

IN THE MATTER OF
FEDERAL CREDIT BUREAU OF THE UNITED STATES,
INC., ET AL.

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

Docket 6989. Complaint, Dec. 13, 1957—Decision, May 24, 1958

Consent order requiring operators of a collection agency who maintained a single office in Chicago, to cease representing falsely on printed forms, sales manuals furnished their agents, and by oral statements of agents that they had a nationwide departmentalized organization with local bonded collectors and attorneys in various States who would personally contact each debtor; that they would make prompt periodic reports on all accounts assigned for collection; that they maintained a credit reporting system available without cost to clients; that they would charge a maximum of 33⅓ percent of accounts they collected; that clients would receive their share of collections every 90 days or less; and, through use of their corporate name, that they were connected with the United States Government; and to cease using misleading form letters to obtain by subterfuge information concerning alleged debtors.

William A. Somers, Esq., for the Commission.

Ward C. Swallow, Esq., of Chicago, Ill., for respondents.

INITIAL DECISION BY JAMES A. PURCELL, HEARING EXAMINER

The complaint in this proceeding, issued December 13, 1957, charges the respondent Federal Credit Bureau of the United States, Inc., a corporation, and Cornelius J. Kelleher, Leonard W. Zinck, Alyce Kelleher, and Harriet Zinck, individually and as officers of said corporation, with violation of the Federal Trade Commission Act in connection with representations by them made in their business of soliciting accounts for collection and improper use of a corporate name implying connection with or as an agency of the U.S. Government.

After the issuance of said complaint, respondents, on February 18, 1958, entered into an agreement for a consent order with counsel in support of the complaint, disposing of all of the issues in this proceeding, which agreement was duly approved by the Director and Assistant Director of the Bureau of Litigation of the Federal Trade Commission. It was expressly provided in said agreement that the signing thereof is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.

By the terms of said agreement, the respondents admitted all of the jurisdictional allegations of the complaint and agreed that the record herein may be taken as though the Commission had made findings of jurisdictional facts in accordance with such allegations. By said agreement the parties expressly waived a hearing before the hearing examiner or the Commission, 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 may otherwise be entitled under the Federal Trade Commission Act or the rules of practice of the Commission.

By said agreement, respondents further agreed that the order to cease and desist issued in accordance with said agreement shall have the same force and effect as though made after a full hearing, presentation of evidence and findings and conclusions thereon, and specifically waived any and all right, power or privilege to challenge or contest the validity of such order.

It was further provided that said agreement, together with the complaint, shall constitute the entire record herein; that the complaint herein may be used in construing the terms of the order issued pursuant to said agreement; and that the said order may be altered, modified or set aside in the manner provided by statute for other orders of the Commission.

Said agreement recites that respondent Federal Credit Bureau of the United States, Inc., is a corporation existing and doing business under and by virtue of the laws of the State of Illinois; that respondents Cornelius J. Kelleher, Leonard W. Zinck, Alyce Kelleher, and Harriet Zinck are individuals and officers of said corporate respondent. Said corporate and individual respondents have their office and principal place of business located at 7404-2 South Racine Avenue, Chicago 36, Ill., respondents having moved their place of business from the address set forth in the complaint issued herein.

The hearing examiner has considered such agreement and the order therein contained. In order to carry out the obvious intent of the parties, and to clarify the language of "paragraph 2" of the order contained in said agreement, but in no wise to alter the intent or enlarge the effect thereof, said "paragraph 2" has been reworded as will hereinafter in said order appear. It appearing that said agreement and order as amended provides for an appropriate disposition of this proceeding, the same is hereby accepted and, without further notice to respondents, is ordered filed upon becoming part of the

Order

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Commission's decision in accordance with sections 3.21 and 3.25 of the rules of practice, and in consonance with the terms of said agreement, the hearing examiner finds that the Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of all the respondents named herein, and that this proceeding is in the interest of the public, wherefore he issues the following order:

ORDER

It is ordered, That respondent Federal Credit Bureau of the United States, Inc., a corporation, and its officers, and respondents Cornelius J. Kelleher, Leonard W. Zinck, Alyce Kelleher, and Harriet Zinck, individually and as officers of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the business of collecting accounts owed to others or in obtaining information concerning delinquent debtors, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist:

1. Representing, directly or indirectly, that:

(a) Respondents operate a nationwide organization or employ bonded collectors, investigators or attorneys in the various States of the United States, unless such is a fact.

(b) Debtors, whose accounts are assigned or turned over to respondents for collection, will be personally contacted.

(c) Status reports or accounts will be made at specific periods of time, unless such is the fact.

(d) Respondents are a credit reporting organization, either local or national.

(e) A maximum of 33½ percent, or any other percentage less than that actually charged, will be retained by respondents from accounts collected.

(f) Respondents will remit to clients their share of all accounts respondents collect within any specific time, unless such is the fact.

(g) That respondents' business is departmentalized.

2. Failing to remit money due clients within the time agreed upon, if no time has been agreed upon, within a reasonable time.

3. Using the corporate name Federal Credit Bureau of the United States, Inc., or any other corporate or trade name indicating that respondents, or any of them, are connected with or are an agency of the U.S. Government or representing, in any manner, that they are connected with or are an agency of the U.S. Government.

4. Using, or causing to be used in their behalf, in connection with the collection of accounts or in obtaining information concerning delinquent debtors, any forms, letters, questionnaires, or material printed or written, which do not expressly state that the information requested is for the purpose of collecting accounts and obtaining information concerning delinquent debtors.

DECISION OF THE COMMISSION AND ORDER TO FILE REPORT OF COMPLIANCE

The Commission having considered the hearing examiner's initial decision filed April 4, 1958, accepting an agreement containing a consent order to cease and desist theretofore executed by the respondents and counsel in support of the complaint, service of which was completed on April 23, 1958; and

It appearing that the order in the initial decision departs from the order agreed upon by the parties in that the paragraph numbered "2" has been reworded, purportedly "to carry out the obvious intent of the parties, and to clarify the language" of said paragraph; and

The Commission being of the opinion that under the provisions of subsection (d) of section 3.25 of the rules of practice the hearing examiner has no authority to change the language of an order contained in an agreement of the parties, even for the purpose of clarification:

It is ordered, That the paragraph numbered "2" in the order contained in the initial decision be, and it hereby is, modified to read as follows:

2. Failing to remit money due clients within the time agreed upon, if no time has been agreed upon, within a reasonable time.

It is further ordered, That the initial decision as so modified shall, on May 24, 1958, become the decision of the Commission.

It is further ordered, That the respondents, Federal Credit Bureau of the United States, Inc., a corporation, and Cornelius J. Kelleher, Leonard W. Zinck, Alyce Kelleher, and Harriet Zinck, individually and as officers of said corporation, shall, within sixty (60) days after service upon them of this decision, 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 aforesaid initial decision as modified.

IN THE MATTER OF

KLEAR VISION CONTACT LENS SPECIALISTS, INC.,
ET AL.CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket 7010. Complaint, Dec. 27, 1957—Decision, May 24, 1958*

Consent order requiring a manufacturer of contact lenses in New York City, to cease representing falsely in advertisements in newspapers, circulars, pamphlets etc., that all persons could successfully wear its contact lenses which would never cause irritation or discomfort, would completely replace eyeglasses and were a substitute for bifocals, would correct all defects in vision, would stay in place under all conditions, and differed from other lenses in that they permitted air and tears to bathe the cornea.

Mr. Frederick McManus for the Commission.

Mr. Joel J. Weiner, of New York, N.Y., for the respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

The complaint in this matter charges the respondents with misrepresenting contact lenses sold by them, in violation of the Federal Trade Commission Act. An agreement has now been entered into by respondents and counsel supporting the complaint which provides, among other things, that respondents admit all of the jurisdictional allegations in the complaint; that the record on which the initial decision and the decision of the Commission shall be based shall consist solely of the complaint and agreement; that the inclusion of findings of fact and conclusions of law in the decision disposing of this matter is waived, together with any further procedural steps before the hearing examiner and the Commission; that the order hereinafter set forth may be entered in disposition of the proceeding, such order to have the same force and effect as if entered after a full hearing, respondents specifically waiving any and all rights to challenge or contest the validity of such order; that the order may be altered, modified, or set aside in the manner provided for other orders of the Commission; that the complaint may be used in construing the terms of the order; and that the agreement is for settlement purposes only and does not constitute an admission by respondents that they have violated the law as alleged in the complaint.