

PROLOGUE TO CHAPTERS ONE, TWO, AND THREE

* THE 1961-1963 GENERAL FOODS BASEBALL PROMOTION *

“You know the popularity of baseball cards. Soon now your stores are going to be the trading card centers for kids of all ages.”

- 1961 Sales Promotion Piece

The best way to put this entire story together is by referencing the Federal Trade Commission (FTC) hearing in the matter of Topps Chewing Gum, Incorporated, Docket Number 8463, which commenced as a result of the initial complaint filed by the FTC (based on a corollary complaint filed with the FTC by the Frank H. Fleer Corporation) on January 30, 1962, that Topps had created a monopoly in violation of the Sherman Antitrust Act; after over 4000 pages of testimony was heard before the formal hearing concluded, subsequent motions were acted upon followed by the initial decision rendered on April 30, 1965. The results of the commission’s findings are irrelevant to this narrative; what is relevant are the testimonies of the three General Foods employees: Fred K. Smart (on April 29, 1963), Robert E. Haynes (on April 29, 1963), and William L. Jackson (who testified on April 29, 1963, and again with follow-up testimony in 1964). Each of these individuals were asked to provide depositions by Topps, as their testimonies were part of Topps’ defense that they had not created a monopoly as evidenced by baseball-related items (primarily cards) sold by outside companies in the marketplace, including General Foods, through their 1961-1963 Baseball Promotions. The testimonies of these three gentlemen provide extensive and detailed insight regarding the 1961-1963 General Foods Baseball Promotion that is not available by any other means.

We will begin with the testimony from Fred K. Smart as a framework for the narrative. Each section starts out with an excerpt from the testimony, which is utilized as a basis for painting the promotion timeline with supporting details. The testimonies from Robert E. Haynes and William L. Jackson are folded-in as appropriate during the course of this narrative. A total of 59 hearing exhibits associated with these testimonies are included throughout; a number of the exhibits included in these chapters are self-explanatory, and the information one gleans from reading the exhibits will not require explanation or elaboration. The author has added a few additional exhibits not specifically related to these gentlemen’s testimonies but relevant to the overall narratives, as they were presented elsewhere throughout the overall hearing via the testimonies of other individuals. It is important to note that, in the interest of

continuity for the reader, sections within the chapters are organized in a logical manner and do not necessarily reflect the “order” of comments from the three gentlemen’s testimonies as presented during the course of the hearing. Having said that, the author has also attempted to paint an overall logical timeline of presented information within each chapter that reflects orderly steps that actually occurred in the overall promotion process. Many of the exhibits used in these chapters are duplicated in chapter four, because they contain information relevant to the details surrounding a particular year’s promotion.

Each excerpt includes the question posed to the three gentlemen (identified as “Smart”, “Haynes” and “Jackson” accordingly):

1. If the question was posed by attorneys for the Federal Trade Commission in support of the complaint (James P. Timony, Esq. or Robert Liebquist, Esq.) including FTC Hearing Examiner Herman Tocker, the abbreviation “HET” is used to refer to the Hearing Examiner’s Team.

2. If the question was posed by the attorneys for the Respondent (Topps) (Earl W. Kintner, Esq., or Sidney Harris, Esq., Law Firm of Arent, Fox, Kintner, Plotkin & Kahn, 1815 H Street, NW, Washington 6, D.C.), the abbreviation “RLT” is used to refer to Respondent’s Legal Team.

3. If the question was posed by the attorney for the General Foods Corporation (John A. Riegel, Esq.) the abbreviation “GF” is used to refer to Attorney for General Foods Corporation.

In addition, the unedited version of the transcript that is included has been italicized; no spelling or grammatical corrections have been made to preserve the integrity of the transcript.

Let the journey begin ...