

Syllabus

IN THE MATTER OF

LESTER ROTHSCHILD TRADING AS GEN-O-PAK COMPANY, AMERICAN DEPOSIT SYSTEM, AND MANPOWER CLASSIFICATION BUREAU

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

Docket 5853. Complaint, May 23, 1951¹—Decision, Mar. 27, 1952

Where an individual engaged in the interstate sale of post cards and letters, coupled with a service to creditor purchasers for obtaining information concerning their delinquent debtors, under a plan whereby said customers addressed the cards, identified by a serial number, to their debtors or others from whom information was sought, and sent them to said individual who mailed them and thereafter returned from his Chicago place of business to the proper customers such replies as he received, and sent to the debtor or person supplying the information three pen points, worth about three cents and covered in the cards' purchase price, together with circulars advertising other products he sold;

In making use, in said connection of (1) a form of double post card which, headed by said individual's Chicago office and trade name, advised the consignee that "we are holding a package which we will send to you, upon receipt of the attached post card with complete identification filled in," and on the reply portion, addressed to said individual's trade name Chicago address, provided, under the instruction to "send the above package to", for the consignee's name and address, and under the caption, "party must be identified", for the name and address of the consignee's employer, "bank and friends", along with the caution that "all questions must be answered or package will not be sent"; and (2) another form of double post card designed to be sent to persons other than the debtor, and to elicit, on the same pretext, the desired information as to the debtor—

- (a) Falsely represented and placed in the hands of his customers a means of falsely representing to the customers' debtors and others from whom information concerning such debtors was sought, that the latter were consignees of packages of substantial value sent by firms other than said individual and in his hands, and that delivery could not be made because of lack of identification or address;

The facts being that said individual business had nothing to do with transportation or delivery of packages; the packages to which the cards referred were those he made up, containing the pen points and advertising matter; and his whole scheme was one of obtaining information by subterfuge; and

Where said individual making use of other form letters under the trade name, "Manpower Classification Bureau", followed by his Chicago address, and the caption "CLASSIFICATION NO. D" and the words "AREA 6 ZONE 211-51", requesting similar information from the addressee debtor or other person—

- (b) Falsely represented through the statements therein and the name "Manpower Classification Bureau", and placed in the hands of his customers

¹ Amended and supplemental.

a means of falsely representing to the customers' debtors and others, that he was engaged in operating a labor classification bureau or other bureau for the purpose of obtaining information as to the employment situation, or the availability of manpower in certain areas, and that the information desired was in connection therewith;

When his only purpose was to place in the hands of his customers the means of obtaining information relating to debtors by subterfuge; and

Where said individual, in making use of other form letters under the trade name "The American Deposit System", with his Chicago address, and such matter as "(Type 'C')", preceded by the words "re: DISBURSEMENT NO. C", advising the addressee that "if you are the party as addressed above, and you will fill in the answers to the information requested below, we will forward to you a small sum of money deposited with us, for you", and calling for a variety of information concerning the addressee—

(c) Falsely represented and placed in the hands of his customers a means of falsely representing that he had been named as depository of a reasonably substantial sum of money, to be delivered to the recipient of said form letter upon proper identification by furnishing all the information requested;

The facts being the only money sent to recipients of the form letters was three cents, which was included in the price charged his customers for the form letters;

With tendency and capacity to mislead and deceive many persons to whom the cards and form letters were sent, into the erroneous belief that the representations were true, and by reason thereof into furnishing him and his customers information which they would not otherwise supply:

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.

As respects respondent's appeal from the initial decision of the hearing examiner (which became the decision of the Commission following the Commission's denial), on the ground that the activities concerned did not as a matter of law constitute any deception or tendency to deceive and that the representations were true: such statements and representations, including those implicit in the use of the aforesaid trade names, when in fact his business, so far as the recipients of the form letters were concerned, had nothing to do with manpower classification or employment service, and no money had been deposited with him for such addressees, clearly had the capacity and tendency to mislead the recipients of the cards and letters, and it was immaterial that the record did not contain evidence of actual deception.

As respects respondent's contentions, in connection with his aforesaid appeal, that the Commission was without jurisdiction because he was not engaged in interstate commerce and because the relief sought was an attempt to regulate the use of the mails, and such power, if any, vested solely in the Post Master General: the acts and practices concerned, involving the sending and return of letters, clearly constituted commerce and fell within the jurisdiction of the Commission under its duty and authority to prevent unfair and deceptive acts and practices therein. The fact that respondent might have used the mails in connection with such acts and practices did not serve to divest the Commission of its authority and responsibility in said respect.

As respects respondent's contention, in connection with his said appeal, that the examiner's findings and conclusion and his order against the continuation of the acts and practices involved were not sustained by the evidence in the record: the Commission was of the opinion that such findings were supported by substantial probative evidence, that the conclusion contained therein was correct, and that the order was adequate and appropriate to provide proper relief from the respondent's unlawful acts and practices.

Before *Mr. Webster Ballinger*, hearing examiner.

Mr. J. W. Brookfield, Jr. for the Commission.

Wilhartz & Hirsch, of Chicago, Ill., for respondent.

AMENDED AND SUPPLEMENTAL 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 Lester Rothschild, an individual trading as Gen-O-Pak Company, 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 amended and supplemental complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Lester Rothschild is an individual trading and doing business under the name of Gen-O-Pak Company, with his office and principal place of business located at 139 North Clark Street, Chicago, Illinois (Room 900).

PAR. 2. Respondent is now, and for more than two years last past has been, engaged in the sale and distribution of double post cards, form letters, and other literature designed and intended to be used by creditors and collection agencies in obtaining information concerning debtors. Respondent causes said post cards, form letters, and other literature to be transported from his aforesaid place of business in the State of Illinois to purchasers thereof located in various other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said post cards, form letters and other literature in commerce between and among various States of the United States. Respondent's volume of trade in said commerce is substantial.

PAR. 3. Respondent sells two forms of post cards, one designed to be sent to the debtor and one to be sent to others. On the form to be sent to the debtor the following language appears:

Dear Friend:

We are holding a package which we will send to you, upon receipt of the attached post card, with complete identification filled in. We will hold same at YOUR risk, subject to YOUR forwarding directions for 30 days and full and

complete identification. There are NO charges whatsoever, and package will be sent to you all charges PREPAID.

On reply portion of this card, which is addressed to Gen-O-Pak Company, there is printed a form containing questions with respect to the debtor as follows:

MAIL THIS CARD TO US AT ONCE

THE GEN-O-PAK COMPANY
CITY HALL SQUARE BLDG.
CHICAGO 2, ILLINOIS

Package Identification Number	Checked Dept. Unidentified Charges No Charges
----------------------------------	--

Please send package (fully prepaid) to me. My correct address and identification is as follows.

SEND THE ABOVE PACKAGE TO

Print
Correct
Name -----

Print
Correct
Address -----

Print
City ----- State -----

PARTY MUST BE IDENTIFIED

For identification I refer you to my employer, my bank and friend.

Bank -----
Address ----- City -----

Employer -----
Address ----- City -----

Dept. ----- Check No. -----

Friend -----
Address ----- City -----

ALL questions must be ANSWERED, or package will NOT be sent

GENERAL DESCRIPTION OF MYSELF

Color Hair ----- Color Eyes -----
Height ----- Weight ----- Age -----

If Married
Mate's First Name -----

NO POSTAGE OR ADDRESSING NECESSARY

Copyrighted 1948 by Gen-O-Pak Co.

CITY STATE NAME ADDRESS

On the card designed to be sent to others than the debtor the following language appears:

1047

Complaint

Dear Friend:

We have on hand a package which we wish to deliver to the party whose name and last known address appears in the left hand margin of the attached postcard, but we are unable to make delivery, since we do not know where he now resides.

Will you be kind enough to give us the CORRECT address of the attached PREPAID reply card, to enable us to effect delivery? If, however, you do not know the correct address of this party, can you suggest SOMEONE who may be able to assist us?

Thanking you in advance for any help you can give, and appreciating a prompt reply, we remain

Cordially yours,

THE GEN-O-PAK COMPANY.

The reply portion of this card, which is also addressed to the Gen-O-Pak Company, also contains questions with respect to the debtor and is as follows:

PLEASE REPLY PROMPTLY

City ----- State -----	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%; padding: 5px;"> IDENTIFICATION NUMBER </td> <td style="padding: 5px;"> Checked ----- Dept. ----- ADDRESS ----- Charges ----- </td> </tr> </table>	IDENTIFICATION NUMBER	Checked ----- Dept. ----- ADDRESS ----- Charges -----
IDENTIFICATION NUMBER	Checked ----- Dept. ----- ADDRESS ----- Charges -----		
City ----- State -----	<p style="text-align: center;">PLEASE PRINT ANSWERS CORRECT ADDRESS OF PARTY IS</p> Employer ----- City ----- State ----- Address -----		
Put Seal Here	<p style="text-align: center;">NAME AND ADDRESS OF RELATIVE OR FRIEND</p> Name (A) ----- Address ----- City ----- State ----- Name (B) ----- Address ----- City ----- State -----		
Name ----- Address -----	<p style="text-align: center;">IF YOU ARE UNABLE TO HELP US Whom Do You Suggest?</p> Name ----- Address ----- City ----- State -----		
Name ----- Address -----	<p style="text-align: center;">THE GEN-O-PAK COMPANY CHICAGO 2, ILLINOIS</p> <p>Copyrighted 1950 by Gen-O-Pak Co.</p>		

Respondent's purchasers or customers address the cards to the debtors or others from whom information concerning debtors is sought and cause them to be delivered to respondent in Chicago,

Complaint

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Illinois. Respondent then deposits the individual cards in the United States mail. Such of the return cards as are filled out and mailed are received by respondent and sent by him to the proper customer, whom he is able to identify by a serial number stamped on the cards prior to delivery to the customer. Respondent then sends to the debtor or to the person who supplies the information as aforesaid three pen points enclosed in a small envelope, together with advertising circulars of other products sold by him. The pen points have negligible monetary value.

PAR. 4. By the use of the aforesaid cards respondent has falsely represented, and placed in the hands of his customers a means of falsely representing, directly or by implication, to customers' debtors, and others from whom information concerning such debtors is sought, that such debtors are consignees of packages sent by firms other than respondent and in the hands of respondent in the usual course of his business; that the shipments or packages held for the persons to whom the cards were addressed have been prepaid by the consignor and that the packages are held by respondent only for forwarding purposes; that the packages are of substantial value and that delivery cannot be made because of lack of identification or address.

PAR. 5. The said representations are false and misleading. In truth and in fact, respondent's business has, so far as the recipients of said cards are concerned, nothing to do with transportation of packages or their delivery to the proper consignees. The persons concerning which information is sought are not consignees of packages sent by others and in the hands of respondent for delivery. The packages to which the cards refer are those made up by respondent containing the pen points and advertising matter above referred to and respondent's whole scheme is that of obtaining information by subterfuge. In truth and in fact, respondent's only purpose in connection with the sale and distribution of the cards is to place in the hands of his customers the means of obtaining information by subterfuge, and the said cards have no substantial connection with the sale and distribution of other products sold by respondent.

PAR. 6. Respondent also sells and distributes in commerce, as aforesaid, form letters which are used by his customers to secure information from debtors and others and which are designed to be sent by respondent's customers to debtors and others from whom information is sought. Among such form letters is one designated "Manpower Classification Bureau Type D Information Letter." This letter reads as follows:

1047

Complaint

MANPOWER CLASSIFICATION BUREAU
139 NORTH CLARK BLDG.
CHICAGO 2, ILLINOIS

(Space for
name and address)

CLASSIFICATION NO. D

AREA 6 ZONE 811-50

You are requested to promptly fill out and return this Questionnaire, answering each question where applicable, so that this Bureau can properly classify the kind of work you are best qualified to perform.

- 1. If in Military Service, check here -- and do not answer any other question.
- 2. If *unable* to work at all—check here ----.
- 3. If male check here ----. If female check here ----.
- 4. Are you subject to Military Service Yes ----. No ----. Rejected ----.
- 5. What kind of work are you best fitted for—check one:
Industrial ----. Agricultural ----. Selling ----. Professional ----.
Unskilled labor ----. Skilled labor (State kind) -----.
- 6. By whom are you now employed? Employer -----
Address ----- City ----- State -----
Dept. ----- Clock No. ----- Type of work -----

OR

If not employed NOW name LAST employer:

Address ----- City ----- State -----
Dept. ----- Clock No. ----- Type of work -----

- 7. Are you willing and able to accept employment in some other part of the United States?
Yes ----. No ----.
- 8. Approximate wages you are now or last received \$----- weekly.
- 9. Are you Married? ----. Single ----. Separated ----. Divorced-----
Mate deceased -----.
- 10. If married, what kind of work does your mate perform? ----.
- 11. If married, is your mate willing to accompany you to a new geographical location?
Yes ----. No ----.
- 12. Your approximate age ----. Your mate's name -----
Age-----.
- 13. Is the above address correct? Yes ----. No ----. If not give correct address here ----- City ----- State -----
- 14. Do you own an automobile- Yes ----. No ----.
If yes, what make ----- Year ----- License Number -----

Sign here -----

PLEASE TYPE or PRINT ANSWERS AND RETURN IN THE PREPAID
SELF ADDRESSED ENVELOPE ENCLOSED

This Bureau is not a part of any U. S. Government Division

DO NOT WRITE IN THIS SPACE			
AREA -----	Class. -----	Trans. -----	Non-Tr. -----
Voc. -----	Spec. -----	Mil. -----	Non-Mil. -----
Male -----	Fem. -----	File -----	Age -----

