

Sugar Freedom frozen dessert products. According to the complaint Eskimo Pie falsely represented that its Sugar Freedom frozen dessert products are significantly reduced in calories compared with comparable foods and that they are low in calories.

The complaint also alleges that Eskimo Pie falsely represented that the American Diabetes Association has approved or endorsed Eskimo Pie Sugar Freedom frozen dessert products.

Finally, the complaint alleges that Eskimo Pie represented that its Sugar Freedom frozen dessert products are particularly useful or appropriate in the diabetics's diet, but failed to disclose that many of these products are high in total fat and saturated fat and are not low or reduced in calories.

The consent order contains provisions designed to remedy the violations charged and to prevent Eskimo Pie from engaging in similar deceptive and unfair acts and practices in the future.

Part I of the order prohibits Eskimo Pie from misrepresenting the existence or amount of calories or any other nutrient or ingredient in any frozen dessert product; or that such product has been approved, endorsed or recommended by any person, group or organization.

Part II of the order requires that when Eskimo Pie represents that any frozen dessert product is a useful or appropriate part of a diabetic's diet, then it must disclose a) the total fat content if the product is not low in fat; b) the saturated fat content if the product is not low in saturated fat; and c) that the product is not a reduced calorie product when the FDA would require a similar disclosure in labelling.

Part III of the order provides that representations that would be specifically permitted in food labeling, under regulations issued by FDA pursuant to the Nutrition Labeling and Education Act of 1990, are not prohibited by the order.

Part IV of the order requires Eskimo Pie to maintain copies of all materials relied upon in making any representation covered by the order.

Part V of the order requires Eskimo Pie to notify the Commission of any changes in corporate structure that might affect compliance with the order.

Part VI of the order requires Eskimo Pie to distribute copies of the order to its operating divisions and to various officers, agents and representatives of Eskimo Pie.

Part VII of the order requires Eskimo Pie to maintain copies of all advertisements containing representations covered by the order.

Part VIII of the order requires Eskimo Pie to file with the Commission one or more reports detailing compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order, or to modify any of their terms.

**Donald S. Clark,**

*Secretary.*

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[File No. 932 3040]

**G.E.C.H., Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment**

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a video dating service franchise to properly and accurately disclose the annual percentage rate (APR) and other credit terms of financed memberships, as required by the federal Truth in Lending Act, and would require the franchise to make refunds to consumers who were misled by the undisclosed financed charges and APRs.

**DATES:** Comments must be received on or before August 4, 1995.

**ADDRESSES** Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Stephen Cohen, FTC/S-4429, Washington, DC 20580. (202) 326-3222.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

**Agreement Containing Consent Order To Cease And Desist**

In the Matter of G.E.C.H., Inc., a corporation. File No. 932 3040.

The Federal Trade Commission having initiated an investigation of certain acts and practices of G.E.C.H., Inc., a corporation, (hereinafter sometimes referred to as proposed respondent) and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

*It is hereby agreed* by and between proposed respondent and counsel for the Federal Trade Commission that:

1. G.E.C.H., Inc., doing business as Great Expectations of Cherry Hill ("GE Cherry Hill"), is a corporation organized, existing, and doing business under and by virtue of the laws of the state of New Jersey with its office and principal place of business located at One Cherry Hill, Suite 600, Cherry Hill, NJ 08002.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft of complaint.

3. Proposed respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) Any right to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft of complaint, or that the facts alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the draft of complaint and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. It understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

#### Order

##### I

It is ordered that:

A. Respondent GE Cherry Hill, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to accurately calculate and disclose the annual percentage rate, as required by Sections 107 (a) and (c) of the TILA, 15 U.S.C. 1606 (a) and (c), and Sections 226.18(e) and 226.22 of Regulation Z, 12 CFR 226.18(e) and 226.22;

B. Respondent GE Cherry Hill, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation,

subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to make all disclosures in the manner, form, and amount required by Sections 122 and 128(a) of the TILA, 15 U.S.C. 1632 and 1638(a), and Sections 226.17 and 226.18 of Regulation Z, 12 CFR 226.17 and 226.18;

C. Respondent GE Cherry Hill, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the offering of credit, do forthwith cease and desist from failing to comply with the TILA, 15 U.S.C. 1601 *et seq.*, and Regulation Z, 12 CFR part 226.

##### II

#### Refund Program

*It is further ordered that:*

A. Within thirty (30) days following the date of service of this order, respondent shall:

1. Determine to whom respondent disclosed on the original TILA disclosure an annual percentage rate that was miscalculated by more than one quarter of one percentage point below the annual percentage rate determined in accordance with Section 226.22 of Regulation Z, 12 CFR 226.22, or that disclosed a finance charge that was miscalculated by more than one dollar below the finance charge determined in accordance with Section 226.4 of Regulation Z, 12 CFR 226.4, so that each such person will not be required to pay a finance charge in excess of the finance charge actually disclosed or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower, plus a tolerance of one quarter of one percentage point;

2. Calculate a lump sum refund and a monthly payment adjustment, if applicable, in accordance with Section 108(e) of the TILA, 15 U.S.C. 1607(e);

3. Mail a refund check to each eligible consumer in the amount determined above, along with Attachment 1; and

4. Provide the Federal Trade Commission with a list of each such consumer, the amount of the refund, the number of payments refunded, the amount of adjustment for future payments and the number of future payments to be adjusted;

B. Within thirty (30) days following the date of adjustments made pursuant to this section, respondent shall direct Ira M. Goldberg, Esquire, to review a statistically-valid sample of refunds. Respondent shall provide the Federal Trade Commission with a certified letter

from Mr. Goldberg confirming that respondent has complied with Part II. A. of this order;

C. All costs associated with the administration of the refund program and payment of refunds shall be borne by the respondent.

##### III

*It is further ordered that* respondent, its successors and assigns, shall maintain for at least five (5) years from the date of service of this order and, upon thirty (30) days advance written request, make available to the Federal Trade Commission for inspection and copying all documents and other records necessary to demonstrate fully its compliance with this order.

##### IV

*It is further ordered that* respondent, its successors and assigns, shall distribute a copy of this order to any present or future officers and managerial employees having responsibility with respect to the subject matter of this order and that respondent, its successors and assigns, shall secure from each such person a signed statement acknowledging receipt of said order.

##### V

*It is further ordered that* respondent, for a period of five (5) years following the date of service of this order, shall promptly notify the Commission at least thirty (30) days prior to any proposed change in its corporate structure such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or affiliates, or any other change in the corporation that may affect compliance obligations arising out of the order.

##### VI

*It is further ordered that* respondent shall, within one hundred and eighty (180) days of the date of service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

#### Attachment 1

Dear Great Expectations Member: Some time ago, the Federal Trade Commission staff notified us that we had made some inadvertent errors in filling out certain Truth in Lending Act disclosure forms, which is the form you signed containing primarily the terms by which you agreed to pay for your Great Expectations membership over some period of time. After receiving the FTC notification, we went back and recomputed your finance charge and determined that we had miscalculated or improperly disclosed that charge, or the annual percentage rate. We

are therefore enclosing a refund check payable to your order in the amount of \$\_\_\_\_\_ which represents the amount you were inadvertently overcharged.

[In addition, your future monthly payments have been recalculated and, starting immediately, your monthly payments will be \$\_\_\_\_\_.]

We hope that your experience with Great Expectations has been a positive one and hope that you will feel free to notify us if there is anything we can do for you. We regret any inconvenience this may have caused you.

Very truly yours,

[signed]

### **Analysis of Proposed Consent Order To Aid Public Comment**

The Federal Trade Commission has accepted an agreement to a proposed consent order from respondent G.E.C.H., Inc. ("GE Cherry Hill").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges the GE Cherry Hill, as a creditor under the Truth in Lending Act ("TILA"), has violated the TILA and its implementing Regulation Z. Specifically, the TILA requires creditors to make clear and consistent disclosures of the credit terms in a financed transaction. GE Cherry Hill failed to accurately calculate and disclose the annual percentage rate ("APR"), which resulted in some consumers paying more in interest charges than the franchise disclosed. The complaint further alleges that this practice is unfair or deceptive in violation of the Federal Trade Commission Act.

Additionally, the complaint alleges that GE Cherry Hill failed to accurately disclose the itemization of the amount financed, which assists consumers in understanding whether they are being charged a prepaid finance charge or whether any of the proceeds are being distributed to third parties.

Finally, the complaint alleges that GE Cherry Hill failed to identify the creditor in each transaction, and failed to provide the total payments and the total sales price.

The consent agreement would prohibit GE Cherry Hill from failing to accurately calculate and disclose the APR and any other terms by the TILA.

The consent agreement includes a refund program requiring GE Cherry

Hill to make adjustments to the account of any consumer to whom it disclosed an APR or finance charge that was lower than the amount the consumer actually was required to pay.

The consent agreement would also require GE Cherry Hill to maintain records of its compliance with the consent agreement, distribute copies of the agreement to its employees, and advise the Federal Trade Commission of any changes in its corporate structure.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

**Donald S. Clark,**

*Secretary.*

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[File No. 932 3040]

### **Great Expectations Creative Management, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment**

**AGENCY:** Federal Trade Commission.

**ACTION:** Proposed consent agreement.

**SUMMARY:** In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the franchisor of video dating services and its four franchises to properly and accurately disclose the annual percentage rate (APR) and other credit terms of financed memberships, as required by the federal Truth in Lending Act and would require the franchises to make refunds to consumers who were misled by the undisclosed finance charges and APRs. In addition, the consent agreement would prohibit the respondents from providing franchises contracts with pre-printed APRs.

**DATES:** Comments must be received on or before August 4, 1995.

**ADDRESSES:** Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** Stephen Cohen, FTC/S-4429, Washington, DC 20580. (202) 326-3222.

**SUPPLEMENTARY INFORMATION:** Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following

consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

In the Matter of Great Expectations Creative Management, Inc., Great Expectations, Inc., GEC Illinois, Inc., GEC Tennessee, Inc., and GEC Alabama, Inc., corporations. File No. 932 3040.

### **Agreement Containing Consent Order To Cease and Desist**

The Federal Trade Commission having initiated an investigation of certain acts and practices of Great Expectations Creative Management, Inc., Great Expectations, Inc., GEC Illinois, Inc., GEC Tennessee, Inc., and GEC Alabama, Inc., corporations, (hereinafter sometimes referred to as Proposed Respondents) and it now appearing that Proposed Respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It Is Hereby Agreed by and between Proposed Respondents, their attorneys, and counsel for the Federal Trade Commission that:

1. Great Expectations Creative Management, Inc. ("G/ECM") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its office and principal place of business located at 16830 Ventura Blvd., Suite P, Encino, CA 91436.

2. Great Expectations, Inc., ("G/EI") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of California, with its corporate office at 16830 Ventura Blvd., Suite P, Encino, CA 91436, and its principal places of business located at 1640 S. Sepulveda Blvd., Suite 100, Los Angeles, CA 91436, 17207 Ventura Blvd., Encino, CA 91316, and 450 N. Mountain, Suite B, Upland, CA 91786.

3. GEC Illinois, Inc. ("GE Illinois") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of Illinois, with its office and principal place of business located at 1701 E. Woodfield Dr., Suite 400, Schaumburg, IL 60173.

4. GEC Tennessee, Inc. ("GE Tennessee") is a corporation organized, existing, and doing business under and by virtue of the laws of the state of