

IN THE MATTER OF

LEO GREENBERG, TRADING AS BUREAU OF RESEARCH,
RECLASSIFICATION DEPARTMENT, AND WILLIAM
EDGAR SPICERCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914*Docket 4810. Complaint, Aug. 12, 1942—Decision, Apr. 22, 1943*

Where an individual, engaged in interstate sale and distribution of printed mailing cards for use by collection agencies, merchants, and others in obtaining information concerning their debtors, which consisted of two perforated cards to be used, as below described, in mailing on one a request for information to the debtor or a person acquainted therewith, and in the supplying, on the other, of information pertaining to the debtor's affairs, for return to said individual's associate, as below set forth—

- (a) Represented, and placed in the hands of his customers a means of representing to their debtors and others, that the request for information came from an agency or branch of the United States Government, through displaying on such cards the words "Bureau of Research, Reclassification Department," along with the words "Bond Building, Washington, D. C.," to which the information cards were to be returned; setting forth similar words and "Employment Division, Dept. 303" on the request for information card, advising the debtor that the Bureau requested the information for the purpose of reclassifying his present employment, that all answers must be correct and returned within 5 days, and that the classification "would be permanent until new employment is secured"; and setting forth on the reverse side such matter as "Present Classification No. D 0000," and under the words "Do Not Write Below This Line"—preceded by arrangement for full information as to the debtor's name, address, occupation, and employment—such words as "Reclassified as follows—Classification Number—and Department Signature"; and through similar cards to be sent to a person believed to have information concerning the debtor;

The facts being that the request did not come from the Government but from private persons; said "Bureau of Research, Reclassification Department" was merely the trade name employed by said individual; and "Bond Building, Washington, D. C." was the address of said associate; and

Where said associate of said individual in the city of Washington, to whom he sent said cards for mailing and who, upon having the cards and information returned to him at said "Bureau of Research," Bond Building, Washington, D. C., forwarded the same to said individual, to be by him sent on to his customers with the information as to their debtors—

- (b) Similarly falsely represented to such customers and debtors that the request for information came from an agency or branch of the Government, and, through returning to said individual information concerning debtors, secured as aforesaid, assisted in the fruition of the purpose for which the original misrepresentation was made by individual and his customers, and thus participated actively in the acts and practices in question;

With tendency and capacity—notwithstanding ultimate insertion of word “Independent” preceding “Bureau” on the reverse of the addressee side of the card by said individual—to engender in the minds of a substantial number of persons the mistaken belief that the aforesaid cards emanated from the United States Government or some branch thereof, thereby inducing such persons to give information which otherwise they might not have supplied: *Held*, That such acts and practices, under the circumstances set forth, were all to the prejudice of the public, and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. J. Earl Cox*, trial examiner.

Mr. Randolph W. Branch for the Commission.

Mr. Jerry Nemer, of Los Angeles, Calif., for Leo Greenberg, and along with—

Mr. John Lewis Smith, of Washington, D. C., for William Edgar Spicer.

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 Leo Greenberg, individually, and trading as Bureau of Research, Reclassification Department, and William Edgar Spicer, an individual, hereinafter referred to as the 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. The respondent, Leo Greenberg, is an individual, who in the commission of the acts hereinafter alleged uses the name Bureau of Research, Reclassification Department, and who has his office and principal place of business at 215 West Fifth Street in the city of Los Angeles, State of California. The respondent, William Edgar Spicer, is an individual, whose office and principal place of business is located at 302 Bond Building, in the city of Washington, District of Columbia.

PAR. 2. The respondent, Leo Greenberg, is now and for more than 6 months last past, has been engaged in the business of selling printed mailing cards. Said respondent causes said cards when sold to be transported from his place of business in the State of California to purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia. Said respondent, Greenberg, maintains and at all times herein mentioned has maintained a course of trade in his said products in commerce between and among the various States of the United States and in the District of Columbia.

Complaint

36 F. T. C.

The said mailing cards sold and transported by the respondent, Greenberg, as heretofore alleged, are designed and intended to be used by collection agencies, merchants, and others to whom they are sold in obtaining information concerning the purchasers' debtors and are of two types. One type on which a capital letter "D" is printed, is used when the debtor himself is addressed; the other type on which a capital letter "R" is printed is used when some person other than the debtor is requested to give information. Said mailing cards are made up of units composed of two cards separated by a perforated line, designed to enable the addressee of one of the two cards, hereinafter referred to as the debtor card, to detach the other card, hereinafter referred to as the information card, which is self-addressed, and thereon give certain information requested on the card addressed to him. The debtor card is addressed to the debtor at his last known address or to someone likely to have information concerning him, by the creditor or collection agency or other purchaser of the cards. The unit composed of two cards is then forwarded to the respondent, William Edgar Spicer, at his said place of business in the city of Washington, District of Columbia, and is mailed to him from the city of Washington, District of Columbia, to the person and to the address placed on the debtor card by the purchaser. When the debtor or other informant responds to the request for information contained on the debtor card, he detaches the information card and mails it with the information requested. Said information card has already been previously addressed to "Bureau of Research, Reclassification Department, Bond Building, Suite 302, Washington, D. C." Said information card so addressed is delivered by the Post Office Department to respondent, Spicer. Said Spicer then forwards the information card with the information thereon supplied from Washington, D. C., to respondent, Greenberg, in Los Angeles, Calif. Respondent, Greenberg, then returns the information card and the information so forwarded to the original purchaser of the cards.

PAR. 3. The respondent, Leo Greenberg, in the course of his said business and for the purpose of inducing the sale of his said products, causes the said mailing cars transported by him as heretofore alleged, to be prepared and printed in the manner hereinafter set forth. The said type of cards bearing a capital letter "D," in the upper left hand corner of the address side of the debtor card, contains the following return address:

Bureau of Research
Reclassification Department
Bond Building
Washington, D. C.

520

Complaint

The reverse side of the said debtor card contains the words:

Bureau of Research
Bond Building
Washington, D. C.

Employment Division Department 301 .

M

For the purpose of reclassifying your present employment this Bureau requests you to answer all questions on the attached reply card.

All answers must be correct and be returned within a period of five days.

This classification will be permanent until new employment is secured.

The information card is addressed as follows:

Bureau of Research
Reclassification Department
Bond Building, Suite 302
Washington, D. C.

The reverse side of the information card reads as follows:

PRESENT CLASSIFICATION No. D000

Fill In Completely Print Clearly

Full Name _____

Address _____ City _____ State _____

Previous Occupation _____ Present Occupation _____

Unskilled ☐ Skilled ☐ Clerical ☐ Executive ☐

Special Qualifications (Define any other types of work you may be qualified to do) _____

Now employed by _____

Address _____ City _____ State _____

Do Not Write Below This Line

Reclassified as follows

Classification Number

Department Signature

The said type of card bearing a capital letter "R" is in all respects substantially the same as heretofore alleged except that the side of the debtor card opposite the address reads as follows:

Bureau of Research,
Bond Building,
Washington, D. C.

Employment Division Department 301

This Bureau is advised that you can verify certain employment qualifications of

For the purpose of reclassifying his or her proper employment reclassification.

All answers must be correct and be returned within five days.

This classification will be permanent until new employment is secured.

Complaint

36 F. T. C.

By the use of the aforesaid mailing cards prepared and printed as aforesaid the respondent, Leo Greenberg, falsely represents and places in the hands of his customers a means of falsely representing to said customers' debtors and others to whom said cards are addressed by said customers that the request for information comes from an agency or branch of the Government of the United States. The respondent, Spicer, by mailing the said cards to the debtor—addressees, or other persons from whom information is requested—makes the same representation and by returning to the respondent, Greenberg, the information obtained from debtors or other informants assists in the fruition of the purpose for which the original misrepresentation was made by respondent, Greenberg, and his customers and in so doing is guilty of an unfair and deceptive act and practice in commerce among and between the various States of the United States.

The said representation is false and misleading. In truth and in fact neither the request for information nor the said mailing cards come from the Government of the United States or any branch or agency thereof, but are the device of private persons and agencies used for the purpose of obtaining information for their own uses.

Many persons who receive the aforesaid mailing cards, which request information, believe said mailing cards come from the Government of the United States or from some branch or agency thereof and by reason of such belief give information which they would not otherwise supply. Many agencies of the Government of the United States distribute, and for some time past have distributed, vocational questionnaires similar to those used by respondents. Such questionnaires are and have been distributed by the Selective Service System among others. Among the persons receiving said mailing cards and requests for information are many subject to the provisions of the Selective Service and Training Act of 1940 as amended, who believe that, or are doubtful as to whether, said mailing cards and requests for information have been sent to them under the provisions of said act. As a result of such beliefs and such doubts, many inquiries, both in person and by mail, are addressed to the local boards and other divisions of said Selective Service System and correspondence and other effort on the part of the various divisions of said Selective Service System, the Army of the United States and other governmental divisions and agencies are made necessary.

PAR. 4. The aforesaid acts and practices of respondents as herein alleged are all to the prejudice and injury of the public and of the United States Government and constitute unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on August 12, 1942, issued and subsequently served its complaint in this proceeding upon the respondents, Leo Greenberg, individually, and trading as Bureau of Research, Reclassification Department, and William Edgar Spicer, individually, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. After the filing of respondents' answers to the complaint, a stipulation as to the facts was entered into between respondent, Leo Greenberg, through his attorney, and Richard P. Whiteley, Assistant Chief Counsel for the Commission, which provided, subject to the approval of the Commission, that the statement of facts set forth in such stipulation might be made a part of the record herein and might be taken as the facts in this proceeding in lieu of evidence in support of or in opposition to the charge stated in the complaint, insofar as such charges related to respondent Greenberg. The stipulation provided further that the Commission might proceed upon such statement of facts to make its report as to respondent, Greenberg, stating its findings as to the facts (including inferences which it might draw from the stipulated facts) and its conclusion based thereon, and enter its order disposing of the proceeding as to respondent, Greenberg, without the presentation of argument or the filing of briefs.

Subsequently, at a hearing held before a trial examiner of the Commission theretofore duly designated by it, respondent, William Edgar Spicer, through his attorney, joined in the stipulation theretofore entered into by respondent, Leo Greenberg, and the Assistant Chief Counsel for the Commission, and waived any further proceedings, including the taking of testimony, the filing of briefs, and the presentation of oral argument.

Thereafter, the proceeding came on for final hearing before the Commission upon the complaint, the answers thereto, and the stipulation as to the facts (such stipulation having been approved and accepted by the Commission); and the Commission, having duly considered the matter and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion based thereon.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Leo Greenberg, is an individual, who in the course of his business hereinafter described, uses the name "Bureau of Research, Reclassification Department," and has his office

Findings

36 F. T. C.

and principal place of business at 215 West Fifth Street, in the city of Los Angeles, State of California. Respondent, William Edgar Spicer, is an individual, whose office and principal place of business is located at 302 Bond Building, city of Washington, District of Columbia.

PAR. 2. Respondent, Leo Greenberg, is now and for more than 6 months last past has been engaged in the business of selling printed mailing cards. Said respondent causes his cards, when sold, to be transported from his place of business in the State of California to purchasers thereof at their respective points of location in various other States of the United States and in the District of Columbia. Respondent Greenberg maintains, and at all times mentioned herein has maintained, a course of trade in his products in commerce between and among the various States of the United States and in the District of Columbia.

The mailing cards sold and transported by the respondent, Greenberg, as stated herein, are designed and intended to be used by collection agencies, merchants, and others to whom they are sold in obtaining information concerning the purchasers' debtors, and are of two types. One type, on which a capital letter "D" is printed, is used when the debtor himself is addressed; the other type, on which a capital letter "R" is printed, is used when some person other than the debtor is requested to give information. The mailing cards are made up of units composed of two cards separated by a perforated line, designed to enable the addressee of one of the two cards (hereinafter referred to as the debtor card) to detach the other card (hereinafter referred to as the information card), which is self-addressed, and thereon give certain information requested on the card addressed to him. The debtor card is addressed by the creditor, collection agency, or other purchaser of the cards to the debtor at his last known address, or to someone likely to have information concerning him. The unit composed of two cards is then forwarded to the respondent, William Edgar Spicer, at his place of business in the city of Washington, District of Columbia, and is mailed by him from the city of Washington to the person and to the address placed on the debtor card by the purchaser. The cards are uniformly sent through regular United States mail, with postage stamps attached, and at no time has any Government frank or any marking simulating such a frank been used.

When the debtor or other informant responds to the request for information contained on the debtor card, he fills in the blank spaces on the information card, detaches such card from the debtor card and mails it to the address given thereon, to-wit, "Bureau of Research,

520

Findings

Reclassification Department, Bond Building, Suite 302, Washington, D. C.," such address having previously been placed on the card by respondent, Greenberg. In due course the information card is delivered by the Post Office Department to respondent, Spicer, who then forwards the card from Washington, D. C., to respondent, Greenberg, in Los Angeles, Calif. Respondent, Greenberg, then returns the information card and the information so forwarded to the purchaser of the card.

PAR. 3. Respondent, Greenberg, in the course and conduct of his business, causes the mailing cards to be prepared and printed in the manner hereinafter set forth. The type of card bearing a capital letter "D" contains the following return address in the upper left-hand corner of the address side of the debtor card:

Bureau of Research
Reclassification Department
Bond Building
Washington, D. C.

The reverse side of the debtor card contains the following:

BUREAU OF RESEARCH
Bond Building
Washington, D. C.

Employment Division Department 301

M-----

For the purpose of reclassifying your present employment this Bureau requests you to answer all questions on the attached reply card.

All answers must be correct and be returned within a period of five days.

This classification will be permanent until new employment is secured.

The information card is addressed as follows:

Bureau of Research
Reclassification Department
Bond Building, Suite 302
Washington, D. C.

The reverse side of the information card reads as follows:

PRESENT CLASSIFICATION No. D 0000

Fill in Completely Print Clearly

Full Name-----

Address----- City----- State-----

Previous Occupation----- Present Occupation-----

Unskilled ☐ Skilled ☐ Clerical ☐ Executive ☐

Special Qualifications (Define any other types of work you may be qualified to do)

Findings

36 F. T. C.

Now employed by-----

Address-----City-----State-----

Do Not Write Below This Line

Reclassified as follows-----

Classification Number-----

Department Signature-----

The type of card bearing a capital letter "R" is in all respects substantially the same as hereinabove set forth, except that the side of the debtor card opposite the address reads as follows:

BUREAU OF RESEARCH, RECLASSIFICATION DEPT.

Bond Building

Washington, D. C.

Employment Division

Department 301

This Bureau is advised that you can verify certain employment qualifications of-----for the purpose of re-classifying his or her proper employment re-classification.

This classification will be permanent until new employment is secured.

PAR. 4. By the use of these mailing cards, prepared and printed as set forth above, respondent, Greenberg, represents and places in the hands of his customers a means of representing to such customers' debtors and others that the request for information comes from any agency or branch of the Government of the United States.

In truth and in fact, such request for information does not come from the Government of the United States or any branch or agency thereof, but is a device employed by private persons and agencies for their own use. The Commission therefore finds that such representation is false and misleading.

PAR. 5. Respondent, Spicer, by mailing the cards to the debtor-addresses or other persons from whom information is requested, makes the same representation and, by returning to respondent, Greenberg, the information obtained from debtors or other informants, assists in the fruition of the purpose for which the original misrepresentation is made by respondent, Greenberg, and his customers. Respondent, Spicer, thus participates actively in the acts and practices herein described.

PAR. 6. Respondents' acts and practices have the tendency and capacity to engender in the minds of a substantial number of persons the erroneous and mistaken belief that the aforesaid cards emanate from the Government of the United States or from some branch or agency thereof, and the tendency and capacity to cause such persons, by reason thereof, to give information which otherwise they might not supply.

Prior to the time when the matter was taken up with respondent Greenberg by investigators of the Federal Trade Commission, respondent, Greenberg, changed the cards to the extent of inserting the word "Independent" immediately before the word "Bureau" on the reverse of the addressee side thereof. The Commission finds, however, that this change did not alter the cards in any material respect, and that it was wholly insufficient to correct the false and misleading impression created by the cards and by the methods employed by respondents.

CONCLUSION

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

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of respondents, and a stipulation as to the facts entered into between respondents and Richard P. Whiteley, Assistant Chief Counsel for the Commission (such stipulation having been approved and accepted by the Commission); and the Commission having made its findings as to the facts and its conclusion that the respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, Leo Greenberg, individually, and trading as "Bureau of Research, Reclassification Department," or trading under any other name, and William Edgar Spicer, and their agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of respondents' mailing cards or any other printed or written material of a substantially similar nature, do forthwith cease and desist from:

1. Using the words "Bureau of Research, Reclassification Department," alone or in connection or conjunction with any other word or words, to designate, describe, or refer to respondents' business; or otherwise representing, directly or by implication, that respondents' business has any connection with the United States Government, or that the information sought by respondents or their customers is for the use of the United States Government or any branch or agency thereof.

Order

33 F. T. C.

2. Representing, directly or by implication, that the information sought through respondents' mailing cards or other material is for the purpose of classifying or reclassifying any person with respect to employment.

3. Using, or placing in the hands of others for use, mailing cards or other material which represent, directly or by implication, that respondents' business is other than that of obtaining information for use in the collection of debts, or that the information sought through such cards or other material is for any purpose other than for use in the collection of debts.

It is further ordered, That the respondents shall, within 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.

Complaint

IN THE MATTER OF
POW-A-TAN MEDICINE COMPANYCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4817. Complaint, Aug. 18, 1942—Decision, Apr. 22, 1943*

Where a corporation, engaged in interstate sale and distribution of its "Pow-A-Tan Herb Tonic" for treatment of various ailments and diseases; in advertisements in newspapers and periodicals, radio broadcasts, circulars, leaflets and pamphlets, and other advertising literature, directly and by implication—

(a) Represented that said preparation was a cure or remedy and competent and effective treatment for all common human ailments, including neuritis, arthritis, rheumatism, indigestion, gas and bloating, bad taste, sick headache, tired-out feeling and general run-down condition, and female complaints;

The facts being said preparation was essentially a laxative; its therapeutic value in the treatment of gas and bloating, piles, biliousness, bad taste, and sick headache was limited to such temporary relief as might be afforded by a laxative when such conditions were caused by constipation, and similarly in case of latter condition itself; and it was without therapeutic value in the treatment of the other conditions set forth above;

(b) Falsely represented that use thereof would prevent such diseases and ailments as cold, appendicitis, tuberculosis, catarrh, typhoid, and other contagious and acute diseases;

(c) Represented that \$1 was the regular price for its quart-size package, and that an offer to sell three for \$1 was special and limited; when in fact the latter was its regular and customary price;

(d) Represented falsely, through use of designation "tonic" in its brand name of its said product, that it was a general tonic; when it was not, as generally understood, and produced no such effect; and

(e) Failed to reveal facts material in the light of its aforesaid representations and with respect to the consequences which might result from use thereof under prescribed or usual conditions, in that, as a laxative, it was potentially dangerous when taken by one suffering from abdominal pains, nausea, vomiting, or other symptoms of appendicitis, and in that frequent or continued use might result in dependence on laxatives;

With effect of misleading a substantial portion of the purchasing public into the mistaken belief that said representations were true, thereby inducing its purchase of such preparation:

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

Mr. S. F. Rose for the Commission.

COMPLAINT,

Pursuant to the provisions of the Federal Trade Commission Act, and by virtue of the authority vested in it by said act, the Federal