

Order

55 F.T.C.

IN THE MATTER OF
MITCHELL S. MOHR TRADING AS
NATIONAL RESEARCH COMPANY, ET AL.

MODIFIED CEASE AND DESIST ORDER

Docket 6236. Order and Opinion, Nov. 14, 1958

Order modifying Commission's desist order of June 1, 1956, 52 F.T.C. 1466, to require that respondent collection agencies' questionnaires, etc., "clearly reveal that the purpose for which the information is requested is that of obtaining information concerning delinquent debtors."

Before *Mr. Abner E. Lipscomb*, hearing examiner.

Mr. Michael J. Vitale for the Commission.

Mr. Murray M. Chotiner, of Beverly Hills, Calif., for respondents.

ORDER REOPENING PROCEEDING AND MODIFYING ORDER
TO CEASE AND DESIST

The Commission, after due notice and a full hearing, having determined that the public interest requires that this case be reopened and the order to cease and desist heretofore entered herein modified in the manner set forth in the accompanying opinion:

It is ordered, That the proceeding be, and it hereby is, reopened for such purpose.

It is further ordered, That the hearing examiner's initial decision filed December 23, 1955, and the Commission's decision adopting it, issued June 1, 1956, be, and they hereby are, modified by striking from the order contained in said initial decision the paragraph numbered 1 and substituting therefor the following:

"1. Using, or placing in the hands of others for use, any forms, questionnaires or other materials, printed or written, which do not clearly reveal that the purpose for which the information is requested is that of obtaining information concerning delinquent debtors."

It is further ordered, That the respondents, Mitchell S. Mohr and Sidney Floersheim, 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 aforesaid order as modified hereby.

OPINION OF THE COMMISSION

By GWYNNE, Chairman:

This matter is before the Commission on a report and recommendation by the hearing examiner concerning an application to modify a portion of the original cease and desist order. The record has also been certified to the Commission by the hearing examiner. Respondents have filed objections to the hearing examiner's report and recommendation supported by written argument and also request oral argument thereon.

In view of the fact that the issue is a narrow one and is adequately presented in the written briefs filed herein, the request for oral argument is denied.

A brief statement of the history of this case will be sufficient at this point. The original complaint charged respondents with engaging in unfair and deceptive acts and practices through the dissemination and use of "skip tracing" forms. After a hearing, the hearing examiner entered a cease and desist order, which on appeal was adopted by the Commission. Paragraph 1 of the order required respondents to cease and desist from:

1. Using or placing in the hands of others for use, any form, questionnaire, or other material, printed or written, 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;

Thereafter, counsel supporting the complaint filed a motion urging the reopening of the case for the consideration of modification of paragraph 1 of the order previously entered. After a hearing in which both parties participated, the Commission remanded the case to the hearing examiner for the taking of testimony and for other proceedings as provided by law and by the Rules of the Commission.

Hearings were held by the hearing examiner at which witnesses were examined and exhibits introduced. The following conclusion and recommendation was filed with the report of the hearing examiner:

It is apparent from the testimony of these twelve witnesses, as well as from examination of the physical exhibits themselves, that the various cards currently used by the respondents in their effort to obtain information for their clients concerning delinquent debtors not only fail to reveal the true purpose thereof, but

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actually mislead and deceive the recipients to the extent that they do not know why the information is being requested.

Since the cards currently in use by respondents have the tendency and capacity to mislead and deceive persons to whom they may be sent, and since paragraph 1 of the Commission's outstanding order to cease and desist has given rise to confusion and controversy as to the compliance required, the public interest demands that said paragraph be revised to insure, beyond question, that such deception shall cease. Accordingly, it is recommended that the Commission's outstanding order to the respondents herein to cease and desist be modified by substituting for the current paragraph 1 thereof the following paragraph:

1. Using, or placing in the hands of others for use, any forms, questionnaires or other materials, printed or written, which do not clearly reveal that the purpose for which the information is requested is that of obtaining information concerning delinquent debtors.

The Commission, having examined the record and the briefs filed herein, adopts the findings, conclusion and recommendation of the hearing examiner.

It is directed that the present cease and desist order issued against respondents be modified by substituting for paragraph 1 of said order, the following:

1. Using, or placing in the hands of others for use, any forms, questionnaires or other materials, printed or written, which do not clearly reveal that the purpose for which the information is requested is that of obtaining information concerning delinquent debtors.

It is directed that order issue accordingly.

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IN THE MATTER OF
BENEFICIAL STANDARD LIFE INSURANCE COMPANY

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

Docket 6309. Complaint, Mar. 11, 1955—Order, Nov. 14, 1958

Order reopening proceeding, vacating decision of Sept. 23, 1955, 52 F.T.C. 342, and dismissing, on authority of the Supreme Court's *per curiam* opinion in the combined cases of *Federal Trade Commission v. National Casualty Company* and *Federal Trade Commission v. The American Hospital and Life Insurance Company*, 357 U.S. 560, complaint charging a Los Angeles insurance company with false advertising in the sale of accident and health insurance policies.

Before Mr. J. Earl Cox, hearing examiner.

Mr. J. W. Brookfield, Jr. and Mr. Donald K. King for the Commission.

Hill & Attias, of Beverly Hills, Calif., for respondent.

ORDER REOPENING PROCEEDING AND DISMISSING COMPLAINT

The respondent, pursuant to leave granted in the Commission's order of October 16, 1958, having submitted adequate proof of the facts on which it relies in support of its position that this proceeding should be reopened; and

The Commission having reconsidered the question of its jurisdiction in the matter in the light of the Supreme Court's *per curiam* opinion in the combined cases of *Federal Trade Commission v. National Casualty Company* and *Federal Trade Commission v. The American Hospital and Life Insurance Company*, 357 U.S. 560 (decided June 30, 1958):

It is ordered, That this proceeding be, and it hereby is, reopened.

It is further ordered, That the Commission's decision entered September 23, 1955, and the hearing examiner's initial decision filed August 16, 1955, be, and they hereby are, vacated and set aside.

It is further ordered, That the complaint herein be, and it hereby is, dismissed.