

IN THE MATTER OF
WILLIAM A. HERMAN

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

Docket 5225. Complaint, Sept. 26, 1944—Decision, Dec. 5, 1946

Where an individual engaged as a licensed private detective and investigator, principally in obtaining information concerning persons who had, or represented themselves as having, claims against insurance companies or employers in connection with industrial insurance and workmen's compensation laws;

Making use of a plan under which he mailed to persons concerning whom information was sought, at their last known addresses, form letters which, headed "National Estates Research," and displaying at the top "Worldwide Genealogical Service," "File # ----," "----- Estate," advised the addressee that his address had been learned in the course of endeavors to locate heirs to the supposed estate and asked him to advise where he might be interviewed in order to ascertain his connection with such estate, or to return the letter filled in to supply a variety of information concerning himself, such as his address, occupation, etc., and included stamped envelopes for the return of such form letters addressed to said "National Estates Research" at his New York City address—

- (a) Represented falsely, directly and by implication, through said form letters, to the recipients thereof, that "National Estates Research" was engaged in genealogical research and was endeavoring to locate heirs to existing estates, and that the recipients might have interests in such estates of financial benefit to them; and
- (b) Represented falsely, through use of the name "National Estates Research," directly and by implication, that said concern bore some relation to estates and to the right and interest of heirs thereto;

The facts being aforesaid name was merely a disguise for the true nature of his business, and the whole plan was one for obtaining information by deceit and subterfuge;

With the effect of misleading and deceiving many of the persons to whom said form letters were sent, into the erroneous belief that such representations were true and that the name "National Estates Research" truthfully indicated the character of the concern requesting information; and with tendency and capacity thereby to cause such persons to give information which they otherwise would not have 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.

Before *Mr. Andrew B. Duvall*, trial examiner.

Mr. J. W. Brookfield, Jr., for the Commission.

Mr. Abraham E. Glick, of New York City, for respondent.

Complaint

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 William A. Herman, 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 William A. Herman is an individual with an office and principal place of business at 170 Broadway, city and State of New York.

PAR. 2. Respondent is now, and has been for more than 1 year last past engaged in business as a private detective and investigator under the name "Equitable Service Bureau" in the State of New York, under a license issued by that State. The principal part of respondent's business in the investigation of, and obtaining information concerning, persons who have, or represent themselves as having, claims directly against insurance companies or against others who, in many instances, are insured against such claims, and in others are not so insured. Such investigations principally relate to claimants under so-called industrial insurance or under so-called workmen's compensation laws. Respondent's business as a whole also includes investigations into civil, criminal, general insurance and commercial situations where fraud may be involved. Respondent's business is the obtaining for those who employ him for compensation, of information concerning others, which will be of value to his clients.

PAR. 3. Certain of respondent's 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. Other of respondent's clients are engaged in the business of insurance, which they regularly carry on in commerce between and among various States of the United States. Some of respondent's clients are located in the State of New York and others are located in other States of the United States. The course and conduct of respondent's said business involves intercourse of a commercial and business nature between him and his clients, and the persons from whom information is sought, who are located in States other than the State of New York.

PAR. 4. In the course and conduct of respondent's said business of obtaining information concerning other persons, respondent uses certain form letters, substantially in the form exemplified by a copy

Complaint

43 F. T. C.

hereof, marked "Exhibit A," attached hereto and by this reference incorporated herein and made a part hereof.

PAR. 5. Respondent causes the form letters exemplified by Exhibit A to be mailed to the persons concerning whom information is sought at their last-known addresses, together with stamped envelopes addressed to

National Estates Research

at respondent's New York City address, for the return of the said form letters. Many of the persons to whom the said form letters and return envelopes are sent are located in States other than the State of New York.

PAR. 6. National Estates Research conducts no business of any kind, and is merely a trade name registered by respondent in the city of New York and used by him. Such of the form letters as are filled out and mailed by the recipients thereof are received by respondent, and the information so obtained used by him in such manner as he deems expedient in obtaining the information desired by his client.

PAR. 7. By means of the said form letters and envelopes respondent has represented, directly and by implication, to the recipients thereof, that National Estates Research is engaged in genealogical research and is endeavoring to locate heirs to existing estates, and that the recipients may have interests in such estate which may be of financial benefit to them.

The said representations are false and misleading. In truth and in fact respondent, in conducting National Estates Research, is not engaged in genealogical research. He is not endeavoring to locate heirs to any estates, nor has he any knowledge of any interest in any estates to which the persons concerning whom he is seeking information may be entitled.

PAR. 8. Through the use of the name "National Estates Service" respondent has represented, directly and by implication, that the said concern bears some relation to estates and to the rights and interests of heirs thereof.

The said representations are false and misleading. In truth and in fact respondent's business has nothing whatever to do with estates or the rights or interests of persons therein.

PAR. 9. The name "National Estates Service" is merely a disguise for the true nature of respondent's business and respondent's whole plan is one for the obtaining of information by deceit and subterfuge.

PAR. 10. 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 deceive, and has misled and deceived, many persons to whom the said form letters were sent, into

Findings

the erroneous and mistaken belief that the said statements and representations were true, and that the said designation indicated the true nature of respondent's business, and by reason thereof to give information which they would not otherwise have supplied.

PAR. 11. 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.

EXHIBIT A

(Copy)

CORTLANDT 7-4303



Worldwide
Genealogical
Service

NATIONAL ESTATES RESEARCH
Executive Offices
170 Broadway, New York, N. Y.

Dear _____ File # _____ Estate _____

We are endeavoring to locate some of the Heirs in the above estate, and during the course of our activities we learned of your address. Will you kindly advise us when and where you can be interviewed, in order that we may be able to ascertain your connection, if any, with the Estate in question; or return this letter with the following information.

MARRIED OR
AGE _____ DATE OF BIRTH _____ RACE _____ SINGLE _____
FULL NAME OF _____ AGE _____ OCCUPATION _____
NAMES AND AGES OF CHILDREN _____
FATHER'S FIRST NAME _____ ADDRESS _____
MOTHER'S MAIDEN NAME _____ ADDRESS _____
BUSINESS
YOUR OCCUPATION _____ ADDRESS _____
HOME ADDRESS (Please give street or road) _____

INFORMATION FURNISHED BY _____

Very truly yours,

NATIONAL ESTATES RESEARCH.

F-1

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on September 26, 1944, issued and subsequently served its complaint in this proceeding upon the respondent, William A. Herman, an individual, charging him with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said Act. After the issuance of said complaint

and the filing of the answer of the respondent thereto, testimony and other evidence in support of and in opposition to the allegations of said complaint were taken before a trial 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. Thereafter, this proceeding regularly came on for final hearing before the Commission upon said complaint, answer thereto, testimony and other evidence, report of the trial examiner upon the evidence and exceptions filed thereto, and briefs filed in support of the complaint and in opposition thereto (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. Respondent, William A. Herman, is an individual, with an office and principal place of business at 170 Broadway, in the city and State of New York.

PAR. 2. Respondent is now, and for several years last past has been, engaged in business as a private detective and investigator in the State of New York under a license issued by that State. In connection with operation of his business the respondent uses the trade names "Equitable Service Bureau" and "National Estates Research," certificates for the use of which names were filed by respondent in the office of the County Clerk of New York County. The principal part of respondent's business is the investigation of, and obtaining information concerning, persons who have, or represent themselves as having, claims against insurance companies or employers in connection with industrial insurance and workmen's compensation laws. Respondent has made investigations for most of the casualty and liability companies doing business in New York City and also for many larger employers of labor who carry their own insurance and are designated under the workmen's compensation law as "self-insured." Respondent's business is the obtaining for those who employ him for compensation, of information concerning others which will be of value to his clients and includes investigations into civil, criminal, general insurance, and commercial situations where fraud may be involved.

PAR. 3. Certain of respondent's clients cause goods and other property to be transported from their respective places of business to purchasers thereof located 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 between and among the various

States of the United States. Other of respondent's clients are engaged in the business of insurance, which they regularly carry on in commerce between and among the various States of the United States. Some of respondent's clients are located in the State of New York and others are located in other States of the United States. The course and conduct of respondent's said business involves intercourse of a commercial and business nature between him and his clients and the persons from whom information is sought who are located in States other than the State of New York.

PAR. 4. In the course and conduct of respondent's said business of obtaining information concerning other persons, respondent uses certain form letters substantially in the form set out as follows:

Cortlandt 7-4303

NATIONAL ESTATES RESEARCH

Executive Offices

170 Broadway, New York, N. Y.

Worldwide
Genealogical
Service

Dear _____ File # _____ Estate _____

We are endeavoring to locate some of the Heirs in the above estate, and during the course of our activities we learned of your address. Will you kindly advise us when and where you can be interviewed, in order that we may be able to ascertain your connection, if any, with the Estate in question; or return this letter with the following information.

MARRIED OR

AGE _____ DATE OF BIRTH _____ RACE _____ SINGLE _____

FULL NAME OF _____ AGE _____ OCCUPATION _____

NAMES AND AGES OF CHILDREN _____

FATHER'S FIRST NAME _____ ADDRESS _____

MOTHER'S MAIDEN NAME _____ ADDRESS _____

BUSINESS

YOUR OCCUPATION _____ ADDRESS _____

HOME ADDRESS (Please give street or road)

INFORMATION FURNISHED BY _____

Very truly yours,

NATIONAL ESTATES RESEARCH.

F-1

PAR. 5. In the course of making his investigations and for the purpose of obtaining information, the respondent mailed the form letter above described to the persons concerning whom information was

sought at their last known addresses, together with stamped envelopes addressed to "National Estates Research" at respondent's New York City address for the return of said form letters. Many of the persons to whom said form letters and return envelopes were sent were located in States other than the State of New York. National Estates Research conducts no business of any kind and is merely a trade name used by respondent. Such of the form letters as are filled out and mailed by the recipients thereof are received by the respondent, and the information so obtained used by him in such manner as he deems expedient in obtaining the information desired by his client.

PAR. 6. By means of said form letters and envelopes respondent has represented directly and by implication to the recipients thereof that National Estates Research is engaged in genealogical research and in endeavoring to locate heirs to existing estates and that the recipients may have interests in such estates which may be of financial benefit to them.

The said representations are false and misleading. In truth and in fact, respondent, in conducting National Estates Research, is not engaged in genealogical research. He is not endeavoring to locate heirs to any estates, nor has he any knowledge of any interest in any estates to which the persons concerning whom he is seeking information may be entitled.

PAR. 7. Through the use of the name "National Estates Research" respondent has represented, directly and by implication, that said concern bears some relation to estates and to the right and interest of heirs thereto. The said representations are false and misleading.

In truth and in fact, respondent's business generally has nothing whatever to do with estates or the right or interests of persons therein. The respondent did testify that on one occasion he did make a search for a missing heir in an estate but admitted that such investigations constituted a very minor and negligible part of the business conducted by him.

PAR. 8. The name "National Estates Research" is merely a disguise for the true nature of respondent's business, and respondent's whole plan is one for obtaining information by deceit and subterfuge.

PAR. 9. The use as hereinabove set forth of the foregoing false and misleading statements and representations has a tendency and capacity to, and did, mislead and deceive many of the persons to whom said form letters were sent, into the erroneous and mistaken belief that such statements and representations were true and that the name "National Estates Research" truthfully indicated and described the capacity and character of the concern purportedly requesting the information; and the tendency and capacity to cause such persons,

by reason thereof, to give information which they otherwise would not have supplied.

CONCLUSION

The acts and practices of the respondent as herein found are all to the prejudice and injury of the public and constitute unfair and deceptive acts and practices 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 on the complaint of the Commission, answer of the respondent, testimony, and other evidence in support of and in opposition to the allegations of said complaint taken before a trial examiner of the Commission theretofore duly designated by it, report of the trial examiner upon the evidence and exceptions filed thereto, and briefs filed in support of the complaint and in opposition thereto; 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, William A. Herman, an individual, trading under the name National Estates Research or trading under any other name or names, and his representatives, agents, and employees, directly or through any corporate or other device in connection with the solicitation or obtaining of information in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing through the use of the trade name "National Estates Research," or any other trade name of similar import or meaning, that persons concerning whom information is sought have, or may have, an interest in some estate, unclaimed asset, or other property, when the information sought is for use in connection with investigations not connected with any interest in an estate, unclaimed asset, or other property.

2. Using, or placing in the hands of others for use, form letters or other printed material so worded and designed as to represent or imply that it has been forwarded by some agency engaged in the administration of estates or engaged in locating missing heirs or persons having an interest in some estate, property, or unclaimed asset, or that the information sought to be obtained by such form letters and other printed material is for use in locating such missing heirs or other interested parties, when the information sought is for use in

Order

43 F. T. C.

connection with investigations not connected with any interest in an estate, unclaimed asset, or other property.

3. Representing in any manner, either directly or by implication, that persons concerning whom information is sought have or may have an interest in some estate, unclaimed asset, or other property, when the information sought is for use in connection with investigation of claims made against casualty or liability insurance companies or other insurers or in connection with investigations of a similar nature.

4. Representing directly or by implication that respondent is engaged in genealogical research.

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.

Syllabus

IN THE MATTER OF

H. L. WILLIAMS TRADING AS WILLIAMS S. L. K.
LABORATORIESCOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 5179. Complaint, June 14, 1944—Decision, Dec. 6, 1946*

Where an individual engaged in interstate sale and distribution of two medicinal preparations designated "Rux Compound" and "Williams Formula"; in advertising in newspapers, periodicals, pamphlets, booklets, cards and other matter, and by radio broadcasts and other means—

- (a) Represented, directly and by implication, that said "Rux Compound" was absorbed by the blood stream in 4 minutes; salicylated the whole system, and was a proven method of relieving rheumatic pains;

The facts being that there is no such thing as salicylating the system; the use of salicylates does not constitute a proved method for relieving rheumatic pains; and, while salicylates are absorbed quickly, the time required in each case depends upon the individual, making it impossible to give a specific time which would fit all cases;

- (b) Represented that said preparation acted from the inside in four ways, namely, (a) by reducing rheumatic congestion; (b) by helping the body flush out irritating acids by its diuretic effect; (c) by helping to keep the blood alkaline by its antiacid effect; and (d) by soothing and relieving pain; and that it would relieve suffering from inflamed aching muscles, and rheumatic, neuritis, and neuralgic pain;

The facts being that said preparation would not effectively reduce rheumatic congestion; it could not make or keep the blood alkaline, the amount of available alkali in this preparation, when taken as directed, being wholly insufficient to make any significant shift of the pH of the blood or significantly alter the reaction of the blood; while it afforded quick, temporary, substantial—but not complete or permanent—relief of the pain of rheumatism, it would have no influence on the development or progress of any of the many conditions commonly referred to as "rheumatism"; and while it would reduce fever and pain in joints in acute rheumatic fever, and the swelling would gradually subside, it would not reduce swelling and congestion of joints in rheumatism;

- (c) Represented that every ingredient of said preparation acted directly on the source of pain; and that it was a stimulant diuretic and helped increase the flow of urine, thus aiding in flushing out irritating acids from the kidneys;

The facts being that acids do not accumulate or cause deposits in the kidneys and the kidneys do not retain irritating acids, and if such were a fact said preparation would not flush them out, as it had only a mild diuretic action; and none of the ingredients used therein acted directly upon the source or cause of pain; and

- (d) Represented that said preparation was unexcelled as an antipyretic and analgesic for common muscular pains and agony; that neuralgia spasms are caused by a toxic condition; and said preparation would help relieve such condition by stimulating the kidneys and liver and by acting as an analgesic: