

Complaint

38 F. T. C.

IN THE MATTER OF

JANNETTE B. DOWNS

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914*- Docket 5081. Complaint, Nov. 13, 1943—Decision, June 14, 1944*

Where an individual engaged under the trade name "National Bureau of Missing Heirs" in interstate sale and distribution of reply post cards designed for use by creditors and collection agencies in locating delinquent debtors which, headed by aforesaid trade name along with her address and words "Estate Probate Attorneys In All Principal Cities" and "Searchers of Records," advised the person addressed that said "National Bureau of Missing Heirs" was "looking for a person of your name," had reasons to believe said person might be the one, that the matter was of "distinct importance to you" in that event, and requested that, to verify this, person "please answer the questions on the attached reply card" for return to said bureau, calling, among other things, for his name and address, and that of his employer and bank, home ownership and description;

Making use of a plan under which her customers addressed the cards to the persons concerning whom information was sought at their last known addresses or in the care of others believed to have knowledge of their whereabouts, returned them to her for mailing, and the cards filled out and returned by the recipients to her, were by her sent to the customers, identified by numbers;

- (a) Falsely represented and placed in the hands of her customers means of falsely representing, directly and by implication, to those to whom said cards were sent, that the "National Bureau of Missing Heirs" had connections with attorneys in all principal cities who engage in probate matters, was engaged in the business of locating heirs to estates or to interests therein and of searching records, and that the persons concerning whom information was sought had or might have interests in estates or lands which might be of financial benefit to them; when her sole purpose was to secure information to facilitate collection of alleged delinquent accounts by her customers; and
- (b) Falsely represented, directly and by implication, through use of name "National Bureau of Missing Heirs" that her business bore some relation to estates and the locating of the heirs thereto and to interests therein; when it was merely a disguise for the true nature of the business;

With effect of misleading many persons to whom said cards were sent into the erroneous belief that the said representations were true, and by reason thereof into giving information which they would not otherwise have supplied:

Held, That said 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.

Mr. Eugene D. O'Sullivan, of Omaha, Nebr., 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 Jannette B. Downs, 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, Jannette B. Downs, is an individual, trading and doing business under the name "National Bureau of Missing Heirs," with an office and principal place of business at Keen Hotel Building, Omaha, Nebr.

PAR. 2. Respondent is now, and for more than one year last past has been, engaged in the business of selling and distributing reply postcards designed and intended to be used by creditors and collection agencies in obtaining information concerning debtors.

Respondent causes the said cards to be transported from her aforesaid place of business in the State of Nebraska to purchasers thereof in various States of the United States and in the District of Columbia. She maintains, and at all times mentioned herein has maintained, a course of trade in the 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 are 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's customers cause the said cards to be addressed to the persons concerning whom information is sought at their last known addresses or in the care of other persons who are believed to have knowledge of the whereabouts of such persons. The cards are then sent to respondent at Omaha, Nebr., who causes the individual cards to be placed in the United States mail. At the time of mailing the return portion of each card bears a number, which is respondent's code number by which she can identify the customer who is seeking the information concerning the addressee of the card. Such of the cards as are filled out and mailed by the recipients thereof are received by respondent, the customers identified by the code numbers, and the cards sent to the customers so identified.

PAR. 5. Through the use of the aforesaid cards respondent has represented, and placed in the hands of her customers means of falsely representing, directly and by implication, to those to whom said cards were sent, that the National Bureau of Missing Heirs has connections with attorneys in all principal cities who engage in probate matters, is engaged in the business of locating heirs to estates or to interests therein and of searching records, and that the persons concerning whom information is sought have or may have interests in estates or lands which may be of financial benefit to them.

The said representations were false and misleading. In truth and in fact respondent in conducting the business called National Bureau of Missing Heirs has no connection with attorneys in all principal cities who engage in probate matters. She is not engaged in the business of locating heirs to estates or to interests therein or in the business of searching records. She has no knowledge of any interests in estates or lands to which the persons concerning whom information is sought may be entitled. The sole purpose of the said cards is to secure information in order to facilitate the collection of alleged delinquent accounts by respondent's customers.

¹ Not published. For identical exhibits included with the findings, see p. 650 infra.

PAR. 6. Through the use of the name "National Bureau of Missing Heirs" respondent has represented, directly and by implication, that her business bears some relation to estates and the locating of heirs thereto or to interests therein.

Said representations were misleading and untrue. In truth and in fact respondent's business has nothing whatever to do with estates or to the locating of heirs thereto or to interests therein, and the said name is merely a disguise for the true nature of the business.

PAR. 7. The use, as hereinabove set forth, of the foregoing false and misleading statements, representations and designation, has had the capacity and tendency to mislead and has misled, many persons to whom said cards were sent into the erroneous and mistaken belief that the said statements, representations and designation were true and correct, and by reason thereof to give information which they would not otherwise have supplied.

PAR. 8. 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, November 13, 1943, issued and subsequently served its complaint in this proceeding upon the respondent, Jannette B. Downs, an individual, trading under the name National Bureau of Missing Heirs, charging her with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. No answer to the complaint was filed. Subsequent to the service of the complaint, testimony and other evidence in support of the allegations of said complaint was introduced by R. W. Branch, attorney for the Commission, and in opposition to the allegations of the complaint by Eugene D. O'Sullivan, attorney for the respondent, before Arthur F. Thomas, an 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. The said testimony and evidence were introduced at a hearing held at Omaha, Nebr., on February 12, 1944, and at the hearing counsel for respondent waived the filing of a report upon the evidence by the trial examiner, briefs and application for oral argument, and agreed that the case might be submitted to the Commission for final disposition on the record. Thereafter the proceeding regularly came on for final hearing on said record, 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, Jannette B. Downs, is an individual, trading and doing business under the name "National Bureau of Missing Heirs," with a place of business at Keen Hotel, Omaha, Nebr.

PAR. 2. Respondent, prior to August 1943, was engaged in the business of selling and distributing reply post cards designed and intended to be

used by creditors and collection agencies in locating the whereabouts of delinquent debtors. The business was discontinued by respondent in August 1943.

PAR. 3. The business was originated by one John Battelle in 1941, or 1942, who some six months later entered the Army. Battelle traveled and solicited the business and respondent attended to the rest of the work. After Battelle entered the Army, respondent continued the operation of the business, filled orders for cards and handled them in the appropriate manner. She sold or filled orders for about 1000 cards after Battelle's departure, taking and using the proceeds in accordance with their understanding.

PAR. 4. Respondent caused the said cards to be transported from Omaha, Nebr., to purchasers thereof in other States of the United States, and maintained a course of trade in said cards in commerce between and among the various States of the United States.

PAR. 5. The cards sold and distributed by respondent were in the form exemplified by a copy thereof attached hereto as Exhibit A, and made a part hereof.

PAR. 6. Respondent's customers caused the said cards to be addressed to the persons concerning whom information was sought at their last known addresses or in the care of other persons who were believed to have knowledge of the whereabouts of such persons. The cards were then sent to respondent at Omaha, Nebr., who caused the individual cards to be placed in the United States mail. At the time of mailing, the return portion of each card bore a number, which was respondent's code number by which she could identify the customer who was seeking the information concerning the addressee of the card. Such of the cards as were filled out and mailed by the recipients thereof were received by respondent, the customers identified by the code numbers, and the cards sent to the customers so identified.

PAR. 7. Through the use of the aforesaid cards respondent has represented, and placed in the hands of her customers means of falsely representing, directly and by implication, to those to whom said cards were sent, that the National Bureau of Missing Heirs had connections with attorneys in all principal cities who engaged in probate matters, was engaged in the business of locating heirs to estates or to interests therein and of searching records, and that the persons concerning whom information was sought had or might have interests in estates or lands which might be of financial benefit to them.

The said representations were false and misleading. In truth and in fact respondent, in conducting the business called National Bureau of Missing Heirs, had no connection with attorneys in all principal cities who engage in probate matters. She was not engaged in the business of locating heirs to estates or to interests therein or in the business of searching records. She had no knowledge of any interests in estates or lands to which the persons concerning whom information was sought might be entitled. The sole purpose of the said cards was to secure information in order to facilitate the collection of alleged delinquent accounts by respondent's customers.

PAR. 8. Through the use of the name "National Bureau of Missing Heirs" respondent represented, directly and by implication, that her business bore some relation to estates and the locating of heirs thereto or to interests therein.

Findings

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Enter Replies, Answers
in All Principal Clauses

NATIONAL BUREAU OF MISSING HEIRS
Keen Hotel Bldg.
Omaha, Nebr.

Searching Records

To the party addressed:

We are looking for a person of your name and we have reasons to believe that you might be the party.

This is a matter of distinct importance to you. If you are the individual in question, and that we make certain you are the one, please answer the questions on the attached card.

If the information checks with the records, you will be communicated with. Use attached card for your reply.

Yours truly,

NATIONAL BUREAU OF MISSING HEIRS
Research Division

Place
Stamp
Here

REPLY CARD

NATIONAL BUREAU OF MISSING HEIRS
KEEN HOTEL BUILDING

OMAHA, NEBRASKA

FILE NO. 210

Full Name	Age
Residence Address (present)	
Residence Address (previous)	
Nearest Relative	Relationship
Address of Nearest Relative	
If Married, Mate's Full Name	
Phone Number (if any)	Nearest Phone
Name of Your Present Employer	
Department	
Address of Employer	
Your Bank	
Own Home? Rent?	Own Auto?
General Description of Yourself	

Place
Stamp
Here

After 5 Days Return to
NATIONAL BUREAU OF MISSING HEIRS
KEEN HOTEL BLDG.
OMAHA, NEBR.
Return and Forwarding Postage Guaranteed

Post Card

Said representations were misleading and untrue. In truth and in fact respondent's business had nothing whatever to do with estates or the locating of heirs thereto or to interests therein, and the said name was merely a disguise for the true nature of the business.

PAR. 9. The use as hereinabove set forth, of the foregoing false and misleading statements and representations, including the use of the name "National Bureau of Missing Heirs," has had the capacity and tendency

to mislead and has misled many persons to whom said cards were sent into the erroneous and mistaken belief that the said statements and representations 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 otherwise have 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 testimony and other evidence taken before Arthur F. Thomas, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint and in opposition thereto, respondent having waived the filing of the trial examiner's report upon the evidence and briefs, 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.

It is ordered, That the respondent, Jannette B. Downs, an individual, her 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 "National Bureau of Missing Heirs," 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's business bears any relation to estates or to the rights or interests of heirs therein.

2. Representing, directly or by implication, that respondent has connections with attorneys in principal cities.

3. Representing, directly or by implication, that respondent is engaged in the business of locating heirs to estates or interests therein.

4. Representing, directly or by implication, that respondent is engaged in the business of searching records.

5. Representing, directly or by implication, that persons concerning whom information is sought through respondents' cards or other mailable matter, have or may have any interests in estates or any other property.

6. 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 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 her of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which she has complied therewith.

IN THE MATTER OF

WILLIAM H. KAMPF AND EARL H. WILSON

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

Docket 4988. Complaint, June 30, 1943—Decision, June 15, 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, including (1) cards making use of "Character Reference Bureau" which advised recipient that it was "very important that" the "subject be properly identified," and on the attached self-addressed post cards called for information as to his name, age, nationality, marriage state, address, employer and home ownership and whether "worthy of a responsible position," and (2) cards making use of name "U. S. Pencil Sales" which advised addressee "A Pencil Free To Advertise Our Pencils," that "All we ask is that you show our pencil to your friends and fellow-employees," that "To avoid duplication, name of employer must be given," counseled prompt action since only a limited number would be given away and stated "Your pencil will be sent you as soon as this card is returned," following which provision was made for name and address of the debtor and that of his employer, followed by notice that "This Advertising Offer is Not Transferable, For You Only";

Making use of a plan under which purchasers addressed said "Character Reference" cards to those believed able to furnish the desired information, purchasers of the "U. S. Pencil" cards addressed them to those concerning whom information was sought, at their last known address, and caused them to be stamped and delivered to the Chicago address made use of by said individual, who there mailed them and forwarded to the appropriate purchasers such reply cards, identified by code numbers, as were received by him or forwarded to him by an individual compensated for such services and the use of his office—

- (a) Falsely represented through said "Pencil Sales" cards and placed in the hands of purchasers thereof means of falsely representing, directly and by implication, to the addressees of said cards, that the pencils referred to were of such a character that the friends and fellow employees of the recipients of the cards might be interested in purchasing them; that the advertising offer of a free pencil was made for the purpose of introducing the pencils to prospective purchasers; and that only a limited number of pencils would be given away; and
- (b) Falsely represented through use of name "U. S. Pencil Sales" and placed in the hands of purchasers of said cards the means of representing, directly and by implication, that he was in the business of selling and distributing pencils;

The facts being that the pencils sent to those who returned said cards were not such as to be of any possible interest to persons to whom they might be exhibited and were readily obtainable in any community; the whole scheme was a subterfuge for obtaining information to facilitate the collection of alleged delinquent accounts by his customers; and the said name was merely a disguise for the true nature of the business; and

- (c) Falsely represented through said "Character Reference" cards, and placed in the hands of purchasers of said cards means of falsely representing, directly and by implication, to persons from whom information concerning others was sought, that the inquiry was for the purpose of identifying the person concerning whom it was made, and determining whether his character was such as to make him worthy