

Complaint

95 F.T.C.

IN THE MATTER OF
MARKET DEVELOPMENT CORPORATION, ET AL.

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

Docket 9067. Complaint, December 19, 1975—Final Order, January 15, 1980

This order dismisses the complaint against Juanita Anderson, and requires a Chicago, Ill. mail order house and two corporate officers, among other things, to cease making false or misleading representations to obtain sales or prospects, and misrepresenting the nature of their business and goods, and the value and costs of merchandise and services. The order also bars the firm from failing to deliver goods or services within a reasonable time; and from misrepresenting that it is conducting a contest, or that recipients of its mailings are winners. If a warrantee is offered for a product or service, the terms, conditions and limitations of the warrantee must be clearly disclosed and obligations under the warrantee promptly fulfilled. The firm is additionally required to respond to written customer inquiries within seven working days and maintain specified records for three years.

Appearances

For the Commission: *Aaron H. Bulloff* and *Robert P. Weaver*.

For the respondents: *Lawrence C. Rubin, James S. Barber, Arvey, Hodes, Costello & Berman*, Chicago, Ill.; *Stein, Mitchell & Mezines*, Washington, D.C. for Columbia Research Corporation and Raymond Anderson; *Arnold Morelli, Bauer, Morelli & Heyd*, Cincinnati, Ohio for Juanita Anderson and Joseph Anderson.

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 Market Development Corporation, a corporation, and Raymond Anderson, Juanita Anderson, and Joseph Anderson, individually and as officers and/or directors and/or employees of said corporation, and Columbia Research Corporation, a corporation, and Raymond Anderson, [2]individually and as an officer and/or director of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Market Development Corporation is a corporation organized, existing, and doing business under and by

virtue of the laws of the State of Ohio, with its offices and principal places of business located at 5826 Hamilton Ave. and 3584 Hauck Road, in the City of Cincinnati, State of Ohio.

Respondent Columbia Research Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its offices and principal place of business located at 3762 West Devon, in the City of Chicago, State of Illinois.

Respondent Raymond Anderson is an individual and is or has been a director and President of both Market Development Corporation and Columbia Research Corporation, and is a resident of Ohio and/or Illinois. He takes or has taken part in the formulation, direction, and control of the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth.

Respondent Juanita Anderson is an individual and is or has been an employee of Market Development Corporation, and is a resident of Ohio. She takes or has taken part in the formulation, direction, and control of the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth.

Respondent Joseph Anderson is an individual and is or has been an employee of Market Development Corporation, and is a resident of Ohio. He takes or has taken part in [3]the formulation, direction, and control of the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth.

The aforementioned respondents cooperate and act, or have cooperated and acted together, in carrying out the acts and practices hereinafter set forth.

PAR. 2. Respondents have been engaged, and are now engaged, in the advertising, offering for sale, sale, and distribution of "vacations," sewing machines, and household and cosmetic products through magazines, newspapers, catalogues, and letters.

PAR. 3. In the course and conduct of their business, respondents now cause, and have caused, their products and supplies to be shipped from suppliers located outside the States of Ohio and Illinois to their offices in Ohio and Illinois, and when sold, to be shipped from Ohio and Illinois to purchasers located in other States and territories of the United States, and further, respondents now cause, and have caused, promotional material and advertisements to be prepared at their central offices in Ohio and Illinois and distributed therefrom to prospective purchasers located in other states; so that respondents have maintained a course of trade in said promotional material, advertisements, products, supplies, and material in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business, respondents now

engage, and have engaged, in various sales schemes in order to promote the sale of "Treasure Chests," "Super Jackpot Packages," "gift boxes," "vacations," "sewing machines," and "Warm-O-Trivets." Respondents generally solicit, or have solicited, purchasers either through the use of mass mailings initially, or by mailings which follow up respondents' placement of "contest" or "sweepstakes" entry blanks in periodicals. The central thrust of these various schemes consists of informing [4]consumers, by mail, that they have either won a contest or are eligible as a result of a contest, or have otherwise been specially selected and are therefore eligible to receive "prizes" and/or "awards" and/or "gifts" and/or "bonuses" and/or free goods and services, which variously consist of a "Treasure Chest," "Super Jackpot Package," or "gift box" containing "full-sized nationally advertised household and cosmetic products," including one that allegedly retails for Twenty Dollars (\$20.00); and/or a certificate good for a "free vacation" for two; and/or a discount certificate good for \$100.00 towards the purchase price of a sewing machine that allegedly sells for \$179.50; and/or a "Warm-O-Trivet." In truth and in fact, none of these goods and services are "prizes," "awards," "gifts," and/or "bonuses," nor are they free, but rather are simply goods and services offered by respondents at their normal retail selling prices of \$15.00 for the "Treasure Chest," "Super Jackpot Package," or "gift box" and "vacation," and/or \$79.50 for the sewing machine and Warm-O-Trivet.

PAR. 5. In the course and conduct of their aforesaid business, and for the purpose of inducing the purchase of their products, respondents are making, and have made, certain statements and representations in promotional material, magazine advertisements, and by other means, with respect to drawings, sales promotions, free goods, limitations to product offers, and merchandise prices.

Typical and illustrative of said statements and representations, but not all inclusive thereof, are Exhibits A, B, C, D, and E, attached hereto and incorporated herein by reference.

PAR. 6. By and through the use of the aforementioned statements and representations, and by other written statements of similar import and meaning (not specifically set out herein), respondents represent, and have represented, directly or by implication, that:

1. Respondents have conducted and/or are conducting a contest.[5]
2. Respondents will award a specific number of products as contest prizes.
3. Respondents are in the business of market research and/or analysis.
4. Respondents have engaged, and/or are engaging, in incentive promotions and/or programs.

5. Respondents have co-sponsors.
6. Respondents represent other companies.
7. Recipients of respondents' offers have won a contest.
8. Recipients of respondents' offers have been specially selected.
9. Recipients of respondents' offers are entitled to "prizes," and/or "awards," and/or "winnings," and/or "gifts," and/or "bonuses," and/or "free" goods and services.
10. Recipients of respondents' offers are entitled to goods and services for only a registration, handling, and service charge.
11. Recipients of respondents' offers have a limited time to claim offered goods and services. [6]
12. Recipients of respondents' offers are receiving "once-in-a-life-time" opportunities.
13. Recipients of respondents' offers are offered a "vacation" and that it is "free."
14. Recipients of respondents' offers are offered a choice of vacation times, locations, and accommodations.
15. The promotions entitled "Treasure Chest," "Super Jackpot Package," or "gift box" are unconnected to the sales promotion of any other product.
16. Three hundred forty thousand (340,000) families have accepted the offered goods and services.
17. The sewing machine offered by respondents is sold throughout the United States.
18. The sewing machine offered by respondents is serviced throughout the United States by or through respondents.
19. The sewing machine offered by respondents is used in home economics classes throughout the United States.
20. The sewing machine offered by respondents has a retail price of either \$179.50 and/or \$169.50. [7]
21. The sewing machine certificate offered by respondents is worth \$100 toward the purchase of respondents' sewing machine.
22. The "Treasure Chest," "Super Jackpot Package," or "gift box" offered by respondents has a value of \$30 or more.
23. The "vacation" coupons offered by respondents are worth \$50 or \$100.
24. The value of the total "Treasure Chest" offer is \$250 to \$300, or represents a savings of \$200 or \$250, and the value of the total "Jackpot" package is \$500 or more.
25. The "Treasure Chest," "Super Jackpot Package," or "gift box" contains only "full-sized" products.
26. The "Treasure Chest" contains a "rare and very expensive cosmetic" with a retail value of \$20.

27. Respondents will deliver ordered goods and services.
28. Respondents will bear the cost of delivery of their products.
29. Respondents guarantee goods and services on a money-back/satisfaction-guaranteed basis.
30. Respondents had a reasonable basis for making the aforesaid representations prior to making them. [8]

PAR. 7. In truth and in fact:

1. Respondents have not conducted, and do not conduct, contests. No *bona fide* contest or sweepstakes exists. Respondents' solicitation scheme is a systematic, money-making retail sales business transacted through mass mailings, and does not involve any elements of skill or chance. Their solicitations are intended only for the purpose of obtaining sales and/or leads.
2. Respondents fail to award all the "contest prizes" advertised.
3. Respondents do not engage in any market research and/or analysis. Their sole business is the sale of their "Treasure Chest" or "Super Jackpot Package" and sewing machine.
4. Respondents have not engaged, and are not engaged, in incentive programs and/or programs. Their sole business is the sale of their "Treasure Chest" or "Super Jackpot Package" and sewing machine.
5. Respondents have no co-sponsors for their promotions. Respondents retail the products they purchase from wholesalers of the products' manufacturers.
6. Respondents have at no time represented other companies in the sale of their products.
7. Recipients of respondents' solicitations are not winners, either in a sweepstakes or in a contest. At no time have respondents conducted a *bona fide* contest or sweepstakes. [9]
8. There is no special selection of solicitation recipients. Respondents mail to millions of prospective customers whose names respondents take from rented computer lists.
9. Recipients of respondents' offers are not entitled to any "prizes," and/or "awards," and/or "winnings," and/or "gifts," and/or "bonuses," and/or "free" goods and services. Recipients are only entitled to purchase them at a stated price.
10. The registration, handling, and service charge is nothing but respondents' full retail price for their goods and services.
11. No time limit exists within which recipients of respondents' solicitations must remit their money. Recipients may make their purchases after ten days after receiving the solicitation, and, in fact, many were subsequently solicited by respondent Market Development Corporation to purchase a second "Treasure Chest" or "vacation."
12. The promotion is not a once-in-a-lifetime opportunity. Actual

customers were solicited by respondent Market Development Corporation to purchase a second "Treasure Chest" or "vacation."

13. Purchasers of respondent Market Development Corporation's solicitation do not receive a vacation, but only lodging accommodations. Customers of corporate respondents Market Development Corporation and Columbia Research Corporation do not receive a "free vacation" because there are, in fact, no prizes, awards, or the like. Purchasers must buy the "Treasure Chest" to receive the "vacation" and must pay [10] for all other vacation expenses themselves, including all transportation and food expenses, and additional charges incurred during the "peak season."

14. Purchasers of the vacation do not have their choices of locations, lodging accommodations, and times. Actual arrangements may be different from purchasers' selections sent to respondents.

15. The Market Development Corporation "Treasure Chest" or "gift box" solicitation fails to state, or alternatively fails to state clearly and conspicuously, that the "vacation" is part of a land sales promotion and that the entire offer includes a follow-up sewing machine solicitation. The Columbia Research Corporation solicitation fails to state, or alternatively fails to state clearly and conspicuously, that the "vacation" is part of a land sales promotion or lodging accommodations sales promotion.

16. Respondents have inflated the number of families who have accepted their offer, and fail to disclose that their "satisfied" customers were induced to make purchases because of respondents' deceptive, and/or false, and/or unfair acts and practices.

17. Respondents' sewing machine is not sold throughout the United States except by mail from Cincinnati, Ohio, and at a few isolated retail outlets.

18. Respondents' sewing machine is serviced by or through respondents only in Cincinnati, Ohio.

19. Respondents' sewing machine is not used in home economics classes throughout the United States. [11]

20. Respondents' sewing machine does not have a \$179.50 and/or \$169.50 retail price. Currently, respondents' regular selling price of the sewing machine is \$79.50, and prior to 1974, \$69.50.

21. The discount certificate is worthless because respondents' regular selling price of the sewing machine is \$79.50 or \$69.50. Respondents artificially inflate the price of the sewing machine by \$100.

22. Respondents artificially inflate the price of their "Treasure Chest," "Super Jackpot Package," or "gift box." Its value is significantly less than \$30.

Complaint

23. Respondents fail to disclose that in order to receive the benefits of the coupon book, one must make additional food and drink purchases, such as two-for-one deals. The only way the value of the coupon book may be realized is for purchasers of the "vacation" to spend the entire vacation time visiting the places of business represented in the coupons and spending additional money at each place of business.

24. The values of the goods and services offered by Market Development Corporation are significantly less than the \$250-300 values ascribed to them by respondents' solicitations. If any "savings" are realized by dealing with respondents, those savings are significantly less than the \$200-250 in savings claimed by respondents' solicitations. The values of the goods and services offered by the Columbia Research Corporation are significantly less than the \$500 or more claimed for them by [12] respondents' solicitations. Respondents thus overstate the worth of the goods and services they offer.

25. The "Treasure Chest" does not always contain full-sized products or the products that respondents picture in their solicitation. The "Treasure Chest" may contain sample-sized products.

26. The "rare and very expensive cosmetic" is a perfume which does not sell anywhere at retail and costs respondents 37 cents a bottle to purchase.

27. Respondents fail, in many instances, to deliver ordered goods and services.

28. Respondents' customers bear the delivery costs of respondents' sewing machine.

29. Respondents do not promptly refund monies if purchasers are dissatisfied. In many instances, respondents fail to make refunds at all.

30. Respondents knew that the aforesaid representations were untrue prior to making them or, alternatively, did not have a reasonable basis for making the aforesaid representations prior to making them. [13]

PAR. 8. In the conduct of their business, and at all times mentioned herein, respondents have been in substantial competition, in or affecting commerce, with corporations, firms, and individuals in the sale of sewing machines, vacation packages, and cosmetic products of the same general kind and nature as those sold by respondents.

PAR. 9. The use by respondents of the aforesaid false, misleading, and deceptive statements, representations, and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true, and/or into the

purchase of substantial quantities of respondents' products by reason of such erroneous and mistaken belief.

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

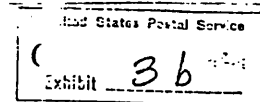
Complaint

95 F.T.C.



**GARD
DEVELOPMENT
CORPORATION**

HOLLYWOOD BUILDING, CINCINNATI, OHIO, 45224,
CONTEST AWARD DIVISION

**Congratulations!**

It is indeed my pleasure to inform you that your lucky number has been computer selected as a Sweepstakes prize winner.

YOU ARE TO RECEIVE THE FOLLOWING PRIZES:

A GLAMOROUS VACATION FOR TWO ADULTS, just minutes away from the world's newest, bigger than ever. . . \$300 Million Tourist attraction. . . WALT DISNEY WORLD, near Orlando, Florida. WALT DISNEY WORLD. . . is a completely new kind of vacation experience. Here you will find all the fun of California's Disneyland--and many new attractions created especially for Walt Disney World. And that's just the beginning. . . here you can dine in the banquet hall of a medieval castle. . . sail for miles or sun on the beach of a Polynesian Village. . . watch the sunset from the deck of a 19th Century steamboat. . . ride a swift monorail train right through the "lobby" of a resort hotel, as contemporary as tomorrow.

These adventures and many more, await you and your family at Walt Disney World. Walt Disney World offers a whole new vacation way of life. . . recreation, family entertainment and relaxation. . . all together for the first time in one "Vacation Kingdom."

Or, if you prefer Miami Beach, including 1st class accommodations, a \$100.00 food allowance discount coupon book, plus an optional Bahama Cruise. If a tour out west is more to your liking, you will be our guest at the Hacienda located in the entertainment capital of the world, Las Vegas, Nevada.

AND THAT'S NOT ALL YOU GET!

In addition to receiving your Vacation Certificate Award you will also receive a TREASURE CHEST CRAMMED FULL OF NATIONALLY ADVERTISED HOUSEHOLD AND COSMETIC PRODUCTS. . . products used daily by the entire family. In this Treasure Chest you will also discover a rare and very expensive cosmetic featured on TV programs such as Concentration, Let's Make a Deal with Monty Hall and advertised in Harper's Bazaar. This BEAUTIFUL AND ELEGANT product retails for \$20.00. This is only one of the many nationally advertised products you will find crammed into this Treasure Chest. . .

(over please)

EXHIBIT A, p. 1

Complaint

Also included will be a \$100.00 cash merchandise certificate you may use toward the purchase of a zig-zag sewing machine manufactured for one of the world's oldest and very famous sewing machine companies.

SO . . .AREN'T YOU EXCITED. . . YOU CERTAINLY SHOULD BE. . .

because the total intrinsic value of your winnings amounts to approximately \$300.00. Now at this point you are probably asking yourself, "How can this possibly be true?"

The answer is relatively simple. All of our participating co-sponsors are contributing their share toward this fabulous Sweepstakes. It is only through their combined advertising budgets, along with ourselves, Market Development Corporation, that makes this entire presentation possible. Naturally, all of our participating co-sponsors are very proud of their products and feel that through this program you will have an opportunity to acquaint yourself first hand with their many fine products, including fun-filled exciting vacation facilities.

We know you will be quite anxious to claim your Sweepstakes winnings, but you must be sure to claim your winnings within the next 10 days. There is a \$15.00 (total cost to you) service charge to supplement the cost of registering your Vacation Certificate. This includes packaging, handling, freight charges and insuring safe arrival of your Treasure Chest to your door. Naturally, if for any reason whatsoever, upon receipt of your Sweepstakes award package, you find you are not totally and completely satisfied, you may return all prizes, certificates, etc. to us and we will promptly refund your \$15.00.

Sincerely hope that you will be able to take advantage of this wonderful opportunity. You will definitely enjoy the vacation of a lifetime and be more than delighted with the many fine products that will arrive in your Treasure Chest.

Please let us know your decision as early as possible. Simply fill in the enclosed award acceptance form. Also, you must endorse the back of your registered gift certificate (IBN card). You may use the postage paid, self-addressed envelope that I have included for your convenience. Unless I hear from you within the next 10 days, I must assume that you are not interested in taking advantage of your winnings. At that time I will be compelled to pass your winnings on to the next eligible contest winner.

Cordially yours,

William Hoss
Contest Director

William Hoss:HA

P.S. You don't have to make your reservations now. . . you do this when you are ready to go on your vacation. Then mail the reservation area request form (60 days prior to your planned departure date) and you will receive reservation and confirmation request form for the available resort area of your choice. You have a full year to decide where and when you wish to take your vacation. It is not mandatory that you use your Vacation Certificate. This Certificate is given to you as an additional bonus along with the many fine products contained in your Treasure Chest. However, I want to add that the Vacation Certificate is naturally the most valuable part of your Sweepstakes winnings. This Certificate can be transferred at any time. It makes a nice birthday or holiday gift. It is negotiable in the event you wish to sell it. Be sure to clearly indicate your choice of vacation area on your acceptance form. BE SURE TO MAIL IT WITHIN THE NEXT 10 DAYS.

Complaint

95 F.T.C.



MARKET
DEVELOPMENT
CORPORATION

HOLLYWOOD BUILDING, CINCINNATI, OHIO, 45224.

J M Van Law
19 Hidden Brook Rd
Riverside, Connecticut 06878

CONGRATULATIONS MRS. LAW!

It is indeed my pleasure to inform you that our computers have selected the magic house number 19 Hidden Brook Rd.

MRS. LAW, YOU ARE TO RECEIVE THE FOLLOWING:

A GLAMOROUS VACATION FOR TWO in Miami, Florida, or be our guest at one of Las Vegas' fabulous casino hotels. - or take the entire Law family and enjoy fabulous Walt Disney World. Your accommodations will be nearby in Orlando, Florida. Plus over \$100.00 in Food and Entertainment Coupons to use in Florida.

AND THAT'S NOT ALL. - -

By accepting this offer there will be a bonus package delivered to 19 Hidden Brook Rd, Riverside, Connecticut.

So, Mrs. Law, today is indeed your lucky day. If you are excited, you certainly should be.

I have enclosed complete details, along with acceptance form and a return envelope which must be sent to me within the next 10 days in the event you wish to accept this offer.

Cordially yours,

James F. Lynch

James F. Lynch

JFL:sw

EXHIBIT B

