

Syllabus

IN THE MATTER OF

MICHEL LIPMAN AND JACK SILVERMAN TRADING AS
CHIEF STATISTICIAN AND AS J. SILVERMAN &
ASSOCIATES, AND WILLIAM EDGAR SPICERCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 4809. Complaint, Aug. 12, 1942—Decision, Jan. 8, 1944*

Where two individuals, (along with a third, associated therewith as below set forth) engaged in interstate sale and distribution of printed mailing cards for use in obtaining information concerning delinquent debtors by collection agencies and business concerns selling on credit, including, as typical, their perforated "Chief Statistician" combined addressee and information cards, which, respectively, (1) under Washington heading and over signature of one of said individuals as "Chief Statistician," advised addressee that it was necessary that current place of employment of person named on "the attached voucher be verified," that immediate compliance was requested in order to bring certain special records up to date," and that "this office has no connection with any local or field offices"; (2) addressed to, "Chief Statistician, Suite 302, Bond Building, Washington, D. C.," contained provision for "subject's" name and address, and those of his employer, and statement as to his salary, and other details; (3) in case of information card set forth words "index register" followed by certain letters and numerals, words "posted by agent for" followed by blank line and some such words as "West Coast Area"; and (4) resembled notices and vocational questionnaire and similar requests sent out from time to time by certain government agencies, including the Selective Service System;

Making use of a plan under which (1) they identified particular creditor customer concerned by letters and numerals inserted by them following words "index register" on the information card; (2) creditor customer addressed the addressee part to the debtor at his last known address, or to some other person likely to have information concerning him, and mailed the card, and (3) the aforesaid third individual, to whose office in Washington, as "Chief Statistician," etc., the information cards were all addressed, forwarded to the other two, pursuant to his agreement, cards returned by debtors—

Falsely represented and placed in the hands of others the means of representing to debtors and others from whom information was sought that the request for information was from some department or agency of the United States Government; when in fact the cards were in no way connected therewith, but were merely devices used by said individuals and their customers for the sole purpose of obtaining, through subterfuge, information concerning debtors;

With the result that many persons who received said cards were misled by the general make-up thereof and by the various statements and legends thereon into the belief that the cards originated from some Governmental department or agency, and were thereby induced to and did supply information which they would not otherwise have supplied:

Held, That such acts and practices of said individuals, as above set forth, were all to the prejudice of the public and constituted unfair and deceptive acts and practices in commerce.

Complaint

38 F. T. C.

Before *Mr. Andrew B. Duval* and *Mr. James A. Purcell*, trial examiners.
Mr. Randolph W. Branch for the Commission.
Seaman & Jackson, of San Francisco, Calif., for Michel Lipman and Jack Silverman.
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 Michel Lipman and Jack Silverman, individually and as copartners trading as Chief Statistician, and J. Silverman & Associates, 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 respondents, Michel Lipman and Jack Silverman, are copartners, who in the commission of the acts hereinafter alleged, make use of the names Chief Statistician and J. Silverman & Associates and who have their office and principal place of business at 866 Pacific Building, 821 Market Street, in the city of San Francisco, State of California. The respondent, William Edgar Spicer, is an individual, whose office and principal place of business is in the Bond Building, city of Washington, District of Columbia.

PAR. 2. The respondents, Michel Lipman and Jack Silverman are now, and for more than six months last past have been, engaged in the business of selling printed mailing cards. Said respondents cause said cards, when sold, to be transported from their 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 respondents Lipman and Silverman maintain, and at all times herein mentioned have maintained a course of trade in their said products in commerce between and among the various States of the United States and in the District of Columbia.

The said mailing cards sold and transported by the respondents Lipman and Silverman, 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. 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 addressee 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 addressee 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 purchasers of the cards. When the debtor or other informant responds to the request for information contained on the addressee card, he detaches the information card and mails it with the information requested. Said information card is already addressed to "Chief Statistician, Bond Building, Washington, D. C." Said information card so addressed is delivered by the Post Office Depart-

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ment to respondent Spicer, in accordance with instructions given by him. Said Spicer then forwards the information card with the information thereon supplied, from Washington, District of Columbia, to the respondents Lipman and Silverman in San Francisco, California. Respondents Lipman and Silverman then return the information card and information so forwarded to them to the original purchaser of the cards.

PAR. 3. The respondents Michel Lipman and Jack Silverman in the course of their said business, and for the purpose of inducing the sale of their said products, cause the said mailing cards, transported by them as heretofore alleged, to be prepared and printed in the manner hereinafter set forth. The upper left-hand corner of the address side of the addressee cards, intended for the name and address of the debtors or other informants, bears the words, "Return to CHIEF STATISTICIAN, Bond Building, Washington, D. C." The reverse side of said addressee cards bears the words:

Washington, D. C.

To Addressee:

It is necessary that the current place of employment of the person whose name appears on the attached voucher be verified.

Please complete the attached card and mail it not later than 5 days after its receipt by you.

Your immediate compliance is requested in order to bring certain special records up to date. This office has no connection with any local or field offices.

M. Lipman,
Chief Statistician.

The information cards bear the address:

CHIEF STATISTICIAN
Bond Building
WASHINGTON, D. C.
Suite 302.

The reverse side of said information card bears a statistical table, purporting to have a relation to the debtor concerning whom inquiry is made, and to the information supplied by him or other informant. To the left of this table, and at right angles thereto, are the words:

Do not Write Above This Line.

EMPLOYMENT VOUCHER

Use Ink. Fill all spaces, and mail promptly.

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At the left of these words is printed the following form:

Subject:-----

Subject's Address:-----

Subject's

Employer:-----

Address:-----

Monthly

Salary:----- Does this include

Room?----- Board?----- Service?-----

Employed since (approximate date)-----

The above information is correct to the best of my knowledge and belief.

Your name:-----

DETACH BEFORE MAILING.

At the left side of this form are the words: "INDEX REGISTER," followed by letters and numbers and words "Posted by," followed by the words "West Coast Area," or other words indicating a geographical area of the United States.

By the use of the aforesaid mailing cards, prepared and printed as aforesaid, the respondents Lipman and Silverman falsely represent, and place in the hands of their customers a means of falsely representing, to the customers' debtors and others to whom said cards are addressed by the said customers, that the request for information comes from an agency or branch of the Government of the United States. Respondent Spicer, who well knows that the said information cards have not been prepared by and are not intended for the Government of the United States, or any branch or agency thereof, by forwarding the said information cards with the information thereon appearing, as heretofore alleged, assists in the fruition of the purpose for which the said misrepresentations were originally made by the respondents Lipman and Silverman 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 said mailing cards nor the requests for information 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 purposes.

Many persons who receive the aforesaid mailing cards believe that said requests for information and 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 United States do and for some time past have sent out to members of the public, vocational questionnaires re-

sembling the forms used by respondents on said mailing cards. Among the agencies of the United States which have sent out such vocational questionnaires is the Selective Service System. 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 by the Selective Service System. As a result of such beliefs and such doubts many inquiries, both in person and by mail, are addressed to 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 is made necessary, all of which is contrary to the public interest.

PAR. 4. The aforesaid acts and practices of the 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 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, Michel Lipman and Jack Silverman, individually, and trading as Chief Statistician and as J. Silverman & Associates, 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, testimony and other evidence in support of and in opposition to the allegations of the complaint were introduced before trial examiners of the Commission theretofore duly designated by it, and such testimony and other evidence were duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the complaint, the answers thereto, testimony and other evidence, report of the trial examiners upon the evidence, and briefs in support of and in opposition to the complaint (oral argument not having been 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. Respondents, Jack Silverman and Michel Lipman, are individuals, trading under the names Chief Statistician and J. Silverman & Associates, with their principal office and place of business located at 821 Market Street, San Francisco, Calif. They are, and for a number of years last past have been, engaged in the sale and distribution of printed mailing cards designed for use in obtaining information concerning delinquent debtors, such cards being sold to collection agencies and to business concerns engaged in the sale of merchandise on credit. Respondent Silverman, is in active charge of the business, and directs the

advertising and sale of the cards and their subsequent handling, as hereinafter described. Respondent Lipman, is the originator of the cards and holds the copyright thereto. He shares in the profits of the business in proportion to the number of cards sold. He also negotiated the agreement with respondent William Edgar Spicer, hereinafter referred to.

Respondent, William Edgar Spicer, is an individual, whose principal office and place of business is located in Suite 302, Bond Building, Washington, D. C. With full knowledge of the real nature and purpose of the mailing cards sold by respondents, Silverman and Lipman, he participates in the use and handling of such cards, as hereinafter set forth, thereby assisting in the effectuation of the purpose of the cards. For his services respondent Spicer receives compensation from respondents, Silverman and Lipman.

PAR. 2. In the course and conduct of their business respondents Silverman and Lipman cause and have caused their mailing cards, when sold, to be transported from their place of business in the State of California to purchasers thereof located in various other States of the United States and in the District of Columbia. They maintain and have maintained a course of trade in such cards in commerce among and between the various States of the United States and in the District of Columbia.

PAR. 3. Among the cards sold by respondents, Silverman and Lipman, is one known as the "Chief Statistician" card. These cards are made up in units composed of two cards separated by a perforated line, one of the cards of the unit being known as the addressee card and the other as the information card. Upon purchasing the cards, the creditor addresses the addressee card to the debtor at his last known address, or to some other person likely to have information concerning the debtor, and deposits the card in the United States mail. On the addressee card appears the following:

Washington, D. C.

To Addressee:

It is necessary that the current place of employment of the person whose name appears on the attached voucher be verified.

Please complete the attached card and mail it not later than 5 days after its receipt by you.

Your immediate compliance is requested in order to bring certain special records up to date. This office has no connection with any local or field offices.

M. Lipman
Chief Statistician

In those cases where the debtor or other addressee responds to the request for information, he fills in the blank spaces on the information card, detaches it from the addressee card, and deposits it in the United States mail. The information card bears the address:

CHIEF STATISTICIAN

Bond Building

WASHINGTON, D. C.

SUITE 302

the post office address being that of respondent Spicer. Upon receipt of the card, respondent Spicer forwards it from his office in Washington,

D. C., to respondents Silverman and Lipman, who in turn forward the card to the creditor.

On the information card there appears the following:

Subject:-----

Subject's address:-----

Subject's
employer:-----

Address:-----

Monthly salary:----- Does this include

Room?----- Board?----- Services?-----

Employed since (approximate date):-----

The above information is correct to the best of my knowledge and belief.

Your name:-----

DETACH BEFORE MAILING

In addition to the foregoing, there also appear on the information card the words; "Index Register" followed by certain letters and numerals, and the words, "Posted by Agent for" followed by a blank line and the words, "WEST COAST AREA" or other words indicating a geographical area of the United States. The letters and numerals following the words, "Index Register" serve as the means of enabling respondents Silverman and Lipman to identify the card as belonging to a particular creditor. The card also bears a statistical table captioned "STATISTICAL CONTROL" similar to that frequently found on punch cards used by Government agencies and large business organizations. This statistical table purports to relate to the person concerning whom inquiry is made.

PAR. 4. Through the use of these cards and the various legends and statements thereon, respondents represent and place in the hands of others the means of representing to debtors and others from whom information is sought that the request for information is from some department or agency of the United States Government. This representation is wholly false. The cards are in no way connected with the United States Government or any department or agency thereof, but are merely devices used by respondents and their customers for the sole purpose of obtaining, through subterfuge, information concerning debtors.

Certain agencies of the United States Government, including the Selective Service System, do send out to the public from time to time notices and vocational questionnaires and other requests for information which resemble the forms used by respondents. Many persons who receive respondents' cards are misled by the general make-up of such cards and by the various statements and legends thereon into the belief that the cards originated from some Governmental department or agency, and as a result of such impression such persons are induced to and do

supply information which they would not otherwise supply. Contributing to this erroneous impression is the use by respondents of the trade name "Chief Statistician" and of a mailing address in Washington, D. C., the seat of the National Government.

In addition to the cards herein described, respondents Silverman and Lipman have sold and used at various times other mailing cards which, while varying in detail, were designed and used for the same purpose as the present cards, to wit: the obtaining, through subterfuge, of information concerning debtors.

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, testimony and other evidence taken before trial examiners of the Commission theretofore duly designated by it, report of the trial examiners upon the evidence, and briefs in support of and in opposition to the complaint (oral argument not having been requested); 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 respondents, Michel Lipman and Jack Silverman, individually, and trading as Chief Statistician and as J. Silverman & Associates, or trading under any other name, and respondent, William Edgar Spicer, and respondents' 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 mailing cards designed for use in obtaining information concerning debtors, or any other printed or written material of a substantially similar nature, do forthwith cease and desist from:

1. Using the words "Chief Statistician," or any other words of similar import, to designate, describe, or refer to respondents' business.
2. Using, or supplying to others for use, mailing cards or other material which represents, directly or by implication, that such cards or other material are from any department or agency of the United States Government, or that the information sought through such cards or other material is for the use of the United States Government or any department or agency thereof.
3. Using, or supplying to others for use, mailing cards or other material which represents, 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

ABRAHAM FRIEDMAN AND SAMUEL FRIEDMAN, TRADING
AS S. FRIEDMAN & SONS, AND AS SUNRAY YARN HOUSE

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

Docket 4891. Complaint, Jan. 22, 1943—Decision, Jan. 8, 1944

Where two individuals engaged in interstate sale and distribution of knitting yarns; in price lists, sample cards and other advertising material and on labels attached to their products—

- (a) Made use of such terms as "Burma Yarn, 50% Synthetic Fiber, 50% Cotton Yarn"; "Sportswear Angora, 85% Wool, 15% Angora"; "Rainbow Tweed, 60% Spunsilk, 40% Rayon"; "Crash Tweed, 90% Cotton, 10% Rayon"; "Zephyr Nub, All Virgin Wool"; and "Lustre Worsted, 50% Wool, 50% Rayon":

The facts being that said "Burma Yarn," made to simulate wool, was composed, in addition to 50% cotton, of 50% rayon, presence of which was not disclosed, with tendency and capacity to induce purchasing public to believe that it contained wool or other fiber and no rayon; the "Sportswear Angora" contained no Angora goat hair, but rabbit, and the "Tweeds" no wool, as understood by purchasing public from use of word; and the "All Virgin Wool" and "Lustre Worsted" were not, as thus represented, all wool, but contained cotton and rayon, respectively;

- (b) Falsely represented as silk, yarns composed partly of wool and partly of rayon through use of the designations "Mystic Crepe" and "Crinkle Crepe"; and

- (c) Falsely represented certain of their products as composed entirely of wool from the Shetland Islands or contiguous mainland of Scotland, or from Saxony or Burma, as case might be, through use of designations "Lustre Shetland," "Shetland Floss," "Saxony Zephyr," and "Burma Yarn";

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public with respect to the constituent fibers of their said products, and their place of origin, whereby it was induced to purchase substantial quantities thereof:

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

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. Merle P. Lyon for the Commission.

Fineman & Stillman, of New York City, for respondents.

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 Abraham Friedman and Samuel Friedman, trading as S. Friedman & Sons and as Sunray Yarn House, have violated the provisions of the 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. Respondents, Abraham Friedman and Samuel Friedman, are individuals, trading as S. Friedman & Sons and as Sunray Yarn