

## Syllabus

IN THE MATTER OF  
BENJAMIN B. COLE, INC. ET AL.

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

*Docket 5813. Complaint, Sept. 20, 1950—Decision, Nov. 10, 1952*

Where a corporation and its president, engaged in conducting a collection agency and in collecting accounts upon a contingent basis from debtors and for creditors, located both within and without the state;

In attempting to ascertain current addresses of delinquent debtors, the names and addresses of their employers, and other information through various "skip tracing" schemes, including the use of double post cards and form letters with provisions for supplying the desired information—

(a) Falsely represented through the use of the name "Dispatch Forwarding System" and through their "Dispatch Forwarding System" cards that they were connected with the transportation of merchandise, that the persons concerning whom information was sought were consignees of packages sent by others which had come into respondents' hands in the usual course of business, and that the information requested was sought in order to effect delivery;

(b) Falsely represented through the use of the name "Federal Deposit System" and their "Federal Deposit System" form letters that funds deposited with them were being held for the person concerning whom information was sought, that such funds were more than a trivial amount, that the information was sought for the purpose of identifying the recipient and that the requests for information came from an agency or branch of the United States Government;

The facts being the information was obtained solely for use in the collection of allegedly delinquent accounts for their clients; and the names "Dispatch Forwarding System" and "Federal Deposit System" were subterfuges to disguise the true nature of their business; and the "small" sum referred to in the latter case was 10¢, which they paid by a check drawn on a bank; and

(c) Falsely represented through the use of a form letter with an accompanying reply post card, which purported to come from one "Thomas Webster", that the name of the recipient had been given them by a friend, that they were sponsoring a radio show in which gift prizes were distributed, and that the addressee had been awarded such prize by the sponsor;

The facts being they had no such connection and sponsored no such prizes; "Thomas Webster" was a person in Chicago to whom they sent in bulk their skip-tracing letters for mailing to delinquent debtors and who returned to them the replies received; and the "free souvenir gift" offer was used as a subterfuge to disguise the nature of their business;

With effect of deceiving many persons to whom said letters and post cards were sent into the erroneous belief that such representations were true

## Complaint

49 F. T. C.

and that said trade names indicated the true nature of their business, and with capacity and tendency so to do, and to induce the recipients to give information to respondents which otherwise they 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 in commerce.

Before *Mr. Everett F. Haycraft* and *Mr. William L. Pack*, hearing examiners.

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

*Lenske, Spiegel & Spiegel*, of Portland, Oreg., for respondents.

## 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 Benjamin B. Cole, Inc., a corporation trading and doing business as Federal Deposit System and Dispatch Forwarding System and under other trade names, and Herman N. Cole, individually and as President of Benjamin B. Cole, Inc., and Hannah H. Cole, individually and as Secretary of Benjamin B. Cole, Inc., hereinafter referred to as respondents, have 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 this complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent Benjamin B. Cole, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of Oregon, with its office and principal place of business located at 212 Davis Building, 420 S. W. 3d Avenue, in the City of Portland, Oregon. Respondent Herman N. Cole is President, and respondent Hannah H. Cole is Secretary of respondent corporation, Benjamin B. Cole, Inc., and said corporation is owned, dominated, controlled and directed by the individual respondents, Herman N. Cole and Hannah H. Cole. All the said respondents have cooperated and acted together in the performance of the acts and practices hereinafter alleged.

PAR. 2. Respondents are now, and for more than two years last past, have been engaged in conducting a collection agency and in collecting accounts owed to others upon a commission basis contingent upon collection. Clients for whom respondents undertake the collection of accounts are located both within and without the State of Oregon, as also are those from whom respondents endeavor to collect. The course and conduct of respondents' business involves commercial intercourse and communication between respondents and others located in the various States of the United States other than Oregon.

PAR. 3. In the course and conduct of their business, respondents frequently desire to ascertain the current addresses of persons from whom they are endeavoring to collect monies due to their clients, the names and addresses of the employers of such persons and other information about such persons. For the purpose of obtaining this information they have employed various schemes and methods which included the use of various forms, typical of which are the following:

Post cards of the type commonly referred to as double post cards, which are addressed and mailed to the debtor or other person from whom information is sought. Said cards contain the following message:

We are unable to reach the party whose name appears on the attached card due to removal, or error of address. By returning the attached reply card promptly, with the information requested, you will confer a favor upon both the party we are endeavoring to reach and the D. F. S. If you are unable to furnish the desired information, please advise us accordingly, so that prompt return may be made. Thank you. Yours very truly, D. F. S.

The reply part of the post card which is addressed to Dispatch Forwarding System, P. O. Box 8764, Portland 7, Oregon, and is intended to be filled out and mailed by the debtor or other person from whom information is sought, is the following form:

|               |            |
|---------------|------------|
| Date          | Checked By |
| Reference No. | Charges    |

---

Name and Address on Undelivered Matter

---

Please fill in space below accurately

New Address  
of Above Party

---

FOR IDENTIFICATION

Present  
Employer -----  
of above party  
Address -----  
Name and Address of Friend or Relative of above Party  
-----  
-----  
-----  
-----  
Remarks -----  
Has Telephone No. -----

---

Undelivered matter will be forwarded to person to whom addressed, to their correct address and not in care of anyone else.

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Complaint

49 F. T. C.

Letters in the following form:

THE FEDERAL DEPOSIT SYSTEM  
Disbursement Office

514 McKay Building  
Portland, Oregon, U. S. A.

\*CONFIDENTIAL\*

Regarding Name of:

-----  
\*NOTICE\*

Regarding the name listed above, you are notified that this name is among those to whom we have been instructed to pay a small sum of money now on deposit. However, under the provisions of the deposit, we are compelled to obtain actual positive identification that such person named is the proper one to receive the small sum of money, before payment can be made.

For this reason, we require that the form below must be filled in completely and returned to us immediately, as the deposit will be cancelled within 15 days; after which we are instructed to make other disposition of the sum involved. Upon receipt and verification of this information, if correct and applicable to the person concerned, remittance of the small sum of money will follow in approximately 20 days after identification is verified.

\* \* \*

FOR THE PURPOSE OF ESTABLISHING IDENTITY OF THE NAMED  
INDIVIDUAL WITH YOUR OFFICE, I SUBMIT THE FOLLOWING IDENTIFICATION INFORMATION:

Full Name is-----  
First Name
Initial
Last Name

Home Address is-----  
Street
City
State

Is Employed by-----  
Employer's Name
Occupation

Employer's Address-----  
Street
City
State

Banks at-----  
Name of Bank
Branch
City
State

Automobile Registration, License No-----  
State

Personal Reference-----  
Name
Street Address
City
State

Deposit No-----

(Signed) -----

Another of respondents' schemes and methods includes mailing to the delinquent debtor a letter as follows:

509

## Complaint

FREE !  
SOUVENIR GIFTS  
SURPRISE !

From the desk of  
Thomas Webster  
Producer of  
"SURPRISE"  
The New Radio Show

Los Angeles  
Chicago  
Washington, D. C.

Dear Friend :

Congratulations! Your name was given to me by a mutual friend and you've been awarded a Gift from the big group of Cash and Merchandise Awards offered by the sponsors of my new Radio show. It's FREE!

Just fill out the enclosed card—giving me your correct address and your FREE GIFT of Merchandise will be sent to you at once.

Please be sure to do this quickly.

Cordially,

(S) Tom Webster

SOUVENIR GIFT  
FREE

HOLLYWOOD  
PREMIERE  
Radio Station  
KLAC  
Hollywood  
MUSIC plus  
Hundreds of free  
GIFT AWARDS!

Fill out  
and mail  
YOUR  
GIFT  
CARD  
NOW!

No  
Postage  
Needed

The return post card enclosed with the above letter is addressed to Thomas Webster, 510 North Dearborn Street, Chicago 10, Illinois. The post card states:

Please mail me "Free Post Paid"

Gift Reg. No.

Name \_\_\_\_\_  
Print or Type Name in Full

Address \_\_\_\_\_  
Print or Type

City or Post Office and State \_\_\_\_\_

Employed by \_\_\_\_\_  
Give Complete Name of Employer

Dept. \_\_\_\_\_

Location \_\_\_\_\_  
City and Street Number

Married ☐

Single ☐

Complaint

49 F. T. C.

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PLEASE GIVE ME THE NAME OF A  
FRIEND FOR MY "SURPRISE" LIST

Name-----  
Print or Type Name in Full

Address-----  
Print or Type

City or Post Office and State-----

Respondents have mailed said post cards and form letters to persons located in various States of the United States other than Oregon, and have received the reply portion of said cards and letters from persons located in States other than Oregon.

PAR. 4. Through the use of the "Dispatch Forwarding System" cards respondents have represented, directly and by implication, to the persons to whom they were sent that the persons concerning whom information was sought are the consignees of packages, sent by persons other than respondents, and in their hands in Portland, Oregon, in the usual course of their business; that "charges" were involved in connection therewith; that delivery could not be effected by reason of removal or change of address by the addressee of such package; that upon receipt of the reply card properly filled out, the package would be delivered to the addressee, otherwise returned to the consignor; that the information is sought in order to effect delivery.

PAR. 5. Through the use of the name "Dispatch Forwarding System" respondents have represented, directly and by implication, to the recipients of said cards that they are, in some capacity, connected with the transportation and movement of goods.

PAR. 6. The said representations are false and misleading. In truth and in fact, respondents' business has nothing to do with the transportation or movement of goods or their delivery to the proper consignees. The information is not sought in order that delivery may be effected. The persons concerning whom information is sought are not consignees of packages in the hands of respondents in the usual course of their business. Respondents did not have in their possession any package addressed to the person concerning whom information was sought which had been addressed to such person by anyone other than respondents, nor were any "charges" involved in connection with any package.

PAR. 7. Through the use of the "Federal Deposit System" letter respondents have represented, directly and by implication, that funds deposited by others with respondents are being held for the person concerning whom information is sought; that the funds are more than

a trivial amount; that the desired information is sought for the purpose of identifying the person in question as the proper recipient thereof.

PAR. 8. Through the use of the name "Federal Deposit System" respondents have represented, directly and by implication, that the request for information comes from an agency or branch of the United States Government.

PAR. 9. The said representations are false and misleading. In truth and in fact respondents have no connection whatever with any branch or agency of the United States Government. The information was not sought for the purpose of identifying the person in question as the proper recipient of a sum of money. No funds for any such person had been deposited with respondents by another. The amount of the "small" sum referred to in the said letter was ten cents.

PAR. 10. The information acquired by respondents from the use of the said card and letter was obtained by them solely for the purpose of being used in collecting allegedly delinquent accounts for their clients. The names "Federal Deposit System" and "Dispatch Forwarding System" were merely disguises for the true nature of respondents' business.

PAR. 11. Through the use of the letter and return post card promising "free gifts" respondents represent that the recipient's name was given them by a friend and that respondents are running or sponsoring a radio show in which gifts or prizes are distributed and that the recipient has been awarded a prize by the sponsors of their radio show. In truth and in fact respondents have no connection with any radio show nor do they have sponsors who furnish prizes to be given to persons to whom respondents send the letters and cards.

PAR. 12. The use hereinabove set forth of the foregoing false and misleading statements, representations, and designations has and has had the capacity and tendency to mislead and deceive and has misled and deceived many persons to whom the said cards and letters were sent into the erroneous and mistaken belief that the said statements and representations were true, and that the trade names used by respondents indicated the true nature of respondents' business; and have induced the recipients thereof to give information to respondents, which otherwise they would not have supplied.

PAR. 13. The aforesaid acts and practices of respondents 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.

## DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on September 20, 1950, issued and subsequently served its complaint in this proceeding upon respondents Benjamin B. Cole, Inc., a corporation, Herbert M. Cole (erroneously named in the complaint as Herman N. Cole), and Hannah F. Cole (erroneously named in the complaint as Hannah H. Cole), charging them 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 respondents' answer thereto, hearings were held at which testimony and other evidence in support of the complaint were introduced before a hearing examiner theretofore duly designated by it, and such testimony and other evidence were duly recorded and filed in the office of the Commission. No testimony or other evidence was offered in opposition to the allegations of the complaint. On December 28, 1950, the said hearing examiner filed his initial decision.

Respondents filed an appeal with the Commission from said initial decision, and counsel supporting the complaint filed a motion to reopen and remand the case to the hearing examiner for the taking of additional testimony. The Commission, on September 6, 1951, entered its order granting in part and denying in part respondents' said appeal and remanding the case to the hearing examiner for the purpose of taking additional testimony concerning one of the issues in the case. Additional testimony and other evidence in support of the complaint were introduced before a substitute hearing examiner of the Commission theretofore duly designated by it, counsel having agreed to a substitution of hearing examiners for the purpose of taking and receiving such additional testimony and other evidence, and such additional testimony and other evidence were also duly recorded and filed in the office of the Commission. The original hearing examiner, on February 14, 1952, filed a certification of record to the Commission for final determination.

Thereafter, this matter came on for final consideration by the Commission upon the complaint, answer thereto, testimony and other evidence in support of the complaint, initial decision of the hearing examiner and respondents' appeal therefrom, and the hearing examiner's certification of the record to the Commission for final determination; and the Commission, having duly considered the matter and having heretofore entered its order granting in part and denying in part respondents' appeal from the initial decision of the hearing ex-

aminer, and being now fully advised in the premises, finds that this proceeding is in the interest of the public and makes the following findings as to the facts, conclusion drawn therefrom, and order, the same to be in lieu of the said initial decision of the hearing examiner.

#### FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent Benjamin B. Cole, Inc., is a corporation organized and doing business under and by virtue of the laws of the State of Oregon, with its office and principal place of business located at 212 Davis Building, 420 S. W. 3rd Avenue, Portland, Oregon. Respondent Herbert M. Cole (erroneously named in the complaint as Herman N. Cole) is president of and owns, dominates, controls, and directs said corporation. Although Hannah F. Cole (erroneously named in the complaint as Hannah H. Cole) is secretary of respondent corporation, it appears that she does not participate in the control, direction, or management of the business of said corporation, and the Commission has, therefore, determined that she should not be included as a party respondent in this proceeding. As hereinafter used, the term "respondents" does not include Hannah F. Cole.

PAR. 2. Respondents are now, and for more than two years last past have been, engaged in conducting a collection agency and in collecting accounts owed to creditor clients of said respondents upon a commission basis contingent upon collection. Said clients are located both within and without the State of Oregon, as also are the debtors, those from whom the respondents endeavor to collect such delinquent accounts. Said respondents, in the course and conduct of their business, are engaged in commercial intercourse and communication between themselves and their clients and debtors located in the various States of the United States other than the State of Oregon.

PAR. 3. In the course and conduct of their said business, said respondents frequently attempt to ascertain current addresses of delinquent debtors, persons from whom they are endeavoring to collect moneys due to their clients, the names and addresses of the employers of such persons, and other information about such persons. For the purpose of obtaining such information, said respondents have employed and now employ various "skip tracing" schemes and methods, including the use of various forms, typical of which are those described hereinafter.

(1) One of the forms used by the respondents is of the type commonly referred to as "double post cards," which is addressed and mailed to the debtor or other person from whom information is sought. Said form contains the following:

## Findings

49 F. T. C.

We are unable to reach the party whose name appears on the attached card due to removal, or error of address.

By returning the attached reply card promptly, with the information requested, you will confer a favor upon both the party we are endeavoring to reach and the D. F. S.

If you are unable to furnish the desired information, please advise us accordingly, so that prompt return may be made.

Thank you.

Yours very truly,

D. F. S.

The reply part of the post card, which is addressed to Dispatch Forwarding System, P. O. Box 8764, Portland 7, Oregon, and is intended to be filled out and mailed by the debtor or other person from whom information is sought, is in the following form:

|               |            |
|---------------|------------|
| DATE          | Checked by |
| Reference No. | Charges    |

NAME and ADDRESS ON UNDELIVERED MATTER

PLEASE FILL IN SPACE BELOW ACCURATELY

New Address  
of Above Party \_\_\_\_\_  
\_\_\_\_\_

FOR IDENTIFICATION

Present  
Employer \_\_\_\_\_  
of Above Party  
Address \_\_\_\_\_

Name and Address of Friend or Relative of Above Party

Remarks: \_\_\_\_\_  
\_\_\_\_\_  
Has Telephone No. \_\_\_\_\_

Undelivered matter will be forwarded to person to whom addressed, to their correct address, and not in care of anyone else.

(2) One of the forms of skip tracing letters which the respondents send to delinquent debtors reads as follows:

## Findings

514 McKay Building  
Portland, Oregon, U. S. A.

**\*CONFIDENTIAL\***

Regarding Name of:

**\*NOTICE\***

For this reason, we require that the form below must be filled in completely and returned to us immediately, as the deposit will be cancelled within 15 days; after which we are instructed to make other disposition of the sum involved. Upon receipt and verification of this information, if correct and applicable to the person concerned, remittance of the small sum of money will follow in approximately 20 days after identification is verified.

\* \* \*

Full Name is \_\_\_\_\_

|            |         |           |
|------------|---------|-----------|
| First Name | Initial | Last Name |
|------------|---------|-----------|

Home Address is \_\_\_\_\_  
Street
City
State

Is Employed by-----

| Employer's Name | Occupation |
|-----------------|------------|
|-----------------|------------|

Employer's Address \_\_\_\_\_  
Street
City
State

| Banks at _____ |              |        |      |       |
|----------------|--------------|--------|------|-------|
|                | Name of Bank | Branch | City | State |
| 1              |              |        |      |       |
| 2              |              |        |      |       |
| 3              |              |        |      |       |
| 4              |              |        |      |       |
| 5              |              |        |      |       |
| 6              |              |        |      |       |
| 7              |              |        |      |       |
| 8              |              |        |      |       |
| 9              |              |        |      |       |
| 10             |              |        |      |       |

Automobile Registration, License No. \_\_\_\_\_ State \_\_\_\_\_

|                           |                       |             |              |
|---------------------------|-----------------------|-------------|--------------|
| <b>Personal Reference</b> |                       |             |              |
| <b>Name</b>               | <b>Street Address</b> | <b>City</b> | <b>State</b> |

Deposit No. \_\_\_\_\_

(Signed) \_\_\_\_\_

(3) Another of respondents' skip tracing schemes and methods includes the practice of mailing to the delinquent debtor a form letter as follows:

## Findings

49 F. T. C.

FREE!  
SOUVENIR GIFTS  
SURPRISE

From the desk of  
Thomas Webster  
Producer of  
"SURPRISE"  
The New Radio Show

Los Angeles  
Chicago  
Washington, D. C.

Dear Friend:

Congratulations! Your name was given to me by a mutual friend and you've been awarded a Gift from the big group of Cash and Merchandise Awards offered by the sponsors of my new Radio show. It's FREE!

Just fill out the enclosed card—giving me your correct address and your FREE GIFT of Merchandise) will be sent to you at once.

Please be sure to do this quickly.

Cordially,  
(S) Tom Webster

SOUVENIR GIFT  
FREE

HOLLYWOOD  
PREMIERE  
Radio Station  
KLAC  
Hollywood

Fill out  
and mail  
YOUR  
GIFT  
CARD  
NOW!

MUSIC plus  
Hundreds of free  
GIFT AWARDS!

No  
Postage  
Needed

The return post card enclosed with the above letter is addressed to Thomas Webster, 510 North Dearborn Street, Chicago 10, Illinois. The post card states:

Please mail me "Free Post Paid"  
Gift Reg. No.

Name \_\_\_\_\_  
Print or Type Name in Full  
Address \_\_\_\_\_  
Print or Type  
City or Post Office and State \_\_\_\_\_  
Employed by \_\_\_\_\_  
Give Complete Name of Employer  
Dept. \_\_\_\_\_  
Location \_\_\_\_\_  
City and Street Number  
Married ☐ Single ☐

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PLEASE GIVE ME THE NAME OF A  
FRIEND FOR MY "SURPRISE" LIST

Name-----

Print or Type Name in Full

Address-----

Print or Type

City or Post Office and State-----

Said respondents have mailed or caused to be mailed said post cards and form letters to persons located in various states of the United States other than Oregon and have received, directly or indirectly, the reply post cards and letters from persons located in places other than the state of Oregon.

PAR. 4. Through the use of said "Dispatch Forwarding System" cards, respondents have represented, directly and by implication, to the persons to whom they are sent that the persons concerning whom information is sought were consignees of packages which were sent by persons other than respondents and which had come into respondents' hands in Portland, Oregon, in the usual course of their business; that "charges" were involved in connection therewith; that delivery could not be effected by reason of removal or change of address by the addressees of such packages; that upon receipt of the "reply" card properly filled out, the packages would be delivered to the address of the addressees, or returned to the consignors; and that the information on said cards was sought in order to effect delivery of the packages. Through the use of the name "Dispatch Forwarding System" respondents have represented that they were, in some capacity, connected with the transportation or movement of goods or merchandise.

PAR. 5. The said representations hereinbefore described and set forth in Paragraph Four are false and misleading. In truth and in fact, the persons concerning whom said information is sought are not consignees of packages in the hands of respondents in the usual course of their business. Respondents have not had and do not now have in their possession any packages containing goods or merchandise addressed to the persons concerning whom said information was sought, nor were any "charges" involved in connection with the delivery of any such packages. The information acquired by the respondents as a result of the use of said post cards was obtained solely for the purpose of being used in collecting allegedly delinquent accounts for their clients. The respondents' business has nothing to do with the transportation of goods or merchandise or their delivery to the proper consignees. The name "Dispatch Forwarding System" was merely a subterfuge to disguise the true nature of respondents' business, and

respondents' use of such name in connection with their business is misleading and deceptive.

PAR. 6. Through the use of said "Federal Deposit System" letter, respondents have represented, directly and by implication, that funds deposited by others with respondents are being held for the person concerning whom information is sought; that the funds are more than a trivial amount; and that the desired information is sought for the purpose of identifying the person in question as the proper recipient thereof. Through the use of the name "Federal Deposit System" respondents have represented that their requests for information come from an agency or branch of the United States Government.

PAR. 7. The said representations contained in Paragraph Six hereof are false and misleading. The information was not sought for the purpose of identifying the person in question as the proper recipient of a sum of money. No funds for any such person have been deposited with the respondents. The amount of the "small" sum referred to in the said letter was ten cents, which was paid by Federal Deposit System by check drawn on a Portland, Oregon, bank. The information acquired by the respondents as a result of the use of the said letter was obtained by them solely for the purpose of assisting them in collecting delinquent accounts for their clients. Respondents' business is in no way connected with any agency or branch of the United States Government. The name "Federal Deposit System" was merely a subterfuge to disguise the true nature of respondents' business, and respondents' use of such name in connection with their business was misleading and deceptive. Respondents discontinued using said "Federal Deposit System" letter in August 1949.

PAR. 8. Through the use of the said letter and return post card promising "free souvenir gifts" represented to be offered by sponsors of a radio show produced by one Thomas Webster, respondents represent that the name of the recipient was given them by a friend and that respondents are sponsoring a radio show in which gifts or prizes are distributed, and that the recipient had been awarded such prize by the sponsors thereof. In truth and in fact, respondents have no connection with any radio show nor do they have sponsors to furnish prizes to be given to persons to whom respondents send the said "skip tracing" letters and post cards, which are sent by respondents in bulk to one Thomas Webster from whom the forms were purchased and by whom they are distributed through the mail to the addressees, delinquent debtors, whose names are furnished by the respondents. The replies to these printed forms are in turn received by said Thomas Webster in Chicago, Illinois, and thereupon mailed back to the respondents in Portland, Oregon. The "free souvenir gift" offer was

509

## Order

used as a subterfuge to disguise the true nature of respondents' business.

PAR. 9. The use, as hereinabove set forth, of the false and misleading statements, representations, and designations and the misleading and deceptive trade names has had and now has the capacity and tendency to mislead and deceive, and has misled and deceived, many persons to whom said letters and post cards are sent into the erroneous and mistaken belief that the said statements and representations are true and that the trade names indicate the true nature of respondents' business, and to induce the recipients of such letters and postcards to give information to respondents which otherwise they would not have supplied.

## CONCLUSION

The aforesaid acts and practices of respondents 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

*It is ordered*, That respondent Benjamin B. Cole, Inc., a corporation, its officers other than Hannah F. Cole, and Herbert M. Cole, individually and as president of respondent corporation, and their representatives, agents, and employees, directly or through any corporate or other device, in connection with the use in commerce, as "commerce" is defined in the Federal Trade Commission Act, of so-called "skip tracer" form letters, double reply post cards, or any other printed matter of a substantially similar nature, do forthwith cease and desist from:

1. Using the name "Dispatch Forwarding System" or any other word or words of similar import, to designate, describe, or refer to respondents' business; or otherwise representing, directly or by implication, that respondents are connected with or in the business of transporting or delivering goods or mail to the proper recipients thereof, or that they maintain an unclaimed-package department.

2. Representing, directly or by implication, that persons concerning whom information is sought through respondents' post cards, form letters, or other material are, or may be, consignees of goods, or packages, or mail, prepaid or otherwise, in the hands of respondents, or that the information sought through such means is for the purpose of enabling respondents to make delivery of goods or packages or mail to such persons.

Order

49 F. T. C.

3. Using the name "Federal Deposit System" or any other word or phrase of similar import to designate, describe or refer to respondents' business; or otherwise representing, directly or by implication, that their request for information concerning delinquent debtors are from the United States Government or any agency or branch thereof, or that their business is in any way connected with the United States Government.

4. Representing, directly or by implication, that any money has been deposited with them for persons from whom or about whom information is sought.

5. Representing, directly or by implication, that they sponsor, or have any connection with, any radio program or show unless such is a fact.

6. Representing through the use of the said Thomas Webster form letters, or otherwise, that any person from whom or about whom information is sought has been awarded a gift or prize, or that such person will receive a gift or prize by furnishing the information requested.

7. Representing, directly or by implication, that respondents' business is other than that of operating a collection agency.

*It is further ordered*, That the complaint herein be, and it hereby is, dismissed as to Hannah F. Cole.

*It is further ordered*, That respondents Benjamin B. Cole, Inc., and Herbert M. Cole shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner in which they have complied with this order.

## Syllabus

IN THE MATTER OF  
THE JUVENILE SHOE CORPORATION OF AMERICA  
COMPLAINT, FINDINGS AND, ORDERS IN REGARD TO THE ALLEGED VIOLATION  
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914

*Docket 5976. Complaint, Apr. 2, 1952—Decision, Nov. 13, 1952*

Voluntary abandonment or discontinuance of challenged advertising matter, where it appeared that the respondent became aware that related advertising representations were under investigation by the Commission and declined to desist the same through the informal stipulation procedure, or to enter into a consent settlement under the provisions of the Commission's Rule V, is not a guarantee that such advertising will not be resumed, and such discontinuance does not constitute a bar to an order to cease and desist where a question may arise as to the resumption of unfair practices.

In order to effect competent treatment to cure any specific malcondition of the feet, according to the uncontradicted testimony of experts, proper diagnosis followed by appropriate measures thereby indicated is necessary, treatment for both feet is not necessarily the same, and treatment for any abnormal condition should be particularly adapted to the exigencies of the specific case since haphazard, unscientific methods might well aggravate the condition.

In said further connection massage is an effective and accepted procedure in the treatment of certain pathological conditions of various parts of the anatomy including the feet, and is used principally following an accident or any injury where there is decreased efficiency of circulation and where it is desired to stimulate circulation to reduce swelling to promote recovery, but normal feet do not require it, and in the absence of the foregoing or analogous exigencies, it is not indicated or deemed necessary.

A healthy foot may be described as one which will enable one to stand, walk or run without adverse symptoms of pain or tiring, and almost all shoes will keep feet healthy in the sense that they afford a measure of protection against environmental hazards, such as protection from bruises, etc., and, all things being equal, any properly fitted shoe will serve such purposes.

Where a corporation engaged in the manufacture, in substantial volume, of its "Lazy Bones" shoes, and in the interstate sale and distribution thereof; through statements on labels and display cards, advertisements in magazines of general circulation, in folders and circulars, and through radio broadcasts—

- (a) Represented that through the wearing of its said shoes, the feet, including the muscles and arches, would be massaged in the process of walking and would thereby benefit;
- (b) Represented that such shoes would exercise and stimulate the arches; and
- (c) Represented that they would help children's feet to develop healthily and keep them healthy;