

Order

IN THE MATTER OF
GOLD-TONE STUDIOS, INC. ET AL.

MODIFIED CEASE AND DESIST ORDER

Docket 4779. Order, Jan. 30, 1952

Modified order, in accordance with decree below referred to, in proceeding in question in which original order issued on September 2, 1948, 45 F. T. C. 206 at 217, and in which the Court of Appeals for the Second Circuit on July 5, 1950, in *Gold-Tone Studios, Inc. et al. v. Federal Trade Commission*, 183 F. (2d) 237, rendered its opinion and decision, and on August 7, 1950, entered its final decree modifying paragraph 4 of the desist order by adding to the end the proviso as below set forth, and affirming, as thus modified, the order to cease and desist—

Requiring respondent, in connection with the offer, etc., in commerce, of pictures or photographs, to cease and desist from the use of the words "oil painted portrait", "oil colored portrait", "Gold-Tone", etc., and from other misrepresentations as to prices, special and limited offers and values, as in said order in detail below set out.

Before *Mr. J. Earl Cox*, trial examiner.

Mr. S. F. Rose and *Mr. Joseph Callaway* for the Commission.

MacFarlane, Harris & Goldman, of Rochester, N. Y., for respondents.

MODIFIED ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of respondents, testimony and other evidence introduced before a trial examiner, and briefs and oral argument in support of and in opposition to the complaint; and the Commission having made its findings as to the facts and conclusion that the respondents have violated the provisions of the Federal Trade Commission Act and issued its order to cease and desist on September 2, 1948; and

Respondents Gold-Tone Studios, Inc., a corporation also trading as Camera Art Company; Irving A. Stern, individually and as president and a director of Gold-Tone Studios, Inc., and a copartner in the firm trading as Camera Art Company; Paul A. McGuire, individually and as vice president and director of Gold-Tone Studios, Inc., and a copartner in the firm trading as Camera Art Company; Berthold Eidlin, individually and as secretary-treasurer of Gold-Tone Studios, Inc., and a copartner in the firm trading as Camera Art Company; and Marion Stern, Doris McGuire, Emanuel Eidlin, and Ephraim Eidlin, individuals and members of the firm trading as Camera Art Company,

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having filed in the United States Court of Appeals for the Second Circuit their petition to review and set aside the order to cease and desist issued herein, and that Court having heard the matter on briefs and oral argument and fully considered the matter, and having, thereafter, on August 7, 1950, entered its final decree modifying and affirming, as modified, the aforesaid order to cease and desist pursuant to its opinion announced on July 5, 1950.

Now therefore it is hereby ordered. That the respondent Gold-Tone Studios, Inc., a corporation, also trading as Camera Art Company, its officers, representatives, agents and employees, and respondents Irving A. Stern, Paul A. McGuire, Berthold Eidlin, Marion Stern, Doris McGuire, Emanuel Eidlin, and Ephraim Eidlin, individually or as copartners trading as Camera Art Company or under any other name or names, their agents, representatives, and employees, directly or through any corporate or other device in connection with the offering for sale, sale and distribution in commerce as "commerce" is defined in the Federal Trade Commission Act, of pictures or photographs, do forthwith cease and desist from directly or indirectly:

1. Using the words "oil painted portrait," "oil painted," or any other word or words of similar import or meaning, either alone or in combination with any other word or words, as a designation for, as descriptive of, or in connection with a tinted or colored photograph or picture made from a photographic base.
2. Using the words "oil colored portrait," "colored in oils," or any other word or words, as a designation for, as descriptive of, or in connection with a tinted photograph or picture made from a photographic base.
3. Using the words "Gold-Tone" or any other word or words of similar import or meaning, either alone or in combination with any other word or words, to designate, describe, or refer to a photographic reproduction which is not a product resulting from a finishing process involving the use of a toning or developing bath employing salts or chloride of gold.
4. Using the words "Gold-Tone" or any other word or words of similar import or meaning, either alone or in combination with any other words, as a corporate or trade name or otherwise, to designate, describe, or refer to a photographic reproduction by a process involving the use of a toning or developing bath employing salts or chloride of gold: *Provided*, however, that the corporation may in conducting its business under any permitted changed name, state that it is the same corporation which formerly did business under the name "Gold-Tone Studios, Inc."

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5. Representing that the customary or usual price for any kind or type of photograph or picture is a special advertising offer or other special offer; that an offer of said photographs or pictures is limited in point of time when such offer is not in fact so limited; or that said photographs or pictures offered are of a value in excess of the usual or customary price.

It is further ordered, That the respondents Gold-Tone Studios, Inc., a corporation, also trading as Camera Art Company; Irving A. Stern, individually and as president and a director of Gold-Tone Studios, Inc., and a copartner in the firm trading as Camera Art Company; Paul A. McGuire, individually and as vice president and a director of Gold-Tone Studios, Inc., and a copartner in the firm trading as Camera Art Company; Berthold Eidlin, individually and as secretary-treasurer of Gold-Tone Studios, Inc., and a copartner in the firm trading as Camera Art Company; and Marion Stern, Doris McGuire, Emanuel Eidlin, and Ephriam Eidlin, individuals and members of the firm trading as Camera Art Company, shall within sixty (60) days after service upon them of this modified order file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF

ROBERT O. BENNETT DOING BUSINESS AS NATIONAL
SERVICE BUREAU AND LILLIE K. BENNETT

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

Docket 5745. Complaint, Mar. 1, 1950—Decision, Jan. 31, 1952

Where two individuals engaged under a Washington, D. C. mailing address in securing and selling to credit bureaus, retail stores, collection agencies and other customers in various states information relating to delinquent debtors, principally, and, as thus engaged in mailing out large numbers of letters and receiving replies thereto;

In attempting to secure desired information, for their said customers with respect to the addresses, employment, etc., of delinquent debtors, pursuant to arrangements whereby they were authorized by their customers to send a check for 10 cents to each replying delinquent, as below set forth, and to deposit such an amount to said person's credit in respondents' bank at the expense of the customer, and through the means of certain form letters, together with blanks for supplying the desired information as to the delinquent and, a self-addressed return envelope—

- (a) Falsely represented through the use of the name "National Service Bureau" in said form letters, and particularly as employed with the words "Disbursement Office" and "Disbursement Officer", that they were a part of or connected in some manner with the Veterans Administration or some other part or agency of the United States Government; and,
- (b) Falsely represented through the use of the words "If you will fill in the enclosed blank giving the requested information we will forward to you a check for a small sum of money deposited with us for that purpose", that a small but significant sum of money to which the recipient of the letter was entitled, had been deposited with them and would be forwarded to the recipient upon his furnishing information which would identify him as the person entitled thereto;

The facts being that they were not connected with the United States Government in any respect; and the sending by them of such a check for 10 cents did not justify their statement that a small sum of money had been deposited with them for forwarding, and constituted a transparent scheme to mislead and conceal the purpose for which the information was sought;

With effect of misleading a substantial portion of the public into the mistaken belief that their misleading representations were true, and with capacity and tendency so to do, and thereby induce a substantial number of the public to give information which they would not otherwise 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 in commerce.

Before *Mr. Webster Ballinger*, hearing examiner.
Mr. J. W. Brookfield, Jr. for the Commission.