

IN THE MATTER OF
**JULIUS FLORSHEIM, TRADING UNDER THE NAME
COLUMBIA RESEARCH COMPANY**

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

Docket 4867. Complaint, Nov. 6, 1942—Decision, Sept. 13, 1943

Where an individual, engaged in interstate sale and distribution of envelopes and printed matter for use by creditors and collection agencies in obtaining information concerning debtors, including notices which, for use in contacting the debtor either direct or through some other person, respectively represented that addressee was a beneficiary of a trust fund and that additional information was required, or that the person concerned was such a beneficiary and that addressee was requested to furnish information as to his identity and, in case of both, requested, in questionnaire attached, name of debtor, residence, names of parents and employer, employer's address, name of bank and personal references;

Making use of a scheme under which (1) said individual assigned purchaser of said printed matter a code number for insertion in the blank provided, whereby the former was enabled to identify his customers; (2) purchaser inserted name of person concerning whom information was sought in notice, and inserted notice in stamped envelope addressed to such person or, as aforesaid, to another, and included within said envelope—bearing upon upper left-hand corner said individual's trade name of Columbia Research Company and Los Angeles address—a stamped return envelope thus addressed, and sent the whole for mailing to said individual; and (3) latter sent replies received or pertinent information therefrom, to the proper customers, and to each of persons concerning whom desired information had been received, one cent, along with advice that such was the entire sum deposited for payment in his trust fund—

Falsely represented thereby, and placed in the hands of his customers means of falsely representing, that persons concerning whom information was sought had an interest in trust funds of more than trivial value held by such Columbia Research Co., and that information sought through said questionnaires was to identify beneficiaries; when in fact there were no such funds, and information was sought solely to assist in locating delinquent debtors and collecting delinquent accounts;

With capacity and tendency to mislead and deceive persons to whom said notices and questionnaires were sent, into the mistaken belief that such representations were true, and, by reason thereof, to induce them to give information which they would not otherwise have supplied:

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.

Before *Mr. James A. Purcell*, trial examiner.
Mr. Randolph W. Branch for the Commission.

Complaint

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 Julius Florsheim, an individual, trading under the name Columbia Research Co., hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Julius Florsheim, is an individual, trading under the name Columbia Research Co., with an office and principal place of business at 715 Subway Terminal Building, 417 South Hill Street, Los Angeles, Calif.

PAR. 2. Respondent is now, and has been for more than 6 months last past, engaged in the business of selling and distributing envelopes and printed matter referred to by bill collectors as lures.

Respondent causes the said envelopes and lures to be transported from his aforesaid place of business, in the State of California, to purchasers thereof in various other States of the United States and in the District of Columbia. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said articles in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. The said envelopes and lures are designed and intended to be used by creditors and collection agencies to obtain information concerning debtors.

The said lures are substantially in the forms exemplified by copies thereof, marked "Exhibit A" and "Exhibit B," attached hereto and by this reference made a part hereof.

The form of lure exemplified by exhibit A is sent in the manner hereinafter set forth to the person concerning whom information is sought. The form of lure exemplified by exhibit B is sent to persons who are believed to have knowledge concerning the person about whom information is sought.

PAR. 4. The purchasers of the said lures insert numbers therein in the spaces opposite "Re: Trust Fund No.". The said numbers are not the numbers of trust funds but are code numbers supplied to them by said respondent for the purpose of identifying his customers to him. Said purchasers also insert in the appropriate spaces in the lures the names of the persons concerning whom information is sought. Said purchasers then insert the lures in envelopes purchased from said respondent, which they cause to be addressed to the persons con-

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cerning whom information is sought or to others from whom information concerning said persons is sought, and affix the necessary postage. Upon these envelopes in the upper left-hand corner appears:

Columbia Research Company,
417 South Hill Street
Los Angeles, California

With the said lures are also enclosed envelopes, also purchased from said respondent, to which said purchasers have attached the necessary postage; these envelopes are addressed to:

Columbia Research Company
417 South Hill Street
Los Angeles, California

The said large envelopes and enclosures are then caused by said purchaser to be delivered to respondent at his place of business aforesaid, and respondent causes them to be deposited in the United States mails. Such replies as are returned are received by respondent, who identifies the customers by the code numbers hereinbefore mentioned, and sends the replies or the pertinent information therefrom to the proper customers. Respondent also sends to each of the persons concerning whom the desired information has been received, out of his own funds, 1 penny, advising him that this is the entire sum deposited in respondent's trust fund to be paid to such person when he was located, and that no other payments will be made.

PAR. 5. By means of the aforesaid lures and envelopes respondent, Florsheim, has falsely represented, and placed in the hands of his customers means of falsely representing, directly and by implication, to customers' debtors and others from whom information concerning such debtors is sought, that such debtors have interests in trust funds or are beneficiaries of trust funds held by Columbia Research Co.; that the values of such beneficial interests are more than trivial, and that the information sought by means of said lures is for the purpose of identifying the recipients thereof as proper beneficiaries.

The said representations are false and misleading. In truth and in fact there are no trust funds in the hands of respondent, Florsheim, in which the debtors concerning whom information is sought have any interest, substantial or otherwise, and the only sum for which respondent, Florsheim, ever assumed any obligations to any person concerning whom information was sought in the manner herein set out was 1 penny. The information called for by the said lures was not sought for the purpose of identifying those concerning whom information was sought as beneficiaries of trust funds, but was sought solely

for the purpose of assisting respondent's customers in collecting their alleged delinquent accounts.

PAR. 6. The use as hereinabove set forth of the foregoing false and misleading statements and representations has had the capacity and tendency to, and has, misled and deceived many persons to whom the said lures and envelopes were sent, into the erroneous and mistaken belief that such statements and representations were true, and by reason thereof to give information which they would not otherwise have supplied.

PAR. 7. The aforesaid acts of the respondent as herein alleged are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce in violation of the Federal Trade Commission Act.

EXHIBIT "A"

COLUMBIA RESEARCH COMPANY
417 South Hill Street
LOS ANGELES, CALIFORNIA

TO THE ADDRESSEE
OF THIS NOTICE:

RE: TRUST

FUND NO. _____

THE NAME OF _____ IS AMONG THOSE TO WHOM WE HAVE BEEN ORDERED TO PAY A SUM OF MONEY FROM THE ABOVE TRUST FUND.

FROM INFORMATION RECEIVED WE BELIEVE YOU ARE THIS PERSON, BUT UNDER THE PROVISIONS OF THE TRUST, WE ARE COMPELLED TO OBTAIN POSITIVE IDENTIFICATION BEFORE PAYMENT CAN BE MADE. FOR THIS REASON, WE REQUIRE THE COMPLETE INFORMATION REQUESTED BELOW. UPON RECEIPT AND VERIFICATION THEREOF REMITTANCE WILL BE MADE.

PLEASE GIVE THIS MATTER PROMPT ATTENTION. UNLESS WE RECEIVE THE INFORMATION REQUESTED NOT LATER THAN 15 DAYS FROM THE DATE THIS NOTICE WAS MAILED, WE ARE INSTRUCTED TO MAKE OTHER DISPOSITION OF THE SUM INVOLVED.

COLUMBIA RESEARCH COMPANY.

(Tear off here, retain upper part, mail lower part, completely filled out, in enclosed envelope properly stamped.)

COLUMBIA RESEARCH COMPANY
417 South Hill Street
Los Angeles, California.

RE: TRUST

FUND NO. _____ Date _____ 19____

For the purpose of establishing my identity with your firm, I submit the following information:

My Full

Name Is (Print Plainly) _____
(First Name) (Middle Initial) (Last Name)

My residence is _____
(No., Street) (City) (State)

Parents _____
(Father's name) (Mother's Maiden name)

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on November 6, 1942, issued and subsequently served its complaint in this proceeding upon the respondent, Julius Florsheim, an individual, trading under the name Columbia Research Co., charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondent's answer thereto, testimony and other evidence in support of and in opposition to the allegations of said complaint were introduced before a trial examiner of the Commission theretofore duly designated by it, and said testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, this proceeding regularly came on for final hearing before the Commission upon said complaint, answer thereto, testimony and other evidence, report of the trial examiner upon the evidence, and brief filed in support of the complaint (no brief having been filed by the respondent or oral argument requested); 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 drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Julius Florsheim, is an individual, trading under the name Columbia Research Co., with an office and principal place of business at 715 Subway Terminal Building, 417 South Hill Street, Los Angeles, Calif.

PAR. 2. Respondent is now, and for more than 1 year last past has been, engaged in the business of selling and distributing envelopes and printed matter designed and intended to be used by creditors and collection agencies in obtaining information concerning debtors. Respondent causes said envelopes and printed matter, when sold, to be transported from his place of business in the State of California to purchasers thereof located in various other States of the United States. Respondent maintains, and at all times mentioned herein has maintained, a course of trade in said articles in commerce between and among the various States of the United States.

PAR. 3. The printed matter sold and distributed by the respondent is in the form of a notice with questionnaire attached. There are two forms of notices, one for use in contacting the debtor direct, and the other in contacting the debtor through some other person, usually a reference. In the first form of notice, it is represented

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that the person to whom the notice is addressed is a beneficiary of a trust fund and that additional information is required as set out in the questionnaire attached. In the second form of notice, it is represented that the person named is a beneficiary of a trust fund, and the person to whom the notice is addressed is requested to furnish information as to identity as set out in the questionnaire attached to such notice. The questionnaire in each case requests information as to name of the debtor, residence, names of parents and employer, employer's address, name of bank, and personal reference. When this printed matter is delivered to a purchaser thereof, respondent assigns a certain code number, which is inserted by the purchaser in the blank provided for trust-fund number. By means of this number, the respondent is enabled to identify his customers.

Respondent's purchasers insert upon the notice the name of the person concerning whom information is sought, which notice is then inserted in envelopes purchased from said respondent, which they cause to be addressed to the persons concerning whom information is sought or to others from whom information concerning said persons is sought and affix the necessary postage. Upon these envelopes, in the upper left-hand corner, appears:

Columbia Research Company
417 South Hill Street
Los Angeles, California

With said notice and questionnaire attached, are also enclosed return envelopes also purchased from said respondent, to which said purchasers have attached the necessary postage. These envelopes are addressed to:

Columbia Research Company
417 South Hill Street
Los Angeles, California

The said large envelopes and enclosures are then caused by said purchasers to be delivered to respondent at his place of business, and respondent causes them to be deposited in the United States mails. Such replies as are returned are received by respondent, who identifies the customers by the code number hereinabove described and sends the replies or pertinent information therefrom to the proper customers. Respondent also sends to each of the persons concerning whom desired information has been received, out of his own funds, one penny, advising him that this is the entire sum deposited in respondent's trust fund to be paid to such person when located and that no other payments will be made.

PAR. 4. By means of the aforesaid printed matter, consisting of notices and questionnaires, respondent has falsely represented, and

placed in the hands of his customers means of falsely representing, directly and by implication, that the persons to whom such notices are addressed or concerning whom information is sought, have an interest in trust funds or are beneficiaries of trust funds held by Columbia Research Co.; that the values of such beneficial interests are more than trivial; and that the information sought by means of said notices and questionnaires is for the purpose of identifying the persons as proper beneficiaries.

The said representations are false and misleading. In truth and in fact, there are no trust funds in the hands of the respondent in which persons concerning whom information is sought have any interest, substantial or otherwise, and the only sum for which respondent ever assumed any obligations to any person concerning whom information was sought in the manner herein set out, was one penny. The information called for by said notices and questionnaires was not sought for the purpose of identification of beneficiaries of trust funds but was sought solely for the purpose of assisting respondent's purchasers in locating delinquent debtors and assisting in collecting their alleged delinquent accounts.

PAR. 5. The use, as hereinabove set forth, of the foregoing false and misleading statements and representations has the capacity and tendency to mislead and deceive persons to whom said notices and questionnaires are sent out, into the erroneous and mistaken belief that such statements and representations are true and, by reason thereof, to give information which they would not otherwise have supplied.

CONCLUSION

The aforesaid acts and practices of the respondent as herein found are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices in commerce in violation 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, answer of the respondent, testimony and other evidence in support of and in opposition to the allegations of said complaint taken before a trial examiner of the Commission theretofore duly designated by it, and brief in support of the complaint; and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

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It is ordered, That respondent, Julius Florsheim, an individual, trading under the name of Columbia Research Co., or trading under any other name, his 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 envelopes and printed matter consisting of purported notices with questionnaires attached, or any other printed or written material of substantially similar nature, do forthwith cease and desist from:

1. Representing directly or by implication that any funds or other property is being held by respondent for persons concerning whom information is sought through respondent's letters, questionnaires, or other material.

2. Representing directly or by implication that the information sought through respondent's letters, questionnaires, or other material is for the purpose of determining whether the person concerning whom such information is sought is entitled to receive trust funds or any other property.

3. Using, or placing in the hands of others for use, form letters, notices, questionnaires, or other material which represent directly or by implication that respondent's business is other than that of obtaining information for use in the collection of debts or that the information sought through such letters, notices, questionnaires, or other material is for any purpose other than for use in the collection of debts.

It is further ordered, That the respondent shall, within 60 days after service upon him of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which he has complied with this order.

Syllabus

IN THE MATTER OF

THE MILK AND ICE CREAM CAN INSTITUTE ET AL.

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

Docket 4551. Complaint, July 31, 1941—Decision, Sept. 18, 1943

Where eight corporations, engaged in the manufacture and interstate sale and distribution of metal milk cans and also, with one exception, of ice cream cans, making about 95 percent of said products sold and distributed in the United States, and, prior to and but for the agreements, acts and practices below set out, in competition as to price;

Following their organization of The Milk and Ice Cream Can Institute by an individual engaged in promoting, organizing, and managing trade associations, and who was employed by them to operate said Institute as its "Commissioner" and only officer, and their agreement upon a so-called "Publicity Plan" providing for the supplying by each member to said "Commissioner" of daily reports of orders received, contracts entered into and releases made against previously reported contracts, etc., and monthly reports of the number and dollar value of cans shipped, by States and for export and for the daily and monthly consolidation and dissemination among members by said Commissioner of such information;

Acting by and through their said Institute and under the direction of said individual, cooperatively developed and maintained substantial uniformity of action among themselves with respect to fixing and maintaining uniform prices for products involved; and in pursuance thereof—

- (1) Continued a plan of freight equalization theretofore employed by them, under which purchasers sold their product f. o. b. factory, and purchaser, paying the freight, was credited upon the invoice for the difference between it and freight from location of the shipper's nearest competitor, whereby delivered cost of their products was the same regardless of from whom or from which producing point purchase was made, and with the result, in view of more or less uniform f. o. b. factory prices, of maintaining uniformity of delivered prices;
- (2) For the purpose of maintaining such freight equalization plan, adapted and agreed to use a common freight rate reporting service for use in quoting delivered prices and the invoicing of customers;
- (3) Agreed upon and adopted an elaborate reporting system, as above indicated, to assure maintenance of uniform prices by members, and which, through receipt and dissemination of daily reports of orders, as consolidated, permitted said Commissioner to supervise the members' price activities through calling to particular member's attention evidence of price violations as thereby developed;
- (4) In order to maintain uniform prices on the same types and patterns of milk and ice cream cans sold by them under various trade names and to determine whether or not such prices were adhered to, placed similar types or patterns of cans in particular classifications and assigned thereto a symbol letter which was used in making daily reports to said Commissioner, and by him in making consolidated reports to the members, and from which also the Commissioner and the members could immediately determine whether any price differences existed on said daily reports;