

IN THE MATTER OF
RUSSELL M. BRADDOCK

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

Docket 5056. Complaint, Oct. 1, 1943—Decision, Oct. 20, 1944

Where an individual engaged, under the names "Ancestral Survey," and "Professional Collection Association," in the collection of delinquent accounts, upon a commission and contingent basis, for clients within and without the State of Michigan, and in employing in said connection, to secure names and addresses of the employers of persons from whom he was endeavoring to collect money due to his clients, and of the former's banks, certain forms, which—captioned "Ancestral Survey," and bearing such matter as "Missing relatives located," "Estate Counselor," "Service to executors in locating heirs under a will" and "Service to administrators in notifying heirs of estates"—advised the recipient that "The services of this firm have been retained to locate a person" by his or her name "regarding a very important and confidential matter, affecting, and to the interest of the above named person," and that "before divulging the information" they were "compelled to obtain positive identification" and called upon such person, for said purpose to fill in the blanks calling for information as to his full name and residence, and those of his spouse, parents, employer, and bank;

Making use of a plan pursuant to which said forms, after having inserted the names of persons concerning whom information was sought, were enclosed in stamped envelopes addressed to them at their last known addresses, together with unstamped reply envelopes addressed to "Post Office Box 30, St. Helen, Michigan," said filled envelopes were caused by him to be transported to his agent at said point who there mailed them, and in due course returned to him such of the questionnaires as were filled out and returned, and he made use of the information thus obtained in collecting and attempting to collect amounts due from such persons to his clients, who were not advised as to the means thus employed by him in obtaining such information—

Represented through use as aforesaid of said caption "Ancestral Survey" and through such statements as "Missing relatives located," "Service to executors in locating heirs under a will" and "Service to administrators in notifying heirs of estates" that his business had some relation to genealogical research, that "Ancestral Survey" undertook to locate missing relatives and missing heirs to decedents' estates; and, through other words employed as above set forth, that the information sought was "to the interest" of the person concerning whom it was desired; when in fact said representations were false and misleading, and said questionnaire was merely a disguise for the true nature of his business and a scheme to obtain information by subterfuge in order to facilitate the collection of accounts;

With the tendency and capacity to mislead and deceive many persons to whom said questionnaires were sent into the erroneous belief that said representations were true, and that the name "Ancestral Survey" truthfully described and indicated the character of the concern requesting the information, and of inducing such persons thereby to give information which they might not otherwise supply:

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.

Mr. Henry W. Harmon, of Detroit, 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 Russell M. Braddock, 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, Russell M. Braddock, is an individual, doing business under the names Ancestral Survey and Professional Collection Association, with an office and principal place of business at 333 State Street, Detroit, Mich.

PAR. 2. Respondent is now, and has been for more than five years last past, engaged under the name Professional Collection Association, in the collection of delinquent accounts owed to others upon a commission basis and 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, a course 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 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 money 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, and other information.

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

PAR. 4. Respondent places the names of the persons concerning whom information is sought on the lines provided therefor in said forms, and encloses the forms in stamped envelopes addressed to such persons at their last known addresses, together with unstamped reply envelopes addressed to "Post Office Box 30, St. Helen, Mich."

Respondent causes the said filled envelopes to be transported to his agent at St. Helen, Mich., who receives them and thereafter causes them to be placed in the United States mail. The said filled envelopes 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 for-

warded by the United States Postal authorities to places in States other than Michigan.

Such of the questionnaires as are filled out and mailed by the recipients thereof, are received by respondent's agent at St. Helen, Mich., who thereafter causes them to be transported to respondent at his place of business in Detroit, Mich. Respondent uses the information so obtained in collecting, and attempting to collect, the amounts due from such persons to the persons for whom he is acting.

If respondent, having obtained such information, later decides that he cannot effect collection of an account, he transmits the information so obtained to his client without charge. His clients are never advised of the means used by respondent in obtaining this information.

PAR. 5. By means of the aforesaid questionnaires respondent has represented, directly and by implication, to the persons to whom they were sent, that "Ancestral Survey" is engaged in the business of locating missing relatives, and missing heirs to decedents estates or interests therein, and that the persons concerning whom information was sought have, or may have interests in such estates which will be of financial benefit to them.

The said representations are false and misleading. In truth and in fact, respondent in conducting the business called Ancestral Survey, is not engaged in the business of locating missing relatives or missing heirs to decedents estates or interests therein, and respondent has no knowledge of any interests in estates to which persons concerning whom information is sought may be entitled. The whole scheme is merely an attempt to obtain information by subterfuge, and the sole purpose of the said questionnaires is to secure information in order to facilitate the collection of accounts.

PAR. 6. Through the use of the name "Ancestral Survey" respondent has represented, directly and by implication, that his said business bears some relation to genealogical research.

Said representation was false and misleading. In truth and in fact respondent's said business has nothing to do with genealogical research, 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 tendency and capacity to, and has, misled and deceived many persons to whom the said questionnaires 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 in connection with the return of the questionnaires.

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.

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Exhibit A

MISSING RELATIVES LOCATED

ANCESTRAL SURVEY

SERVICE TO EXECUTORS
IN LOCATING HEIRS
UNDER A WILL

ESTATE COUNSELLORS

SERVICE TO ADMINISTRATORS
IN NOTIFYING HEIRS
OF ESTATES

Refer to File No.
20259

The Services of this firm have been retained to locate a person by the name of

regarding a very important and confidential matter, effecting, and to the interest of the above named person. However before divulging the information we are compelled to obtain positive identification that you are this person. For this reason we are required by our correspondents to obtain the following information.

Please type or print answers to questions 1 to 9 inclusive and sign in your own handwriting.

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FOR THE PURPOSE OF ESTABLISHING MY IDENTITY WITH YOUR FIRM, I SUBMIT
THE FOLLOWING INFORMATION:

1. FULL NAME -----
First Name Middle Name Last Name
2. MY PRESENT RESIDENCE IS -----
No. Street City State
3. MY FORMER RESIDENCE WAS -----
No. Street City State
4. SINGLE ----- WIDOW ----- MARRIED ----- MATE'S GIVEN NAME -----
5. PARENTS -----
Father's Name Mother's Maiden Name
6. I AM EMPLOYED BY -----
Name of Employer Occupation
7. ADDRESS OF EMPLOYER -----
Street City State
8. I BANK AT -----
Name of Bank Branch City State
9. PERSONAL REFERENCE -----
Name Street Address City State

SIGNED -----

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Upon return of this letter and upon verification of the information by us, we or our client will communicate with you further. We must hear from you within ten days from date of this letter or other disposition will be made of this matter and we will be forced to close our files.

Yours very truly,

ANCESTRAL SURVEY,
E. E. EVANS.

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REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on October 1, 1943, issued and subsequently served its complaint in this proceeding upon the respondent, Russell M. Braddock, an individual, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of that act. After the issuance of said complaint and the filing of respondent's answer thereto, testimony was introduced before an examiner of the Commission theretofore duly designated by it, and said testimony was duly recorded and filed in the office of the Commission. At the said hearing respondent waived the filing of a report upon the evidence by the examiner, and thereafter waived all intervening procedure and further hearing as to the facts. Thereafter, the proceeding regularly came on for final hearing upon the said complaint, answer, and said testimony; 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, Russell M. Braddock, is an individual, doing business under the names "Ancestral Survey" and "Professional Collection Association," with his office and principal place of business at 333 State Street, Detroit, Mich.

PAR. 2. Respondent is now, and has been for more than five years last past, engaged under the name "Professional Collection Association" in the collection of delinquent accounts owed to others upon a commission basis and 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, a course 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 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 money 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, and other information. For this purpose respondent uses, and has used, a questionnaire or form substantially as follows:

MISSING RELATIVES LOCATED

ANCESTRAL SURVEY

SERVICE TO EXECUTORS
IN LOCATING HEIRS
UNDER A WILL

ESTATE COUNSELLORS

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THE FOLLOWING INFORMATION:

1. FULL NAME-----
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2. MY PRESENT RESIDENCE IS-----
No. Street City State
3. MY FORMER RESIDENCE WAS-----
No. Street City State
4. SINGLE----- WIDOW----- MARRIED----- MATE'S GIVEN NAME-----
5. PARENTS-----
Father's Name Mother's Maiden Name
6. I AM EMPLOYED BY-----
Name of Employer Occupation
7. ADDRESS OF EMPLOYER-----
Street City State
8. I BANK AT-----
Name of Bank Branch City State
9. PERSONAL REFERENCE-----
Name Street Address City State

SIGNED-----
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Upon return of this letter and upon verification of the information by us, we or our client will communicate with you further. We must hear from you within ten days from date of this letter or other disposition will be made of this matter and we will be forced to close our files.

Yours very truly,

ANCESTRAL SURVEY,
E. E. EVANS.

PAR. 4. Respondent places the names of the persons concerning whom information is sought on the lines provided therefor in said forms, and encloses the forms in stamped envelopes addressed to such persons at their last known addresses, together with unstamped reply envelopes addressed to "Post Office Box 30, St. Helen, Mich." He then causes the said filled envelopes to be transported to his agent at St. Helen, Mich., who receives them and thereafter causes them to be placed in the United States mail. The said filled envelopes 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 questionnaires as are filled out and mailed by the recipients thereof are received by respondent's agent at St. Helen, Mich., who thereafter causes them to be transported to respondent at his place of business in Detroit, Mich. Respondent uses the information so obtained in collecting, and attempting to collect, the amounts due from such persons to the persons for whom he is acting. If respondent, having obtained such information, later decides that he cannot effect collection of an account, he transmits the information so obtained to his client without charge. His clients are never advised of the means used by respondent in obtaining this information.

PAR. 5. By the use of the aforesaid questionnaires, respondent makes, directly and by implication, various representations to the persons to whom such questionnaires are sent. By the designation "Ancestral Survey" respondent represents that his business has some relation to genealogical research; by the statement "Missing Relatives Located" respondent represents that Ancestral Survey undertakes to locate missing relatives; by the statements "Service to Executors in Locating Heirs under a Will" and "Service to Administrators in Notifying Heirs of Estates" respondent represents that Ancestral Survey undertakes to locate the missing heirs to decedents' estates; and he directly represents that the information sought is "to the interest" of the person concerning whom information is desired. In truth and in fact, respondent uses the aforesaid questionnaires in securing information which will assist him in his business of seeking to collect alleged debts. When so used, the aforesaid representations made through the use of said questionnaires are false and misleading and said questionnaire is merely a disguise for the true nature of respondent's business and constitutes a scheme to obtain information by subterfuge in order to facilitate the collection of accounts.

PAR. 6. The use, as hereinabove set forth, of the foregoing false and misleading statements and representations, including the use of the name "Ancestral Survey," has had, and has, the tendency and capacity to mislead and deceive many persons to whom the said questionnaires are sent into the erroneous and mistaken belief that said statements and representations are true, and that the said name truthfully describes and indicates the character of the concern making the inquiry and requesting the information, and by reason thereof to induce such persons to give information which they might not otherwise supply.

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, the answer of respondent, and testimony taken before an examiner of the Commission theretofore duly designated by it (respondent having waived 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 said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Russell M. Braddock, an individual, his representatives, agents, and employees, directly or through any corporate or other device, in connection with the use of form letters or other written or printed material in carrying on the business of collecting or aiding in the collection of debts in commerce, as "commerce" is defined in the Federal Trade Commerce Act, do forthwith cease and desist from:

1. Using the words "Ancestral Survey," 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 said business bears any relation to genealogical research.

2. Representing, directly or by implication, that respondent's said business is that of locating missing relatives or heirs to decedent's estates or interests therein.

3. Representing, that respondent's said business is other than that of collecting debts, or 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 him of this order, file a report in writing setting forth in detail the manner and form in which he has complied with this order.

IN THE MATTER OF
JAMES A. CLANCY, ET AL.¹

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

Docket 4801. Complaint, Aug. 6, 1942—Decision, Oct. 21, 1944

Where (1) three individuals, namely, C, W, and D, severally engaged in the city herein concerned in the sale and distribution of building material (including metal partitions and doors, toilet partitions, elevator entrances and fire doors) and in competition between and among themselves and others except in so far as said competition had been restricted or forestalled by the common course of action below set forth; and (2) a general contractor engaged in said city in general contracting and construction work and in buying building materials, and his two employees and agents;

- Following arrangements by the Navy with a shipbuilding company under which said company was to undertake construction of naval vessels, and pursuant to which (1) the Navy agreed to arrange for the advancing of the necessary funds to rehabilitate the facilities at the latter's shipyards, to be expended under the general supervision of the Navy and subject to its approval, and (2) said shipbuilding company contracted with aforesaid general contractor for the reconstruction by him of certain office buildings and shipways on a cost-plus-a-fixed-fee basis with the understanding that in securing materials or services he would obtain competitive offers from as many as practicable but not less than two—or three where specified—reputable firms and award a contract to concern quoting the minimum price; bids to be opened by or in the presence of the Navy Supervisor of Shipbuilding or his representative and to be subject to his approval before award of the subcontract—
- Cooperated, combined, agreed and conspired through understandings together and with each other, during a period of some 15 months or more, to, and did, restrain and suppress competition in the purchase and sale of said building materials in commerce; and pursuant to and as a part of the said understanding, etc.—
- (a) Promoted, established and carried out a practice of maintaining a false appearance of competition between and among said C, W, D and other sellers of building materials in their submission of price quotations and bids to buyers and prospective buyers;
 - (b) Conveyed to such buyers, including official awarding authorities of the United States Government, and others involved in the purchase of such products, the representation that said C, W, D, and others were rival bidders and competitors, when in reality they were acting collusively between and among themselves;
 - (c) Avoided and prevented competition in the purchase and sale of building materials, and prevented consideration of genuinely competitive bids or price quotations by purchasers thereof; and
- Where aforesaid general contractor, acting directly and through his aforesaid two employees and agents—

¹ The instant case is one of a group of eight having to do with the preparation and submission of sham, false, fictitious, fraudulent and non-competitive bids in connection with the Navy's arrangement for the construction of ships by the Cramp Shipbuilding Co. at its shipyards in Philadelphia. For list of these cases, see footnote to the case of the Grater-Bodey Co., et al., Docket 4799, p. 113.