

Complaint

IN THE MATTER OF

ALBERT E. VOADEN

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

Docket 4935. Complaint, Mar. 29, 1943—Decision, July 21, 1943

Where an individual, engaged in interstate sale and distribution of circulars with reply cards attached, for use by creditors and collection agencies in obtaining information concerning debtors, which informed the recipient that "Cigarette Smoker's Survey" was conducting a national survey to determine the preferred American-made cigarettes, and that if he would answer the questions on the business reply card, including reason for his preference, his name, address and place of employment, his favorite cigarette radio program, and name, address, and place of employment of a friend who smoked the same brand, he would receive free a package of his favorite cigarettes;

Making use of a scheme under which he placed upon his reply cards code numbers identifying his customer-purchasers, latter addressed cards and circulars to last known addresses of persons about whom information was sought, attached postage and caused the same to be delivered to said individual, who deposited them in the mail and, upon receipt of filled-in reply cards, forwarded them to his customers, and to persons returning them sent packages of their preferred cigarettes;

Through use of name Cigarette Smoker's Survey and said circular and card, falsely represented, and placed in the hands of his customers means of falsely representing, directly and by implication, that he was engaged in completing a national survey to determine which of a number of brands of American-made cigarettes was preferred by the average man so that classification might be made to show preference of different types of workers;

With effect of misleading and deceiving many persons to whom said circulars and cards were sent into the mistaken belief that said representations were true, thereby causing said persons to give information which they would not have otherwise supplied:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public, and constituted unfair and deceptive acts and practices in commerce.

Mr. Randolph W. Branch for the Commission.

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 Albert E. Voaden, an individual, hereinafter referred to as respondent, has 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:

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PARAGRAPH 1. Respondent, Albert E. Voaden, is an individual, with an office and principal place of business at Room No. 211, Charlevoix Building, Detroit, Mich. He formerly maintained an office and principal place of business at 2016 John R. Street, Detroit, Mich. In conducting his business respondent has traded under the names Credit Advisory Service, Cigarette Smoker's Survey, Bankers and Merchants Pen Co., and Alvin's (No-Lose) Key Chains.

PAR. 2. Respondent is now, and has been for more than 1 year last past, engaged in the business of selling and distributing printed mailing cards and forms designed and intended to be used by creditors and collection agencies in obtaining information concerning debtors.

Respondent causes said cards and forms to be transported from his aforesaid place of business in the State of Michigan, to purchasers thereof in various States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said forms and cards in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. The said cards and forms sold and distributed by respondent when using the name Cigarette Smoker's Survey are substantially in the form exemplified by a photostatic copy of the said card, marked Exhibit A; when using the name Bankers and Merchants Fountain Pen Co. the cards were in the form exemplified by a photostatic copy thereof marked Exhibit B; when using the name Alvin's (No-Lose) Key Chains the cards were in the form exemplified by a photostatic copy thereof marked Exhibit C.

The said exhibits A, B, and C, are attached hereto and by this reference incorporated herein and made a part hereof.

Upon the said cards and circulars, when they were delivered to purchasers thereof, respondent placed numbers, which were his code numbers and identified his customers to him.

Respondent's purchasers addressed the cards and circulars to the persons concerning whom information was sought at their last known addresses, attached the postage necessary for their delivery to such persons and caused them to be delivered to respondent in Detroit, Mich. Respondent then deposited the individual cards and circulars in the United States mail.

Such of the returned cards or returned portions of the circulars as were filled out and mailed were received by respondent, the customers identified by the code numbers, and sent by him to the various purchasers. Respondent sent to each person who returned the Cigarette Smoker's Survey card, a package of cigarettes as indicated by

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the sender; to each person who returned the Bankers and Merchants Fountain Pen Co. card, he sent a cheap fountain pen, and to each person who returned the Alvin's (No-Lose) Key Chains card, he sent a key chain of the sort depicted on the post card.

PAR. 4. By means of the Cigarette Smoker's Survey card, respondent has falsely represented, and placed in the hands of his customers means of falsely representing, directly and by implication, to those to whom the said cards were sent, that respondent was engaged in completing a national survey for the purpose of determining which of a number of brands of American made cigarettes were preferred by the average man and that this survey was made so that a classification might be made to show the preference of different types of workers.

PAR. 5. The said representations were false and misleading. In truth and in fact, respondent was not engaged in making a survey for the purpose of determining the public preference for various brands of American made cigarettes or for the purpose of classifying the cigarette preference of workers in different lines of endeavor. The actual purpose of the card was to obtain information concerning the recipient for the purpose of facilitating the collection of an alleged delinquent account and the whole scheme was merely an attempt to obtain this information by deceit and subterfuge.

PAR. 6. By means of the Bankers and Merchants Fountain Pen Co. card, respondent has falsely represented, and has placed in the hands of his customers means of falsely representing, directly and by implication, to persons to whom the said cards were sent, that the said card was sent and the offer of a free fountain pen made to the recipient in order that the pen might be demonstrated by the recipient to his friends and fellow-workers; that the said pen was given free as a means of bringing its merits to the attention of prospective purchasers, and that respondent was engaged in the business of selling and distributing such pens.

PAR. 7. Said representations were false and misleading. In truth and in fact respondent was not engaged in the business of selling and distributing pens, and the offer of a free pen was not made as a means of bringing its merits to the attention of prospective purchasers. The card was sent only for the purpose of obtaining information concerning the recipient for the purpose of facilitating the collection of an alleged delinquent account and the whole scheme was merely an attempt to obtain this information by deceit and subterfuge.

PAR. 8. By means of the Alvin's (No-Lose) Key Chains card, respondent falsely represented, and placed in the hands of his customers means of falsely representing, directly and by implication, to

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recipients thereof that the offer of a free rabbit foot key chain was made because the recipient was so fortunate as to have had his name selected from a large number of names; that it was being sent the recipient in order that he might exhibit the same to all of his friends; and that the respondent was engaged in the business of selling said key chains.

PAR. 9. The said representations were false and misleading. In truth and in fact, respondent was not engaged in the business of selling the said key chains, the name of the recipient had not been selected out of a large number of names and the chain was not sent to the recipient in order that it might be exhibited by him to his friends. The card was sent solely for the purpose of obtaining information concerning the recipient for the purpose of facilitating the collection of an alleged delinquent account and the whole scheme was merely an attempt to obtain the information by deceit and subterfuge.

PAR. 10. Through the use of the name, Cigarette Smoker's Survey, respondent has represented, directly and by implication, that he was engaged in the business of ascertaining by means of a survey, the preferences of a large number of individuals as to particular brands of cigarettes, and through the use of the name Bankers and Merchants Pen Co., respondent has represented, directly and by implication, that he was in the business of selling and distributing pens. Both of the said representations were false and misleading since in truth and in fact respondent was not making such a survey nor was he in the business of selling and distributing pens.

PAR. 11. The use by respondent, as hereinabove set forth, of the foregoing false and misleading statements and representations has had the tendency and capacity to, and has, misled and deceived many persons to whom the said cards and circulars were sent, into the erroneous and mistaken belief that said statements and representations were true and by reason thereof has caused them to give information which they would not have otherwise supplied.

PAR. 12. The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public, and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

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Exhibit A (Front)

Detach This Stub and Mail Card
No Postage Necessary



Detroit, Michigan

DEPT.

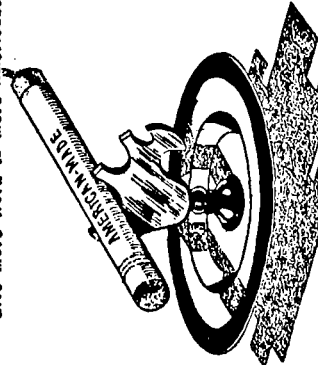
Cigarette Smokers' Survey
211 Charlevoix Building

BUSINESS REPLY CARD
FIRST CLASS PERMIT NO. 8928, SEC. 510, P. L. & R. DETROIT, MICH.



Smoke
**AMERICAN-MADE
CIGARETTES**

Give More Work to More Americans



What America Makes - Makes America

CIGARETTE SMOKERS' SURVEY
211 CHARLEVOIX BUILDING
DETROIT, MICHIGAN

SEC. 562, P. L. & R.

DEPT. _____

*Voaden B
20-2-3785 8-24-42
W. M. L. Smith Jr.*

POSTMASTER: IF ADDRESSEE HAS MOVED AND
NEW ADDRESS IS KNOWN, NOTIFY SENDER ON
FORM 3547. POSTAGE FOR WHICH IS GUARANTEED

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Exhibit A (Back)

37 F. T. C.

Cigarette Smokers' Survey

211 Charlevoix Bldg. - - Detroit, Mich.

You may send me a FREE PACKAGE of my FAVORITE CIGARETTES which I have checked below. CHECK YOUR CHOICE

- | | | | |
|-------------|--------------------------|---------------|--------------------------|
| Camels | <input type="checkbox"/> | Chesterfields | <input type="checkbox"/> |
| 1 Old Golds | <input type="checkbox"/> | Lucky Strikes | <input type="checkbox"/> |
| Pall Mall | <input type="checkbox"/> | Philip Morris | <input type="checkbox"/> |

2 WHY I PREFER THEM _____

3 My Name _____

Address _____

4 Employed at _____

Address _____

5 What Cigarette Radio Program do you like best _____

Have you a friend who smokes the same brand of Cigarettes? _____

6 Name _____

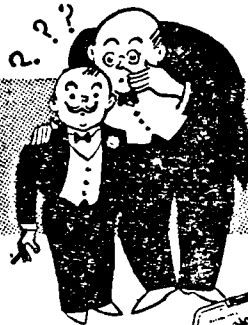
Address _____

7 Employed at _____

Address _____

This Free Offer Expires Soon
IT IS POSITIVELY
NOT TRANSFERABLE

TEAR OFF THIS CARD - MAIL - NO POSTAGE NECESSARY

**We Want To Know ...**

Which 'American-Made' Cigarette Does The Average Man Prefer?



We are completing a National Survey to determine which are the PREFERRED American-Made Cigarettes—if you will answer the simple questions on the other side of this folder—so that we can list and classify replies according to types of employment, such as Auto Workers—Building Trades, etc.—we will send you a FREE PACKAGE of your FAVORITE CIGARETTE.

We'll Send You Your Favorite Cigarette Absolutely FREE If You Help Us By Answering 7 Simple Questions!

THIS IS NO CONTEST! THERE'S NOTHING TO BUY OR SELL! NOTHING TO SIGN! DO IT NOW!

This FREE offer cannot be transferred, for you only.

A NEW DEPARTURE IN FOUNTAIN PENS

FREE—Introductory offer for



YES! You may send one E-Z-RITE Fountain Pen, without obligation to me. I am to do no selling, just demonstrate it to my friends and fellow employees.

Name _____
 Address _____
 Town _____
 Employed by _____
 Employer's Address _____
 To avoid duplication name and address of employer must be given

Fill in this card yourself, so that you may receive a E-Z-RITE Fountain Pen suitable to your handwriting.

A Fountain Pen

FREE



Mail Attached Card
 To-day

A revelation in smooth flowing
 Effortless writing

If you like the E-Z-RITE Fountain Pen
 show it to your friends.
 That's all we ask

ACT PROMPTLY—Our supply in this
 distributing campaign is limited.

Yours For Better Penmanship

BANKERS & MERCHANTS PEN CO.

2016 John R Street
 DETROIT — MICHIGAN



BUSINESS REPLY CARD
 FIRST CLASS PERMIT No. 778
 DETROIT, MICH.

BANKERS & MERCHANTS PEN CO.

2014 John R Street at Adams

Dept. 890

DETROIT, MICHIGAN



Bankers & Merchants Pen Co.
 2016 John R St. Room 101
 DETROIT, MICH.

POST CARD



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Exhibit C

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RABBIT FOOT KEY CHAIN

FREE Introductory Offer—

for

YES! you may send me One Rabbit Foot Key Chain without any obligation. I will also sell you—just show this practical Rabbit Foot Key Chain, with Horse Shoe attached, to all my friends.

Name _____

Address _____

I work for _____

Emp. Address _____

NAME AND ADDRESS OF EMPLOYER MUST BE GIVEN

Kind of work _____

Dept. _____ Badge No. _____

I work with fellow workers that I can show this New "Double Barrel Lock" Key Chain.

(to determine length of chain)

I carry _____

Keys at present.

Sign your name in full here

THIS OFFER IS NON TRANSFERABLE

Copyright 1936 A. K. C.

ALVIN'S (No-Lose) KEY CHAINS



DETROIT 2014 John R St. MICHIGAN

POST CARD

POSTMASTER—IMPORTANT.
Please Forward if Necessary.

ONE
CENT
STAMP

It's New! A Rabbit Foot Key Chain.

with a Unique Horse Shoe attached



We will mail you ONE of Alvin's (No-Lose) Rabbit Foot Key-Chains absolutely FREE if you act at once.

You were Lucky to have your name selected from a group of names to receive a Rabbit Foot Key Chain—FREE.

Exactly as pictured, a charming and useful gift.

You must act quickly— Our Free distribution ends soon.

Copyright 1936 A. K. C. — ALVIN'S (No-Lose) KEY CHAINS — 2014 John R Street — Detroit, Michigan

FIRST CLASS
PERMIT NO. 778
(SEC 510, PLER)
DETROIT, MICH.

BUSINESS REPLY CARD
No Postage Stamp Necessary if Mailed in the United States

ALVIN'S (No-Lose) KEY CHAINS

2014 John R Street

Detroit, Michigan

Dept. 851A

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on March 29, 1943, issued and on March 31, 1943, served its complaint in this proceeding upon respondent, Albert E. Voaden, an individual, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all of the material allegations of fact set forth in said complaint except insofar as the said allegations related to certain cards described in the said complaint as the Bankers and Merchants Fountain Pen Co. cards and Alvin's (No-Lose) Key Chain cards, and waiving all intervening procedure and further hearing as to the facts admitted by such substitute answer, which substitute answer was duly filed in the office of the Commission. Thereafter this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute answer and the Commission having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Albert E. Voaden, is an individual, with an office and principal place of business at Room No. 211, Charlevoix Building, Detroit, Mich. He formerly maintained an office and principal place of business at 2016 John R. Street, Detroit, Mich. In conducting his business, respondent has traded under the names Credit Advisory Service and Cigarette Smoker's Survey.

PAR. 2. Respondent is now, and has been for more than 1 year last past, engaged in the business of selling and distributing printed matter consisting of circulars with reply card attached, designed, and intended to be used by creditors and collection agencies in obtaining information concerning debtors.

Respondent causes said circulars and cards, when sold, to be transported from his aforesaid place of business in the State of Michigan, to purchasers thereof in various States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said circulars and cards in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. The printed matter sold and distributed by the respondent when using the name Cigarette Smoker's Survey is in the form of a circular with a business reply card attached, addressed to Cigarette Smoker's Survey. The circular informs the recipient that the Cigarette Smoker's Survey is conducting a national survey to determine which are the preferred American-made cigarettes, and that if the recipient will answer the questions on the business reply card he will receive a free package of his favorite cigarettes. The business reply card is in the form of a request for a free package of cigarettes of the brand selected, which is indicated by checking choice. In filling out this card the following information is given: reason for preference of the particular brand, name, address, and place of employment, what cigarette radio program is liked best, and name, address, and place of employment of a friend who smokes the same brand of cigarettes.

When these cards and circulars were delivered to the purchasers thereof, respondent placed certain code numbers upon the reply cards which identified his customers to him.

Respondent's purchasers addressed the cards and circulars to the persons concerning whom information was sought at their last known addresses, attached the postage necessary for their delivery to such persons, and caused them to be delivered to respondent in Detroit, Mich. Respondent then deposited the individual cards and circulars in the United States mail.

When the reply card was returned with the information filled out by the person concerning whom information was sought, the respondent forwarded such cards to his customer as identified by the code numbers, and forwarded to each person who returned such reply card a package of cigarettes as indicated by the sender.

PAR. 4. By means of the Cigarette Smoker's Survey circular and card, respondent has falsely represented, and placed in the hands of his customers means of falsely representing, directly and by implication, to those to whom the said cards were sent, that respondent was engaged in completing a national survey for the purpose of determining which of a number of brands of American-made cigarettes were preferred by the average man and that this survey was made so that a classification might be made to show the preference of different types of workers.

PAR. 5. The said representations were false and misleading. In truth and in fact, respondent was not engaged in making a survey for the purpose of determining the public preference for various brands of American-made cigarettes or for the purpose of classifying the cigarette preference of workers in different lines of endeavor. The actual purpose of the circular and card was to obtain information con-

cerning the recipient for the purpose of facilitating the collection of an alleged delinquent account and the whole scheme was merely an attempt to obtain this information by deceit and subterfuge.

PAR. 6. Through the use of the name "Cigarette Smoker's Survey," respondent has represented, directly and by implication, that he was engaged in the business of ascertaining by means of a survey, the preferences of a large number of individuals as to particular brands of cigarettes. The said representation was false and misleading, since in truth and in fact respondent was not making such a survey.

PAR. 7. The use by respondent, as hereinabove set forth, of the foregoing false and misleading statements and representations has had the tendency and capacity to, and has, misled and deceived many persons to whom the said circulars and cards were sent, into the erroneous and mistaken belief that said statements and representations were true and by reason thereof has caused them to give information which they would not have otherwise supplied.

CONCLUSION

The aforesaid acts and practices of respondent, as herein found, are all to the prejudice and injury of the public, and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answer of respondent, in which answer respondent admits all the material allegations of fact set forth in the complaint except insofar as the said allegations relate to certain cards described in the said complaint as the Bankers and Merchants Fountain Pen Co. cards and Alvin's (No-Lose) Key Chains cards, and states that he waives all intervening procedure and further hearing as to the facts so admitted, and the Commission having made its findings as to the facts and conclusion that respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Albert E. Voaden, individually, and trading as Credit Advisory Service, and as Cigarette Smoker's Survey, or trading under any other name, and his agents, representatives, and employees, directly or through any corporate or other device in connection with the offering for sale, sale, and distribution in commerce as "commerce" is defined in the Federal Trade Commission Act, of respondent's printed matter, consisting of circulars with re-

ply cards attached, or any other printed or written material of substantially similar nature, do forthwith cease and desist from:

1. Using the word "Survey" or any other word or words of similar import to designate, describe, or refer to respondent's business; or otherwise representing, directly or by implication, that respondent's business bears any relation to obtaining information concerning the habits, preferences, or opinions of numbers of people.

2. Selling or distributing circulars and cards or other printed or written material designed to be used for obtaining information to be used in the collection of debts, which represent, directly or by implication, that respondent's business is other than that of selling and distributing such circulars and cards or other printed material; or which represent, directly or by implication, that the information sought through such circulars and cards or other printed material is for any purpose other than for use in the collection of debts.

3. Using, or supplying to others for use, circulars and cards or other material which represents directly or by implication that they are for the purpose of conducting a survey or of obtaining information to determine the preference of members of the public, or the use by them of any brand of cigarettes or other commodities when the information sought is for use in the collection of debts.

It is further ordered, That the respondent shall, within 60 days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.