

IN THE MATTER OF

SAMUEL B. SMITH

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 5030. Complaint, Aug. 18, 1943—Decision, June 13, 1944

Where an individual engaged in interstate sale and distribution of printed mailing cards, designed and intended for use by creditors and collection agencies in obtaining information concerning debtors, which, captioned "Identification" on the detachable stub at the top, followed by words "Identification No." and "Divisional Office," advised addressee to "Please Retain This Stub," called on the part below for his name and address and those of his employer, for his monthly earnings, minimum salary desired, information as to car and home ownership, the number of his dependents, length of time in present position, name and place of employment of spouse, if married, invited him "to describe briefly type of work for which you are best fitted," and gave as return address "Central Clearing Office Occupational Information";

Making use of a plan under which purchasers addressed the cards—identified by numbers he placed thereon—to the persons concerning whom information was sought at their last known address, inserted opposite the words "Divisional Office" a geographical designation such as "Western" or "Central," and stamped and mailed them and he sent to purchasers such reply cards as were filled out and mailed back—

Falsely represented through use of said cards and name "Central Clearing Office Occupational Information," and placed in the hands of his customers means of falsely representing, directly and by implication, to those to whom said cards were sent, that he was engaged in the business of conducting an employment agency and placing individuals in gainful positions;

When in fact the whole scheme was an attempt to obtain by deceit and subterfuge, information for the sole purpose of facilitating the collection of alleged delinquent accounts;

With effect of misleading and deceiving many persons to whom the said cards were sent into the mistaken belief that said representations were true and that the said name truthfully indicated the character of the concern requesting the information, and, by reason thereof, into giving information which they would not have otherwise 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. Arthur F. Thomas*, trial examiner.

Mr. Randolph W. Branch 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 Trade Commission, having reason to believe that Samuel B. Smith, 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, Samuel B. Smith, is an individual, with an office and principal place of business at Room No. 505, United Mine Workers Building, Springfield, Ill. In conducting his business respondent has used the name "Central Clearing House Occupational Information."

PAR. 2. Respondent for a period prior to about May 1, 1943, was engaged in the business of selling and distributing printed mailing cards, designed and intended to be used by creditors and collection agencies in obtaining information concerning debtors.

Respondent caused said cards to be transported from his aforesaid place of business in the State of Illinois to purchasers thereof in various States of the United States and in the District of Columbia. Respondent maintained a course of trade in said cards in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. The said cards sold and distributed by respondent were substantially in the form exemplified by a photostatic copy of the said card, marked Exhibit A, attached hereto and by this reference incorporated herein and made a part hereof.¹

Upon said cards when they were delivered to purchasers thereof, respondent placed numbers, which were his code numbers and identified his customers to him.

Respondent's purchasers addressed the cards to the persons concerning whom information was sought at their last known addresses, inserted opposite the words "Divisional Office" a geographical designation such as "Western" or "Central," attached the postage necessary for their delivery to such persons and deposited them in the United States mails.

Such of the reply cards as were filled out and mailed were received by respondent, the customers identified by the code numbers and sent by him to the various purchasers.

PAR. 4. Through the use of the said cards and the use of the name "Central Clearing Office Occupational Information" respondent has falsely represented, and placed in the hands of his customers means of falsely representing, directly and by implication, to those to whom the said cards were sent, that respondent was engaged in the business of conducting an employment agency and placing individuals in gainful positions.

PAR. 5. The said representations were false and misleading. In truth and in fact respondent was not engaged in the business of conducting an employment agency or placing individuals in gainful positions. The cards were sent only for the purpose of obtaining information concerning the recipients for the sole purpose of facilitating the collection of alleged delinquent accounts, and the whole scheme was merely an attempt to obtain this information by deceit and subterfuge.

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

PAR. 7. The aforesaid acts and practices of respondent, as herein al-

¹ Not published. For identical exhibit included with the findings, see p. 621 infra.

leged, 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 August 18, 1943, issued and subsequently served its complaint in this proceeding upon the respondent, Samuel B. Smith, an individual, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. No answer was filed. Subsequent to the service of the complaint, on February 10, 1944, a hearing for the taking of testimony and other evidence was held at Springfield, Illinois, before Arthur F. Thomas, an examiner of the Commission theretofore duly designated by it, at which hearing respondent admitted all the material allegations of fact set forth in said complaint, and waived further hearing as to the facts and other intervening procedure and agreed that the Commission might enter its order without further hearing. Thereafter the matter came on for final hearing on the complaint, the admission aforesaid, and certain testimony introduced by respondent at said hearing, and duly recorded and filed in the office of 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 drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent, Samuel B. Smith, is an individual, with an office and principal place of business at Room No. 505, United Mine Workers Building, Springfield, Ill. In conducting his business respondent has used the name "Central Clearing Office Occupational Information."

PAR. 2. Respondent for a period prior to about May 1, 1943, was engaged in the business of selling and distributing printed mailing cards, designed and intended to be used by creditors and collection agencies in obtaining information concerning debtors.

Respondent caused said cards to be transported from his aforesaid place of business in the State of Illinois to purchasers thereof in various States of the United States and in the District of Columbia. Respondent maintained a course of trade in said cards in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. The said cards sold and distributed by respondent were substantially in the form exemplified by a photostatic copy of the said card, marked Exhibit A, attached hereto and by this reference incorporated herein and made a part hereof.

Upon said cards when they were delivered to purchasers thereof, respondent placed numbers, which were his code numbers and identified his customers to him.

Respondent's purchasers addressed the cards to the persons concerning whom information was sought at their last known addresses, inserted opposite the words "Divisional Office" a geographical designation such as "Western" or "Central," attached the postage necessary for their delivery to such persons and deposited them in the United States mails.

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Findings

IDENTIFICATION

ADDRESSEE, PLEASE
RETAIN THIS STUB

7509

Identification No.
Divisional OfficeName
(Please Print Name)

Street

City

State

Telephone No.

Present Monthly Earnings \$

Minimum Salary Desired \$

Date of Birth

Weight

Height

Own Car

Own Home

Rent

Number of Dependents

Now Employed by

(Give Name and Address of Present Employer)

How long in this position

If married, give name and place of employment of husband or wife:

Describe briefly type of work for which you are best fitted:

Do Not Write in This Space

7509
IDENTIFICATION No.Return to
Central Clearing Office

OCCUPATIONAL INFORMATION

506 Mine Workers Building
SPRINGFIELD, ILLINOIS

Ex Bmtly 1.
5-28-43
1-18234
7 Jm mario.

ADDRESSEE: Tear Off and Keep
Stub—Mail Card Without DelayPostage
Will Be Paid
by
Addressee

BUSINESS REPLY CARD

First Class Permit No. 678, Sec. 616, P. L. & E., Springfield, Illinois

Central Clearing Office,
OCCUPATIONAL INFORMATION
506 Mine Workers Building
SPRINGFIELD, ILLINOISNo
Postage Stamp
Necessary
If Mailed in the
United States

Such of the reply cards as were filled out and mailed were received by respondent, the customers identified by the code numbers and sent by him to the various purchasers.

PAR. 4. Through the use of the said cards and the use of the name "Central Clearing Office Occupational Information" respondent has falsely represented, and placed in the hands of his customers means of falsely representing, directly and by implication, to those to whom the said cards were sent, that respondent was engaged in the business of conducting an employment agency and placing individuals in gainful positions.

PAR. 5. The said representations were false and misleading. In truth and in fact respondent was not engaged in the business of conducting an employment agency or placing individuals in gainful positions. The cards were sent only for the purpose of obtaining information concerning the recipients for the sole purpose of facilitating the collection of alleged delinquent accounts, and the whole scheme was merely an attempt to obtain this information by deceit and subterfuge.

PAR. 6. The use by respondent, as hereinabove set forth, of the foregoing false and misleading statements, including the use of the name "Central Clearing Office Occupational Information," has had the tendency and capacity to mislead, and has misled and deceived, many persons to whom the said cards were sent into the erroneous and mistaken belief that said statements and designation were true and that the said name truthfully indicated and described the character of the concern making the inquiry and requesting the information, and by reason thereof to give information which they would not have otherwise supplied.

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 respondent's admission of all the material allegations of fact set forth in said complaint made at a hearing held at Springfield, Ill., on February 10, 1944, at which hearing respondent waived the filing of the Trial Examiner's report upon the evidence, further hearing as to the facts and other intervening procedure, and agreed that the Commission might make its findings as to the facts and enter its order without further hearing, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Samuel B. Smith, an individual, his representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of post cards or other mailable matter in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Central Clearing Office Occupational Information," or any other words of similar import, to designate, describe or refer to respondent's business; or otherwise representing, directly or by implication, that respondent's business is that of an employment agency or of placing persons in gainful positions.

2. Selling or distributing post cards or other mailable matter which represent, directly or by implication, that respondent's business is other than that of obtaining information to be used in the collection of debts; or which represent, directly or by implication, that the information sought

Order

by means of such devices is for any purpose other than for use in the collection of debts.

It is further ordered, That 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 therewith.

Complaint

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IN THE MATTER OF

STACY WILLIAMS COMPANY, INC. ET AL.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2(c) OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS
AMENDED BY ACT OF JUNE 19, 1936

Docket 5087. Complaint, Nov. 26, 1943—Decision, June 13, 1944

Where the president of a corporation which was engaged in the manufacture of various types, grades and brands of table syrups and in the purchase, sale and distribution of food products, steel and glass containers, and other commodities, purchasing a large portion of its requirements or such containers, etc., through a second concern; together with the individual who was president, secretary and treasurer of said second concern, as well as secretary and treasurer of said first corporation; and said two corporations, the entire stock of both of which was owned by the two men and their wives—

Received, in connection with their purchases of steel and glass containers and other commodities from numerous sellers in other states, in their own behalf and for their own account for resale, directly or indirectly, brokerage fees or commissions in substantial amounts from such sellers:

Held, That such receipt and acceptance of sums of money—generally referred to as brokerage fees or commissions—from interstate sellers, by aforesaid individuals, and by said concern and corporation, in connection with their respective purchases, was in violation of subsec. (c) of sec. 2 of the Clayton Act as amended.

Mr. Edward S. Ragsdale for the Commission.

Beddow, Ray & Jones, of Birmingham, Ala., for respondents.

COMPLAINT

The Federal Trade Commission, having reason to believe that the parties respondent named in the caption hereof and hereinafter more particularly designated and described, since June 19, 1936, have violated, and are now violating, the provisions of subsection (c) of Section 2 of the Clayton Act (U.S.C. title 15, sec. 13), as amended by the Robinson-Patman Act, approved June 19, 1936, hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. Respondent, Stacy Williams, is an individual, residing in the city of Birmingham, Ala., and is president of Stacy Williams Company, Inc., and is also a stockholder in Bennett Brokerage Company, Inc.

Respondent, Claude Bennett, is an individual, residing in the city of Birmingham, Ala., and is president, secretary and treasurer of Bennett Brokerage Company, Inc., and is secretary and treasurer of the Stacy Williams Company, Inc.

Respondent, Bennett Brokerage Company, Inc., is a corporation, organized and existing under the laws of the State of Alabama, with its principal office and place of business located at 221 Fourth Avenue, North, Birmingham, Ala. This organization is a closed corporation, the entire stock of which is owned by respondent, Stacy Williams, and respondent, Claude Bennett, and/or their respective wives. Said respondent company since June 19, 1936, has engaged in negotiating the sale of steel and glass con-