

IN THE MATTER OF
RAYMOND SCHMIDT TRADING AS FREE ENTERPRISE
ASSOCIATES

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

Docket 7854. Complaint, Mar. 31, 1960—Decision, Aug. 5, 1960

Consent order requiring an individual in Brooklyn, N.Y., to cease misrepresenting his services in obtaining loans or financial assistance for customers, as in the order below indicated.

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 Raymond Schmidt, an individual, trading as Free Enterprise Associates, hereinafter referred to as respondent, has 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 Raymond Schmidt is an individual, trading and doing business as Free Enterprise Associates, with his office and principal place of business located at 817 51st Street, in the City of Brooklyn, N.Y.

PAR. 2. Respondent is now, and for more than two years last past has been, engaged in the business of soliciting fees for services to be rendered in connection with obtaining loans for or financing businessmen or others. In connection therewith, respondent has been and is transmitting and receiving through the United States mail

advertising matter, pamphlets, circulars, letters, contracts, checks, money orders and other written instruments which are sent and received between respondent's place of business in the State of New York and persons, firms and corporations located in various other States of the United States, and thereby has engaged in extensive commercial intercourse in commerce, as "commerce" is defined in the Federal Trade Commission Act.

The volume of the aforesaid business conducted by respondent has been, and is, substantial.

PAR. 3. In the course and conduct of his business, respondent, through the use of circulars, form letters and other written instruments circulated in the various States of the United States and through oral representations and statements, all for the purpose of obtaining contracts and agreements for his services in obtaining loans or financial assistance for businessmen and collecting substantial sums of money as fees therefor, has represented, directly and by implication, to persons who desired to obtain loans or financial assistance, that:

1. Respondent will obtain loans or financial assistance within a short period of time for those paying his fees.
2. Respondent will continue his efforts to secure a loan or financial assistance until told by his customer to stop.
3. Respondent has buyers for large, established business enterprises that are for sale.
4. The fee paid respondent is for required travel expenses to contact his sources of financing.
5. Respondent has nationwide facilities for raising funds.
6. Respondent is associated with or has close connection with underwriters, brokers, investment banking firms, securities dealers and other sources of financing, and, thus, shopping for funds is avoided.
7. Respondent has completed the financing of every deal he has undertaken, with the exception of one transaction.
8. It is easy for respondent to obtain large amounts of money for his customers.
9. Respondent maintains six divisions handling financial contacts.
10. For the fee paid, respondent will set the buyer up in business, obtain financing, and furnish the "know how" for the business.

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

1. Respondent does not obtain loans or financial assistance for his customers within a short period of time, and in most instances does not obtain any financing.
2. Respondent does not continue his efforts to obtain financial assistance for his customers until told to stop.

3. Respondent does not have available buyers who are ready, willing and able to purchase businesses offered for sale through him.

4. The fee collected by respondent is not for travel expenses but, in most instances, is devoted to his own use.

5. Respondent does not have nationwide facilities for raising funds.

6. Respondent is not associated with nor has he close connection with underwriters, brokers, investment banking firms, securities dealers and other sources of financing.

7. Respondent has not secured financing in most or every instance for his customers.

8. It is not easy for respondent to obtain large amounts of money for his customers and in most instances he has failed to obtain any financing for them.

9. Respondent does not maintain any divisions in his business for handling financial contracts, or otherwise, but operates a one man business.

10. Respondent has not set any of his customers up in business, nor has he obtained financial or other assistance for them.

PAR. 5. The use by respondent of the aforesaid acts and practices, in connection with the conduct of his aforesaid business, has had, and now has, the capacity and tendency to mislead and deceive a substantial portion of the public and to induce many owners of property, because of said false, deceptive and misleading representations, to enter into contracts respecting the obtaining of loans or financial assistance and to pay over substantial sums of money to respondent in connection therewith.

PAR. 6. The acts and practices of respondent, as alleged herein, were, and are, all to the prejudice and injury of the public and constituted, and now constitute, unfair and deceptive acts and practices, in commerce, within the intent and meaning of the Federal Trade Commission Act.

Mr. John W. Brookfield, Jr., for the Commission.

Mr. Benjamin Lichterman, of Brooklyn, N.Y., for respondent.

INITIAL DECISION BY HARRY R. HINKES, HEARING EXAMINER

The Federal Trade Commission issued its complaint against the above-named respondent on March 31, 1960 charging him with having violated the Federal Trade Commission Act in the sale of his services in obtaining loans or financial assistance for businessmen or others.

An agreement has now been entered into by respondent, his attorney and counsel supporting the complaint which provides, among other things, that respondent admits all the jurisdictional facts alleged in the complaint; that the record on which the initial deci-

Order

57 F.T.C.

sion and the decision of the Commission shall be based shall consist solely of the complaint and the agreement; that the making 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 this proceeding without further notice to the respondent and when entered shall have the same force and effect as if entered after a full hearing, respondent specifically waiving all the rights he may have to challenge or contest the validity of the order; that the order may be altered, modified or set aside in the manner provided for other orders; that the complaint may be used in construing the terms of the order; that the agreement is for settlement purposes only and does not constitute an admission by respondent that he has violated the law as alleged in the complaint; and that the agreement shall not become a part of the official record unless and until it becomes a part of the decision of the Commission.

The hearing examiner having considered the agreement and proposed order and being of the opinion that they provide an adequate basis for appropriate disposition of the proceeding, the agreement is hereby accepted, the following jurisdictional findings made, and the following order issued:

1. Respondent Raymond Schmidt is an individual, trading and doing business as Free Enterprise Associates, with his office and principal place of business located at 817 51st Street, in the City of Brooklyn, State of New York.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

It is ordered, That respondent Raymond Schmidt, an individual, trading as Free Enterprise Associates, or under any other name or names, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale, and sale of his services in obtaining loans or financial assistance for businessmen or others in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, that:

1. Respondent will obtain loans or financial assistance for his customers within a short period of time, or in any other period of time that is not in accordance with the fact.

2. Respondent will continue his efforts to obtain loans or financial assistance for his customers until told by them to desist.
3. Respondent has ready buyers for the purchase of his customers' property that is for sale.
4. The fee paid respondent is for required travel expenses.
5. Respondent has nationwide facilities for raising funds for his customers.
6. Respondent is affiliated or connected with underwriters, brokers, investment banking firms, securities dealers, and other sources of financing.
7. Respondent has completed the financing of every deal he has undertaken or obtained loans or financing for any customer that is not in accordance with the fact.
8. Respondent can easily obtain large amounts of money for those paying for his services.
9. Respondent will set the purchaser of his services up in business, obtain financing, or furnish the necessary knowledge or information required to successfully operate the business sought to be established.
10. Respondent's organization consists of six or any number of divisions.

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 5th day of August 1960, become the decision of the Commission; and, accordingly:

It is ordered, That respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist.