

## MEMORANDUM

TO:       Lawyering Skills I students  
FROM:     Professor David E. Sorkin  
DATE:     November 4, 2009  
RE:       Appomatics LLP

We represent Appomatics LLP, a small Chicago-based company that develops application software for mobile phones. Appomatics markets its products through the App-of-the-Month Club. A customer joins the club by paying \$0.99 to download a set of five apps, and becomes obligated to purchase at least six more apps at regular price (generally from \$0.99 to \$9.99 each) over the next two years. Members are also eligible to receive referral bonuses for recruiting new members.

A customer recently challenged the company's practice of offering referral bonuses and threatened to report the company to the Attorney General's Office if it did not release the customer from his purchase obligation. The only provision of Illinois law I can find that might apply to this situation is section 2A of the Consumer Fraud and Deceptive Business Practices Act, which governs chain referral sales and pyramid schemes. Please write a memorandum addressing the legality of the company's practices under this statute.

Here is the text of the offer that the company makes to potential members:

### APP-OF-THE-MONTH CLUB

The latest and greatest apps for your Android or Windows Mobile device

How it works: Pay only \$0.99 to download the Appomatics suite of five top mobile phone apps, and you'll be automatically enrolled in the App-of-the-Month Club. You'll then be able to select as many more apps as you like at prices starting at just \$0.99 each; take up to two years to fulfill your membership obligation of six more apps. After you join, earn free apps by referring your friends to the Club, too! For every new member you introduce to the Club, you can download an app for free or reduce your purchase obligation by one.