

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 the order to cease and desist.

IN THE MATTER OF

UNITED STATES ASSOCIATION
OF CREDIT BUREAUS, INC., ET AL.

ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 7043. Complaint, Jan. 15, 1958—Decision, June 8, 1961

Order requiring a collection agency at Oak Forest, Ill., to cease representing falsely, by use of its misleading trade name, that it was an "association" and "credit bureau", and, by use of the words "United States" and official-looking insignia, that it was connected with the United States Government; misrepresenting the organization of its business, services rendered its clients, and commissions retained; and using "skip-tracing" material which represented falsely that it was to the addressees' financial advantage to provide requested information concerning debtors.

Before *Mr. John B. Poindexter*, hearing examiner.

Mr. Harold A. Kennedy and *Mr. Thomas F. Howder* for the Commission.

Hopkins, Sutter, Owen, Mulroy & Wentz, of Chicago, Ill., for respondents.

FINDINGS AS TO THE FACTS, CONCLUSIONS AND ORDER

The Federal Trade Commission issued its complaint against the above-named respondents on January 15, 1958, charging them with engaging in unfair and deceptive acts and practices and unfair methods of competition in violation of said Act. Hearings were held before a hearing examiner of the Commission and testimony and other evidence in support of and in opposition to the allegations of the complaint were received into the record. In an initial decision filed on July 29, 1960, the hearing examiner found that certain of the complaint's allegations were sustained by the evidence and that others were not so supported.

The Commission having considered the cross-appeals filed from the initial decision and the entire record in this proceeding, and having ruled on said appeals, and having determined that the initial decision should be vacated and set aside, the Commission further finds that this proceeding is in the public interest and now makes

its findings as to the facts, conclusions drawn therefrom and order, which together with the accompanying opinion, shall be in lieu of those contained in said initial decision.

FINDINGS AS TO THE FACTS

1. The respondent, United States Association of Credit Bureaus, Inc., is a corporation organized and doing business under the laws of the state of Illinois with its office and principal place of business located at 4809 West 159th Street, Oak Forest, Illinois.

Individual respondents, John W. Burns and Harold E. Holder, are president and secretary-treasurer respectively of the corporate respondent. They, together with the wife of Harold E. Holder, own all of the stock in respondent corporation. Mr. Burns exercises prime responsibility in formulating and directing the acts, policies and practices of the corporate respondent while Mr. Holder is engaged principally in personnel work.

2. The respondents are engaged in the business of collecting delinquent accounts for business concerns and professional men located in various parts of the United States. The respondents' customers are secured principally through solicitors employed on a commission basis who call on such customers in the various states. The respondents furnish their solicitors with contract forms sometimes called "listing sheets" which provide for the listing of each delinquent account by a creditor customer. The contract forms bearing the name and last known address of each debtor, the amount of each delinquent account and the date incurred are forwarded by the solicitors to respondents at their place of business in Oak Forest, Illinois.

3. In the operation of their business, respondents transmit checks or money orders, letters, contracts, forms and other written instruments through the United States mails from their place of business in the State of Illinois to customers in various other states of the United States. Respondents also transmit through the United States mails across state lines, letters, forms and various commercial documents to debtors of their customers and receive letters, money, checks or money orders and other written instruments from said debtors located in the various states. Thus, respondents are engaged in extensive commercial intercourse in commerce, as "commerce" is defined in the Federal Trade Commission Act.

4. In the course and conduct of their business, respondents use and feature the corporate name United States Association of Credit Bureaus, Inc. Through the use of said name, respondents represent, directly and by implication that the corporate respondent is

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an association of credit bureaus, that is an organization composed of members banded together for the primary purpose of collecting and disseminating all available information as to the credit worthiness of an individual who has obtained, or who desires to obtain, credit. Such representation by respondents is false, misleading and deceptive. The corporate respondent is neither an association nor a credit bureau but is essentially a single business enterprise with its activities being limited primarily to the collection of delinquent accounts by mail.

5. In the course and conduct of their business, respondents use and feature the name "United States" in connection with an insignia on certain of their advertising and correspondence composed of a facsimile of the American eagle and a shield, the upper portion of which contains stars on a dark background, and the lower portion of which bears the legend

U.S.A.
of
C.B.

upon a red background. The record established that through the use of the name "United States" and through the use of said insignia, respondents represent, directly or by implication, that they are in some manner connected with, or an agency of the United States government. Said representations are false, misleading and deceptive. Respondents are in no way connected or associated with any branch, arm or agency of the United States Government.

6. In the course and conduct of their business and for the purpose of inducing individuals, firms and corporations to enter into contracts with them, respondents have represented, directly and by implication, that their business is organized into separate functional divisions; that they employ local representatives, regional investigators, correspondents and lawyers on their personnel staff in various states; that personal calls are made on debtors to collect delinquent accounts; that if no collections are made on a specific account there will be no charge thereon; that their commission fee is based on the percentage collected with the maximum rate never in excess of fifty per cent; and that they furnish credit reports to parties who have assigned accounts to them.

7. The aforesaid representations by the respondents are false, misleading and deceptive. The respondents' business is not organized into separate functional divisions since with the possible exception of their skip-tracing operation, all other of respondents' collection functions are handled interchangeably by correspondents, typists and other clerical help at respondents' office in Oak Forest,

Illinois. The respondents do not have a personnel staff outside their office in Oak Forest, other than solicitors whose only function is to solicit accounts for collection. Nor do the respondents make personal calls on debtors to collect accounts as they confine their collection efforts primarily to the use of the mails. Respondents charge a listing fee on certain accounts on which they have made no collection. Fifty per cent of the amount collected is not the maximum commission rate in many instances as respondents charge a listing fee on certain accounts which is deducted from the proceeds of an account on which respondents have charged a fifty per cent commission. Respondents do not issue credit reports as that term is normally understood.

8. In the course and conduct of their business, respondents have used and have caused the use of printed "skip-tracing" forms, cards, and other material designed to obtain information relating to delinquent debtors. Respondents' procedure has been to purchase the forms from various firms, fill in the name and address of the debtor, return the form to the firm from which it was obtained and after the completed form was returned to that firm by the addressee, the form was forwarded to the respondents. Respondents' transmittal of said forms through the United States mails across state lines constituted acts and practices in commerce, as "commerce" is defined in the Federal Trade Commission Act.

The aforesaid forms represent that it is to the addressee's financial advantage to furnish the requested information. In truth and in fact the amount of the financial advantage given in return is not sufficient to justify any reference to it. The truth is that the sole purpose of the form is to locate a debtor and collect a debt. Therefore, the representation as to financial advantage is found to be false, misleading and deceptive. Said forms deceive recipients respecting the purpose for which the information is being requested and will be used.

Although respondents have discontinued the use of the aforesaid forms, one such form was in use subsequent to the issuance of the complaint herein. There has been no change in the competitive situation nor are there any unusual circumstances which warrant a conclusion that in the absence of an order, respondents will not resume the use of said forms.

9. The use by respondents of the aforesaid skip-tracing material has the capacity and tendency to mislead a substantial number of debtors and others into the erroneous belief that such representation found in paragraph 8 thereof is true and to induce them because

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of such erroneous and mistaken belief to furnish information which they would not have otherwise provided.

The use by respondents of the false, misleading and deceptive representations found in paragraphs 4, 5, 6 and 7 hereof has had and now has the tendency and capacity to mislead creditors into the erroneous and mistaken belief that such representations are true, and into signing a substantial number of assignment contracts with respondents because of such mistaken and erroneous belief.

CONCLUSION

The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents. The aforesaid acts and practices of respondents, 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

It is ordered, That respondent, United States Association of Credit Bureaus, Inc., a corporation, and its officers, and respondents, John W. Burns and Harold E. Holder, individually and as officers of said corporate respondent, and said respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the solicitation of accounts for collection, or the collection of, or attempts to collect accounts, or to obtain information concerning delinquent debtors, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "association" or "credit bureaus", or any other term of similar import or meaning in the corporate name or in any other manner to designate, describe or refer to respondents' business, or otherwise representing, directly or by implication, that respondents' business is an association or a credit bureau.
2. Using the name "United States" in the corporate name or in any other manner, or an insignia so designed as to suggest government connection, to designate, describe, or refer to respondents' business; or otherwise representing, directly or by implication, that they are an agency or branch of the United States government, or that their business is in any way connected with the United States government.
3. Representing, through the use of a corporate or other trade name, or in any other manner, that their business is other than that of a collection agency engaged in collecting past due accounts.

4. Representing, directly or by implication:

(a) That their business is organized into separate functional divisions for the collection of accounts;

(b) That they employ local representatives, regional investigators, correspondents or lawyers on their personnel staff in various states or throughout the world, or that they employ any one on their personnel staff except solicitors anywhere outside of the Chicago or Oak Forest, Illinois area;

(c) That they make personal calls on debtors to collect accounts;

(d) That no charges will be made for accounts unless they are collected;

(e) That the collection fee or commission is less than any amount actually to be charged or retained by respondents from accounts collected;

(f) That they furnish credit reports to parties who have assigned accounts to them.

5. Using, or causing to be used, any forms, cards, or other material, printed or written, for use in obtaining information concerning delinquent debtors, which represent, directly or by implication, that money or property is being held for, or is due, persons concerning whom the information is sought, or is collectible by such persons, unless money or property is in fact due and collectible by such persons and the amount of money or property is actually stated.

6. Using, or causing to be used, any forms, cards or other material, printed or written, which do not clearly reveal that the purpose for which the information is requested is that of obtaining information concerning delinquent debtors.

It is further ordered, That the respondents shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Commissioner Elman not participating.

OPINION OF THE COMMISSION

By KERN, *Commissioner*:

The complaint in this matter charges respondents with misrepresentation in violation of the Federal Trade Commission Act in connection with their business of collecting delinquent accounts. In his initial decision, the hearing examiner found that certain of the charges were sustained by the evidence and ordered respondents to cease and desist from the practices found to be unlawful. He found

