

Decision

IN THE MATTER OF
NATIONAL CLEARANCE BUREAU ET AL.ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT

Docket 6648. Complaint, Oct. 11, 1956—Decision, Oct. 31, 1957

Order requiring a company in East Orange, N.J., to cease selling—mainly to credit bureaus maintained by business and professional organizations, collection agencies, and finance companies—and using in its own collection business, printed “skip tracing” forms, cards, and envelopes designed to obtain information concerning alleged delinquent debtors by subterfuge through falsely representing connection with the United States Government by use of such headings as “Treasurer’s Office Disbursement Notice,” etc., and a printed picture of an eagle or the Treasury Department building or a like structure, and representing further that a check for a sum of money would be forwarded to the person addressed upon receipt of the completed questionnaire.

Mr. Edward F. Downs and *Mr. Garland S. Ferguson* supporting the complaint.

Fast & Fast, by *Mr. Herman L. Fast* and *Mr. Kenneth Fast*, of Newark, N.J., for respondents.

INITIAL DECISION BY JOHN LEWIS, HEARING EXAMINER

STATEMENT OF PROCEEDINGS

The Federal Trade Commission issued its complaint against the above-named respondents on October 11, 1956, charging them with having engaged in certain unfair and deceptive acts and practices, in violation of the Federal Trade Commission Act. Said complaint charges, in substance, that respondents, in connection with their business of obtaining information on delinquent debtors for customers, have used certain forms in which they have falsely represented a connection with the United States Government and that the debtors who supply the information requested in the forms will receive a sum of money. Respondents, after being duly served with said complaint, appeared by counsel and filed their answer in which they admitted having used the forms referred to in the complaint, but denied that said forms contained any false representations as alleged in the complaint.

Pursuant to notice, hearings on the charges were held in New York, New York, on January 3, and March 14, 1957, before the undersigned hearing examiner, theretofore duly designated to hear this proceeding. At said hearings testimony and other evidence

were offered in support of, and in opposition to, the allegations of the complaint, the same being duly recorded and filed in the office of the Commission. All parties were represented by counsel, participated in the hearings, and were afforded full opportunity to be heard and to examine and cross-examine witnesses.

Following the close of the hearings, and pursuant to agreement of counsel, there was received in evidence by order of the undersigned dated April 16, 1957, an additional exhibit proffered by counsel supporting the complaint. Counsel supporting the complaint have also filed a motion to strike certain testimony and evidence, which motion is disposed of in the manner hereinafter indicated.

Pursuant to leave granted by the undersigned, proposed findings of fact, conclusions of law and an order were filed by counsel supporting the complaint and counsel for respondents. No request for oral argument was made by any of the parties. Proposed findings which are not herein adopted, either in the form proposed or in substance, are rejected as not supported by the evidence or as immaterial.

Upon consideration of the entire record herein, and from his observation of the witnesses, the undersigned finds that this proceeding is in the public interest and makes the following:

FINDINGS OF FACT

I. The Business of Respondents and the Interstate Commerce

1. Respondent National Clearance Bureau is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey. Its main office is located at 380 Main Street, East Orange, New Jersey. The individual respondents Abraham Montag, Melvin Montag and Edwin G. Axel are, respectively, president, secretary and treasurer of said corporation. The individual respondents Edwin G. Axel and Melvin Montag are the co-managers of said corporation and formulate, direct and control its policies and practices. The business address of the individual respondents Edwin G. Axel and Melvin Montag is the same as that of the corporate respondent.

Respondent Abraham Montag, while president of the corporate respondent, is not active in its operations, receives no salary from said respondent and is elsewhere employed on a full time basis. Said individual respondent owns a single share of stock in the corporate respondent and was made an official for corporate qualifying purposes only. Provision will hereafter be made for dismissal of the complaint as to said individual respondent, and the term "respondent," as hereinafter used, is not intended to refer to said respondent.

2. The individual respondent Edwin G. Axel, also trades and does business under the name Credit Information Bureau, with his main office located at the same address as the corporate respondent. The business operations of said respondent as Credit Information Bureau are hereinafter referred to, for convenience, by the trade name under which said respondent does business.

3. Credit Information Bureau is now, and for more than one year last past has been, engaged in the business of selling certain printed "skip tracing" forms, cards and envelopes, which are designed to obtain information relating to delinquent debtors. The customers of Credit Information Bureau are mainly credit bureaus maintained by business and professional organizations, collection agencies, finance companies, and certain large creditors desiring information concerning delinquent debtors. Credit Information Bureau solicits such customers and prospective customers, whose names are obtained from business directories, by mailing to them advertising literature (in which its method of operation and skip tracing forms are described) and order blanks for ordering such forms. The forms consist of a questionnaire which is to be completed by the debtor, a return envelope and another window-type envelope in which the questionnaire and the return envelope are enclosed for mailing to the debtor.

4. Credit Information Bureau utilizes a mailing address in Washington, D.C. for the purpose of mailing the forms to delinquent debtors of their customers, and receiving back the completed questionnaires. The customers, after purchasing the forms, fill in the name and address of the alleged debtor in the space provided on the questionnaire and mail it in the envelope furnished by Credit Information Bureau, to the latter's Washington, D.C. mailing address, from whence it is meter-mailed (with a Washington, D.C. postmark) to the addressee. If the debtor fills in the questionnaire he encloses it in the return envelope addressed to the mailing address used by Credit Information Bureau in Washington, D.C. When the envelope is received in Washington, D.C., it is forwarded, unopened, to Credit Information Bureau in East Orange, New Jersey, where the envelope is opened and the questionnaire is turned over to the customer originally seeking the information. Debtors who fill in and return the questionnaire receive a check from Credit Information Bureau in the nominal amount of 10 cents.

5. Credit Information Bureau sends out varying quantities of its advertising literature and order blanks to prospective customers located in all parts of the United States. At one time it amounted to several thousand pieces per month. However, this amount has

now been reduced to 10 to 20 pieces per month. The prices of the skip tracing forms range from approximately \$30.00 per hundred to \$1,000 for 5,000 forms. The amount of business done in such forms ranges from \$12,000 to \$15,000 per year, at least half of which is with customers located outside of the State of New Jersey. The debtors to whom the questionnaires are mailed are located in various states of the United States, other than the State of New Jersey.

In carrying on the business under the trade name of Credit Information Bureau, respondent Edwin G. Axel has engaged, and is now engaging, in substantial commercial intercourse in commerce, as "commerce" is defined in the Federal Trade Commission Act, among and between the various states of the United States by virtue of the activities above described, including the transmission in commerce of advertising matter, "skip tracer" forms, checks, letters and other written instruments.

6. Respondent National Clearance Bureau is a collection agency which specializes in the collection of professional accounts, mainly medical. In the course of its business said respondent purchases skip tracing forms from Credit Information Bureau for the purpose of obtaining information concerning delinquent debtors of its customers. During the period of about a year since it was organized in November or December 1955, said respondent has purchased approximately \$500.00 worth of such forms. The forms purchased by said respondent are handled in the same manner as those purchased by other customers of Credit Information Bureau, *viz.*, after the name and address of the debtor are filled in by it on the questionnaire it is mailed to Washington, D.C. for meter-mailing to the debtor, and after the questionnaire has been returned by the debtor to the Washington, D.C. address, it is forwarded to East Orange, New Jersey, where the information is turned over to the corporate respondent.

The record discloses that in addition to purchasing skip tracing forms from Credit Information Bureau, the corporate respondent on two occasions in March and April of 1956, solicited a prospective customer in Garden City, New York, for the purpose of selling skip tracing forms to the latter. While it is undisputed that such solicitations were made on the stationery of the corporate respondent, respondent Edwin G. Axel who dictated the letters testified that the use of the stationery of the corporate respondent was due to a clerical error on the part of the stenographer and that the stationery of Credit Information Bureau should have been used instead.

The undersigned finds it unnecessary to resolve the conflict in the evidence on the question of whether the corporate respondent has

solicited the sale of skip tracing forms in interstate commerce on its own behalf. In view of the fact that said corporate respondent has regularly purchased the skip-tracing forms of Credit Information Bureau for the collection of its own delinquent accounts and has transmitted them through the United States mails across State lines for the purpose of obtaining information concerning delinquent debtors in the manner above found, it is found that said corporate respondent, together and its dominant figures, Edwin G. Axel and Melvin Montag, have engaged and are now engaged in substantial commercial intercourse in commerce, as "commerce" is defined in the Federal Trade Commission Act.¹

II. The Alleged Unfair and Deceptive Practices

A. *The "Skip Tracing" Forms*

1. The charge that respondents have engaged in unfair and deceptive acts and practices arises out of the composition and makeup of the "skip tracing" forms which are mailed to delinquent debtors or other persons from whom information is sought. Central to respondents' method of operation is the questionnaire form. The form now in use is a card of the IBM tabulating size. The card is designated on the front side thereof as a "DISBURSEMENT CERTIFICATE." It also contains on its face a picture of an eagle and the address "Treasurer's Office, Headquarters Building, Washington, D.C." There also appears on the face of the card the facsimile of a seal enclosing the picture of an indeterminate structure of the classical design typical of many government buildings, and bearing the legend "Treasurer's Office, Washington, D.C."

In the center of the card, directly beneath the picture of the eagle and the address "Treasurer's Office, Headquarters Building, Washington, D.C.," appears the following legend:

If you will fill in the reverse side of this blank giving the requested information we will forward you a Treasurer's Certificate with a small sum of money which we have on deposit for you for that purpose. Disbursement will be sent to the address given registered in your name.

On the reverse side of the card, at the top thereof, appears the legend: "CONFIDENTIAL OFFICE QUESTIONNAIRE," beneath which is a series of blanks calling for the following information concerning the debtor: "Name, Age, Number and Street, City, State, Employed by, Address, Phone, Spouse's Name, Bank with,

¹ It may be noted that in their answer respondents admit the allegation of the complaint with respect to their engagement in commerce, except that they deny their business is "extensive commercial intercourse in commerce."

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Make of Car, State & Tag," etc. The back of the card also bears the legend:

Disbursement check will not be sent unless all information is given. * * *
Fill in and return blank within thirty days. Allow two weeks for mailing disbursement.

7. Prior to the use of the present form of questionnaire, Credit Information Bureau utilized other questionnaires which were substantially similar in form. Some of these forms were designated as "Disbursement Notice" instead of the present designation of "Disbursement Certificate." However, they were otherwise substantially similar to the form above described in composition and make-up.

8. The return envelope which is enclosed with the questionnaire, for use in returning the completed questionnaire, is similar in color and size to that used by Government agencies, and contains the address "Treasurer's Office, Headquarters Building, Washington 6, D.C." The outer glass-window envelope, in which the addressed questionnaire and return envelope are mailed to the delinquent debtor, is similar in color and contains the return address "Treasurer's Office, Headquarters Building, Washington 6, D.C."

Prior to the use of the present mailing address in Washington, D.C. on its forms, Credit Information Bureau utilized the address "Disbursement Office, 1424 K Street N.W., Washington 5, D.C."

9. Respondents have never maintained any office where they transact business in Washington, D.C., other than the above addresses which are merely mailing and telephone answering service addresses and are used solely for the purpose of mailing and receiving the envelopes containing the skip tracing forms. Respondents have no employees in Washington, D.C., but pay the company which operates the mailing service a monthly fee for handling respondents' mail.

10. It has been the practice of respondents, in connection with the above forms, to send to persons who complete and return the questionnaire, a check in the amount of 10 cents. At one time the checks contained the name of the payor as "Disbursement Office, N.C.B.," the latter being the initials of the corporate respondent. At the present time the checks bear the name of Credit Information Bureau.

B. The Representations Made

1. Respondents, by the use of the forms above described, represent and imply, and place instruments in the hands of their customers whereby they may represent and imply, to the recipients

thereof, that such forms emanate from an agency of the United States Government and that the request for information contained therein is made on behalf of such Government agency. Such representation or impression is created by the format and phraseology of the forms as a whole, including the use of such words as "Treasurer's Office, Disbursement Certificate" or "Disbursement Notice," the use of the printed picture of an eagle on the face of the "Treasurer's Office" forms, the use of the facsimile of a seal with the picture of a structure similar to many government buildings, the use of the address "Headquarters Building, Washington, D.C." or other Washington, D.C., mailing address on the "Treasurer's Office" questionnaire and envelopes, and the color and format of the envelopes, as well as the format of the "Confidential Office Questionnaire."

2. Respondents contend that the use of the Washington address is to "add prestige" to the request for information and that the pictures of the Eagle and of a Government-type building are merely for "design purposes." However, it is evident from the record as a whole that "prestige" which respondents were seeking to take advantage of was that of the United States Government and that the "design" impression which they were trying to create was one of connection with an agency of that Government.

Respondents' regular place of business is East Orange, New Jersey. Their only connection with Washington, D.C. is the address of the mailing service which permits them to have their mail postmarked "Washington, D.C." and enables them to put a Washington, D.C. address on their questionnaire and envelopes. For this privilege they pay a monthly fee. It seems evident from the format and phraseology of the forms that the "prestige" with which respondents were seeking to associate themselves is that of the United States Government.²

Any doubt as what impression respondents were trying to create by their forms is dissipated by reference to the advertising literature sent out to prospective customers of the forms, in which it is stated:

Our TREASURER'S OFFICE SKIP TRACING FORM works because the skip is offered a small sum of money from the Treasurer's Office in Washington, D.C., which we send, if he fills in the questionnaire on back of the form. *The TREASURER'S OFFICE FORM COMES FROM WASHINGTON, D.C.* He is impressed with it and has no idea you are looking for him! *The form is so OFFICIAL LOOKING*, his desire for money is so great that he gladly TELLS US ALL WE ASK. He becomes worried if he doesn't, he begins to

² Respondent Edwin Axel conceded in his testimony that the fact Washington was the capital of the United States might have contributed to their use of the Washington address.

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think he lost out on a fortune of money. His conscience bothers him, he wants the money! THAT'S WHY our TREASURER'S OFFICE SKIP TRACING FORM, mailed from Washington, D.C., gets results. [Emphasis supplied.]

In addition to the above statement, the following appears in one of respondents' advertising brochures:

The form is METER-MAILED, so *OFFICIAL LOOKING*, and his desire for money is so great that he gladly tells us all we ask. * * * Tracer [form] comes in same type of Kraft envelope as used by official agencies! * * * All forms are METER-MAILED from Washington, D.C. This makes it more official looking and gets better results than using an ordinary 3¢ postage stamp! [Emphasis supplied.]

It is clear, both from respondents' admissions and the forms themselves, that they are deliberately designed to, and do, create the impression that the forms are issued by, or have a connection with, an agency of the United States Government and that the information sought is being requested by such Government agency.

3. Respondents, by the use of the forms above described, represent and imply, and place instruments in the hands of their customers whereby they may represent and imply, that persons completing and returning the questionnaire will receive a sum of money which is more than negligible in amount, and that it will thus be to the advantage of the recipients of the questionnaire to complete and mail same. Such representation or impression is created by the format and phraseology of the forms as a whole, including the use of such words as "Treasurer's Office," "Disbursement Office," "Disbursement Certificate," and "Disbursement Notice," and statements that persons giving the requested information will be forwarded "a Treasurer's Certificate with a small sum of money which we have on deposit for you," or that persons filling in the questionnaire will receive "a Treasurer's check for a small sum of money which we have on deposit for you," and that "Disbursement check will not be sent unless all information is given."

That the forms are designed to create the impression that the sum to be received by persons returning the questionnaire will be more than negligible in amount, is evident not only from the forms themselves but from respondents' advertising literature which states that the recipient of the form

* * * becomes worried if he doesn't [fill it out]; he begins to think he lost out on a fortune.

It is also stated that:

MONEY offered to the Skip by the Treasurer's Office is the impelling *FORCE*—so it GETS RESULTS. It's even better than an investigator who, relations know, wants to collect a bill. Because of the money promised in the form, relatives will travel for miles to see that the skip gets his letter!

C. The Falsity of the Representations

The representations hereinabove found to have been made and the implications arising therefrom are false, misleading and deceptive. In truth and in fact respondents are not connected with the United States Government in any respect. There is no advantage to the debtor in furnishing the information requested. The amount of the check, namely, ten cents, is insufficient to justify any reference to it, and would not in many instances have prompted the completion and return of the questionnaire had the addressee been informed of the amount.³ This practice is a transparent scheme to mislead and conceal the purpose for which the information is sought. The use of the forms and the questionnaire contained thereon, and the reply envelope, is an attempt to obtain information concerning alleged delinquent debtors by subterfuge.

D. Contentions and Concluding Findings

1. It is the position of respondents that the persons to whom such forms are sent are not deserving of public protection by reason of their debt delinquency and that the practices used are justified means to the legitimate end of getting such persons to pay up their debts. The argument which respondents make here is one which, in the main, has been fully considered, both by the Commission and the courts, and has been found to be wanting. The legitimate objective of seeking to induce debtors to pay their debts does not justify the use of illegitimate and unlawful means. There is no lack of public interest in the protection of such persons merely by virtue of their delinquency. *Silverman v. FTC*, 145 F. 2d 751; *Rothchild v. FTC*, 200 F. 2d 39; *National Service Bureau v. FTC*, 200 F. 2d 362; *Dejay Stores, Inc. v. FTC*, 200 F. 2d 865; and *National Research Company, etc.*, Docket No. 6236, June 1, 1956.

2. Respondents also contend that the Commission is "without power to proceed" because it has set up no definite standards as to what constitutes compliance with its orders with respect to the form and content of "skip tracing" forms. Respondents refer, in this connection, to the fact that the Commission approved certain forms as constituting compliance with its order in the *National Research Bureau* case, and later withdrew such approval.

In the opinion of the undersigned the action taken in the case cited by respondents in no way derogates from a finding of violation in this proceeding or precludes the issuance of an order here. There is no claim made by respondents that the forms here involved are

³ See *National Service Bureau v. FTC*, 200 F. 2d 362, where the court of appeals stated that "in the context of 'deposited' and 'a check,' ten cents is not a 'sum of money' or even 'a small sum of money.'"

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similar to those which received tentative approval at the compliance stage of the *National Research Bureau* case, or that they were in any way prejudiced by the action taken in that case. Moreover, any argument which respondents may wish to make concerning "lack of standards" or possible disparate treatment should appropriately be reserved for a later stage of this proceeding, to be determined on the basis of the order actually issued against them.

3. Counsel supporting the complaint have moved to strike the testimony and other evidence which was offered by respondents to show lack of public interest and the action taken by the Commission at the compliance stage of the *National Research Bureau* case. While the undersigned regards such evidence as being of marginal relevance or materiality, the motion to strike same will be denied in view of the limited amount of such evidence and in order to preserve same in the record for utilization by respondents at the appellate stage of this proceeding.

4. It is concluded and found that the use by respondents of the skip tracing forms hereinabove described, containing false, misleading and deceptive statements has had, and now has, the tendency and capacity to mislead and deceive many persons to whom said forms were sent, into the erroneous and mistaken belief that the statements, representations and implications were true and to induce the recipients thereof to supply information to the respondents and respondents' customers which otherwise they would not have supplied.

CONCLUSION OF LAW

It is concluded that the acts and practices of the respondents, as hereinabove 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 respondents, National Clearance Bureau, a corporation and its officers and Melvin Montag and Edwin G. Axel, individually and as officers of said corporation, and Edwin G. Axel, individually and trading and doing business as Credit Information Bureau, or under any other name, their representatives, agents and employees, directly or through any corporate or other device in connection with the business of obtaining information concerning delinquent debtors, or the offering for sale, sale, or distribution of forms or other material for use in obtaining information concerning delinquent debtors, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, or placing in the hands of others for use, any forms, letters, questionnaires or other material, printed or written, which does not clearly and expressly state that the information requested is to be used for credit or collection purposes;

2. Representing, or placing in the hands of others, by sale or otherwise, any means of representing, directly or by implication, that money is being held for, or is due, persons concerning whom information is sought, or is collectible by such persons, unless money is in fact due and collectible by such persons and the amount of money is actually stated;

3. Using the words "Treasurer's Office," "Disbursement Office," or the picturization of an eagle or of a structure so designed as to suggest that it is a government building, or any other word, phrase, or picturization of similar import on forms or otherwise, to designate, describe, or refer to respondents' business; or otherwise representing, directly or by implication, that requests for information concerning delinquent debtors are from the United States Government or any agency or branch thereof, or that their business or forms are in any way connected with the United States Government;

4. Using the name, "Disbursement Notice," or "Disbursement Certificate," or any other name of similar import to designate, describe, or refer to respondents' business or forms, or otherwise representing, directly or by implications, that money has been deposited with them for persons from whom the information is requested, unless or until the money has in fact been so deposited, and then only when the amount so deposited is clearly and expressly stated.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to respondent Abraham Montag, individually.

OPINION OF THE COMMISSION

By KERN, Commissioner:

This is an appeal from the hearing examiner's initial decision requiring respondents, other than an individual as to whom the examiner would dismiss the complaint, to cease and desist from certain unfair and deceptive acts and practices in commerce, violative of the Federal Trade Commission Act.

The remaining individual respondents, Melvin Montag and Edwin G. Axel, own and control the respondent corporation, National Clearance Bureau, a collection concern specializing in recovering debts owed to professional people. Respondent Axel also trades as the "Credit Information Bureau," an unincorporated business which locates and obtains personal information about delinquent debtors. Both businesses are conducted from the same address in East Orange, New Jersey.

There is no dispute over the hearing examiner's finding that the Credit Information Bureau provides a so-called "skip-tracing" service which, for its success, depends upon deception and subterfuge. Questionnaire cards and mailing envelopes are sold for a flat charge to creditors. The creditor will address such a questionnaire to the debtor at his last known location and transmit it to a mailing office in Washington, D.C., operated by the Credit Information Bureau, whence it is meter-mailed to the debtor. The envelope and its enclosure, a questionnaire printed on a punched business machine card, are physically designed to suggest that a government agency is officially advising that a sum of money is being held for the debtor and if he will supply his present address, the make and license number of his automobile, the name of his bank, etc., such a sum will be remitted to him. The completed questionnaire is enclosed in the self-addressed return envelope and sent back to respondents' Washington office, from where it is forwarded to the creditor. To anyone completing and returning the questionnaire, respondents send their check for ten cents.

The appeal does not challenge the finding that this scheme is deceptive. Respondents contend, however, (1) that the jurisdictional requirement of public interest is not present, (2) that the Commission has not provided a standard of acceptable compliance with an order of the type here proposed, and (3) that the case should be dismissed as to the corporate respondent because there has been no showing that the corporate respondent engages in interstate commerce or is in the skip-tracing business, or that there is any public interest in its activities.

It is well settled that there is substantial public interest in the prevention of deceptive methods and practices used in interstate commerce in the collection of debts. "It is not necessary that an unfair or deceptive act forbidden by the Trade Commission Act should cause a pecuniary loss. One of the purposes of the Act has been the protection of the public, and public interest may exist even though the practice deemed to be unfair does not violate any private right. * * * The fact that acts and practices deemed deceptive are used to trace delinquent debtors does not prevent such acts and practices from being against the public interest. Some of the debtors may have had a justifiable reason for not paying their obligations." *Rothschild v. FTC*, 200 F. 2d 39, 42 (7th Cir. 1952), *cert. denied* 345 U.S. 941 (1953). Orders of the kind here proposed have been consistently upheld on judicial review. *Dejay Stores, Inc. v. FTC*, 200 F. 2d 865 (2d Cir. 1952), and cases there cited.

Respondents next assert that the complaint should be dismissed because, they say, there is "a lack of standards within the Federal Trade Commission delineating just what is acceptable to the Commission." To support their contention, they refer to certain negotiations for compliance with an order issued in an altogether separate proceeding in which respondents were not involved. Inasmuch as what constitutes due and proper compliance with an order to cease and desist can only be determined by the Commission in the light of the circumstances of the particular case, any speculation on possible modes of satisfactory compliance is manifestly premature at this stage. It suffices that the proposed order is clear and definite and reasonably related to the abuses found, upon substantial evidence, to have been committed.

Finally, respondents insist that the complaint should be dismissed as to the corporate respondent and its officers because, assertedly, it has not been shown that the corporation is engaged in interstate commerce or in the business of "skip-tracing." There is nothing in this contention. The record makes it clear beyond doubt, and the hearing examiner has so found, that the corporate respondent uses the facilities of the Credit Information Bureau, including the deceptive questionnaire forms which are in regular course transmitted from the New Jersey office to the District of Columbia office for mailing. Thus the corporate respondent and those who direct its policies and operations employ the channels of interstate commerce to carry on their business and thereby engage in unfair and deceptive acts and practices in interstate commerce.

We agree with the hearing examiner that it is "unnecessary to resolve the conflict in the evidence on whether the corporate respondent has solicited the sale of skip tracing forms in interstate commerce on its own behalf." However, it was the corporate respondent's transmittal of the forms from one State to another, not merely the use of the United States mails, that constituted acts and practices in interstate commerce. Hence the findings will be modified in this respect.

The hearing examiner has found, upon substantial evidence, that respondent Abraham Montag, though president of the corporate respondent, is not active in its operations, receives no salary therefrom on account of his positions, owns but a single share of the corporation's stock, and was made an official only for purposes of securing incorporation. No appeal was taken from this finding and we therefore approve the hearing examiner's dismissal of the complaint against this party as an individual.

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The examiner has also found that the questionnaire used by respondents carries on its face, among other things, a printed seal depicting "the Treasury Department Building or a similar government structure, with the legend on the seal 'Treasurer's Office, Washington, D.C.' " The exhibits in evidence do not entirely support this finding. Though the seal referred to does show a building, it obviously is not the United States Treasury Building in Washington, D.C., but a more general type of structure suggestive of a public edifice. The tendency and capacity to deceive remains, however, for the total impression conveyed by respondents' forms and envelopes and the use of a Washington, D.C., address and a seal showing an official-looking building is that they come from the Federal Government. The findings and the order will also be amended in this particular.

It is our judgment that respondents, other than Abraham Montag, have violated the provisions of Section 5 of the Federal Trade Commission Act, and their appeal is therefore denied. As modified, the initial decision will be accepted and adopted as the Commission's decision. An appropriate order will be issued.

FINAL ORDER

This matter having been heard on the respondents' appeal from the hearing examiner's initial decision, and the Commission having concluded that respondents, other than respondent Abraham Montag, have violated the provisions of Section 5 of the Federal Trade Commission Act, and having rendered its opinion denying the appeal; and

The Commission in its opinion having directed that the initial decision be modified in accordance with its views as therein expressed:

It is ordered, That the second sentence of the first full paragraph on page 5 of the initial decision be, and it hereby is, modified to read as follows: "In view of the fact that said corporate respondent has regularly purchased the skip-tracing forms of Credit Information Bureau for the collection of its own delinquent accounts and has transmitted them through the United States mails across State lines for the purpose of obtaining information concerning delinquent debtors in the manner above found, and it is found that said corporate respondent and its dominant figures, Edwin G. Axel and Melvin Montag, have engaged and are now engaged in substantial commercial intercourse in commerce, as 'commerce' is defined in the Federal Trade Commission Act."

It is further ordered, That the last sentence on page 5 of the initial decision be, and it hereby is, modified to read as follows: "There also appears on the face of the card the facsimile of a seal enclosing the picture of an indeterminate structure of the classical design typical of many government buildings, and bearing the legend 'Treasurer's Office, Washington, D.C.'"

It is further ordered, That the second sentence of the paragraph numbered "1" on page 7 of the initial decision be, and it hereby is, modified to read as follows: "Such representation or impression is created by the format and phraseology of the forms as a whole, including the use of such words as 'Treasurer's Office, Disbursement Certificate' or 'Disbursement Notice,' the use of the printed picture of an eagle on the face of the 'Treasurer's Office' forms, the use of the facsimile of a seal with the picture of a structure similar to many government buildings, the use of the address 'Headquarters Building, Washington, D.C.' or other Washington, D.C., mailing address on the 'Treasurer's Office' questionnaire and envelopes, and the color and format of the envelopes, as well as the format of the 'Confidential Office Questionnaire.'"

It is further ordered, That the third numbered paragraph of the order to cease and desist contained in the initial decision be, and it hereby is, modified to read as follows:

"3. Using the words 'Treasurer's Office,' 'Disbursement Office,' or the picturization of an eagle or of a structure so designed as to suggest that it is a government building, or any other word, phrase, or picturization of similar import on forms or otherwise, to designate, describe, or refer to respondents' business; or otherwise representing, directly or by implication, that requests for information concerning delinquent debtors are from the United States Government or any agency or branch thereof, or that their business or forms are in any way connected with the United States Government;".

It is further ordered, That the initial decision, as modified, be, and it hereby is, adopted as that of the Commission.

It is further ordered, That respondents National Clearance Bureau, a corporation, Melvin Montag, and Edwin G. Axel, within sixty (60) days after service of this order upon them, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order contained in the initial decision as hereinabove modified.

IN THE MATTER OF
AMERICAN PHOTOGRAPHIC SOCIETY ET AL.

CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket 6810. Complaint, May 29, 1957—Decision, Oct. 31, 1957

Consent order requiring a company in Pasadena, Calif.—engaged in selling photograph albums together with certificates for photographs to be taken at independent affiliated studios through salesmen calling upon mothers of newborn children whose names they obtained from newspapers, hospitals, etc.—to cease representing falsely that the persons solicited were specially selected and would receive free two albums, the larger of which alone was worth more than the total price paid; and that they had studios all over the country to take the pictures; and to cease representing falsely that it was a society or foundation or an institute engaged in research, through use of its corporate name and of the word "Foundation" in connection therewith, and of the corporate name "Advertising-Research Institute."

Edward F. Downs, Esq. and Garland S. Ferguson, Esq., for the Commission.

Respondents, pro se.

INITIAL DECISION BY ROBERT L. PIPER, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondents on May 29, 1957, charging them with having violated the Federal Trade Commission Act by making false and misleading representations concerning the selection of customers, the worth or value of their product, photographic albums, the offering of "free" albums, the availability of photographers honoring respondents' certificates, and characterizing their businesses as a society of photographers and an institute engaged in advertising research. Respondents entered into an agreement, dated August 7, 1957, containing a consent order to cease and desist, disposing of all the issues in this proceeding without hearing, which agreement has been duly approved by the Director of the Bureau of Litigation. Said agreement has been submitted to the undersigned, heretofore duly designated to act as hearing examiner herein, for his consideration in accordance with Section 3.25 of the Rules of Practice of the Commission.

Respondents, pursuant to the aforesaid agreement, have admitted all of the jurisdictional allegations of the complaint and agreed that the record may be taken as if findings of jurisdictional facts had been made duly in accordance with such allegations. Said agreement further provides that respondents waive all further proce-