

Syllabus

IN THE MATTER OF

L. A. SCHWARZ

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

Docket 5058. Complaint, Oct. 4, 1943—Decision, Jan. 13, 1944

Where an individual engaged under the trade name Southern Michigan Collection Service in the collection of delinquent accounts owed to others, both within and without the State of Michigan, upon a commission basis contingent upon collection, and frequently desirous, as so engaged, of ascertaining the current addresses of persons from whom he was endeavoring to collect monies due to his clients, and the names and addresses of the employers of such persons, and of the banks in which they had money on deposit;

Making use of a plan pursuant to which he used printed reply postcard forms which, (1) addressed to "CONTINENTAL FORWARDING SYSTEM, Distribution Department, 1229 Park Row Bldg., New York, N. Y.," and containing such matter, in addition to trade name "Continental Forwarding System, New York, N. Y.," as "FINAL NOTICE," "Bring or Mail This Card To Us Promptly," and blank spaces adjoining such words as "Package Reference," "Date," "Unclaimed Package Department," "Name and Address Shown on Package," and "IMPORTANT: This prepaid package will be delivered ONLY to OWNER named above and identified below," called for, under direction "FILL IN ALL SPACES BELOW" name and address of the person concerned and those of his employer and bank; (2) were addressed to the persons concerned, and mailed thereto, from New York City, by said individual's agent at said point; and, (3) in the case of those filled out by said persons, and mailed back to New York in accordance with the address printed thereon as above set out, were forwarded therefrom by said agent to individual in question at his place of business in Michigan, and made use of by him in collecting and attempting to collect the amounts due from such persons to the creditors for whom said individual was acting;

- (a) Falsely represented through aforesaid cards, directly and by implication, to the persons to whom they were sent, that such persons were owners of packages sent by persons other than said individual and in his hands in New York City in the usual course of his business; that the shipments involved transportation charges which had been prepaid by the consignors, and that delivery could not be made to the addressees of said cards by reason of differences in address and lack of identification; and that, upon the receipt of the reply cards, properly filled out, the packages would be forwarded; and
- (b) Represented, directly and by implication, to the recipients of said card, through use of the name "Continental Forwarding System," that he was in some capacity, connected with the transportation and movement of goods, and their delivery to the proper consignees;

When in fact his business had nothing to do with the movement or transportation of goods or their delivery to the proper consignees; the persons to whom the cards were sent were not consignees of packages in his hands in the usual course of his business; and no package was sent to those who properly filled out and returned the reply cards; the whole scheme being merely attempt to obtain information by subterfuge, and the sole purpose of the cards being to secure information in order to facilitate the collection of accounts;

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With effect of misleading and deceiving many persons to whom the said cards were sent into the mistaken belief that said statements, representations and designation were true, and correct, and by reason thereof to give information which they would not otherwise have supplied, and incur expense for postage for said reply cards:

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. Randolph W. Branch for the Commission.

Mr. Haskell L. Nichols, of Jackson, Mich., for respondent.

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 L. A. Schwarz, an individual, 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, L. A. Schwarz, is an individual, doing business under the names Continental Forwarding System and Southern Michigan Collection Service, with an office and principal place of business at room 404 Dwight Building, Jackson, Mich.

PAR. 2. Respondent is now, and has been for more than five years last past, engaged, under the name Southern Michigan Collection Service, in the collection of delinquent accounts owed to others upon a commission basis contingent upon collection. Clients for whom he undertakes the collection of accounts are located both within and without the State of Michigan. Many of his said clients cause goods and other property to be transported from their respective places of business to purchasers thereof in other States of the United States, and maintain, and at all times mentioned herein have maintained courses of trade in such goods and property in commerce between and among the various States of the United States. The course and conduct of his said business by respondent involves communication and intercourse of a commercial and business nature between him and his clients and agent who are located in States other than the State of Michigan.

PAR. 3. In the course and conduct of respondent's collection business, he frequently desires to ascertain the current addresses of persons from whom he is endeavoring to collect moneys due to his clients, the names and addresses of the employers of such persons and of the banks in which such persons have money on deposit.

For this purpose respondent uses, and has used, a reply post card, substantially in the form exemplified by a photostatic copy thereof, marked Exhibit A, attached hereto, and by this reference incorporated herein and made a part hereof.¹

PAR. 4. Respondent causes said cards to be addressed to the persons concerning whom information is sought at their last known addresses, and causes them to be transported to an office in the city and State of New York, where they are received by an agent of respondent who thereafter causes them to be placed in the United States mail. The said cards

¹ See pp. 75 and 76.

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bear addresses of places located in the State of Michigan and in other States of the United States, and many of those addressed to places in Michigan are forwarded by the United States postal authorities to places in States other than Michigan.

Such of the return post cards as are filled out and mailed by the recipients thereof, are received by respondent's agent in the city and State of New York, who thereafter causes them to be transported to respondent at his place of business in Jackson, Mich. Respondent uses the information so obtained in collecting, and attempting to collect, the amounts due from such persons to the creditors for whom he is acting.

EXHIBIT A

READ MESSAGE INSIDE
BRING OR MAIL THIS
CARD TO US PROMPTLY

FINAL NOTICE

CONTINENTAL FORWARDING
SYSTEM

New York, N. Y.

Package Reference

No.

Date
UNCLAIMED PACKAGE
DEPARTMENT

NAME AND ADDRESS SHOWN ON PACKAGE

IMPORTANT: This prepaid package will
be delivered ONLY to OWNER named
above as identified below

FILL IN ALL SPACES BELOW

Name ----- SIGN FULL NAME OF OWNER -----

Residence ----- STREET ADDRESS IS NECESSARY -----

City -----

Employer -----

Address -----

Bank ----- NAME OF OWNER'S DEPOSITORY -----

Address -----

No postage or addressing necessary

CONTINENTAL FORWARDING SYSTEM

DISTRIBUTION DEPARTMENT

1229 PARK ROW BLDG. NEW YORK, N. Y.

POSTMASTER — IMPORTANT

PLEASE FORWARD IF NECESSARY

Complaint

38 F. T. C.

FORM NO. 1294

FINAL NOTICE

We have a **prepaid** package addressed to the party whose name appears on the attached card. On account of a difference in address and lack of identification we cannot make delivery.

Same will be forwarded with **No Charges** to proper party if you will fill in and return the attached postal card.

**Continental Forwarding
System**

DISTRIBUTION DIVISION
UNCLAIMED PACKAGE DEPT.

New York, N. Y.

No postage necessary on the attached reply card. Please answer promptly.

CONTINENTAL FORWARDING SYSTEM**1229 Park Row Building****UNCLAIMED PACKAGE DEPT.****Great Lakes Division****New York, N. Y.**

PAR. 5. By means of the aforesaid cards respondent has falsely represented, directly and by implication, to the persons to whom they were sent, that such persons are owners of packages sent by persons other than respondent and in the hands of respondent in New York City in the usual course of his business; that the shipments involved transportation charges which had been prepaid by the consignors, and that delivery could not be made to the addressees of said cards by reason of differences in address and lack of identification, and that upon the receipt of the reply cards, properly filled out, the packages would be forwarded.

PAR. 6. Through the use of the name "Continental Forwarding System" respondent has represented, directly and by implication, to the recipients of said cards, that he is, in some capacity, connected with the transportation and movement of goods, and their delivery to the proper consignees.

Findings

PAR. 7. The said representations are false and misleading. In truth and in fact respondent's business has nothing to do with the movement or transportation of goods or their delivery to the proper consignees. The persons to whom the cards were sent are not consignees of packages in the hands of respondent in the usual course of his business. No package was sent to those who properly filled out and returned the reply cards. The whole scheme is merely an attempt to obtain information by subterfuge and the sole purpose of the said cards is to secure information in order to facilitate the collection of accounts.

PAR. 8. The use, as hereinabove set forth, of the foregoing false and misleading statements, representations, and designation has had the tendency and capacity to, and has, misled and deceived many persons to whom the said cards were sent into the erroneous and mistaken belief that said statements, representations and designation were true, and correct, and by reason thereof to give information which they would not otherwise supply, and to incur expense for postage on the reply cards.

PAR. 9. The aforesaid acts and practices of respondent, as herein alleged, are all to the prejudice and injury of the public, 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 October 4, 1943, issued and subsequently served its complaint in this proceeding upon the respondent, L. A. Schwarz, an individual, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of the Federal Trade Commission Act.

On October 16, 1943, respondent filed his answer in which answer he admitted all the material allegations of fact set forth in said complaint and waived all intervening procedure and further hearing as to said facts. Thereafter, the proceeding regularly came on for final hearing before the Commission on said complaint and the answer thereto, 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, L. A. Schwarz, is an individual, doing business under the names Continental Forwarding System and Southern Michigan Collection Service, with an office and principal place of business at room 404 Dwight Building, Jackson, Mich.

PAR. 2. Respondent is now, and has been for more than five years last past, engaged, under the name Southern Michigan Collection Service, in the collection of delinquent accounts owed to others upon a commission basis contingent upon collection. Clients for whom he undertakes the collection of accounts are located both within and without the State of Michigan. Many of his said clients cause goods and other property to be transported from their respective places of business to purchasers thereof in other States of the United States, and maintain, and at all times men-

tioned herein have maintained courses of trade in such goods and property in commerce between and among the various States of the United States. The course and conduct of his said business by respondent involves communication and intercourse of a commercial and business nature between him and his clients and agent who are located in States other than the State of Michigan.

PAR. 3. In the course and conduct of respondent's collection business, he frequently desires to ascertain the current addresses of persons from whom he is endeavoring to collect moneys due to his clients, the names and addresses of the employers of such persons and of the banks in which such persons have money on deposit.

For this purpose respondent uses, and has used, a reply post card, substantially in the form exemplified by a copy thereof, marked Exhibit A, attached hereto, and by this reference incorporated herein and made a part hereof.¹

PAR. 4. Respondent causes said cards to be addressed to the persons concerning whom information is sought at their last known addresses, and causes them to be transported to an office in the city and State of New York, where they are received by an agent of respondent who thereafter causes them to be placed in the United States mail. The said cards bear addresses of places located in the State of Michigan and in other States of the United States, and many of those addressed to places in Michigan are forwarded by the United States postal authorities to places in States other than Michigan.

Such of the return post cards as are filled out and mailed by the recipients thereof, are received by respondent's agent in the city and State of New York, who thereafter causes them to be transported to respondent at his place of business in Jackson, Mich. Respondent uses the information so obtained in collecting, and attempting to collect, the amounts due from such persons to the creditors for whom he is acting.

PAR. 5. By means of the aforesaid cards respondent has falsely represented, directly and by implication, to the persons to whom they were sent, that such persons are owners of packages sent by persons other than respondent and in the hands of respondent in New York City in the usual course of his business; that the shipments involved transportation charges which had been prepaid by the consignors, and that delivery could not be made to the addressees of said cards by reason of differences in address and lack of identification, and that upon the receipt of the reply cards, properly filled out, the packages would be forwarded.

PAR. 6. Through the use of the name "Continental Forwarding System" respondent has represented, directly and by implication, to the recipients of said cards, that he is, in some capacity, connected with the transportation and movement of goods, and their delivery to the proper consignees.

PAR. 7. The said representations are false and misleading. In truth and in fact respondent's business has nothing to do with the movement or transportation of goods or their delivery to the proper consignees. The persons to whom the cards were sent are not consignees of packages in the hands of respondent in the usual course of his business. No package was sent to those who properly filled out and returned the reply cards. The whole scheme is merely an attempt to obtain information by subterfuge and the sole purpose of the said cards is to secure information in order to facilitate the collection of accounts.

¹ See pp. 79 and 80.

Findings

PAR. 8. The use, as hereinabove set forth, of the foregoing false and misleading statements, representations, and designation has had the tendency and capacity to, and has, misled and deceived many persons to whom the said cards were sent into the erroneous and mistaken belief that said statements, representations and designation were true, and correct, and by reason thereof to give information which they would not otherwise supply, and to incur expense for postage on the reply cards.

EXHIBIT A

READ MESSAGE INSIDE
BRING OR MAIL THIS
CARD TO US PROMPTLY

FINAL NOTICE

CONTINENTAL FORWARDING

SYSTEM

New York, N. Y.

Package Reference

Date

No.

UNCLAIMED PACKAGE
DEPARTMENT

NAME AND ADDRESS SHOWN ON PACKAGE

IMPORTANT: This prepaid package will
be delivered ONLY to OWNER named
above as identified below

FILL IN ALL SPACES BELOW

Name ----- SIGN FULL NAME OF OWNER -----

Residence ----- STREET ADDRESS IS NECESSARY -----

City -----

Employer -----

Address -----

Bank ----- NAME OF OWNER'S DEPOSITORY -----

Address -----

No postage or addressing necessary

CONTINENTAL FORWARDING SYSTEM

DISTRIBUTION DEPARTMENT

1229 PARK ROW BLDG. NEW YORK, N. Y.

POSTMASTER — IMPORTANT

PLEASE FORWARD IF NECESSARY

Order

38 F. T. C.

FORM NO. 1234

FINAL NOTICE

We have a **prepaid** package addressed to the party whose name appears on the attached card. On account of a difference in address and lack of identification we cannot make delivery.

Same will be forwarded with **No Charges** to proper party if you will fill in and return the attached postal card.

Continental Forwarding**System**

DISTRIBUTION DIVISION

UNCLAIMED PACKAGE DEPT.

New York, N. Y.

No postage necessary on the attached reply card. Please answer promptly.

CONTINENTAL FORWARDING SYSTEM**1229 Park Row Building****UNCLAIMED PACKAGE DEPT.****Great Lakes Division****New York, N. Y.****CONCLUSION**

The aforesaid acts and practices of respondent, as herein found, are all to the prejudice and injury 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 and the answer of respondent, in which answer respondent admits all the material allegations of fact set

forth in the complaint and waives all intervening procedure and further hearing as to the facts, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, L. A. Schwarz, individually and trading as the Continental Forwarding System, or trading under any other name, and his agents, representatives and employees, directly or through any corporate or other device, in connection with the use in commerce, as "commerce" is defined in the Federal Trade Commission Act, of respondent's printed cards or any other printed or written material of a substantially similar nature, do forthwith cease and desist from:

1. Using the word "Forwarding" or any other word or words of similar import to designate, describe or refer to respondent's business; or otherwise representing, directly or by implication, that respondent is in any capacity connected with the transportation or movement of goods or their delivery to the proper recipients thereof.

2. Representing, directly or by implication, that persons concerning whom information is sought through respondent's cards or other material are or may be consignees of goods which have been received by respondent in the usual course of his business, or that the information sought through such means is for the purpose of enabling respondent to make delivery of any goods or packages to such persons.

3. Using or supplying to others for use printed cards or other material which represents, directly or by implication, that respondent's business is other than that of the collection of debts or that the information sought through such means 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.

IN THE MATTER OF
CHARBOY PRODUCTS, INC.

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

Docket 4756. Complaint, May 1, 1942—Decision, Jan. 20, 1944

Where a corporation, engaged in the compounding and interstate sale and distribution of a medicinal preparation designated "Cuproloid"; in advertisements in newspapers and periodicals and by radio broadcasts, circulars, leaflets, pamphlets and other advertising literature—

Represented falsely that said product was a cure or remedy, and constituted a competent and effective treatment, for pimples, acne, eczema, athlete's foot, ringworm, surface ulcers, skin bruises, insect bites, cuts, burns from heat and chemicals, poison ivy and sunburn; sterilized and healed and would keep the skin healthy; and had been scientifically tested and approved by competent medical authorities, and was extensively prescribed by the medical director of a large life insurance company;

Facts being that, according to the consensus of reliable medical opinion, said preparation "Cuproloid" had no therapeutic value in the treatment of athlete's foot, ringworm and eczema in excess of a slightly deterring effect upon the growth of fungus responsible therefor with which it came in contact, but, lacking any penetrating effect, could not come into contact with fungi embedded in the tissues; and other claims made therefor as aforesaid were false, misleading and deceptive;

With tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that such representations were true, and thereby induce it to purchase its said preparation:

Held, That such acts and practices 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.

Dow & Lohnes, of Washington, D. C., for respondent.

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 Charboy Products, Inc., a corporation, 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, Charboy Products, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of New Jersey with its principal place of business located at Red Bank, N. J.

PAR. 2. The respondent, Charboy Products, Inc., a corporation, is now and has been for more than three years last past engaged in the compounding, selling and distribution of a certain medicinal preparation which it designates "Cuproloid," recommended for use in the treatment of various skin diseases and ailments. Respondent causes said medicinal preparation, when sold, to be transported from its aforesaid place of