

Syllabus

IN THE MATTER OF

SANDERSON ADJUSTMENT BUREAU, INC., AND H. J. SULLIVAN, INDIVIDUALLY AND AS PRESIDENT AND TREASURER THEREOF

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

Docket 2597. Complaint, Oct. 24, 1935—Decision, July 10, 1936

Where a corporation and an individual, its president and treasurer, engaged in sale of collection systems through agents solicited and supplied with reference letters, property of its founder and use of which, outside said corporation's city, was unauthorized following said founder's sale of his stock therein, as was subsequent use of his said collection system in question; in carrying on said business through agents whom they (1) contacted by advertising in financial and business opportunity columns of the daily papers as an old established concern, offering an opportunity to make \$500 a month the year round, and seeking men with capital to invest to act as district managers, branch managers, or other representatives, and (2) purported to employ as such, and with whom they (3) entered or sought to enter into agreements whereby, thus employed, they were ostensibly assigned specified exclusive territories and were required to obligate themselves to buy a designated number of such systems, varying according to particular applicant's capital, and at a specified price, and to resell same at a rate likewise fixed, and with guarantee that if money collected by purchaser did not equal 10 times original cost of system, full price was to be refunded by it, and whereby it further undertook to (1) spend in local periodical and newspaper advertising 5 percent of amount invested by applicants as district managers, etc., and (2) to assist them in making field productive by sending traveling representatives or supervisors, experienced in recruiting salesmen, to spend a minimum of 3 days a month with such district managers, and to devote their entire efforts to developing a sales organization for such systems, but subject to provision that district managers, etc., must have placed initial orders and ordered 150 systems a month for 3 months, and (3) to refund sum paid by them, contingent, however, upon compliance with instructions of agreement and demand within 3 months of date of sale and furnishing of conclusive evidence of strict compliance with said instructions of agreement, limited by language thereof to written representations therein contained—

- (a) Represented to applicants, contacted as aforesaid, that it was an old, established, Atlanta corporation and afforded an opportunity to make earnings in excess of \$500 a month the year round, and that it was an old established concern of high integrity and standing, engaged in sale of collection systems in great demand, and that it offered rare opportunities for exceptional earnings and permanently high paid connections to those who agreed to represent it, and had men earning \$500 a week, and that reliable men, with managerial ability and from \$400 to \$1,000 to invest, should earn in excess of \$500 and up to \$1,500 a month, the year round, in sale of said systems, and that minimum earnings for agent should be \$50 a week;

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Facts being it had been thus engaged for less than 2 years and was relatively small and unknown, demand for said systems on the part of the business public was very limited, and its district managers or other representatives had not realized the enormous profits or earnings thus represented;

- (b) Falsely, misleadingly, and deceptively represented, as aforesaid, that it assigned exclusive, unworked territory to its representatives where they were free from competition in sale of its said systems, and would give assistance in working such territory where the representative had placed his initial order and had ordered 150 systems a month for 3 months;
- (c) Falsely, misleadingly, and deceptively represented, as aforesaid, that two nationally known industrial institutions and other large, well-recognized companies used said collection systems with success and had furnished it with testimonial letters bearing out such claim, and that it would furnish such letters to its agents for their aid in selling said systems;
- (d) Falsely, misleadingly, and deceptively furnished its agent with letters of recommendation belonging to its aforesaid founder, as above set forth, and represented that the same were its property and referred to the collection systems and service offered by it; and
- (e) Falsely, misleadingly, and deceptively represented to its agents that it would refund to them the amount invested by them upon demand in 90 days if said systems proved unsalable or unworkable;

With effect of misleading and deceiving general public and particularly those applying for positions as district managers, etc., in response to said advertisements, into belief that it was an old, established firm, engaged with substantial capital in sale and distribution of collection systems for which there was a great demand, and that its district managers, etc., had made enormous profits and earnings from sale thereof, and that any man of good character, without experience, through investment of small amounts of capital in the business, might make enormous profits or earnings in a short period of time, and that said systems had been successfully used by a large number of well-recognized, reputable firms and that the references therefrom were its property and would be furnished to applicants for their assistance in sale of said systems, and that they would be given exclusive territories without competition, and their investment would be refunded upon return of such systems if they were unable to dispose thereof, and into purchasing and entering into agreements for purchase of such systems from it in such beliefs, and with tendency and capacity thus to mislead and deceive, and to divert trade to it from competitors engaged in sale in commerce of collection systems:

Held, That such acts and practices, under the conditions and circumstances set forth, were to the prejudice of the public and competitors and constituted unfair methods of competition.

Before *Mr. John W. Addison*, trial examiner.

Mr. Reuben J. Martin, *Mr. Everett F. Haycraft* and *Mr. Alden S. Bradley* for the Commission.

COMPLAINT

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Com-

mission, to define its powers and duties, and for other purposes," the Federal Trade Commission having reason to believe that the Sanderson Adjustment Bureau, Inc., hereinafter referred to as respondent Bureau, and H. J. Sullivan, its president and treasurer, hereinafter referred to as respondent Sullivan, have been and are using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing to said 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 Bureau is a corporation organized on or about October 10, 1932, by one F. R. Sanderson, under the laws of the State of Georgia, with an authorized capitalization of \$5,000 divided into shares of par value of \$100 each, and with its principal office and place of business in the city of Atlanta in said State. Said respondent Bureau, in its original charter, was granted the following enumerated powers: "Buying, selling, and collecting accounts, notes, judgments, and other evidences of indebtedness; acquiring by purchase or assignment stocks of merchandise and choses in action for sale and distribution; to acquire by purchase, gift, or otherwise, or sell, encumber, and deal in both real and personal property." Said respondent Bureau, at the time it was originally organized, and for a period of more than a year thereafter, conducted a business of operating a collection agency in the city of Atlanta, Ga. On or about March 15, 1934, when said respondent Sullivan was first employed by the said respondent Bureau as manager, said respondent Bureau began to conduct a business of selling a "collection system" consisting of a group of form collection letters, originally compiled by said Sanderson, bound in book form ostensibly for the use of merchants, professional men, and others in collecting unpaid accounts, said business being conducted under the trade name of "Creditors Protective Service," as a division of said respondent Bureau. Said respondent Bureau caused said collection systems, in book form, when sold, to be transported in interstate commerce from the city of Atlanta in the State of Georgia, to the purchasers thereof located in States other than the State of Georgia.

PAR. 2. Said F. R. Sanderson, the organizer of respondent Bureau, has for more than 22 years been engaged in the business of selling to merchants throughout the several States of the United States a collection system known as the "Honor System," consisting of a group of form collection letters compiled by him ostensibly for the use of the purchasers thereof, and at the time he sold his stock in the said respondent Bureau on or about June 7, 1933, said Sanderson

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retained for himself the right to conduct his said business outside of the city of Atlanta, Ga., under the trade name "Sanderson Adjustment Bureau," and since that date said Sanderson has continued in said business under said trade name. In the course and conduct of his said business, said Sanderson utilized and employed a portfolio of reference letters consisting of letters of reference from satisfied customers in various parts of the country, which were his personal property, and contained testimonials of satisfied purchasers of the collection systems which he had theretofore sold.

PAR. 3. Said respondent Bureau, at the instance of and in cooperation with said respondent Sullivan, in the course and conduct of its said business relating to the interstate sale of a collection system under the trade name, Creditors Protective Service, as a division of said respondent Bureau, has appropriated the form collection letters, which it had been allowed to use in its collection business in the city of Atlanta in the State of Georgia by the said Sanderson, and also has appropriated and made use of said portfolio of reference letters, the property of said Sanderson, without the permission of said Sanderson, in the solicitation of purchasers of said system, and has furnished said portfolio of reference letters to its agents to be used by them in the solicitation of business from their customers and prospective customers.

PAR. 4. Said respondent Bureau, in the course and conduct of its said business of selling collection systems, as aforesaid, is now, and for more than 1 year last past, has been in competition in interstate commerce between and among the various States of the United States and the District of Columbia with various other individuals, and with corporations and copartnerships engaged in the sale and distribution of similar collection systems.

PAR. 5. Said respondent Bureau, since March 1934, at the instance of and with the cooperation of said respondent Sullivan, in the course and conduct of its said business of selling collection systems in interstate commerce, as aforesaid, has adopted a policy of advertising in the financial and business opportunity columns of daily newspapers for men with capital to invest to act as "District Managers," "Branch Managers," or other representatives, using in said advertisements false, misleading, and deceptive statements (a) as to the size of said respondent Bureau; (b) as to the length of its establishment; (c) as to the equipment and cooperation furnished by respondent Bureau; (d) as to the opportunities offered; and (e) the possible or probable earnings or profits to be derived from the business operated and the money invested therein.

PAR. 6. Said respondent Bureau, since March 1934, at the instance of and with the cooperation of said respondent Sullivan, in the course and conduct of its said business of selling collection systems in interstate commerce, as aforesaid, has adopted the policy of entering into agreements, or seeking to enter into agreements, with the individuals who apply for positions with said respondent Bureau as a result of the advertisements inserted in daily newspapers by said respondent Bureau, as set forth in paragraph 5 herein, whereby said respondent Bureau purports to employ said applicants as district managers, branch managers, or other representatives, for the "Creditors Protective Service" division of said respondent Bureau in certain specified exclusive territories, and in consideration for such appointment the said applicants are required to purchase from respondent Bureau a designated number of said collection systems, varying in number with the amount of capital said applicants have to invest, and also agree to purchase from the said Bureau a designated number of said collection systems per month at a specified price, usually \$7.50 per system, with the understanding that the said applicants, as district managers, branch managers, or other representatives, shall sell said collection systems at a specified rate, usually \$15.00 per system, on a guaranteed basis of 10 times the cost per system; with the understanding that if after using said system according to instructions the moneys collected by the purchaser from the usage thereof do not equal the amount of 10 times the original cost of the system, the full price thereof shall be refunded by the company, with the further agreement on the part of the respondent Bureau that it will expend in newspaper advertising in local papers or magazines a sum equal to 5 percent of the money invested in said systems by said applicants as district managers, branch managers, or other representatives, and will assist them in making the field productive by sending traveling representatives or supervisors experienced in recruiting salesmen, said representatives to spend a minimum of 3 days per month with the said district managers, devoting their entire efforts in developing an organization to procure sales for said systems, provided that the district managers, branch managers, or other representatives, shall have placed their initial orders and shall have ordered 150 systems per month each for a period of 3 months, with the further agreement to refund the sum paid by the said district managers, branch managers, or other representatives, for the initial purchase of said collection systems, but only after the said applicants, as district managers, branch managers, or other representatives, shall have complied with the full instructions in the said agreement and if demand is made within 3 months of the date of the sale and conclusive evidence has been furnished that the

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instructions contained in the agreement have been strictly complied with; and with the further understanding and agreement that the written instrument signed by both parties contained the complete agreement between the parties, and that no oral representations had been made by the representative of the said respondent Bureau other than those embodied therein, to induce the entering into of the agreement by the said district managers, branch managers, or other representatives, and that neither the company nor its agents are answerable to the said district managers, branch managers, or other representatives, except as therein provided.

PAR. 7. Said respondent Bureau, since March 1934, at the instance of and with the cooperation of said respondent Sullivan, in the course and conduct of its said business of selling collection systems in interstate commerce, as aforesaid, in order to induce said applicants, who answer advertisements of said respondent Bureau, as described in paragraph 5 herein, to enter into said agreements and to purchase said collection systems from said respondent Bureau, as set forth in paragraph 6 herein, has used and is now using false, misleading, and deceptive statements—

- (a) as to the financial standing of said respondent Bureau;
- (b) as to the length of its establishment;
- (c) as to the demand for said collection systems;
- (d) as to the cooperation to be furnished by said respondent Bureau;
- (e) as to the possible or probable earnings or profits to be derived from the business operated and the money to be invested therein;
- (f) as to the profits or earnings realized by district managers, branch managers, or other representatives of said respondent Bureau;
- (g) as to the success of said collection systems in collecting overdue accounts;
- (h) as to competitive conditions in territories to be assigned to said applicants;
- (i) as to the source and ownership of the portfolio of reference letters to be furnished said applicants to assist them in the resale of said collection systems, and
- (j) as to many other important facts relating to the business being operated by said respondent Bureau.

PAR. 8. The aforesaid acts and things done and performed by said respondent Bureau, in cooperation with said respondent Sullivan, have the tendency and capacity to mislead and deceive the general public, and particularly the said applicants who apply for positions as district managers, branch managers, or other representatives of said respondent, in response to said advertisements, as set forth in

paragraph 5 herein, into the belief that said respondent Bureau is an old established firm engaged in the sale and distribution of collection systems, with substantial capital; that there is a great demand for said collection systems; that district managers, branch managers, and other representatives of said respondent Bureau, have made enormous profits and earnings in the sale of collection systems; that any man of good character, without experience, by the investment of a small amount of capital in said business, may make enormous profits or earnings in a short period of time; that the said collection systems had been utilized by a large number of well recognized, responsible firms with success, and letters of reference from such firms were the property of said respondent Bureau and would be furnished said applicants or prospective district managers, branch managers, or other representatives, to assist them in selling said collection systems; that said applicants would be given exclusive territories where they would have no competition in the sale of said collection systems, and that the money invested by said applicants or prospective district managers, branch managers, or other representatives, would be refunded upon the return of said collection systems purchased by them if said applicants or prospective district managers, branch managers, or other representatives, were unable to dispose of said collection systems; and in said belief said applicants have been and are induced to purchase, and to enter into agreements to purchase, the said collection systems from said respondent Bureau.

The truth and fact is that said respondent Bureau has been engaged in the sale of collection systems for less than 2 years and is a relatively small and unknown corporation; that there is a very limited demand for said collection systems on the part of the business public; that the collection systems offered for sale by said respondent Bureau were originally compiled, edited, and copyrighted by said F. R. Sanderson, who had sold for a number of years and now sells said collection systems under the name "Honor System"; that the portfolio of letters of reference used by said respondent Bureau in the solicitation of the sale of its said collection systems, and which it agreed to furnish said prospective district managers, branch managers, or other representatives, to assist them in the sale of said collection systems, as aforesaid, was the sole property of said F. R. Sanderson, and said respondent Bureau had no right to use said portfolio in any manner whatsoever; that there is keen competition in the sale of collection systems; that the district managers, branch managers, or other representatives of the said respondent Bureau, have not realized the enormous profits or earnings represented by said respondent Bureau, as aforesaid; and that the said respondent Bureau has not refunded and does not now

refund the purchase price of said collection systems which said applicants, as district managers, branch managers, or other representatives, were unable to sell, and which were returned to the said respondent Bureau.

PAR. 9. The aforesaid acts and things done and performed by said respondent Bureau, in cooperation with said respondent Sullivan, as aforesaid, have the tendency and capacity to divert trade to said respondent Bureau from its said competitors engaged in the sale of collection systems in interstate commerce.

PAR. 10. The aforesaid acts and things done and performed by said respondent Bureau, in cooperation with said respondent Sullivan, as aforesaid, are to the prejudice of the public and the respondents' competitors, and constitute unfair methods of competition within the intent and meaning of Section 5 of an Act of Congress, approved September 26, 1914, and entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, on the 24th day of October A. D. 1935, issued and served its complaint in this proceeding upon the respondent, Sanderson Adjustment Bureau, Inc., charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act. No service of the said complaint was ever had or obtained against the respondent, H. J. Sullivan. After the issuance of said complaint said respondent, Sanderson Adjustment Bureau, Inc., filed its answer thereto. Thereafter testimony and evidence in support of the allegations of said complaint were introduced by Reuben J. Martin, Everett F. Haycraft and A. S. Bradley, attorneys for the Commission, before John W. Addison, an examiner of the Commission theretofore duly designated by it; and said testimony and evidence was duly recorded and filed in the office of the Commission. Thereafter the proceeding regularly came on for final hearing before the Commission on the said complaint, the answer of the respondent, Sanderson Adjustment Bureau, Inc., thereto, and the testimony and evidence; and the Commission, having duly considered same and being duly 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, Sanderson Adjustment Bureau, Inc., is a corporation organized on or about October 10, 1932, by one F. R. Sanderson under the laws of the State of Georgia, with an authorized capital of \$5,000 divided into shares of par value of \$100 each, and with its principal office and place of business in the city of Atlanta within said State. Said respondent, Sanderson Adjustment Bureau, Inc., was in its original charter granted the following enumerated powers: "buying, selling, and collecting accounts, notes, judgments, and other evidences of indebtedness; acquiring by purchase or assignment stocks of merchandise and choses in action for sale and distribution; to acquire by purchase, gift, or otherwise, or sell, encumber, and deal in both real and personal property." Said respondent, Sanderson Adjustment Bureau, Inc., at the time it was originally organized, and for a period of more than a year thereafter, operated a collection agency in the city of Atlanta, Ga. On or about March 15, 1934, said respondent, H. J. Sullivan, was first employed by the said respondent, Sanderson Adjustment Bureau, Inc., as manager, and said respondent, Sanderson Adjustment Bureau, Inc., began to conduct the business of selling a "collection system" consisting of a group of form collection letters, originally compiled by the said F. R. Sanderson, bound in book form for the use of merchants, professional men, and others in collecting unpaid accounts. Said business was conducted under the trade name of "Creditors Protective Service" as a division of said respondent, Sanderson Adjustment Bureau, Inc. Said respondent, Sanderson Adjustment Bureau, Inc., caused said collection systems in book form, when sold, to be transported in interstate commerce from the city of Atlanta in the State of Georgia to the purchasers thereof located in States other than the State of Georgia.

PAR. 2. Said F. R. Sanderson, the organizer of said corporate respondent, Sanderson Adjustment Bureau, Inc., has for more than 22 years been engaged in the business of selling to merchants through the several States of the United States a collection system known as the "Honor System" which consists of a group of form collection letters compiled by him for the use of the purchasers thereof. Said F. R. Sanderson, on or about June 7, 1933, sold his capital stock in said respondent, Sanderson Adjustment Bureau, Inc., and reserved and retained for himself the right to conduct his said business outside of the city of Atlanta, Ga., under the trade name "Sanderson Adjustment Bureau," and since that date said F. R. Sanderson has continued in said business under the said trade name. In the course

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and conduct of his said business said F. R. Sanderson used and employed a portfolio of reference letters consisting of letters of reference from satisfied customers in various parts of the country. Said reference letters were the personal property of said F. R. Sanderson and contained testimonials of satisfied purchasers of the collection systems which he had theretofore sold.

PAR. 3. Said respondent, Sanderson Adjustment Bureau, Inc., in cooperation with said respondent, H. J. Sullivan, in the course and conduct of its said business relating to the interstate sale of the collection systems under the trade name "Creditors Protective Service" as a division of said respondent, Sanderson Adjustment Bureau, Inc., appropriated the form collection letters which it had been allowed to use in its collection business in the city of Atlanta in the State of Georgia by the said F. R. Sanderson, and also appropriated and made use of said portfolio of reference letters which was the property of said F. R. Sanderson without the permission of said F. R. Sanderson in the solicitation of purchasers of said collection systems outside of the city of Atlanta in the State of Georgia and in various cities in States other than the State of Georgia; and furnished said portfolio of reference letters to its agents to be used by them in the solicitation of business from their customers and prospective customers, located in States other than the State of Georgia.

PAR. 4. Said respondent, Sanderson Adjustment Bureau, Inc., in the course and conduct of its business of selling collection systems, is now and for more than 1 year last past has been in competition in interstate commerce between and among the various States of the United States and the District of Columbia with various other individuals and with corporations and copartnerships engaged in the sale and distribution of similar collection systems.

PAR. 5. In cooperation with said respondent, H. J. Sullivan, said respondent, Sanderson Adjustment Bureau, Inc., has since March 1934, in the course and conduct of its business of selling collection systems in interstate commerce, adopted a policy of advertising in the financial and business opportunity columns of daily newspapers for men with capital to invest to act as district managers, branch managers, or other representatives, and used in said advertisements the following false, misleading, and deceptive statements: (a) that it was an old established Atlanta corporation, and (b) that it offered an opportunity to make earnings in excess of \$500 a month for the year round.

PAR. 6. With the cooperation of said respondent, H. J. Sullivan, said respondent, Sanderson Adjustment Bureau, Inc., has since March 1934, in the course and conduct of its business of selling collection

systems in interstate commerce, entered into agreements or sought to enter into agreements with the individuals who apply for positions with said respondent, Sanderson Adjustment Bureau, Inc., as a result of the advertisements inserted in daily newspapers by said respondent, Sanderson Adjustment Bureau, Inc., as set forth in paragraph 5 herein, whereby said respondent, Sanderson Adjustment Bureau, Inc., purports to employ said applicants as district managers, branch managers, or other representatives for the "Creditors Protective Service" division of said respondent, Sanderson Adjustment Bureau, Inc., in certain specified exclusive territories, and in consideration for such agreement the applicants are required to purchase from said respondent, Sanderson Adjustment Bureau, Inc., a designated number of said collection systems which number varies according to the amount of capital said applicants have to invest, and also agree to purchase from the said respondent, Sanderson Adjustment Bureau, Inc., a designated number of said collection systems per month at a specified price, usually \$7.50 per system, with the understanding that the said applicants as such district managers, branch managers, or other representatives shall sell said collection systems at a specified rate, usually \$15.00 per system, on a guarantee basis that it will return 10 times the cost per system; with the understanding that if, after using the said system according to instructions, the monies collected by the purchaser from the usage thereof do not equal the amount of 10 times the original cost of the system, the full price thereof shall be refunded by the said Sanderson Adjustment Bureau, Inc. The said contracts further provide that respondent, Sanderson Adjustment Bureau, Inc., will spend in local magazine or newspaper advertising a sum equal to 5 percent of the money invested in said systems by said applicants as district managers, branch managers, or other representatives, and will assist them in making the field productive by sending traveling representatives or supervisors experienced in recruiting salesmen to spend a minimum of 3 days per month with the said district managers, and devote their entire efforts in developing a sales organization for said systems provided that the district managers, branch managers, or other representatives shall have placed their initial orders and shall have ordered 150 systems per month each for a period of 3 months. The said agreements further provide that said respondent, Sanderson Adjustment Bureau, Inc., will refund the sum paid by said district managers, branch managers, or other representatives for the initial purchase of said collection systems, but only if the said applicants as district managers, branch managers, or other representatives shall have complied with the instructions in the said agreement, and shall make demand for same within 3 months of the date of sale and

furnish conclusive evidence that they have strictly complied with the instructions contained in the agreement. The said contracts also provide that the written instrument signed by both parties contain the complete agreement between the parties and that no oral representations had been made by the representative of the said respondent, Sanderson Adjustment Bureau, Inc., other than those set forth therein to induce the said district managers, branch managers, or other representatives to enter into the agreement, and that neither the said respondent, Sanderson Adjustment Bureau, Inc., nor its agents are answerable to the said district managers, branch managers, or other representatives except as provided in said contracts.

PAR. 7. Said respondent, Sanderson Adjustment Bureau, Inc., in cooperation with the respondent, H. J. Sullivan, since March 1934, in the course and conduct of its said business of selling collection systems in interstate commerce has, in order to induce said applicants who answer advertisements of said respondent, Sanderson Adjustment Bureau, Inc., as described in paragraph 5 herein, to enter into said agreements and to purchase said collection systems from said respondent, Sanderson Adjustment Bureau, Inc., as set forth in paragraph 6 herein, used and is now using false, misleading, and deceptive statements as follows: (a) That respondent, Sanderson Adjustment Bureau, Inc., was an old established concern of high integrity and standing engaged in the sale of collection systems that are in great demand, offering rare opportunities for exceptional earnings and permanently high paid connections to those who agree to represent it; (b) that the Bureau has men earning \$500 per week, and reliable men with managerial ability and from \$400 to \$1,000 to invest should earn in excess of \$500 and up to \$1,500 monthly the year round in the sale of said systems; earnings of \$50 per week should be the minimum for the agent; (c) that the Sanderson Adjustment Bureau, Inc., assigns exclusive unworked territory to the representative where he is free from competition in the sale of said systems, and will give assistance in working this territory where the representative shall have placed his initial order and shall have ordered 150 systems per month for a period of 3 months; (d) that Sears, Roebuck & Co., Goodyear Tire & Rubber Co., Inc., and a large number of well-recognized companies use these systems with success and have furnished the said respondent Sanderson Adjustment Bureau, Inc., with testimonial letters bearing out this claim, and that the said respondent will furnish portfolios of these letters to the representatives to aid them in selling said systems; (e) that said respondent, Sanderson Adjustment Bureau, Inc., would refund the

amount invested in each system by its representatives upon demand in 90 days if the systems proved unsalable or unworkable.

PAR. 8. The aforesaid acts and things done and performed by said respondent, Sanderson Adjustment Bureau, Inc., in cooperation with respondent, H. J. Sullivan, have the tendency and capacity to mislead and deceive, and do mislead and deceive, the general public and particularly those applicants who apply for positions as district managers, branch managers, and other representatives of said respondent, Sanderson Adjustment Bureau, Inc., in response to said advertisements, as set forth in paragraph 5 herein, into the belief that said respondent, Sanderson Adjustment Bureau, Inc., is an old established firm engaged in the sale and distribution of collection systems with substantial capital; that there is a great demand for said collection systems; that district managers, branch managers, and other representatives of respondent, Sanderson Adjustment Bureau, Inc., have made enormous profits and earnings in the sale of collection systems; that any man of good character, without experience, by the investment of small amounts of capital in said business may make enormous profits or earnings in a short period of time; that said collection systems have been used by a large number of well-recognized reputable firms with success, and that the references from such firms were the property of said respondent, Sanderson Adjustment Bureau, Inc., and would be furnished to said applicants or prospective district managers, branch managers, or other representatives to assist them in selling said collection systems; that said applicants would be given exclusive territories where they would have no competition in the sale of said collection systems; and that the money invested by said applicants, or prospective district managers, branch managers, or other representatives would be refunded upon the return of said collection systems purchased by them if said applicants, or prospective district managers, branch managers, or other representatives were unable to dispose of said collection systems, and in said belief said applicants have been and are induced to purchase and to enter into agreements to purchase the said collection systems from said respondent, Sanderson Adjustment Bureau, Inc.

In truth and in fact said respondent, Sanderson Adjustment Bureau, Inc., has been engaged in the sale of collection systems for less than 2 years, and is a relatively small and unknown corporation; there is a very limited demand for said collection systems on the part of the business public; the collection systems offered for sale by said respondent, Sanderson Adjustment Bureau, Inc., were originally compiled, edited, and copyrighted by F. R. Sanderson, who has sold for a number of years and now sells said collection systems under

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the name "Honor System"; the portfolio of letters of reference used by said respondent, Sanderson Adjustment Bureau, Inc., in soliciting the sale of its said collection systems, and which it agreed to furnish to prospective district managers, branch managers, and other representatives to assist them in the sale of said collection systems as aforesaid, was and is the sole property of F. R. Sanderson, and said respondent, Sanderson Adjustment Bureau, Inc., had no right to use said portfolio in any manner whatsoever; there is keen competition in the sale of collection systems; the district managers, branch managers, or other representatives of said respondent, Sanderson Adjustment Bureau, Inc., have not realized the enormous profit or earnings which the said respondent, Sanderson Adjustment Bureau, Inc., represented they had earned, as aforesaid; and said respondent, Sanderson Adjustment Bureau, Inc., has not refunded and does not now refund the purchase price of said collection systems which said applicants as district managers, branch managers, or other representatives were unable to sell and which were returned to the said respondent, Sanderson Adjustment Bureau, Inc.

PAR. 9. The acts and things done and performed by said respondent, Sanderson Adjustment Bureau, Inc., as aforesaid, have the tendency and capacity to divert trade to said respondent, Sanderson Adjustment Bureau, Inc., from its said competitors engaged in the sale of collection systems in interstate commerce.

CONCLUSION

The aforesaid acts and practices of the respondent, Sanderson Adjustment Bureau, Inc., under the conditions and circumstances set forth in the foregoing findings are to the prejudice of the public and of respondent's competitors, and are unfair methods of competition in commerce and constitute a violation of Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, Sanderson Adjustment Bureau, Inc., no service having been obtained on the respondent H. J. Sullivan, and no answer having been filed by said H. J. Sullivan, and on the testimony and evidence taken before John W. Addison, an examiner of the Commission, theretofore duly designated by it, in support of the charges of said

complaint, no testimony or evidence having been introduced in opposition thereto, and the Commission having made its findings as to the facts and its conclusion that said respondent, Sanderson Adjustment Bureau, Inc., has violated the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

It is ordered, That the complaint herein be and the same is hereby dismissed as to the respondent, H. J. Sullivan, there having been no service of said complaint upon said respondent, H. J. Sullivan.

It is further ordered, That the respondent, Sanderson Adjustment Bureau, Inc., its officers, representatives, agents, employees, and successors, in connection with the offering for sale and sale of collection systems in interstate commerce do forthwith cease and desist from:

1. Representing in its advertisements in newspapers or otherwise that said respondent, Sanderson Adjustment Bureau, Inc., is an old established Atlanta corporation and that it affords an opportunity to make earnings in excess of \$500 a month for the year round;

2. Representing that respondent, Sanderson Adjustment Bureau, Inc., is an old established concern of high integrity and standing engaged in the sale of collection systems that are in great demand, and offer rare opportunities for exceptional earnings and permanently high paid connections to those who agree to represent it;

3. Representing that respondent, Sanderson Adjustment Bureau, Inc., has men earning \$500 per week and reliable men with managerial ability and from \$400 to \$1,000 to invest should earn in excess of \$500 and up to \$1,500 monthly the year round in the sale of said systems and the minimum earnings for the agent should be \$50 per week.

4. Representing that respondent, Sanderson Adjustment Bureau, Inc., assigns exclusive unworked territory to its representatives where they are free from competition in the sale of said systems, and will give assistance in working said territory where the representative shall have placed his initial order and shall have ordered 150 systems per month for a period of 3 months.

5. Representing that Sears, Roebuck & Co., Goodyear Tire & Rubber Co., Inc., and other large well-recognized companies use the collection systems of Sanderson Adjustment Bureau, Inc., with success and have furnished said Sanderson Adjustment Bureau, Inc., with testimonial letters bearing out this claim, and that said respondent, Sanderson Adjustment Bureau, Inc., will furnish these letters to its agents to aid them in selling its collection systems;

Order

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6. Furnishing to its agents letters of recommendation belonging to Frank R. Sanderson and representing that said letters are the property of and refer to the collection systems and service offered by Sanderson Adjustment Bureau, Inc.;

7. Representing to its agents that Sanderson Adjustment Bureau, Inc. will refund to said agents the amount invested in each collection system by said agents upon demand in 90 days if the said collection systems prove unsalable or unworkable.

It is further ordered, That respondent, Sanderson Adjustment Bureau, Inc., shall within 60 days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinabove set out.

Complaint

IN THE MATTER OF

SAM FISHER, TRADING AS HOLLYWOOD SHIRT
COMPANY

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

Docket 2583. Complaint, Oct. 16, 1935—Decision, July 11, 1936

Where an individual engaged in the sale of shirts at retail and by mail order, chiefly, with some 1,500 or 2,000 agents soliciting orders in response to which merchandise was shipped; in advertising his said merchandise and soliciting agents in newspapers and trade periodicals in competition with others similarly engaged—

- (a) Represented, in advertisements and circulars sent to prospective agents and purchasers, that his said shirts were made of the "finest sanforized lustrous broadcloth" and offered as a "sales leader" a particular shirt for 57 cents as made from first quality genuine broadcloth, notwithstanding fact lowest construction of "single" broadcloth is 108 warp yarns per inch and 60 filling yarns, while construction of particular cloth thus advertised was 104 warp yarns and 58 filling yarns;
- (b) Employed word "manufacturer" in said advertising and stressed fact that shirts were being sold "directly from manufacturer to wearer," and that there were no middleman's profits, and shirts had not passed through many hands, and that because of the direct transaction of shipping said articles from manufacturer to wearer money saved would inure to the benefit of the ultimate consumer, facts being he neither owned nor was interested in any way in a shirt factory, but purchased his said products from independent manufacturer thereof and filled orders from the stock thus purchased as they came in, and there was included not only wholesaler's profit but agent's commission, and the direct to wearer savings claims were untrue;

With tendency and capacity to divert business from competitors who truthfully advertise their products:

Held, That such acts and practices, under the conditions and circumstances described, were to the prejudice of the public and competitors and constituted unfair methods of competition.

Before *Mr. John L. Hornor*, trial examiner.

Mr. William L. Pencke for the Commission.

COMPLAINT

Acting in the public interest pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission charges that Sam Fisher, an individual trading as Hollywood Shirt Co., hereinafter referred to as the respondent, has been and is using unfair