

Complaint

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IN THE MATTER OF

THE AMERICAN CREDIT BUREAU, INC. ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6364. Complaint, June 13, 1955—Decision, Nov. 10, 1955*

Consent order requiring a collection agency in Chicago to cease misrepresenting the cost and terms of its services to customers and with making false and misleading statements in letters in attempts to obtain by subterfuge information concerning debtors.

Before *Mr. James A. Purcell*, hearing examiner.

Mr. Michael J. Vitale for the Commission.

Loewy & Block, of Chicago, Ill., 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 The American Credit Bureau, Inc., a corporation, and Larry Lawrence, Eugene E. Stewart and D. B. Dolmyer, individually and as officers and directors of said corporation and Victor Dolmyer, individually and as director of said corporation, 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 its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent The American Credit Bureau, Inc., is a corporation, organized and existing under and by virtue of the laws of the State of Illinois, with its office and principal place of business located at 608 South Dearborn Street, Chicago, Illinois. Respondents Larry Lawrence, Eugene E. Stewart, D. B. Dolmyer and Victor Dolmyer are President and Director, Secretary-Treasurer and Director, Vice President and Director, and Director, respectively, of this corporate respondent. These individuals formulate, direct and control the policies, acts and practices of said corporation. The address of these individuals is the same as that of the corporate respondent, The American Credit Bureau, Inc.

All of the aforesaid respondents cooperate and act together in performing the acts and engaging in the practices hereinafter set forth.

PAR. 2. Respondents now operate, and have operated for more than one year last past, a collection agency under the name of The American Credit Bureau, Inc. Business is secured through solicitors who travel in various States and solicit delinquent accounts for collection from retailers, professional men and others.

Respondents furnish the solicitors with assignment forms upon which each delinquent account is listed showing the name of the debtor, address, date of indebtedness incurred and the amount due. The creditor executes the form assigning the accounts so listed to respondent for collection on a commission basis. The assignment form having been signed, the solicitor mails it to respondents at Chicago.

In carrying on their aforesaid business respondents have engaged and are now engaged in extensive commercial intercourse in commerce among and between the various States of the United States, including the transmission and receipt of assignment forms, checks, letters, money orders and other written instruments.

PAR. 3. In the course and conduct of their aforesaid business and for the purpose of inducing the signing of the assignment forms, respondents have represented through oral statements made by their solicitors, directly or by implication, that:

1. If no collections are made on claims there will be no charges;
2. Personal collection calls will be made on debtors;
3. The maximum commission charged for their service is 25%;
4. If there is no collection on a specific account then there will be no charges against the said account;
5. That all accounts will be returned to creditors after six months if not collected;
6. That prompt reports will be made as to the status and progress of collection of accounts and remittances made within a certain period of time. In connection with such statements the solicitors frequently exhibited copies of letters addressed to respondent corporation referring to monthly statements of accounts collected.

In addition, the assignment form upon which is written the name of delinquent debtors has imprinted in large letters on the face thereof the statement "IF THERE ARE NO COLLECTIONS THERE ARE NO CHARGES."

PAR. 4. The aforesaid representations were false, misleading and deceptive. In truth and in fact:

1. A charge of 50¢ is made for each account whether or not any collection is made on a particular account. In case collection is made on any account, the amount of 50¢ for each account assigned is deducted from the proceeds due the creditor and retained by respondents.
2. Personal collection calls are not made on debtors.

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3. Twenty-five percent is not the maximum commission charged in many instances. In fact, in many instances, in addition to the 50¢ listing fee, where collection is made on the listed claims or accounts through Attorney, or by Legal Process, or by installment, or on outlawed accounts, or where accounts are withdrawn or further proceedings ordered stopped or held by client, or on traced accounts, or on the first aggregate \$100.00 or part thereof collected, or where evidence or information requested from clients is not furnished, the charge is 50%.

4. Charges are made against specific accounts when there have not been collections for said accounts.

5. Accounts will not be returned to creditors after six months if not collected except upon request in writing from creditors and providing the account is not in the process of adjustment, settlement, or legal proceedings. In many such instances respondents have refused to return accounts when requested by the creditors for the aforesaid stated reasons, but failed to demonstrate such claimed status.

6. Respondents have consistently followed a policy of never rendering reports and making remittances unless and until demand was made therefor and in some instances do not render reports after demand is made therefor. Because of such policy many creditors have been deprived of their share of collections and valuable information regarding the progress of collections for periods extending over many months.

Although the aforesaid provisions set out in paragraphs 1, 3, 4 and 5 appear on the assignment form, said provisions are in small print on the reverse side of said form. In many instances, said solicitors fail to explain the complete terms of the agreement or afford prospects the time to read, consider and comprehend said terms. Said solicitors give the creditor a copy of the assignment form only upon request. In fact, in some instances the solicitor obtains the creditors' signature in such a manner that they are unable to recollect signing any forms. As a result of said practices said creditors are unable to learn the true provisions of said assignment form and execute such form in reliance upon the oral representations made by such solicitors.

PAR. 5. The use by respondents of the foregoing false, deceptive and misleading representations and practices has had, and now has, the capacity and tendency to mislead a substantial number of creditors into the erroneous and mistaken belief that such representations were and are true, and into assignments of accounts to respondents because of such mistaken and erroneous belief.

PAR. 6. In the course and conduct of collecting the accounts, respondents frequently desire to ascertain the current address of persons

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from whom they are endeavoring to collect monies, the names and addresses of employers of such persons and other information of a pertinent nature. For this purpose, respondents use, and have used, letters which contain requests for information to be filled in by the persons to whom they are addressed and returned to respondents. Typical of the printed matter appearing on such letters sent to debtors are the following:

I am very anxious to get in touch with Fred Hickey, formerly of your company as I have information of great importance for him.

Will you please be good enough to tell me where I may contact Fred at this time?

Thank you so very much!

Yours truly

I would like to have the present address of H. J. Snider, formerly of your town, as I have important news for him.

If this party is listed in a recent directory or in your files, will you please tell me where I may write to him at this time?

Thank you for your kindness!

Yours truly.

PAR. 7. Through the use of the statements appearing on said form letters and in particular the use of the term "important news" or "information of great importance" respondents have represented, directly or by implication, that the request for information will be to the advantage of the debtors.

PAR. 8. The aforesaid representations and implications arising therefrom are false, misleading and deceptive. In truth and in fact, there is no advantage to the debtors in furnishing the information requested but the use of said letters is an attempt to obtain information concerning debtors by subterfuge. The sole purpose of the letters requesting the information is for use in the collection of accounts.

PAR. 9. The use by respondents of the aforesaid statements and forms has had, and now has, the capacity and tendency to mislead and deceive many persons to whom the form letters are sent into the erroneous and mistaken belief that the information requested concerning a particular person will be to the advantage of that person.

PAR. 10. The aforesaid acts and practices of the 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.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on June 13, 1955, charging them with false, misleading and deceptive representations and practices in the conduct

of a collection agency, and securing information by subterfuge concerning debtors in furtherance of their collection schemes, all in violation of the Federal Trade Commission Act. On July 11, 1955, respondents filed answer to the complaint. Thereafter, on August 30, 1955, (filed September 20, 1955) respondents entered into an agreement with counsel supporting the complaint providing for the entry of a consent order disposing of all of the issues in this proceeding. Said agreement has been approved by the Director of the Bureau of Litigation and has been submitted to the hearing examiner, heretofore duly designated, for his consideration pursuant to Sections 3.21 and 3.25 of the Commission's Rules of Practice.

Respondents, in and by the aforesaid agreement, have admitted all of the jurisdictional allegations of the complaint and agreed that the record herein may be taken as though the hearing examiner and the Commission had made findings of jurisdictional facts in accordance with such allegations. Said agreement provides that all parties agree to the withdrawal of respondents' answer, heretofore filed, leave wherefor is hereby granted and ordered. Said agreement further provides for the waiver of hearing before a hearing examiner; the making of findings of fact or conclusions of law by the hearing examiner or the Commission; the filing of exceptions and oral argument before the Commission and all further and other procedure before the hearing examiner and the Commission to which the respondents might otherwise, but for the execution of said agreement, be entitled under the Federal Trade Commission Act or the Rules of Practice of the Commission. Respondents have also agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as if made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waive any and all right, power or privilege to challenge or contest the validity of said order.

It was further agreed that the said agreement, together with the complaint, shall constitute the entire record herein; that the complaint may be used in construing the terms of the order provided for in said agreement; that said agreement is subject to approval in accordance with Sections 3.21 and 3.25 of the Commission's Rules of Practice; that the said agreement and order issued in this Initial Decision shall not become a part of the official record of this proceeding unless and until they become a part of the decision of the Commission; and that the signing of said agreement is for purposes of settlement only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

This proceeding having now come on for final consideration by the hearing examiner on the complaint and the aforesaid agreement for consent order, and it appearing that said agreement provides for an appropriate disposition of this proceeding the same is hereby accepted by the hearing examiner who, on the basis of the record as constituted makes the following findings for jurisdictional purposes, and order:

1. The correct name of the respondent designated in the complaint as Eugene E. Stewart, is Eugene H. Stewart who, under this name as corrected, will be included in the hereinafter order.

2. Respondents, The American Credit Bureau, Inc., a corporation, Larry Lawrence, Eugene H. Stewart and D. B. Dolmyer, individually and as officers and directors of the corporate respondent, and Victor Dolmyer, individually and as a director of the corporate respondent, are now, and have been at all times mentioned herein, engaged in the conduct and operation of a collection agency under the name of the corporate respondent, The American Credit Bureau, Inc., with their principal office and place of business located at No. 608 South Dearborn Street, Chicago, Illinois.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding as well also of the respondents hereinabove named; that the complaint herein states a valid cause of action against said respondents under the provisions of the Federal Trade Commission Act, and is in the public interest.

4. Consonant with the express agreement of the parties, as evidenced by the agreement hereinbefore described and referred to, the following order is passed.

ORDER

It is ordered, That respondents The American Credit Bureau, Inc., a corporation, and its officers and directors, and Larry Lawrence, Eugene H. Stewart and D. B. Dolmyer, individually and as officers and directors of said corporation, and Victor Dolmyer, individually and as director of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the solicitation of accounts for collection, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication:

1. That no charges will be made for accounts unless they are collected;
2. That personal collection calls will be made on all debtors;

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3. That a maximum of 25%, or any other percent less than that actually charged, will be retained by respondents from accounts collected;

4. That no charge is made on any specific account unless a collection is made on said account;

5. That accounts will be returned after any specified period of time when there are conditions not clearly disclosed under which accounts will not be returned after said time;

6. That prompt, regular or periodic reports as to the status, or the progress made in the collection, of accounts will be made to creditors unless such reports are in fact rendered at or about the time respondents represent they will be made.

7. That remittances will be made within any specified period of time unless they are in fact made within the time specified.

It is further ordered, That The American Credit Bureau, Inc., a corporation, and its officers and directors and Larry Lawrence, Eugene H. Stewart and D. B. Dolmyer, individually and as officers and directors of said corporation, and Victor Dolmyer, individually and as director of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the collection of, or attempts to collect, accounts in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from using any printed forms or written matter seeking information concerning delinquent debtors, which represents, directly or by implication, that the purpose for which the information is requested is other than that of obtaining information concerning delinquent debtors.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

Pursuant to Section 3.21 of the Commission's Rules of Practice, the initial decision of the hearing examiner shall, on the 10th day of November, 1955, become the decision of the Commission; and, accordingly:

It is ordered, That the respondents herein 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 and form in which they have complied with the order to cease and desist.

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IN THE MATTER OF

E. R. FERGUSON, JR., ET AL. TRADING AS THE
BERJON COMPANY ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 6408. Complaint, Aug. 25, 1955—Decision, Nov. 10, 1955*

Consent order requiring sellers in Memphis, Tenn., and their advertising agency, to cease disseminating false advertisements in newspapers and by radio broadcasts concerning their "Pep-Ti-Kon" vitamin and mineral preparation.

Before *Mr. William L. Pack*, hearing examiner.

Mr. William R. Tincher for the Commission.

Mr. Don B. Gatling, of Washington, D. C., 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 E. R. Ferguson, Jr., and John R. Pepper, individually and as copartners trading as The Berjon Company; and Brick Muller and Associates, a corporation, 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 its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondents E. R. Ferguson, Jr., and John R. Pepper are individuals trading as The Berjon Company with their principal place of business located at 2074 Union Avenue, Memphis 4, Tennessee.

PAR. 2. Respondents E. R. Ferguson, Jr., and John R. Pepper are now, and for some time last past have been engaged in the sale of preparations containing ingredients which come within the classification of food and drugs as the terms "food" and "drugs" are defined in the Federal Trade Commission Act. One preparation is in liquid and the other in tablet form.

The designation used by said respondents for said preparation and the formulas thereof are as follows:

Designation: Pep-Ti-Kon.