

It is ordered, That the aforesaid motion be, and it hereby is, denied with respect to both requests.

IN THE MATTER OF
G C SERVICES CORPORATION, ET AL.
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket C-2511. Complaint, Apr. 16, 1974—Decision, Apr. 16, 1974

Consent order requiring a Houston, Tex., collection agency, among other things to cease using printed material which cause harassment, fear or undue embarrassment to alleged debtors receiving them or which simulates legal process; misrepresenting that past due accounts have been referred to an attorney for collection or legal action has been or is about to be instituted; or threatening to contact a debtor's employer or to institute legal processes.

Appearances

For the Commission: *Joseph Hickman.*

For the respondents: *John C. Bagalay*, Houston, Tex.

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 G C Services Corporation, formerly doing business as Gulf Coast Collection Agency, a corporation, and Jerold B. Katz, William A. Inglehart and Martin M. Katz, individually and as officers of said corporation, hereinafter referred to as respondents, have 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:

PARAGRAPH 1. Respondent G C Services Corporation formerly doing business as Gulf Coast Collection Agency is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Texas with its principal office and place of business located at 3333 Fannin Street, in the city of Houston, State of Texas.

Respondents Jerold B. Katz, William A. Inglehart and Martin M. Katz are individuals and are officers of the corporate respondent. They formulate, direct, and control the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past, have been engaged in the business of collection of delinquent accounts for business

organizations throughout the United States. Respondents' collection procedures include sending through the United States mail various collection forms, letters and other printed materials to alleged debtors, from respondents' place of business in Tex. and branches in Calif., Fla., Ga., Ill., Mo., N. Y. and Ohio to various other States in the United States and receiving through the United States mail forms, letters, checks, payment and other printed materials from alleged debtors located in these states and other states other than the aforesaid states. Respondents maintain, and at all times hereinafter mentioned have maintained, a substantial course of trade in their said collection business in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. Respondents' forms, letters and other printed materials, as hereinbefore described, are designed and intended to be, and are, used by respondents for the purpose of obtaining information concerning alleged debtors of customers of respondents and in the collection of delinquent accounts which are to be paid directly to respondents for benefit of customer.

PAR. 4. In the course and conduct of their business respondents have caused and cause to be sent through the mail from their place of business located in the State of Texas and various other States of the United States letters, forms and other printed materials for the purposes set forth in Paragraph Three. Typical, but not all inclusive of such letters, forms and other printed materials are the following:

Does your child know that the books from Doubleday Book Club are not paid for? Is it fair for your child to be embarrassed at school when you are legally responsible for the bill?

\$9.20 is a small amount. Pay it now to avoid further contact.

It will be humiliating for your child when our collector calls. You owe the \$9.20 to Doubleday Book Club. Your child does not.

* * * * *

Why are you forcing us to have our collector in San Jose, California contact you at your home or place of employment?

He will spend whatever time and expense is necessary to liquidate this debt. We mean business.

It's up to you. * * * We must have \$7.58. Your deadline is October 22, 1970.

* * * * *

"You" ordered the merchandise from 69 Grolier Annual, Lawrence Bauer.

"You" ran up the bill, Lawrence Bauer.

"You" owe the money, Lawrence Bauer.

"You" are going to pay this bill, Lawrence Bauer.

"You" are going to send us full payment today.

"We" are going to see that you do

* * * * *

Where is the money Pete Rodriquez? We want the \$5.66 now! No more chances Pete Rodriquez, this is it. Your time is up. Either you pay now or our collector will get every last cent.

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import but not specifically set forth herein, the respondents thereby make implied threats that respondents will embarrass and harass alleged debtor so as to force him to pay bills sent to him.

PAR. 6. Such forms, letters and other printed materials are placed in the mail at fifteen day intervals. Respondents usually continued to mail such forms, letters and other printed materials at such intervals, regardless of notification by alleged debtor that the account is disputed or not owed.

PAR. 7. The use of the forms, letters and other printed materials described in Paragraphs Four and Five mailed at periodic intervals as described in Paragraph Six which causes embarrassment and harassment of alleged debtors is contrary to the established public policies of the United States and is an unfair practice.

PAR. 8. The use by respondents, as hereinabove set forth in Paragraph Four of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the public and to the erroneous and mistaken belief that said statements and representations were and are true and to induce payment by respondents for benefit of respondent's customers, whether the amounts claimed by respondents are in fact due and owed.

PAR. 9. In the course and conduct of their business, respondents cause, and have caused, to be sent from their various places of business throughout the United States letters, forms, and other printed materials to alleged debtors whose accounts have become delinquent. Said letters, forms and other printed materials contain many statements or representations as to actions that have been taken or will be taken to effect the collection of such delinquent accounts. Typical, but not all inclusive of such statements, are the following:

We are forwarding the file of T L Posten to our lawful agent in Monterey Pk, California. We will instruct that firm to enforce the purchase agreement as follows:

Plaintiff	:	Grolier Enterprise
Defendant	:	T L Posten
Jurisdiction	:	Monterey Pk, California
For	:	\$11.99

Our date of action is Sept 08 1970. The \$11.99 in our office before this date is the only way for dismissal.

* * * * *

We are transferring the above claim from delinquent accounts to our legal file.

Enclosed you will find the necessary papers and information to sue the above named debtor, as he has not paid his legal obligation nor has he been willing to work out a reasonable schedule of payments.

Service of Citation may be served at place of employment or residence. Upon obtaining a judgement, please file for a Writ of Execution.

We request you hold the enclosed papers for five (5) days, in order to give debtor an opportunity to make payment to this office.

* * * * *

When your account was turned over to us for collection, we were requested to take all necessary legal action for the immediate collection of this past due debt that you owe our client.

Due to your claim of hardship, we made special arrangements with you to give you ample time to pay this account on an installment basis.

Now that you have breached your agreement we must protect the interest of our client and refer this account to an Attorney with instructions to proceed as follows:

- A. Service of Citation at your home or place of employment.
- B. The taking of depositions and written interrogatories.
- C. Summons to appear in Court with your Attorney.
- D. Default judgments, garnishments, foreclosures and attachments.

The choice is yours. * * *

Either we receive payment from you within the next five days as agreed or we will proceed as outlined above.

* * * * *

We are forwarding the file of Marian Diorio to our collection agent for Lansdowne, Pennsylvania. We will instruct that firm to enforce the purchase agreement as follows:

Creditor	:	RCA Record Club
Debtor	:	Marian Diorio
Location	:	Lansdowne, Pennsylvania
For	:	\$2.89

Our date of action is December 05, 1970. The \$2.89 in our office before this date is the only way to prevent this encounter.

* * * * *

We will not hesitate to employ every available lawful means which we have at our disposal until we collect all money owed our client. The only way for you to settle this matter without legal involvement and further notice is for you to pay what you owe without further delay.

By means of the foregoing statements or representations respondents represent, directly or by implication, that if delinquent accounts are not settled to respondents' satisfaction they will be collected by legal action.

In truth and in fact legal action with respect to the alleged delinquent accounts has not been, nor in many cases is it about to be initiated. Therefore, the aforesaid statements and representations were and are false, misleading and deceptive.

PAR. 10. Respondents, directly and through their representatives request and for some time last past have requested alleged debtors to

give to respondents a series of postdated checks which, when obtained are from time to time presented to the alleged debtors' banks for payment.

By and through the use of these postdated checks respondents have the means of threatening alleged debtors with criminal prosecution for violation of the laws of various states, relating to the issuance of worthless checks, in case sufficient funds are not on deposit in alleged debtors bank accounts.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged, were and are to the prejudice and injury of the public and constituted, and now constitute unfair or deceptive acts or practices in commerce in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Dallas Regional Office staff proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; and

The respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34 (b) of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent, G C Services Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its principal office and place of business located at 3333 Fannin Street, Houston, Tex.

Respondents, Jerold B. Katz, William A. Inglehart, and Martin M. Katz, are officers of said corporation. They formulate, direct and control the policies, acts, and practices of said corporation and their address is the same as that of said corporation.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents and the proceeding is in the public interest.

ORDER

It is further ordered, That respondents G C Services Corporation, formerly doing business as Gulf Coast Collection Agency Company, a corporation, its successors and assigns, and its officers and Jerold B. Katz, William A. Inglehart, and Martin M. Katz, individually and as officers of said corporation and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the collection of accounts in commerce, as "commerce" is defined by the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any forms, letters, or other printed materials which cause, or which respondents should know are likely to cause, harassment, fear, or undue embarrassment to alleged debtors who receive them.

2. Representing orally or in writing, or placing in the hands of others the means and instrumentalities by and through which they may represent, directly or by implication that:

- (a) Past due accounts that are being or have been referred for collection to an attorney when these accounts are not being nor have they been so referred;

- (b) Legal action with respect to an allegedly delinquent account has been or is about to be or may be initiated unless the respondents are able to establish that at the time the representation was made (1) legal action has been initiated or was about to be initiated, and (2) the true nature of the legal action was clearly and completely disclosed.

3. Using forms or any other items of printed or written matter which simulates legal process.

4. Representing orally or in writing that alleged debtor's employer has been notified or may be notified that any or all of the following actions have been or will be taken when no such action or actions have been or will be taken:

- (a) Suit instituted against the alleged debtor to collect the alleged sum due;

- (b) The alleged debtor's wages attached;

(c) The alleged debtor's wages garnished.

5. Using any means or devices for the collection of delinquent accounts from alleged debtors in circumstances where it has been brought to respondents' attention:

(a) That said debt has been paid;

(b) That said debt is being billed to an improper person;

(c) That alleged debtor is not liable to respondents' client for the reason that the client has not provided any articles, devices, services or other items of value to the alleged debtor;

(d) That materials ordered have been returned;

(e) That materials received were unordered merchandise, and debtor is under no obligation to pay for such merchandise, or

(f) That there would be a defense in an action brought on the disputed debt;

until such time as respondents can furnish to alleged debtor an affirmative written reply from their clients that said debt is, in fact, a just one.

6. Receiving from alleged debtors post-dated checks, which will not be deposited immediately or which will be held by respondents or their representatives for more than fifteen business days after date of receipt.

It is further ordered, That respondents maintain and make available records relative to complaints received by respondents involving the acts and practices prohibited by this order and which describe steps taken by respondents to investigate and dispose of said complaints. Said records shall be maintained for a period of six (6) months from the date such complaint is received, for inspection and copying by the Federal Trade Commission.

It is further ordered, That respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions and to each of its customers.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment or sale, resulting in emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which affects compliance obligations arising out of the order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment

in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondent 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 this order.

IN THE MATTER OF

TALENT, INC., TRADING AS TALENT, INC., ETC., ET AL.

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

Docket C-2512. Complaint, Apr. 19, 1974—Decision, Apr. 19, 1974

Consent order requiring a North Quincy, Mass. solicitor of contracts and fees from songwriters and seller/distributor of records and lead sheets, among other things to cease misrepresenting the products or services offered; misrepresenting the size of its staff; misrepresenting the prices of its services and failing to inform customers of the terms and conditions of its services.

Appearances

For the Commission: *David I. Keniry*.

For the respondents: *Pro se*.

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 Talent, Inc., a corporation, trading and doing business as Jerry Dee, Grand Recording Company, Cathedral Recording Company, Chapel Recording Company, Country and Western Recording Company, Music Hall Recording Company and Melody Lan, and Theodore Rosen, individually and as an officer of said corporation, hereinafter referred to as respondents, have 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:

PARAGRAPH 1. Respondent Talent, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Massachusetts with its principal office and place of business located at 91 Newbury Avenue, North Quincy, Mass. Respondent Talent, Inc. is also trading and doing business as Jerry Dee, Grand Recording Company, Cathedral Recording Company, Chapel Recording Company, Country and Western Recording Company, Music Hall Recording Company and Melody Lane.

Respondent Theodore Rosen is an officer of the corporate respondent and, as such, he formulates, directs, and controls the acts and practices of the corporate respondent and the aforesaid affiliated businesses, including the acts and practices hereinafter set forth. His business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the solicitation of contracts and fees from songwriters and prospective songwriters for the recording of songs, and in the sale and distribution of records and lead sheets containing the songs of writers contracting with them. Said solicitations are made through advertisements placed in magazines, and through form letters and other written solicitations circulated to songwriters and prospective songwriters located in the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said products, when sold, to be shipped from their place of business located in the Commonwealth of Massachusetts, to purchasers thereof located in various other States of the United States and the District of Columbia, and maintain and at all times mentioned herein have maintained, a substantial course of trade in said products in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their aforesaid businesses, and for the purpose of soliciting contracts for the recording of songs of songwriters and prospective songwriters, and for the purpose of inducing the purchase of records, lead sheets, and related products and services offered by respondents pursuant to said contracts, and for the purpose of receiving monetary fees from songwriters in connection with said contractual arrangements, respondents have made, and are now making, statements and representations by repeated advertisements inserted in numerous magazines of interstate circulation, and by manifold statements and representations, explicit and implicit, contained in contracts, form letters and other written instruments of a solicitous nature, to songwriters and prospective songwriters with respect to respondents' business status, products and services, and the benefit to be derived by said songwriters and prospective songwriters utilization of such products and services.

Typical and illustrative of said statements and representations, but not all-inclusive thereof, are the following:

SONGS—POEMS WANTED FOR PUBLISHING AND RECORDING
CONSIDERATION.

Accepted songs will be published and recorded at our expense—for information write to Talent, 17 Longwood Rd., Quincy, MA 02169.

1530 FEDERAL TRADE COMMISSION DECISIONS

Complaint

83 F.T.C.

SONGWRITERS! POETS!

Spiritual and religious poems and songs wanted for recording by the Chapel Symphony Orchestra and Choir. We pay all recording costs.

Information: Write Dept. Chapel Recording Co., P.O. Box 162, Wollaston, MA 02170.

* * * * *

Talent will pay all costs in the producing and in the recording of the above song.

That there will be no charge made to the author for the producing and the recording of the above song.

* * * * *

A publishing contract will be issued by Talent prior to the release of the above song by a major record company.

* * * * *

I would be glad to record your song if a more suitable and commercial melody could be set to your lyric.

It takes a great deal of time and effort to produce a recording of this nature, and unless the music is commercial, it will all be in vain.

The fabulous demonstration recording that you will receive of your completed song will be as beautiful and commercial as our talents will allow.

* * * * *

In view of the greatness of sound and quality of your recording, I certainly hope and feel that many of the songs that I will record will be accepted and released by record companies, as others have in the past. In order that I may retain the publishing royalties on your song, a publishing contract will, therefore, be issued by an ASCAP or BMI publisher on all songs accepted for release by a major record company.

* * * * *

PAR. 5. By and through the use of the above-quoted statements and representations, and others of similar import and meaning but not expressly set out herein, respondents have represented, and are now representing, directly or by implication, that:

1. Songs and poems submitted to respondents for recording and publishing consideration will be subjected to a good faith evaluation in order to determine the likelihood of these songs or poems achieving commercial success.

2. Songs and poems failing to meet the qualitative criteria employed by respondents in analyzing and determining the likelihood of these songs achieving commercial success will not be accepted by respondents for publishing and recording.

3. All costs and expenses involved in the production and recording of accepted songs will be borne by respondents and that there is no charge to the author for the production and recording of his song.

4. Respondents' primary interest in contracting with songwriters for

the production and recording of their songs is in attaining the commercial success of these recordings.

5. By and through the use of the words, "A publishing contract will be issued by Talent prior to the release of the above song by a major record company," and other words of similar import and meaning not set out specifically herein, that there is a reasonable expectation that songs produced and recorded by respondents may be released by a major record company or achieve commercial success, and that in the normal course of their business respondents negotiate, enter into, or otherwise issue publishing contracts to songwriters.

6. By and through the use of the words, "In order that I may retain the publishing royalties on your song, a publishing contract will, therefore, be issued * * * " and through the use of the words, "all royalties that the above song may earn from the sales of records, sheet music, motion pictures, etc. are to be divided as follows: 90% to the above author and 10% to Talent," and other words of similar import and meaning not set out specifically herein, that there is a reasonable expectation that songs produced and recorded by respondents may earn royalties from the sales of records, sheet music, and motion pictures, and that the retention, by respondent, of a percentage of the royalties realized from the sales of records, sheet music, and motion picture rights is the means whereby respondents recoup the financial investment involved in their producing and recording songs at no cost or expense to the songwriter.

PAR. 6. In truth and in fact:

1. Songs and poems submitted to respondents for recording and publishing consideration are not subjected to a good faith, qualitative evaluation in order to determine the likelihood of these songs or poems achieving commercial acceptance or success. Respondents do not maintain or employ a selective review process based upon qualitative considerations. To the contrary, substantially all songs and poems submitted by songwriters and prospective songwriters are accepted for recording without any evaluation or assessment regarding the likelihood of commercial acceptance or success.

2. Respondents do not reject or refuse to accept songs and poems submitted by songwriters and prospective songwriters for publishing and recording as a result of a deliberative determination that these songs and poems may fail to achieve commercial acceptance or success. To the contrary, the minimal number of songs and poems rejected by respondents each year are rejected due to a determination by respondents that the lyrics are coarse or offensive or because the song or poem is illegible.

3. All costs and expenses involved in producing and recording accepted songs are not borne by respondents, nor are songs produced and

recorded at no charge to their authors. To the contrary, all costs and expenses incurred by respondents in the producing and recording of accepted songs are included, along with a profit, in a musical setting fee or a fee for studio use, which all songwriters are required to pay as a condition precedent to the recording of their song by respondents.

4. Respondents' primary interest in contracting with songwriters for the producing and recording of their songs is not directed toward attaining the commercial acceptance or success of these recordings. To the contrary, respondents' primary interest in contracting with songwriters is to obtain payment under these contracts and to establish a relationship with these songwriters which is conducive to further overtures by which respondents induce the purchase of additional recordings and services for the alleged purpose of achieving the commercial acceptance and success of these recordings.

5. There is no basis in fact which would reasonably support the expectation that songs produced and recorded by respondents may be released by a major record company or achieve commercial success, nor do respondents, in the normal course of business, negotiate, enter into, or otherwise, issue publishing contracts to songwriters. To the contrary, songs produced and recorded by respondent have failed to be released by major record companies or to achieve commercial success. Further, any publishing contracts issued by respondents have been, and are, insubstantial in number, not pursuant to release of a recording by a major recording company, but utilized primarily to induce the purchase of additional recordings and services from respondents.

6. There is no basis in fact which would reasonably support the expectation that songs produced and recorded by respondents may earn royalties from the sale of records, sheet music, and motion picture rights, or that any or all of the costs and expenses incurred by respondents in the producing and recording of songs will be recouped by respondents as a percentage of the royalties earned by the sale of records, sheet music, and motion picture rights. To the contrary, respondents have failed to produce or record, for any customer, any songs which have earned royalties from the sale of records, sheet music, or motion picture rights. Accordingly, respondents do not rely upon the receipt or collection of royalties earned from the sale of records, sheet music, or motion picture rights for the recoupment of the costs and expenses incurred by them in producing and recording songs. All costs and expenses incurred by respondents in producing and recording accepted songs are included, along with a profit, in a musical setting fee or a fee for studio use, which all songwriters are required to pay as a condition precedent to the recording of their song by respondents.

Therefore, the statements and representations as set forth in Para-

graphs Four and Five, hereof, were and are false, misleading and deceptive.

PAR. 7. In addition to those statements and representations set forth in Paragraphs Four and Five, hereof, and in furtherance of a sales program for inducing the purchase of their products and services, respondents have made, and are now making, further statements and representations to songwriters and prospective songwriters with respect to respondents' business status, procedures, products and services, and the benefit to be derived by said songwriters and prospective songwriters' utilization of such products and services.

Typical and illustrative of said further statements and representations, but not all-inclusive thereof, are the following:

Our company has made provisions with professional writers who * * * have agreed with Grand Record Company to write a limited amount of melodies each month at a cost of only \$47.50 for each musical setting.

* * * * *

TALENT will furnish copyright advisory services including all necessary papers to register song (as author's sole property) in U.S. Copyright Office in Washington, D.C.

In view of the very commercial aspects of your song, and considering the fact that many people will be hearing your recording, we feel that a copyright certainly should be secured in your name in order to protect your rights and ownership to your song.

* * * * *

SONGS AND POEMS NEEDED IMMEDIATELY.

We are interested in ballads, spirituals, Country and Western, and all types of songs and poems that have the possibility of becoming hits.

* * * * *

A great deal of time, money and effort is involved in the producing of your recording. The average cost of a 32-piece, fully orchestrated recording would cost over \$1500.

We have indicated to you in our correspondence, that the cost of reproducing the recording of your song would normally cost from \$600 to \$900.

* * * * *

Because our writers are collaborating with the musicians and the choir, as well as the featured vocalist, the result is a much more magnificent recording that could not possibly be done by anyone not working in such close harmony with everyone concerned.

Our selected writers will be working in close contact with the vocalist, and the background orchestra, and the vocal group.

* * * * *

Hoping to hear from you soon,
I remain,

Yours truly,

Don Richards
Artist and Repertoire (sic)
Department

* * * * *

PAR. 8. By and through the use of the above-quoted statements and representations, and others of similar import and meaning but not expressly set out herein, separately and in connection with the statements and representations set forth in Paragraphs Four and Five, above, respondents have represented, and are now representing, directly or by implication, that:

1. Respondents have entered into agreements, or otherwise made arrangements with independent professional songwriters for the creation of musical settings for the represented fees and that the sole cost to respondents' customers for obtaining the services of these independent professional songwriters is the payment of the represented fees.

2. Respondents maintain a copyright advisory service which renders and performs valuable and knowledgeable copyright advisory services for the purpose of assisting songwriters to secure copyrights for their songs because the imminent commercial success and impending exposure of their songs to a large segment of the public necessitates the immediate acquisition of copyright protection.

3. Completed songs, that is, lyrics and music, submitted by songwriters will be accorded a good faith evaluation by respondents as to the songs' acceptability for purposes of recording and publishing.

4. The normal, regular or average cost of producing a recording, similar to those recordings produced by respondents, varies from six hundred dollars to fifteen hundred dollars, and that individuals contracting with respondents for the production of recordings will realize a substantial monetary savings by retaining respondents to produce and record their songs.

5. Professional songwriters are utilized by respondents to write the music which accompanies the lyrics submitted by customer-songwriters, and that the aforesaid professional songwriters, as part of the preparation and writing of this music, frequently establish a personal, working relationship with, or otherwise confer and consult with, the vocalist, vocal group, and background orchestra participating in the producing and recording of customer-songwriters' songs.

6. Respondents maintain an "Artist and Repertoire (sic) Department" as a distinct, separate and functional entity within their organizational

framework and that this department is staffed by personnel who render specialized services or advice to songwriters.

PAR. 9. In truth and in fact:

1. Respondents have not entered into agreements or otherwise made arrangements with independent professional songwriters for the creation of musical settings at the represented fees. To the contrary, the independent professional songwriters utilized by respondents are compensated on an hourly basis for the creation of musical settings and the represented fees are established by respondents and include therein, production and recording costs, and a margin of profit for respondents.

2. Respondents do not maintain a copyright advisory service for the purpose of assisting songwriters secure copyrights because the immediate acquisition of copyright protection for customers' songs is necessitated by the likelihood that these songs will achieve commercial success or be exposed to a large segment of the public. To the contrary, respondents urge virtually all songwriters to secure copyright protection, irrespective of the commercial merit of the songwriters' completed recordings. Respondents' purpose in urging that songwriters secure copyrights for their songs is to enable respondents to obtain an additional fee for the preparation of a lead sheet which must accompany all songs submitted to the United States Copyright Office.

3. Completed songs, that is, lyrics and music, submitted by songwriters are not accorded a good faith evaluation by respondents with respect to the songs' acceptability for purposes of recording and publishing. To the contrary, all songwriters submitting completed songs to respondents with but few insubstantial exceptions, are informed by means of a series of form letters that respondents have determined that the lyrics thereof, but not the music, are acceptable for recording and that respondents, for a fee, will provide for the creation of an acceptable musical setting. Respondents' solicitation of songs is not directed towards the acquisition of songs for recording and publishing consideration but, rather, towards obtaining fees from songwriters.

4. The normal, regular, or average cost of producing a recording, similar to those recordings produced by respondents, does not vary from six hundred dollars to fifteen hundred dollars, and individuals contracting with respondents for the production of recordings do not realize a substantial monetary savings by retaining respondents to produce and record their songs. To the contrary, respondents aforesaid pricing representations contemplate a live, fully orchestrated recording session, whereas respondents utilize taped, pre-recorded orchestrations which, in most instances, have been purchased by respondents for substantially less than six hundred dollars.

5. In most instances, professional songwriters are not utilized by

