 26. In the further course and conduct of their business, respondents have promised, otherwise obligated themselves to refund deposits or payments made by respondents' customers on the BD-5D aircraft, if actual production of such aircraft is not commenced by a date specified in the purchase contract, orally, or otherwise; respondents have concurrently agreed or otherwise obligated themselves to promptly issue refunds should production not commence on the specified date.

Respondents have consistently failed to issue properly requested refunds. Respondents have engaged in numerous practices designed to deceive customers as to the customer's actual right to a refund, the circumstances under which refunds will be made, and the date on which the refund will be made. Respondents have further engaged in practices designed to coerce customers into acquiescing to refund delay. Respondents have received numerous legitimate refund requests which have gone unsatisfied for in excess of three years.

By so obligating themselves to issue refunds and then failing to issue such refunds in a prompt manner and by engaging in the above-enumerated practices designed to delay and resist issuance of properly requested refunds, respondents have engaged in unfair acts and practices.

PAR. 27. In the further course and conduct of their business, respondents have had the use and benefit of substantial amounts of money received as advance payments and deposits, and retained, as a result of the unfair and deceptive acts as set forth in Count Three, herein.

Respondents have failed to pay interest upon money received as a result of such unfair acts and practices.

By so retaining money received, and by so failing to pay interest, respondents have engaged in unfair acts and practices.

PAR. 28. The aforementioned acts and practices, as herein alleged, are all to the prejudice and injury of the public and respondents' competitors, and constitute unfair methods of competition in or affecting commerce, and unfair or deceptive acts or practices in or affecting 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 hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Commission's Denver Regional Office 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, their attorneys, and counsel for the Commission having 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 thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and having duly considered the comments filed thereafter by interested persons pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Bede Aircraft, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas, with a principal office located at 1128 Sixteenth St., N.W., Washington, D.C.

Respondent Bede General Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with a principal office located at 1128 Sixteenth St., N.W., Washington, D.C.

Respondent Bede Wing, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois, with a principal office located at 1128 Sixteenth St., N.W., Washington, D.C.

Respondent James R. Bede is sole stockholder and an officer and director of respondents Bede Aircraft, Inc. and Bede General

Corporation. He is also a stockholder, officer and director of respondent Bede Wing, Inc.

Respondent James R. Bede formulates, directs and controls the acts and practices of respondents Bede Aircraft, Inc., Bede General Corporation and Bede Wing, Inc.

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

For purposes of this order, the following definitions apply:

The phrase "advance payment or deposit" means a payment or deposit tendered to respondents in connection with the order or sale of any product, under circumstances in which shipment to the buyer will not take place on the same day on which such payment or deposit is tendered;

"authorized official" includes the person appointed as "authorized official" and, consistent with the duties as defined in Section XVII of this order, the person appointed as "substitute authorized official;"

"BD-5 homebuilt aircraft" means any aircraft materially within the design parameters of the single-seat, single-engine aircraft commonly referred to by respondents as the "BD-5," which is advertised for sale or sold for full or partial assembly from a kit or from parts, materials or plans supplied wholly or partially by respondents;

"BD-5D aircraft" means any aircraft materially within the design parameters of the single-seat, single-engine aircraft commonly referred to by respondents as the "BD-5," which is advertised for sale or sold as a production aircraft (as the word "production" is defined herein);

"BD-7 aircraft" means any aircraft materially within the design parameters of the two to four place, low-wing aircraft commonly referred to by respondents as the "BD-7;"

"the company," when appearing in parentheses in the text of any notice or disclosure contained in this order, means that when such notice or disclosure is actually implemented as required by this order, the name of the company giving the notice or disclosure shall be inserted in lieu thereof;

"drop ship order" means an order placed by respondents with some entity other than respondents or respondents' agents, dealers, licensees or franchisees, for the shipment of merchandise directly to respondents' customer;

"FAA" means the Federal Aviation Administration, an agency of the United States Government;

"FmHA loan" means the guaranteed or insured loan applied for by respondents through the Business and Industrial Loan Division of the Farmers Home Administration, United States Department of Agriculture, to be used for funding respondents' production facility in Petersburg, Virginia.

"production" means, in describing any product, that such product is commercially manufactured or fabricated in significant numbers for ultimate distribution or sale in the usual course of business, as opposed to being manufactured or fabricated in small numbers as a model or prototype, or for limited distribution or use not in the usual course of trade;

"proper refund request" means a written notification reasonably calculated to put the refundor on notice that the refundee wishes to exercise a present or future right to a refund. In the latter instance, the refund request becomes "proper" when the right to refund actually vests;

"ship, shipping or shipment" refer to the act by which merchandise is physically placed in possession of the carrier, or if there is no carrier, in possession of the buyer or his agent; or in the case of aircraft, transfer of the FAA title certificate;

"specialized tools, machines or processes" means tools or machines which a homebuilder of average ability and resources would not reasonably be expected to own, or in the case of processes, those which such homebuilder would not be reasonably expected to be capable of personally performing.

"the trustee" means the trustee of the stock of Bede Aircraft, Inc., appointed pursuant to the provisions of this order;

"Xenoah engine" means a 726 cubic centimeter displacement aircraft engine manufactured by Xenoah Company of Japan, and certified by the FAA for aircraft use.

I

It is ordered. That respondents Bede Aircraft, Inc., a corporation, Bede General Corporation, a corporation, Bede Wing, Inc., a corporation, their successors and assigns, and officers and directors; James R. Bede, individually and as an officer and stockholder of said corporations (hereinafter sometimes referred to collectively as "respondents"); and respondents' officers, directors, agents, representatives, salesmen and employees, directly or through any corporation, subsidiary, division or other device, or through any dealer, licensee or franchisee, in connection with the advertising,

offering for sale, sale, or distribution of homebuilt aircraft kits, production aircraft, aircraft parts and accessories, or any other product or merchandise in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Misrepresenting the accuracy, truthfulness or completeness of any financial statement;

(2) Disseminating for any purpose inaccurate, untrue, or deceptively incomplete financial statements;

(3) Disseminating for any purpose financial statements not prepared in accordance with generally accepted accounting standards, unless such statements clearly and conspicuously indicate the particular manner in which they are at variance with generally accepted accounting standards;

(4) Disseminating financial statements for any purpose, until a full and complete independent audit of the books of Bede Aircraft, Inc. is accomplished, and complete financial statements are procured by respondents as a result thereof; *provided, however*, that unaudited financial statements may be used to provide a sophisticated lender or investor such as a bank or governmental agency with interim or in-house financial statements, for the purpose of providing such lender the most current information available;

(5) Disseminating financial statements, for any reason, which are not consistent with the results of the independent audit described in paragraph 4, above;

(6) Misrepresenting the existence, business purpose, financial condition, or probability of successful operation of any business enterprise with which any of respondents is associated;

(7) Representing that a corporation in any way associated with respondents exists, or representing that any such corporation is engaged in business in any way, unless concurrent with such representations there is compliance with all applicable federal, state, and local laws and rules, sufficient to establish the legal existence of such corporation as well as its right and ability to lawfully engage in business;

(8) Failing at any time to provide any business entity with which any of respondents may be associated in an ownership, partnership, joint venture, or other managerial or directorial capacity, with the financial as well as other attributes implied by respondents' representations, as well as with the attributes and requirements imposed by law.

II

It is further ordered, That respondents and respondents' officers, directors, agents, representatives, salesmen, and employees, directly or through any corporation, subsidiary, division, or other device, or through any dealer, licensee or franchisee, in connection with the advertising, offering for sale, sale, or distribution of homebuilt aircraft kits, production aircraft, aircraft parts and accessories, or any other product or merchandise in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from:

(1) Representing that any product is available for immediate shipment unless such product exists within respondents' possession or control in quantity sufficient to meet reasonably anticipated demand, ready for immediate shipment consistent with the representation made;

(2) Failing to disclose, when such is in fact the case, that any product is not available for immediate delivery, is not being manufactured as a production product, or is subject to further research and development, or failing to disclose any other facts bearing materially upon respondents' current or prospective ability to deliver such product;

(3) Making any representations regarding the shipping dates or shipping schedules with respect to any product unless prior to making such representations respondents have a reasonable basis therefor; *provided further*, that the data constituting such reasonable basis must be documented and retained by respondents for inspection by the staff of the Commission for a period of three years after such representation is made;

(4) Misrepresenting performance criteria or characteristics of any product or making any representations with respect to the performance criteria or characteristics of any product without a documented reasonable basis therefor; *provided further*, that the data constituting such reasonable basis must be documented and retained by respondents for inspection by the staff of the Commission for a period of three years after such representation is made;

(5) Making any representations, orally or in writing, regarding performance criteria or characteristics with respect to any product that is not a "production" product as defined herein, unless concurrently with such representations the following notice is disclosed in a clear and conspicuous manner:

THE (name of product) IS SUBJECT TO FURTHER TESTING AND DEVELOP-

MENT; DESIGN AND PERFORMANCE MAY CHANGE AS FURTHER DEVELOPMENT TAKES PLACE.

(6) Representing that any aircraft or component thereof has been certified or otherwise approved by the FAA, unless such certification or approval has in fact been granted, and unless such representations are consistent with the certification or approval granted;

(7) Failing to honor the purchase price set forth in any contract for the purchase of respondents' products except under circumstances where such failure is necessitated by factors outside respondents' control and where the purchase contract provides adequate notice of such circumstances and their possible effects.

(8) Making any representations with respect to the requisite pilot experience and skill necessary to fly any production aircraft manufactured, advertised for sale, or sold by respondents, unless respondents' representations are consistent with the Type Certification issued by the FAA (as "Type Certificate" is defined by FAA regulations), as well as any limitations imposed by the FAA upon the operation of such aircraft;

(9) Making any representations with respect to the requisite pilot experience and skill necessary to fly any aircraft intended to be assembled from a kit, or any aircraft intended to be a production aircraft but not certified for production by the FAA, unless there exists a reasonable basis for such representation; *provided further*, that the data establishing such reasonable basis must be documented and retained by respondents for inspection by the staff of the Commission, for a period of three years after any such representation is made;

(10) Misrepresenting the pilot skill necessary to fly any aircraft.

(11) Misrepresenting the number of work hours necessary for the assembly of any kit;

(12) Representing that any device is capable of assembly from a kit, within any range or specific amount of time, unless prior to such representation respondents possess a reasonable basis therefor: (a) consisting of representative data obtained from the actual experience of builders of the kit who could be considered average in terms of their experience and accessibility to tools and technical assistance; or (b) if such data is unavailable due to the insufficiency of builders or builder experience, consisting of other data; *provided further*, that the data establishing such reasonable basis must be documented and retained by respondents for inspection by the staff of the Commission, for a period of three years after any such representation is made;

(13) Misrepresenting the number or description of any tools necessary for the assembly of any kit;

(14) Making any representations with respect to the tools or processes necessary for the assembly of any kit, without disclosure of all specialized tools, machines or processes which must be employed to assemble the kit in accordance with respondents' representations and specifications;

III

It is further ordered. That respondents and respondents' officers, directors, agents, representatives, salesmen, and employees, directly or through any corporation, subsidiary, division, or other device, or through any dealer, licensee or franchisee, in connection with the advertising, offering for sale, sale, or distribution of homebuilt aircraft kits, production aircraft, aircraft parts and accessories, or any other product or merchandise in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from soliciting or accepting advance payments or deposits in excess of \$100:

(1) unless a purchase contract relating to such an advance payment or deposit:

(a) contains the following notice displayed clearly and conspicuously on the front of the contract document;

NOTICE TO BUYER: THE FEDERAL TRADE COMMISSION'S
RULE REGARDING MAIL ORDER MERCHANDISE MAY
CREATE CERTAIN RIGHTS FOR YOU, AS WELL AS DUTIES
ON THE PART OF THE SELLER. READ THIS ENTIRE
CONTRACT.

(b) recites verbatim in a clear and conspicuous manner, the provisions attached to this order as Appendix I; and

(2) unless respondents comply with the contractual provisions required by subparagraph 1(b), above, in all material respects.

IV

It is further ordered. That respondents do forthwith cease and desist from soliciting or accepting advance payments or deposits on products valued in excess of \$100 and not within respondents' immediate possession or control, and on products valued in excess of \$1,000.

(1) unless such advance payments or deposits are held in escrow by a bank or other duly chartered institution capable of acting in a fiduciary capacity as an escrow agent and

(2) unless such escrow arrangement is conducted pursuant to an escrow agreement between respondents and the escrow agent, meeting the specifications set forth in Section VI, herein.

V

It is further ordered, That respondents and respondents' officers, directors, agents, representatives, salesmen, and employees, directly or through any corporation, subsidiary, division, or other device, or through any dealer, licensee or franchisee, in connection with the advertising, offering for sale, sale, or distribution of homebuilt aircraft kits, production aircraft, aircraft parts and accessories, or any other product or merchandise in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act do forthwith cease and desist from advertising for sale, selling, or otherwise soliciting the purchase of plans or drawings for the assembly or construction of any aircraft or other device:

(1) unless a written contract for the sale of such plans or drawings exists, and contains, in a clear and conspicuous manner on the first page thereof, the following disclosure:

(the company) MAKES NO CLAIMS OR PROMISES EXCEPT THOSE CONTRACTUALLY SPECIFIED, AS TO THE FUTURE AVAILABILITY OF ANY PARTS OR MATERIALS NECESSARY TO ASSEMBLE THIS *(product)*. THEREFORE, THE BUYER SHOULD BE AWARE THAT THE FUTURE ABILITY TO PURCHASE SUCH PARTS OR MATERIALS FROM *(the company)* MAY NOT BE GUARANTEED.

(2) unless all information kits and other packages of promotional materials relating to such plans or drawings contain, in a clear and conspicuous manner, the disclosure specified in subparagraph (1), above; and,

(3) unless such plans or drawings contain the following disclosure made clearly and conspicuously on the first page thereof:

(the company) MAKES NO CLAIMS OR PROMISES EXCEPT THOSE CONTRACTUALLY SPECIFIED, AS TO THE FUTURE AVAILABILITY OF ANY PARTS OR MATERIALS NECESSARY TO ASSEMBLE THIS *(product)*.

VI

It is further ordered, That respondents, within 60 days after the order becomes final, enter into an escrow agreement with a bank or

other duly chartered financial institution capable of acting in a fiduciary capacity as an escrow agent; *provided further*, that:

(1) Respondents may, with the approval of the trustee, enter into multiple escrow arrangements one each for separate business sites, under circumstances judged by the trustee to be in the best interests of respondents' timely compliance with this order.

(2) Such escrow agreement(s) shall be consistent with the provisions and spirit of this order as well as the specifications set forth below:

(a) Where the provisions of this order require, advance payments or deposits received by respondents shall be immediately transferred to an escrow agent for deposit in an escrow account; such payments or deposits shall be accompanied by a copy of the applicable sales contract;

(b) The escrow agent shall hold funds so deposited, in an escrow account dedicated solely to the escrow agreement; the escrow agent shall disburse funds from the escrow account only under the following circumstances:

(i) If an authorized official provided for in Section XVII of this order, certifies that respondents are rightfully entitled to payment, the escrow agent will be bound to remit to the respondent the proper amount representing merchandise shipped; *provided, however*, such certification shall consist of (1) a statement of the facts entitling respondents to receipt of escrowed amounts, (2) copies of shipping documents or other documents evidencing shipment as defined in this order, or copies of documents evidencing the placement of a drop ship order requiring payment to be made concurrently with the order, and (3) a statement that to the authorized official's best personal knowledge respondents are rightfully entitled to receipt of escrowed funds and respondents' receipt of such funds will be consistent with this order;

(ii) If the buyer identified in a contract accompanying the advance payment or deposit makes written demand on the escrow agent for refund of payments or deposits held in the escrow account, the escrow agent shall be obligated to immediately notify respondent of such demand; at the end of 14 days after such notice to respondent, if respondent has not certified, through an authorized official, that the buyer making the demand is not entitled to a refund, the escrow agent shall be obligated to remit the amount of the refund demanded, up to the face value of the contract relating to such advance payment or deposit;

(c) The escrow account shall not be liable in any way for the expenses and fees of the escrow agent;

(d) The escrow agent shall maintain for the inspection of the Commission and the trustee, appropriate books, accounts and files documenting all transactions occurring under the escrow agreement, including but not limited to the original copy of each certification by respondents that funds should or should not be released from the escrow account; *provided further*, that such books, accounts and files for each calendar year, shall be retained by the escrow agent for inspection by the trustee or the Commission, for a period of two additional calendar years;

(e) Where the provisions of this order require certification or action by an authorized official or his substitute, the escrow agent shall accept the certification of no other person in lieu thereof, except that of the trustee that the escrow agent shall accept only the statement of the trustee of Bede Aircraft, Inc., as to the identity of such authorized officials.

VII

It is further ordered, That to the extent respondents are obligated to provide refunds for any reason, respondents cause such refunds to be issued within fifteen working days after the right to a refund vests, except as otherwise provided herein.

VIII

It is further ordered, That respondents, to the extent that refunds are not issued within fifteen days after the right to a refund vests, add interest to the refund at an annualized rate of two points over the highest of the prime interest rates offered by large New York banks as posted in the Wall Street Journal at the beginning of each calendar quarter during which such refund is overdue.

IX

It is further ordered, That respondents discharge the customer obligations of Bede Aircraft, Inc., and its subsidiaries in the following manner:

(1) with respect to all persons who have made advance payments or deposits of any amount on the BD-5D aircraft, respondents shall offer the following options:

(a) such persons may elect to receive subject to the provisions of Sections XIII and XIV of this order, a refund of the advance payment or deposit, plus interest from August 1, 1975 or the contract date, whichever is later, until such refund plus accumulated interest is paid in cash or used as credit for the purchase of merchandise;

provided further, that such interest shall be calculated at an annualized rate of two points over the highest of the prime interest rates offered by large New York banks as posted in the Wall Street Journal at the beginning of each calendar quarter for which interest is paid; or

(b) such persons may elect to reaffirm the order and purchase the aircraft at the wholesale price, which shall be the lowest price at which any of respondents' dealers could or did purchase from respondents such an aircraft in the regular course of business during the 90 days prior to the time full payment is made for purchase of the aircraft.

(c) such election shall be made at the time respondents require execution of the final purchase contract committing the buyer to purchase and respondents to deliver the aircraft, but in no event shall respondents require such election more than six months prior to the production date for the first production BD-5D aircraft scheduled by Creative Industries of Detroit or a substitute subcontractor;

(d) *provided further*, that such persons entitled to make an election under subparagraph (1), above, shall be deemed to have elected option (a) thereof unless option (b) is affirmatively elected in writing.

(2) with respect to all persons who have made advance payments or deposits toward the purchase of, or purchased BD-5 homebuilt aircraft kits as of the date this order becomes final, respondents shall offer the following options:

(a) such persons may elect to reaffirm their orders and receive interest, paid subject to the provisions of Sections XIII and XIV of this order; *provided further*, that such interest shall be calculated in accord with the provisions of subparagraphs (c) through (g), below, and that such interest shall be paid only to those persons who have paid at least the basic purchase price of the complete kit as set forth in the original purchase contract or to their successor(s) in interest;
OR

(b) such persons may elect to rescind the purchase contract or contracts applicable to the purchase of BD-5 parts, materials, plans or accessories, and receive a full refund for all parts, materials, plans and accessories returned to respondents in an undamaged and unmodified condition; *provided, however*, that persons who have, as of the date of this order becomes final, been shipped all parts, materials and plans specified in the purchase contract, shall not be eligible for rescission under this subparagraph; *provided further*, that credit for items returned shall be administered in accord with the provisions of subparagraphs (h) through (m), below;

(c) interest provided for in subparagraph (2)(a), above, shall be calculated at a rate of 5% *per annum* of the amount paid or deposited; *provided further*, that such interest shall be calculated from the date on which the owner of the kit took title, until the date on which all parts, plans and materials have been shipped in fulfillment of the contract;

(d) the interest provided for in subparagraph (2)(a), above, shall not exceed \$250 with respect to any contract with an original BD-5 aircraft priority number lower than priority number 2501; *provided further*, that interest with respect to all other contracts shall not exceed \$150 per contract;

(e) in complying with the provisions of subparagraphs (2)(a) and (2)(d), above, with respect to contracts with a BD-5 aircraft priority number lower than priority number 2501, respondents may require waiver of any rights the recipient of interest may have under the previously stated commitment of Bede Aircraft, Inc. to provide interest as referred to in the "Confidential BD-5 Customer Newsletter" dated March 6, 1972;

(f) the interest provided for in subparagraph (2)(a), above, shall be paid in cash or credit, at the recipient's option;

(g) the interest provided for in subparagraph (2)(a), above, shall inure only to the benefit of the owner of the aircraft or aircraft kit as of the date this order becomes final.

(h) rescission pursuant to subparagraph (2)(b), above, shall be administered as follows: parts, materials, plans or accessories returned pursuant to such subparagraph shall be judged unacceptable for refund only upon the written finding of an authorized official that the items sought to be returned for refund have been modified or damaged to such an extent as to be unusable for the purpose for which they were intended; *provided further*, that in the event of a dispute involving in excess of \$100, the matter shall be submitted to the trustee, who shall in his discretion make a final decision; if the subject of the dispute is \$100 or less, the decision of the authorized official shall be final; *provided, however*, that the decision of the authorized official as well as the trustee shall be subject to the ongoing compliance review of the Commission;

(i) items returned pursuant to subparagraph (2)(b), above, shall be shipped to respondents, freight paid, with responsibility for packaging and insurance, and risk of loss resting with the sender until the shipment comes within respondents' possession or control; *provided further*, that respondents shall credit the person rescinding, with an amount of additional refund equal to the amount which would be paid by a shipper under the appropriate Interstate Commerce

Commission tariffs for shipment of the parts, materials, plans and accessories judged acceptable for refund from the point from which rescinding person did ship such parts, materials, plans and accessories; *provided further*, such shipping credit shall be given regardless of the manner in which the rescinding party actually effected shipment;

(j) respondents shall credit the person rescinding, with a refund representing the *pro rata* contract value of the parts, plans, materials and accessories judged acceptable for return pursuant to subparagraphs (2)(h), above;

(k) respondents shall credit the account of the person rescinding, with interest from 60 days after this order becomes final until the rescission refund and accumulated interest is paid in its entirety; *provided further*, that such interest shall be calculated at an annual rate of 6% *per annum* of the total rescission refund, including the allowance for shipping;

(l) respondents shall, at least six times over a period of 18 months after the last election of rescission becomes irrevocable, provide free of charge in a mail circulation to all then-current BD-5 homebuilders, as well as in an insert in any BD-5 information kit or package of promotional materials, a reasonable opportunity for all persons electing rescission to advertise or provide notice of their desire to sell or trade any item of value connected with the assembly of the BD-5 aircraft; respondents shall provide to persons electing rescission, at the time such rescission is elected, instructions explaining how such persons may avail themselves of this advertising service;

(m) no sooner than 60 days, and no later than 6 months after this order becomes final, respondents shall, by certified mail, notify all persons electing rescission under subparagraph (2)(b), above, of a return date within 30 days of such notice, after which respondents will process return of parts, materials plans and accessories which are the subject of the rescission; *provided further*, that if a person electing rescission has not shipped such parts, plans, materials or accessories to respondents within 60 days of the return date specified in respondents' notice, such person may be deemed by respondents to have waived the right of rescission under this order and elected interest under subparagraph (2)(a), above;

(n) such persons as are entitled to make an election under subparagraph (2) of this section will be deemed to have elected option (a) unless and until option (b) is elected in writing;

(o) the election of option (b) must take place, if at all, within 60 days after this order becomes final; however, respondents may demand an earlier election in cases where respondents are ready and

willing to make shipment of further kit packages, or back-ordered items, the contract value of which shipment is in excess of \$100;

(p) the election of option (a) may not be revoked at any time beyond 60 days after this order becomes final, or after respondents have shipped parts, materials or plans pursuant to an election demanded under (o), above;

(q) the election of option (b) may be revoked at any time prior to the return of parts, materials or plans to respondents for refund; *provided further*, that where option (b) is so revoked, the resulting election of option (a) shall be treated as if made *ab initio*.

(3) With respect to all persons who have made advance payments or deposits toward the purchase of, or have purchased BD-7 homebuilt aircraft kits as of date this order becomes final, respondents shall offer the following options:

(a) such persons may elect to reaffirm their orders and receive interest, paid in the form of cash or credit at the recipient's option subject to the provisions of Sections XIII and XIV of this order; *provided further*, that such interest shall be calculated in accord with the provisions of subparagraph (c), below; or

(b) such persons may elect to rescind the purchase contract(s) applicable to the purchase of BD-7 parts, materials, plans or accessories, and receive a full refund for all parts, materials, plans or accessories returned to respondents in an undamaged and unmodified condition; *provided, however*, that credit for items so returned shall be administered in accord with the provisions of subparagraphs (d) through (i), below;

(c) the interest provided for in subparagraph (3)(a), above, shall be calculated at a rate of 5% *per annum* of the purchase contract price of each of kit packages 1A, 2, 3, 4 and 5, or the purchase contract price of each of such kit package as was actually purchased, whichever is less; *provided further*, that such interest shall be calculated with respect to each kit package individually, from the date upon which the owner as of the date this order becomes final took title or paid for purchase of such kit package, whichever was later, until the date on which shipment of all elements of each such package is complete in all material respects; *provided further*, that prior to the date this order becomes final, absence of wing spars from package 1A shall not render that package incomplete for the purpose of determining such package's eligibility for calculation of interest;

(d) rescission pursuant to subparagraph (2)(b), above, shall be administered as follows: parts, materials, plans or accessories returned pursuant to such subparagraph shall be judged unacceptable for refund only upon the written finding of an authorized

official that the items sought to be returned for refund have been modified or damaged to such an extent as to be unusable for the purpose for which they were intended; *provided further*, that in the event of a dispute involving in excess of \$100, the matter shall be submitted to the trustee, who shall in his discretion make a final decision; if the subject of the dispute is \$100 or less, the decision of the authorized official shall be final; *provided, however*, that the decision of the authorized official as well as the trustee shall be subject to the ongoing compliance review of the Commission;

(e) items returned pursuant to subparagraph (2)(b), above, shall be shipped to respondents, freight paid, with responsibility for packaging and insurance, and risk of loss resting with the sender until the shipment comes within respondents' possession or control; *provided further*, that respondents shall credit the person rescinding, with an amount of additional refund equal to the amount which would be paid by a shipper under the appropriate Interstate Commerce Commission tariffs for shipment of the parts, materials, plans and accessories judged acceptable for refund from the point from which rescinding person did ship such parts, materials, plans and accessories; *provided further*, such shipping credit shall be given regardless of the manner in which the rescinding party actually effected shipment;

(f) respondents shall credit the person rescinding, with a refund representing the *pro rata* contract value of the parts, plans, materials and accessories judged acceptable for return pursuant to subparagraphs (2)(h), above;

(g) respondents shall credit the account of the person rescinding, with interest from 60 days after this order becomes final until the rescission refund and accumulated interest is paid in its entirety; *provided further*, that such interest shall be calculated at an annual rate of 6% *per annum* of the total rescission refund, including the allowance for shipping;

(h) respondents shall, at least six times over a period of 18 months after the last election of rescission becomes irrevocable, provide free of charge in a mail circulation to all then-current BD-7 homebuilders, as well as in an insert in any BD-7 information kit or package of promotional materials, a reasonable opportunity for all persons electing rescission to advertise or provide notice of their desire to sell or trade any item of value connected with the assembly of the BD-7 aircraft; respondents shall provide to persons electing rescission, at the time such rescission is elected, instructions explaining how such persons may avail themselves of this advertising service;

(i) no sooner than 60 days, and no later than 6 months after this

order becomes final, respondents shall, by certified mail, notify all persons electing rescission under subparagraph (2)(b), above, of a return date within 30 days of such notice, after which respondents will process return of parts, materials, plans and accessories which are the subject of the rescission; *provided further*, that if a person electing rescission has not shipped such parts, plans, materials or accessories to respondents within 60 days of the return date specified in respondents' notice, such person may be deemed by respondents to have waived the right of rescission under this order and elected interest under subparagraph (2)(a), above;

(j) such persons as are entitled to make an election under subparagraph (3) of this section will be deemed to have elected option (a) unless and until option (b) is elected in writing;

(k) the election of option (b) must take place, if at all, within 60 days after this order becomes final; however, respondents may demand an earlier election in cases where respondents are ready and willing to make shipment of further kit packages, or back-ordered items, the contract value of which shipment is in excess of \$100;

(l) the election of option (a) may not be revoked at any time beyond 60 days after this order becomes final, or after respondents have shipped parts, materials or plans pursuant to an election demanded under (k), above;

(m) the election of option (b) may be revoked at any time prior to the return of parts, materials or plans to respondents for refund.

X

It is further ordered, That respondents ship or make a *bona fide* offer to ship all parts, materials, plans and other products, excluding products covered by Section IX, subparagraph (1), of this order, which have been contracted for shipment but not shipped as of the date this order becomes final, within twelve months after this order becomes final or twelve months after the proposed FmHA loan to respondents is funded, whichever is later, but in any event within twenty-four months after this order becomes final.

XI

It is further ordered, That respondents adopt the following procedures with respect to the shipment of engines to the owners of BD-5 homebuilt aircraft or aircraft kits as of the date this order become final:

(1) Such owners of BD-5 homebuilt aircraft or aircraft kits as have contracted with respondents and paid for purchase of an engine

described in such contract as 726 cubic centimeters displacement or larger, shall be given a *bona fide* offer to purchase the Xenoah engine, one per aircraft, at one of the following prices, whichever is less:

(a) the price contracted for as of the date this order becomes final, if such contract was for a Xenoah engine described as 726 cubic centimeters displacement or larger; or

(b) the sum of the actual cost of the engine FOB the U.S. port of entry, plus 30%, or respondents' wholesale price for such engine, whichever is less;

(2) Such owners of BD-5 aircraft or aircraft kits as are not included within the provisions of subparagraph (1), above, shall be given a *bona fide* offer to purchase the Xenoah engine, one per aircraft, at the following price:

respondents' wholesale price for such engine, but not more than the sum of the actual cost of the engine FOB the U.S. port of entry, plus 35%;

(3) except as required for shipment of BD-5D aircraft to persons who have, as of the date this order becomes final, paid or deposited money against the purchase of such aircraft, respondents shall not ship Xenoah engines, or cause such engines to be shipped, to any persons other than owners of BD-5 homebuilt aircraft or aircraft kits as of the date this order becomes final, until each of such owners has purchased or been given a *bona fide* offer to purchase such engine.

XII

It is further ordered, That respondents ship or make a *bona fide* offer to ship to all owners of BD-5 homebuilt aircraft or aircraft kits as of the date this order becomes final, parts, plans and materials for fabrication of the BD-5 drive assembly described in respondents' letter to "BD-5 Homebuilders" dated March 31, 1975, subject to the following provisions:

(1) Such parts, plans and materials shall include fully fabricated and formed "shivs" and "overriding clutch;" *provided futher,* that such shivs and overriding clutch shall be equivalent in all technical and mechanical respects to those used in the FAA certified drive assembly for the BD-5D aircraft;

(2) Such parts, plans and materials shall be offered at no extra charge to all such owners of BD-5 homebuilt aircraft or aircraft kits who have not ordered and received, as of the date this order becomes final, all parts, plans and materials necessary for complete assembly and installation of the drive assembly referred to by respondents as the "variable speed drive;"

(3) To the extent that any person eligible to receive such offer has previously paid to or deposited with respondents any amount against the purchase of any drive system or assembly, respondents shall allow full credit for such amount previously paid or deposited, which shall be redeemable in credit or cash at the recipient's option, subject to the provisions of Section XIV of this order.

XIII

It is further ordered, That subject to loan repayment requirements imposed upon respondents by *bona fide* lenders recognized as such by the trustee, respondents assign the highest possible business priority allowed by sound business prudence to the shipment of BD-5D aircraft as provided for in Section IX, subparagraph (1)(b), of this order, and to the shipment of parts, plans and materials as provided for in Sections X, XI and XII of this order; *provided further,* that respondents shall assign business priority subordinate only to that stated above, to the payment of interest and refunds provided for in this order; in any event, respondents shall neither cause nor allow business profits of any corporate respondent to be reinvested beyond those amounts reasonably necessary to ensure the survival of such corporate respondent and promote the timely fulfillment of respondents' obligations under this order; further, respondents shall neither cause nor allow, dividends to be paid, except from subsidiary to parent, on behalf of the stock of Bede Aircraft, Inc., or its subsidiaries, until such time as the trustee shall certify that all of respondents' obligations under Sections IX, X, XI and XII of this order have been discharged.

XIV

It is further ordered, That respondents administer the payment of interest, refunds, and credits, as well as rescission, provided for in Sections IX and XII of this order according to the following provisions:

(1) as funds become available as provided for in Section XIII of this order, an authorized official shall distribute such funds, or inventory purchased with such funds, to the claimants thereof in the most equitable manner possible;

(2) respondents shall, within 90 days after this Order becomes final, but before any distribution of such funds, file with the Commission a plan for distribution; *provided further,* that such plan shall not be implemented until the Commission has notified respondents of its approval thereof.

(3) such distribution plan shall include, *inter alia*, provision for notification of eligible consumers of their rights under this order, and provision for the equitable distribution of funds through shipment of parts, plans and materials, payment of interest and refunds, and allowance of consumers' use of preexisting credits for the purchase of merchandise.

(4) Such distribution plan shall also include respondents' plan or formula for determining the exact refund value of all parts, materials, plans and accessories returned pursuant to rescission under Section IX of this order.

XV

It is further ordered, That respondents not ship BD-5D aircraft to any person not having paid or deposited money against the purchase thereof as of the date this order becomes final, until respondents have shipped or made a *bona fide* offer to ship such aircraft to all persons who have, as of the date this order becomes final, paid or deposited money against the purchase of such aircraft; *provided further*, that respondents shall ship or make a *bona fide* offer to ship BD-5D aircraft strictly on a FIFO schedule, based upon the date on which the contract accompanying the initial payment or deposit against the purchase of the aircraft was executed; *provided further*, that "persons" who have paid or deposited money as required above, shall include the successor(s) in interest to such persons.

XVI

It is further ordered, That respondents undertake the appointment of a trustee who shall hold in trust all outstanding stock of respondent Bede Aircraft, Inc; *provided further*, that such trust arrangement shall be managed as follows:

(1) the instrument creating such trust and providing its terms shall be the document entitled "Security Trust" (hereinafter "the trust agreement"), attached to this order as Appendix II, and made a part hereof;

(2) the grantors of such trust shall be all persons owning or holding stock of any nature in respondent Bede Aircraft, Inc.; such grantors shall upon execution of the trust agreement transfer all right, title, and interest in such stock to the trustee, to be held according to the terms and conditions of the trust agreement.

(3) the trust shall be irrevocable, and shall terminate only upon the occurrence of the termination date as defined by the trust agreement.

(4) the trustee shall be qualified and appointed as follows:

(a) the trustee shall be a natural person, experienced as a fiduciary, with substantial business experience and background, possessing a reputation in his community for high ethical character; *in the alternative*, the trustee may be a corporate entity, duly chartered by a public authority and capable of acting as a trustee consistent with the terms of this order;

(b) the first qualified trustee, as well as successor trustees, shall be appointed by a delegate of the grantors, which delegate shall not be a respondent named in this order, and a delegate of the Commission; *provided further*, that if such delegates cannot agree, they shall together appoint a third; a majority of the three shall then select a trustee who shall serve until the termination date of the trust or such time as he shall die, resign, become incapacitated, insolvent, or bankrupt, or be removed as provided in the trust agreement;

(5) respondents shall provide all reasonable cooperation and assistance to the trustee in his exercise of the duties specified in this order;

(6) breach of the trust agreement may be deemed by the Commission a violation of the order by respondent Bede Aircraft, Inc.

XVII

It is further ordered, That respondents provide for the appointment by the trustee of one "authorized official" and one "substitute authorized official" for each of Bede Aircraft, Inc., and its subsidiaries; *provided further*, that:

(1) The trustee may, at his discretion, appoint authorized officials and substitutes for separate business sites used by the parent or its subsidiaries, under circumstances judged by the trustee to be in the best interests of respondents' timely compliance with this order;

(2) Respondents shall defer entirely to the trustee's choices for the appointed authorized officials and substitutes;

(3) Respondents shall provide all reasonable authority, as well as cooperation and assistance, to each authorized official as he exercises the duties specified in this order;

(4) Wherever this order specifies duties to be discharged by an authorized official, the substitute authorized official shall act in, and only in, the absence or incapacity of the authorized official;

(5) In the absence or incapacity of the authorized official, for a period exceeding 14 consecutive calendar days, excluding vacation time or annual leave, respondents shall notify the trustee of such

circumstances and assist the trustee in taking whatever steps he deems necessary under the circumstances;

XVIII

It is further ordered, That respondents make available through written notice, financial statements based upon the independent audit described in Section I, paragraph 4 hereof, to all persons who have extended credit or who are considering extension of credit to respondents, and to federal, state and local government agencies, to whom any financial information purporting to express the financial status or condition of Bede Aircraft, Inc. has been given during calendar years 1976, 1977, and 1978, provided that such persons or agencies agree to maintain the confidentiality of such information in a manner consistent with confidentiality attached to the information previously given such person or agency;

XIX

It is further ordered, That respondents mail to each person to whom the provisions of Section IX hereof apply, the Commission's synopsis of this order in addition to instructions for obtaining a copy of this order from the Commission; *provided further,* that the Commission shall supply copies of such synopsis, and that such synopsis and instructions shall be mailed within 15 days after this order becomes final or within 15 days after respondents receive copies of the synopsis, whichever is later.

XX

It is further ordered, That respondents incorporate verbatim the following provision in all dealership contracts between respondents and respondents' dealers, whether such contracts are in effect as of the date this order becomes final or are executed thereafter:

Dealer agrees to be bound by and observe all applicable provisions of the Order of the Federal Trade Commission issued ———, applicable to the Company. Dealer further agrees that the Company shall have the right to terminate this agreement upon written notice that the Company has determined that the dealer has engaged in an act or practice prohibited by such Order;

XXI

It is further ordered, That respondents send a copy of this decision and order, to each of their present or future employees, salesmen,

dealers, franchisees, licensees and others who sell or promote the sale of respondents' products, and, as to each such person:

(1) Provide them with a form returnable to the respondents and the Commission, upon which they may clearly state their intention to be bound by and conform to the requirements of this order;

(2) Inform them that respondents will not employ any person, or use the services of any person, to sell or promote the sale of any product unless such person agrees to and does file notice with the respondents and the Commission that he or she will be bound by the provisions of this order;

(3) Inform them that respondents are obligated by this order to discontinue dealing with those persons who continue the unfair or deceptive acts or practices prohibited by this order, or who fail to adhere to the affirmative requirements of this order;

(4) Institute a program of continuing surveillance adequate to reveal whether their business operations conform to the requirements of this order;

(5) Promptly discontinue dealing with dealers, or using the services of such persons, including dealers, who:

(a) do not file notice with the respondents and Commission of their intent to comply with, and be bound by, this order;

(b) are revealed by the aforesaid program of surveillance or by any other means to have engaged in an unfair or deceptive act or practice prohibited by this order, or to have failed to adhere to the affirmative requirements of this order.

XXII

It is further ordered, That respondents notify the Commission at least thirty days prior to any change in the corporate respondents, such as dissolution, assignment, or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change which may affect compliance with obligations arising out of this order.

XXIII

It is further ordered, That each individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this order, such respondent shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include the respondent's

business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

XXIV

It is further ordered, That the provisions of this order shall not operate to abridge or modify any of respondents' obligations arising under the Commission's Trade Regulation Rule with respect to Mail Order Merchandise, 16 CFR 435.

XXV

It is further ordered, That respondents may require as a condition precedent of the receipt of interest or rescission refund under Section IX of this order, that a person receiving same shall agree that such interest as has actually been paid by respondents in the form of cash or through the person's use of credit, be considered partial or complete satisfaction, on a dollar for dollar basis, of any judgment obtained by such person against respondents for breach of the underlying purchase contract if the court awarding the judgment so approves.

XXVI

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

APPENDIX I

(the company), hereinafter "the seller," agrees that this transaction shall conform to the provisions of the Federal Trade Commission's Trade Regulation Rule Concerning Mail Order Merchandise, 16 C.F.R. 435, hereinafter "the Rule," regardless of the manner in which the merchandise involved was ordered from seller, whether through the mails or otherwise. Seller agrees that the buyer(s) identified in this contract shall have the right under this contract to enforce the provisions of the Rule as if such provisions were incorporated verbatim in the contract. Seller further agrees that any act or practice on the part of seller in connection with this transaction, which would be a violation of the Rule, shall be a breach of this contract.

The following summary of the Rule is included as a guide to the buyer:

SUMMARY

You have the right to know when you can expect your merchandise to be

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shipped. If no specific shipping date is stated by the seller in the contract or somewhere else, you have the right to have your merchandise shipped to you within 30 days. If the seller does not ship your merchandise within the stated time or within 30 days, you have the right to cancel your order.

If the seller can't ship the merchandise to you in the stated time or within 30 days, he must give you the chance to cancel your order and get all of your money back. The seller must notify you of a delay and give you a free means to reply (for example, a postage-paid postcard).

If the shipping delay is 30 days or less, you have the right to cancel the order and get your money back, the right to agree to a new shipping date, or the right not to answer. But if you don't answer, the seller can assume you agree to the shipping delay. If the shipping delay is more than 30 days, you must give your express consent to the delay, otherwise, the seller must return your money at the end of the first 30 days of delay.

If you cancel, you have the right to get all of your money back. The seller must mail your refund to you within seven business days after you cancel your purchase. Where there is a credit sale, the seller has one billing cycle to "adjust" your account.

This summary is an outline of your rights as the buyer. If you need to know more details, a copy of the Federal Trade Commission's Rule Concerning Mail Order Merchandise may be obtained from:

Federal Trade Commission

Office of the Secretary

Distribution and Duplication Branch

Washington, D.C. 20580

APPENDIX II

SECURITY TRUST

THIS Indenture of Trust made as of the ____ day of ____, 19 ____, by and between the shareholders of Bede Aircraft, Inc. listed in the attached Schedule A, hereinafter referred to as "the grantors," and ____, hereinafter referred to as "the trustee."

WHEREAS, it has been suggested by the Federal Trade Commission, hereinafter referred to as "the Commission," that Bede Aircraft, Inc., hereinafter referred to as "the Company," may have utilized certain undesirable trade practices;

WHEREAS, the grantors, the Company, and the Commission have discussed these allegations and determined that the Company should adopt certain procedures, hereinafter referred to as "the new procedures and policies;"

WHEREAS, the representatives of the scheduled shareholders, the Company, and the Commission have reduced the new procedures and policies to a writing which takes the form of a consent order, hereinafter referred to as "the Order;" and

WHEREAS, the Order contemplates that it will be policed to the extent provided for herein by the independent trustee provided for herein;

NOW THEREFORE, it is agreed that the trustee shall hold the shares of the

Company scheduled in the attached Schedule B, hereinafter referred to as "the scheduled property," IN TRUST according to the terms and conditions hereinafter set forth, for the benefit of the Company and the grantors.

FIRST: In this Indenture the following terms shall have the following meanings where the context so permits:

- (1) The term "Company" shall mean the aforesaid Bede Aircraft, Inc., its subsidiaries, Bede General Corporation, Bede Wing, Inc., and all corporations or other business enterprises owned or controlled by the aforesaid Corporation and/or Jame R. Bede;
- (2) The term "scheduled property" shall mean the original property listed in Schedule B, all additions to it, and any and all property received by the trustee as a result of his serving as trustee of the trust;

SECOND: The term of this trust shall commence with the date first written above and it shall continue until the occurrence of the first of the following events:

- (1) Satisfaction of all of respondents' obligations arising under Sections IX, X, XI and XII of the Order, provided further, that this trust shall not terminate under the provisions of this subparagraph until delivery to the Commission of the joint certification of the trustee and the Company that:
 - (a) All the Company's customers existent as of the date first written above have received from the Company all products which the Company is obligated to deliver to them as of the date first written above and/or all monies which the Company is obligated to pay them as of the date first written above;
 - (b) All orders placed with the Company after the day before the date first written above have been substantially filled or dealt with as prescribed by the order; and
 - (c) The order and this trust have succeeded in bringing the Company to a position where it is able to meet its commitments to its customers without necessitating the continuance of this trust;
- (2) The arrival of the last day of existence permitted by the applicable Rule Against Perpetuities; provided further, that the measuring lives governing such rule shall be that of James R. Bede, William R. Bernard, and Kenneth R. Bennington.

The date on which shall occur the first of the above described events shall be known as "the termination date."

THIRD: Upon the occurrence of the termination date, this trust shall terminate and the trustee shall have no further responsibilities other than the delivery of the scheduled property to the grantors or their successors or personal representatives, and the delivery to the Commission of the following:

- (1) All outstanding reports due the Commission under the terms of this trust;
- (2) A statement setting forth:
 - (a) The reasons for the trustee's belief that the termination date has occurred, and
 - (b) His opinion as to whether the Company, its subsidiaries, and/or affiliates have substantially complied with the Order, and if not, why not.

FOURTH: During the continuance of this trust, the trustee shall have the following responsibilities with respect to the scheduled property:

- (1) He shall hold the scheduled property in a safe deposit box rented in his name as trustee, or if this is not practicable, in some other place suitable for the safekeeping of the scheduled property;
- (2) He shall deliver the scheduled property to anyone who is approved by the Company, the grantors, and the trustee for any purpose approved by all, including but not limited to mergers, consolidations, or other business

reorganization deemed by all to be beneficial or not detrimental to the interests of the grantors and the Company's customers;

(3) He shall deliver the scheduled property as directed by a court of competent jurisdiction under the federal Bankruptcy Act.

FIFTH: During the continuance of this trust, the trustee shall have the obligation to exercise the voting rights associated with and belonging to the scheduled property; however, his discretion with respect to the exercise of such rights shall be limited as follows:

(1) With respect to the election of directors, he shall exercise such voting rights as instructed by the grantors except that:

(a) no more than a majority of directors shall be subject to the prior approval of the grantors, provided further, that in the event that the trustee causes the removal and replacement of a director pursuant to subparagraphs (b) through (d), below, the replacement director shall not be subject to the prior approval of the grantors unless the director so removed was subject to such prior approval.

(b) in the event that he believes that the Company is not complying with the spirit as well as the letter of this Order, he will cause the immediate removal of all directors who are consciously or negligently allowing such non-compliance, and replace them with directors of his choice;

(c) in the event he believes that the Company is not providing him with the information and cooperation he requires to meet his responsibilities under this Indenture of Trust, he will cause the immediate removal of all directors who are consciously or negligently allowing such circumstances to exist, and replace them with directors of his choice;

(d) in the event he believes that officers and directors of the Company receive compensation for their services not reasonably reflecting their duties and value to the Company, as well as the realities of the Company's financial condition and obligations, he will cause the removal of directors who are consciously or negligently allowing such circumstance to exist, and replace them with directors of his choice.

(2) With respect to all other matters requiring shareholders' action, and in particular major corporate actions and reorganizations requiring shareholders' approval, except those arising under the federal Bankruptcy Act, the trustee shall vote against all changes in the status quo unless he has the approval of the grantors;

(3) With respect to matters arising under the federal Bankruptcy Act and requiring shareholders' action, the trustee shall independently exercise such voting rights consistent with his duties under the provisions of subparagraph (4) below;

(4) With respect to all matters requiring or allowing the trustee to exercise rights associated with and belonging to the scheduled property, the trustee shall exercise such rights consistent with his general duties as a fiduciary, given the following limitations and instructions:

(a) He must always exercise such rights in a manner calculated to bring about and preserve the Company's compliance with the Order;

(b) He must always exercise such rights in pursuit of the early termination of this trust as provided for in subparagraph (1) of paragraph SECOND of this Indenture of Trust;

(c) He must always exercise such rights so that if, within his discretion as fiduciary, no other reasonable alternative exists for the successful operation of the Company consistent with the spirit of these limitations and instruc-

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tions, he will cause the Company to voluntarily avail itself of any and all appropriate provisions of the federal Bankruptcy Act.

SIXTH: During the continuance of the trust, the trustee shall have the following responsibilities with respect to the business and the operation of the Company:

(1) The trustee shall require quarterly financial reports from the Company; such reports shall be rendered by an independent certified public accountant, and shall include:

(a) a profit and loss statement for the preceding quarter and for the year to date;

(b) a balance sheet as of the date of the profit and loss statement;

(c) a sources and applications of funds statement for the year as of the date of the profit and loss statement;

(2) The trustee shall demand yearly audited financial reports from the Company, consisting of the same components as he must require of the Company quarterly;

(3) Quarterly during the first year of the life of this trust, and twice each year thereafter, the trustee shall have the Company's compliance with the escrow provisions of the Order audited by an independent certified public accountant of his choice. Based upon such audit as well as such other examination as the trustee may deem necessary, the trustee shall compile a written report setting forth his findings with respect to the Company's compliance with the escrow provisions of the Order;

(4) The trustee shall file with the Commission, immediately upon his receipt thereof, copies of all reports specified in subparagraphs (1) and (2), above;

(5) The trustee shall file with the Commission copies of the audit report and trustee's report resulting from the provisions of subparagraphs (3), above, within 60 days after the close of the period which is the subject of the audit;

(6) Upon receipt of the reports specified in subparagraphs (1), (2) and (3), above, the trustee shall review them. If he finds any indications that the Company is not complying with the Order, he shall forthwith make such inquiries as he shall deem necessary to determine whether compliance exists. The trustee shall notify the Commission of his findings in writing and take such steps as are within his powers to assure compliance with the Order.

(7) The trustee shall appoint one "authorized official" and one "substitute authorized official" for each of Bede Aircraft, Inc. and its subsidiaries; provided however, that such authorized official or substitute shall not be an individual respondent named in this order; provided further, that the trustee may, at his discretion, appoint authorized officials and substitutes for separate business sites used by the parent or its subsidiaries, under circumstances judged by the trustee to be in the best interest of respondents' timely compliance with this Order;

(7) In the event of absence or incapacity of an authorized official and his substitute, the trustee shall act in lieu thereof, until such time as the authorized official or his substitute can resume duties, or another is appointed;

(8) Should the trustee learn of the absence or incapacity of an authorized official for a period in excess of 14 calendar days, excluding vacation time, the trustee shall examine such circumstances and determine whether as a matter of his discretion a new authorized official should be appointed; in any event should such absence or incapacity extend to 30 calendar days, the trustee shall appoint a new authorized official, and if necessary a new substitute;

(9) The trustee shall maintain close communication with the authorized officials appointed by him, ascertaining the satisfactory discharge of the authorized officials' duties under the Order, as well as respondents' compliance with this

Order. The trustee shall also, from time to time, demand such reports from the authorized officials as the trustee deems necessary.

(10) The trustee shall take all steps as are within his powers to ensure the company's compliance with the spirit as well as the letter of Section XIII of the Order.

SEVENTH: During the continuance of this trust, the trustee shall have the authority to remove the Company's directors and replace such directors with directors of his choice who will cause the Company to pay the trustee such reasonable fees from the Company's funds as the trustee, the grantors, and the Company shall agree. Such remuneration shall be the amount specified in the attached Schedule C, hereinafter referred to as "the consulting agreement." In no event shall the trustee's compensation be determined by profits or any other measure of the Company's business success. The grantors hereby agree to forfeit any right to object to the use of the Company's funds for purposes of the trustee's remuneration.

EIGHTH: The trustee shall not be liable for breach of trust in connection with the good faith exercise of any discretionary power granted herein. He shall be so liable only for those actions taken by him which are deliberate or negligent breaches of his fiduciary duties and for breaches which occur because the trustee intended to profit improperly from the action or inaction giving rise to the breach. Breach of this trust by the trustee may be deemed by the Commission a violation of the Order by the Company.

NINTH: The Company shall indemnify the trustee for any liabilities which he might incur as a result of serving as trustee under this Indenture, unless such liability arises as a result of a breach of fiduciary duty on the part of the trustee which occurs because the trustee intended to profit improperly from the action or inaction giving rise to the breach.

TENTH: The trustee shall serve until the termination date or until such time as he shall die, resign, become incapacitated, insolvent, or bankrupt, or be removed as hereinafter provided:

- (1) If a trustee fails to qualify, or ceases to qualify or act, or is removed, a successor trustee shall be appointed as provided for in section XVI of the Order;
- (2) A majority of the grantors may remove a trustee for cause if they notify the Commission at least 21 days in advance of the proposed effective date of such removal, and if they also:
 - (a) Notify the Trustee at least 21 days in advance of the proposed effective date of such removal;
 - (b) Describe with particularity in such notice to the trustee and to the Commission, the circumstances giving rise to cause for the trustee's removal;

Once such notice is given by the grantors, the trustee shall continue to serve until such time as removal becomes effective or a successor is qualified and elected, whichever is later. Upon the last day of the trustee's service, the grantors shall tender to the trustee a certified check for an amount equal to all compensation due him.

ELEVENTH: The trustee may resign by delivering in writing to the grantors and to the Commission a notice which states:

- (1) The desired effective date of his resignation;
- (2) The reasons for his resignation;
- (3) A statement of his opinion as to whether or not the Company is complying with the Order; and
- (4) A final bill for his services.

In any event, such resignation shall not be effective until his successor is qualified and elected.

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TWELFTH: the terms of this trust shall be governed by and construed under the laws of the state in which respondent Bede Aircraft, Inc. maintains its principal place of business.

THIRTEENTH: During the continuance of this trust the trustee shall make available, or cause to be made available for copying and inspection by the Commission and its staff, all books and records of the Company, as well as all books and records of the trustee arising from this trust.

GRANTORS

JAMES R. BEDE (date)

JAMES R. BEDE, TRUSTEE FOR THE
BENEFIT OF James M. Bede, Laura
J. Bede, Nancy A. Bede, and Jeffrey
A. Bede.

Approved and ratified by Bede Aircraft, Incorporated by a resolution of its Board of Directors on the ——— day of ———, 1977.

CHAIRMAN OF THE BOARD (date)

SECRETARY OF THE CORPORATION
(date)

TRUSTEE (date)

IN THE MATTER OF
THE RAYMOND LEE ORGANIZATION, INC., ET AL.

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

Docket 9045. Complaint, July 15, 1977 — Final Order, Nov. 1, 1978

This order, among other things, requires a New York City idea promotion company and two individual parties to cease misrepresenting the nature and value of their services; their qualifications and ability to refine and successfully promote inventions, ideas, and products; and the probability of financial gain to their clients. Respondents are further required to include specified statements in promotional literature and contracts which cite the number of recent customers who achieved financial success through the firm's efforts; disclose that additional costs may be incurred; and advise potential purchasers that the company makes no evaluations as to the patentability and marketability of submissions. Additionally, the order requires respondents to provide purchasers with a ten-day cooling-off period in which to cancel their contracts and receive full refunds.

Appearances

For the Commission: *Harriet Guber Mulhern and Myer S. Tulkoff.*

For the respondents: *Malcolm I. Lewin and Edgar J. Royce, Lans, Feinberg & Cohen, New York City for Raymond Lee Organization, Inc. and Raymond Lee and Michael C. Devine, Schwenke & Devine, New York City for Lawrence Peska.*

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 Raymond Lee Organization, Inc., a corporation, Raymond Lee, individually and as an officer of said corporation, and Lawrence Peska, individually and as a former officer of said corporation, hereinafter sometimes 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 charges in that respect as follows:

PARAGRAPH 1. Respondent The Raymond Lee Organization, 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 230 Park Ave., New York, New York. Affiliated offices are located at 20 Providence St., Boston, Massachusetts; 230 Peachtree St., N.W., Atlanta, Georgia; 625 North Michigan