

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Julie Brill
Maureen K. Ohlhausen
Joshua D. Wright
Terrell McSweeney

_____)	
In the Matter of)	
)	
FOCUS EDUCATION, LLC,)	
a limited liability company,)	
)	
MICHAEL APSTEIN,)	
individually and as an officer of)	
FOCUS EDUCATION, LLC,)	DOCKET NO. C-4517
)	
and)	
)	
JOHN ABLE ,)	
individually and as an officer of)	
FOCUS EDUCATION, LLC.)	
)	
_____)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Focus Education, LLC, a limited liability company, Michael Apstein individually and as an officer of Focus Education, LLC, and John Able, individually and as an officer of Focus Education, LLC, collectively, "Respondents"), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Focus Education, LLC ("Focus Education") is a Texas limited liability company with its principal office or place of business in Houston, Texas
2. Respondent Michael Apstein is the cofounder and Chief Executive Officer of Focus Education. Individually or in concert with others, he controlled or had the authority to control and participated in the acts and practices of Focus Education, including the acts and practices alleged in this complaint. His principal office or place of business is in Milpitas, CA.

Parent, ifocus C-Founder. . . .”

JOHN ABLE: “It’s taking their brain and opening up the neuro pathways and their ability to focus and pay attention is improved.”

(Ex. A, Infomercial version 1, at p. 5-11, 23, 442)

- B. FEMALE ANNOUNCER: “Here to tell us more is brain specialist and ifocus scientific advisor, Dr. Daniel Amen. He’s a child psychiatrist and brain imaging specialist and he’s authored 28 books on the brain. Dr. Amen is also a father and a grandfather.”

DR. DANIEL AMEN: “As a child psychiatrist, I’ve not been all that excited about video games for children because children have developing brains. Here, we had developers, in a thoughtful way, develop a game to actually strengthen the connections in the brain. It’s a very interesting term called ‘long term potentiation.’ So, what that means is the connections between cells actually become stronger. So, to have the opportunity to actually study it and show that it is, in fact, helpful was very exciting for me. So, we had a group of 45 children. What we found was their ability to regulate themselves[,] so self regulation and emotion statistically significantly increased after the kids played the game. If you can help a child with their emotions[,] regulate themselves, they’re more successful in their lives. Not only are they happier, but they’re able to stay focused. I think any kid will benefit from this.”

[On screen depictions omitted]

* * *

MALE ANNOUNCER: “[B]ecause hidden within every level of the nine innovative

ON SCREEN: "NBACK
HOLD INFORMATION
UPDATE INFORMATION
REMEMBER AND FOCUS"

MALE ANNOUNCER: "And N-Back requires players to hold information and update that information. It's practice for real life, helping kids to think about what they've learned and to focus and remember what they need to do. It's this innovative[,] groundbreaking combination of proven science and increasingly challenging fun that has kids hooked from the very first time they play."

[On screen depictions omitted]

* * *

FEMALE ANNOUNCER: "Zak and Zane are identical twins. Think busy times two. Their dad knows how important exercise is for young boys, so he makes sure they spend a lot of time outside working off their energy. And while they're great when it comes to sports, both Zak and Zane had trouble focusing at school."

GARTH: "But to try to focus & do homework, there'd be times where it would take me a half hour to just do one math problem."

FEMALE ANNOUNCER: "But since playing the Jungle Rangers game and using the ifocus System, Zak and Zane are able to focus, filter out distractions and homework has become much more productive."

ON SCREEN: "Garth
Zak and Zane's Dad
Individual Result - your child may not be as successful"

(disclosure appears in fine print at the bottom of the TV screen)

GARTH: "Well, they're doing better in school. We just got their report cards, and we were shocked, all As and Bs. They've never had that before."

FEMALE ANNOUNCER: "The ifocus Jungle Rangers game isn't available at schools, so elementary school principal Lori Jensen jumped at the opportunity to test it as part of her curriculum."

LORI JENSEN: "It fit into what we were trying to do with our students, engage them in the learning process, but also expand what their brains were going to be able to do."

FEMALE ANNOUNCER: "The teachers were enthusiastic."

JANE MARSHALL: "And, actually, as educators, that's what we're trying to do. We're trying to create new pathways in the brain."

FEMALE ANNOUNCER: "So, students played the ifocus Jungle Rangers game in computer lab and teachers noticed a difference in their classrooms."

JANE MARSHALL: "A typical third grade class you're really ~~working~~ trying to keep them focused."

LORI JENSEN: "She can tell a difference in their attention span in the classroom."

LAVONNE RIGGS: "I have seen a vast improvement. This class seems to be motivated and focused, and the only thing we're doing differently is Jungle Rangers."

JANE MARSHALL: "I love finding ways to help the children learn and Jungle Rangers does play a part in helping the children learn how to focus and to retrieve information and they enjoy doing it, so half the battle's gone right there. . . ."

LORI JENSEN: "It will help them with their attention span and their focus."

[On screen depictions omitted]

* * *

FEMALE ANNOUNCER: "Isaac is a busy nine year old and Isaac had trouble paying attention in school until his mom discovered the ifocus System."

[On screen depictions omitted]

FEMALE ANNOUNCER: "He started playing Jungle Rangers and she learned easy ways to help him change his behavior, to get organized and to get focused."

ON SCREEN: "Alitza
Issac's Mom www.ifocusSystem.com"

ALITZ

D. MALE ANNOUNCER: "But what if there was a way to fight that summer brain drain by s

(Ex. F, Game Time radio ad script)

12. Daniel Amen, M.D. appears in Focus Education's information describing a pilot study he conducted on Jungle Rangers in 2011. In that study, forty children between the ages of six and twelve trained during a twelve week period with Jungle Rangers for an average of five hours total and were evaluated before and after the testing period using WebNeuro, an online neuropsychological evaluation containing four outcome measures: Regulation, Emotion, Feeling, and Thinking. Dr. Amen reported "statistically significant" improvements only in the Self Regulation and Emotion outcome measures, but not in the Feeling or Thinking measures. This study was not randomized, blinded, or controlled; the children's performance in the Regulation and Emotion outcome measures was in the normal range before and after Jungle Rangers; the Self-Regulation, Emotion, and Feeling outcome measures do not measure focus, attention, or behavior; and the study did not conduct any follow-up testing to measure any permanent effects of Jungle Rangers training or collect any data on the children's existing diagnoses or academic performance.

Count I
False or Unsubstantiated Efficacy Claims

13. In connection with the advertising, promotion, offering for sale, or sale of the ifocus System, including through the use of the product name, Respondent has represented, directly or indirectly, expressly or by implication, that

- A. Playing the ifocus System's Jungle Rangers computer game improves children's focus, memory, attention, behavior, and/or school performance, including in children with ADHD; and
- B. Playing the ifocus System's Jungle Rangers computer game causes permanent improvements in children's focus, memory, attention, behavior, and/or school performance, including in children with ADHD.

14. The representations set forth in Paragraph 13 are false or misleading, or were not substantiated at the time the representations were made

Count II
False Establishment Claims

15. In connection with the advertising, promotion, offering for sale, or sale of the ifocus System Respondent has represented, directly or indirectly, expressly or by implication, that scientific studies prove

- A. Playing the ifocus System's Jungle Rangers computer game improves children's focus, memory, attention, behavior, and/or school performance, including in children with ADHD; and

B. Playing the ifocus System's Jungle Rangers computer game causes permanent improvements in children's focus, memory, attention, behavior, and/or school performance, including in children with ADHD.

16. In fact, scientific studies do not prove the representations set forth in Paragraph 5. Therefore, the representations set forth in Paragraph 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.