

to be traced, that respondents Harvorne Liquidators, Inc., a corporation, and Abraham Hirsch, William Shocket and Jack A. Shocket, individually and as officers of said corporation, 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.

IN THE MATTER OF
NATIONAL RETAIL BOARD OF TRADE, INC., ET AL.

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

Docket 7498. Complaint, May 18, 1959—Decision, Sept. 22, 1960

Order requiring two affiliated Los Angeles collection agencies to cease representing falsely by their trade names that they were an organization of retailers and were engaged in the liquidation business, respectively; representing falsely through their solicitors and by statements on forms, etc., that they had corresponding bonded attorneys, professional collectors, associated offices, were an organization for the protection of creditors, obtained investigations through banks and employers and issued credit reports; and requiring them to reveal clearly on their forms, questionnaires, etc., that the information requested was for skip-tracing purposes.

Mr. Edward F. Downs and *Mr. Michael J. Vitale* supporting the complaint.

Mr. Paul E. Iverson and *Mr. Victor R. Hansen* of Los Angeles, Calif., for respondents.

INITIAL DECISION BY JOHN B. POINDEXTER, HEARING EXAMINER

PRELIMINARY STATEMENT

On May 18, 1959, the Federal Trade Commission issued a complaint alleging that National Retail Board of Trade, Inc., a corporation, National Liquidators, Incorporated, a corporation, Harold O. Jackson, Marion E. Jackson, individually and as officers of said corporations, and E. W. Pond, individually and as a director of said

corporations, hereinafter called respondents, violated the provisions of the Federal Trade Commission Act in the course of the operation of said corporations as collection agencies.

Respondents, through their counsel, answered the complaint, admitting some and denying other allegations. These will be discussed in subsequent paragraphs of this decision. Hearings have been held and proposed findings of fact, conclusions of law, and order have been submitted by respective counsel. These have been considered by the hearing examiner. All proposed findings of fact and conclusions of law not specifically found or concluded herein are rejected. Upon the basis of the entire record, the undersigned hearing examiner makes the following findings of fact and conclusions of law and issues the following order:

FINDINGS OF FACT

1. Respondent National Retail Board of Trade, Inc., is a corporation organized in 1927 under the laws of the State of Delaware. National Liquidators, Incorporated, is a corporation organized and doing business under the laws of the State of California. The office and principal place of business of each corporation is located at 7410 Beverly Boulevard, Los Angeles, Calif.

2. The respondents Harold O. Jackson and Marion E. Jackson are officers of said corporations. The respondent E. W. Pond is a director of said corporations. These individual respondents formulate, control and direct the policies, acts, and practices of the corporate respondents. Both the corporate and individual respondents cooperate and act together in carrying out the acts and practices herein-after found. The address of the individual respondents is the same as that of the corporate respondents.

3. The respondents operate and have operated for more than one year immediately prior to the issuance of the complaint herein, collection agencies under the names National Retail Board of Trade, Inc., and National Liquidators, Incorporated. Business is obtained by respondents through advertisements soliciting delinquent accounts for collection and by personal solicitation of agents.

4. The respondents use assignment forms upon which each delinquent account is listed showing the name of debtor, address, date of indebtedness incurred and the amount due. These forms are sent to creditors located in various States of the United States. After receipt, the creditor executes the form, assigning the account so listed to respondents for collection on a commission basis and mails the completed form to respondents at Los Angeles or it is sent to respondents by their salesmen. The debtors concerned reside in States

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other than California. The money collected by respondents from debtors is then transmitted, less their commission, to respective creditors, most of whom reside in States other than California. In some cases respondents receive checks from creditors representing their fees on accounts paid direct to the creditor by debtors.

5. In the conduct of said businesses as aforesaid, respondents have engaged, and are now engaged, in extensive commercial trade, in commerce among and between the various States of the United States including the receipt and transmission of assignments, contracts, letters, checks, money orders and other written instruments.

6. The complaint alleges, *inter alia*, that, through the use of the name of National Retail Board of Trade, Inc., the respondent and the individual respondents represented, and now represent, that said corporation is a nationwide organization of retailers. Said representations were, and are, false and misleading. The evidence shows that the National Retail Board of Trade, Inc., is not an organization of retailers and has no connection with any organization of retailers. Said corporation is operating solely as a collection agency. Therefore, it is found that the use of the name National Retail Board of Trade, Inc., is deceptive and misleading to the public.

7. The complaint further alleges that through the use of the name National Liquidators, Incorporated, respondent and the individual respondents represented, and now represent, that said corporation is a nationwide organization engaged in the liquidation business. The evidence shows and the respondents admit, that National Liquidators, Incorporated, is engaged in the business of collecting accounts. When the respondent National Liquidators, Incorporated, collects an account it thereby liquidates that account. To this extent, the respondent National Liquidators, Incorporated, is engaged in the liquidation business. Under the evidence in this record, it cannot be found that the use by respondent of the name National Liquidators, Incorporated, is deceptive and misleading.

8. The complaint further alleges that the respondent National Retail Board of Trade, Inc., and the individual respondents, in the course and conduct of their aforesaid business, and for the purpose of inducing individuals, firms and corporations to execute assignment of accounts for collection, as well as in aiding collections, have represented, and now represent, directly or by implication, through written statements appearing on assignment forms, contracts, letters and other written instruments, and through oral statements made by their salesman solicitors, that said corporate respondent:

1. Has corresponding bonded attorneys and professional collectors in every county in the various states;
2. Has associate offices in all principal cities;

3. Is a national organization for the protection of creditors;
4. Makes investigations and obtains reports through banks, employers, organizations, and others;
5. Issues credit reports and banks and other business houses watch such reports.

9. With respect to the allegations contained in sub-paragraphs 1, 2, 3, 4 and 5 of paragraph 4 above, respondents admit that they do not have bonded attorneys and professional collectors in every county in the various states. However, they contend that they have discontinued use of this representation. Respondents also admit that they do not have associate offices in all principal cities and that said representation in subparagraph two above may be misleading to some people. It is found, therefore, that respondents maintain only the one office in Los Angeles, Calif. and do not have associate offices in all principal cities. The evidence and testimony received in this record demonstrate that the respondent National Retail Board of Trade, Inc., is not a national organization for the protection of creditors, as alleged in subparagraph 3 of paragraph 4 of the complaint. This, the respondents admit but claim that this representation has also been discontinued. Respondents also admit that their representation to the effect that the respondent National Board of Trade, Inc., makes investigations and obtains reports through banks, employers, organizations and others, as alleged in subparagraph 4 of paragraph 4 above, may be misleading and deceptive to some people. The respondents admit that they are not in the credit reporting business. It is found, therefore, that this allegation has been established. With respect to the representation set out in subparagraph 5 of paragraph 4 above to the effect that the respondent National Retail Board of Trade, Inc., issues credit reports and banks and other business houses watch such reports, respondents admit that they do not issue credit reports. Mr. Jackson testified that the respondent National Retail Board of Trade, Inc. is not in the credit reporting business. He further testified that the only instance in which respondents ever make a credit report concerning a debtor is when a delinquent debtor may have given respondent's name as a credit reference. This is infrequent. Accordingly, it is found that this allegation has been sustained.

10. The use by respondent National Retail Board of Trade, Inc., and the individual respondents of the foregoing false, deceptive and misleading representations and practices has had and now has the tendency and capacity to mislead a substantial number of creditors and debtors into the erroneous and mistaken belief that such representations were, and are, true, and into the assignment of accounts

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to National Retail Board of Trade, Inc., for collection because of such mistaken and erroneous belief.¹

11. The complaint in paragraph 7 alleges that in the course and conduct of collecting accounts, the corporate respondents frequently seek to ascertain the current address of debtors from whom they are attempting to locate and collect accounts. For this purpose respondents use, and have used letters and forms which contain requests for information to be filled in by the addressee and returned to respondents. Typical of the language used in said letters and forms are the following:

I am endeavoring to communicate with a person of your name, and I believe that you are the individual.

This is a matter of importance to the proper person. Please answer the following questions which will enable me to be certain whether or not you are the person to whom I shall communicate fully:

Full Name	Telephone
Present residence address	Present employer
Occupation	Address
Marital status ☐ single ☐ married ☐ separated ☐ divorced ☐ widowed	
Mate's name	address
Children's names	addresses
Your parents' names	address
Other relatives	addresses
With whom do you bank	address

Your previous addresses and occupations

I hereby affirm that the above information is correct to the best of my knowledge.

Signed _____
(Do not print)

A business reply envelope is enclosed.

Very truly yours,

R. A. HOLMES.

Gentlemen:

We are desirous of verifying the position of the above-named individual, who, we are informed, is employed by your organization.

This information is desired for business purposes and we assure you that it will be treated with the strictest confidence.

In the event this individual is not on your current payroll, we would appreciate your giving us any available information as to his present whereabouts.

We enclose a business reply envelope for your convenience and we thank you for your cooperation in this matter.

Yours very truly,

/S/ M. E. JACKSON,
Auditor.

¹ The respondent National Retail Board of Trade, Inc. and the individual respondents contend that the use of these representations are not misleading to creditors because the representations are not made to creditors. This is no excuse. The representations were made and they are false and deceptive.

12. The first letter quoted above is plain and unambiguous. It appears to be directed to the purported debtor. The letter tells the addressee (purported debtor) that the writer is not positive the addressee is the person the writer wishes to communicate with and to please answer certain specified questions set out in the letter so the writer can determine if the addressee is the proper person with whom to communicate fully about a matter of importance. These questions relate to the full name, present and former residence and business addresses, telephone number and occupation of addressee, name of employer, marital status, name and address of wife and certain relatives, name of bank with whom addressee deals, and previous occupations of the addressee.

13. Counsel supporting the complaint contends that, through the use of the statements appearing in said letters and in particular the use in the first letter of the term "This is a matter of importance to the proper person," respondents have represented, directly or by implication, that the requested information is for business purposes and, if furnished, will be to the financial advantage of the person named. As authority for this contention, counsel cites *Retail Board of Trade, Inc.*, Docket 6214, and *American Credit Bureau, Inc.*, Docket 6364. Counsel asserts that the language in the letter in each of those cases is almost identical to that here involved. In the opinion of this hearing examiner, the wording of the two letters here in question are not identical with those involved in the *Retail Board of Trade* case, *supra*. With respect to the case of *American Credit Bureau, Inc.*, *supra*, the decision of the Commission in that case was based on a consent agreement. Under such circumstances it cannot be accepted as a reliable legal precedent for the interpretation here urged, even if it should be assumed that the wording of the letters are identical.

14. Counsel supporting the complaint asserts that the above representation or implication is not for business purposes and there is no advantage to the debtor in furnishing the information requested, but the use of said letters is an attempt to obtain information concerning debtors by subterfuge. In the first place, the information sought is most assuredly for business purposes because, as counsel supporting the complaint states, the information sought in the letters is for use in collecting accounts. Collecting an account is, in its very nature, a business activity. A "skip-tracer" letter is not illegal *per se*. To be unlawful under the purview of Section 5 of the Federal Trade Commission Act, the letter must contain language which is false, misleading, or deceptive. There is no statement in either of the letters involved in this proceeding that the information sought will be

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to the debtor's financial advantage, nor is there any statement therein from which such an interpretation may be inferred. The letters do not contain any affirmative representation or statement from which deception may be inferred or implied. The type of "skip-tracer" letters which are frowned upon by the Commission are those where deceptive language is used to obtain information. An example is where the letter to the purported debtor uses language which leaves the impression that the debtor has inherited a sum of money which is held by the writer and will be delivered upon verification that the debtor is the proper person to receive the money or inheritance. A recent case is *National Research Company*, Docket No. 6236. In that case, the company gathered information under the pretext of conducting research on the subject of gasoline and cigarettes, gifting the replier with nominal amounts of cigarettes and gasoline, and using forms designed to resemble requests from the United States Government and postmarked Washington, D.C. The Commission held these statements and the means used to be deceptive. Here, we have no such deception nor misrepresentation. The statements made in the letter, together with the information requested, sufficiently informs the addressee as to the purpose of the information requested. If the addressee is in fact the delinquent debtor whom the writer of the letter is attempting to locate, the statements made in the letter indicate the purpose of the letter and requested information. No affirmative misrepresentation or deception is made in the letter nor is there any statement made from which a misrepresentation or deceptive statement may be inferred.

15. The second letter previously set out in paragraph eleven herein, is directed to the debtor's supposed employer, requesting verification of the debtor's position with said employer. Counsel supporting the complaint does not point out his specific objection to this letter, but asserts generally that this letter is also deceptive. This hearing examiner has examined this second letter and is not able to find any deceptive statement therein nor any language from which a deceptive statement may be inferred.

CONCLUSIONS

1. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the person of each respondent;
2. This proceeding is in the interest of the public;
3. The acts and practices of the respondents, as hereinabove found, are 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.

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ORDER

It is ordered, That respondents, National Board of Trade, Inc., a corporation, and its officers, and Harold O. Jackson and Marion E. Jackson, individually and as officers of said corporation, and E. W. Pond, individually and as a director of said corporation, and said respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the solicitation of accounts for collection, or the collection of, or attempts to collect accounts, or to obtain information concerning delinquent debtors, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication:

(a) That they have corresponding bonded attorneys or professional collectors; or that they have any other persons or firms associated with them, unless such is the fact;

(b) That they have associate offices;

(c) That they are an organization for the protection of creditors;

(d) That they obtain investigations or reports through banks, employers or other organizations;

(e) That they issue credit reports.

2. Using the corporate name National Retail Board of Trade, Inc., or any other name of similar import; or representing, directly or by implication, that they are an organization of retailers or are connected in any manner with retailers or an organization of retailers.

It is further ordered, That the complaint be, and the same hereby is, dismissed as to the respondent National Liquidators, Incorporated, a corporation, and its officers.

OPINION OF THE COMMISSION

By SECRET, *Commissioner*:

This matter is before the Commission upon the cross-appeals of counsel supporting the complaint and respondents, excepting National Liquidators, Incorporated, from the hearing examiner's initial decision.

The complaint charges the respondents with misrepresentation in violation of the Federal Trade Commission Act in connection with their business of collecting delinquent accounts. The hearing examiner held that the evidence sustained some of the charges but not all and included with his initial decision an order against the respondents, except respondent National Liquidators, Incorporated, to cease and desist the practices found to be unlawful. The examiner dismissed the complaint as to respondent National Liquidators, Incorporated, and its officers.

The appeal of counsel in support of the complaint contests: (1) the dismissal of the complaint as to National Liquidators, Incorporated; (2) the finding that certain form letters set out in the complaint are not deceptive; and (3) the failure to include in the order a requirement for the disclosure on forms and materials the true purpose for which information is requested. Respondents appeal from the part of the order which prohibits them from using the corporate name National Retail Board of Trade, Inc.

We will first consider the appeal of respondents. They contend that there is no evidence that anyone has been deceived by the use of the name National Retail Board of Trade, Inc. They point to the testimony of Mr. Thomas D. Hodges, associated with the Better Business Bureau of Los Angeles, who stated that in the relevant period he had received no complaints relative to respondents' use of the name National Retail Board of Trade, Inc. As to this, the rule is that actual deception need not be shown. It is enough if the term has the capacity or tendency to deceive. *Federal Trade Commission v. Algoma Lumber Co., et al.*, 291 U.S. 67 (1934); *Charles of the Ritz Distributors Corp. v. Federal Trade Commission*, 143 F. 2d 676, 680 (2d Cir., 1944); *Progress Tailoring Co. v. Federal Trade Commission*, 153 F. 2d 103, 105 (7th Cir., 1946). Through the use of the name National Retail Board of Trade, Inc., respondents have represented that this company is an organization of retailers when in fact it is not. Such a representation is false, and it has the capacity and tendency to mislead and deceive many persons into the erroneous and mistaken belief that this name indicates the true nature of respondents' business and to induce them because of such erroneous and mistaken belief to furnish information which they would not have otherwise provided. Cf. *Clifford E. Rice, et al., t/a Retail Board of Trade, et al.*, 53 F.T.C. 5 (1934). We believe, therefore, that the examiner correctly prohibited respondents from using this name.

The appeal of counsel supporting the complaint first raises an issue as to the finding by the examiner that the trade name National Liquidators, Incorporated, is not deceptive. The complaint alleges that the use of this name is false, misleading and deceptive because the company is not engaged in the liquidation business in any respect. The examiner found that this respondent is engaged in the business of collecting accounts and that when it collects an account it thereby liquidates the account and so is engaged in the liquidation business. Although the term "liquidator" is broad enough in meaning to include the collection business. *Liquidators v. Clifton*, 286 p. 152, 153 (1930), it also can mean a person appointed to carry out the winding up of the affairs of a company. It, therefore, may be used

in such a manner as to represent that it could be to the financial advantage of the person involved to reply to correspondence in which it appears. *Cf. Clifford E. Rice, et al., t/a Retail Board of Trade, et al., supra.* In this case, in every document in evidence which is used for mailing to debtors and on which the name National Liquidators, Incorporated, appears, it is clear that this respondent is a collection agency and that the purpose for sending the material is to collect a debt. However, in cases where this name is used on stationery sent to the debtor's employer (as distinguished from correspondence sent directly to the debtor) respondent is using the term National Liquidators, Inc. with such legend as "A National Institution," in such a manner as to cause the employer so receiving the correspondence to believe that it may be to the benefit of his employee to reply to the correspondence. For this reason we believe that the over-all impression created by this letter is deceptive and the order to be issued herein will require a disclosure so that the employer will be apprised of the true purpose of respondent's correspondence.

The next question raised in the appeal of counsel supporting the complaint relates to the examiner's failure to find deception in certain form letters covered by the allegations in Paragraph Seven of the complaint. The first of these, a letter which does not carry the letterhead of either the National Retail Board of Trade, Inc., or National Liquidators, Incorporated, reads in part as follows:

Liquidation No. [number inserted]

I am endeavoring to communicate with a person of your name, and I believe that you are the individual.

This is a matter of importance to the proper person. Please answer the following questions which will enable me to be certain whether or not you are the person to whom I shall communicate fully:

[Series of questions follow.]

This letter is sent to the debtor. It is so phrased as to mislead a recipient into the belief that there may be some financial advantage in furnishing the information. The expression, "This is a matter of importance to the proper person," combined with the term "Liquidation" clearly carries with it the suggestion of possible benefit. The fact is that the purpose of the letter is to locate a debtor and to collect a debt. Thus, it is false, misleading and deceptive. We note that respondents admit in their answer that some of their statements have the tendency and capacity to mislead some persons. Also, this letter is almost identical to a form letter held to be deceptive in *Clifford E. Rice, t/a Retail Board of Trade, supra.* We conclude that the examiner erred in finding that the allegations of the complaint were not sustained as to respondents' use of this form.

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The other form letter set forth in Paragraph Seven of the complaint reads as follows:

Gentlemen:

We are desirous of verifying the position of the above-named individual, who, we are informed, is employed by your organization.

This information is desired for business purposes and we assure you that it will be treated with the strictest confidence.

In the event this individual is not on your current payroll, we would appreciate your giving us any available information as to his present whereabouts.

We enclose a business reply envelope for your convenience and we thank you for your cooperation in this matter.

Yours very truly,

/S/ M. E. JACKSON,
Auditor.

This form letter is used with the letterhead of both National Retail Board of Trade, Inc., and National Liquidators, Incorporated. It contains the company's emblem which is similar for both corporate respondents. The one contains the words, "National Retail Board of Trade—A National Institution"; the other, "National Liquidators, Incorporated—A National Institution." The form is signed in both instances by M. E. Jackson, Auditor.

While the body of this form letter, taken out of context, may not be false or deceptive, when taken in its entirety, with the aforementioned emblem and legend, and including the letterhead of the respective companies, it represents deceptively that it may be to the financial advantage of the party to reply to the correspondence. Actually the only purpose of the letter is to locate a debtor and collect a debt. The correspondence, therefore, is misleading and deceptive to the extent it may represent otherwise.

Counsel supporting the complaint have requested that the order include a provision which would prohibit the respondents from using or placing in the hands of others for use, any form, questionnaires or other materials, printed or written, which do not clearly reveal that the purpose for which information is requested is that of obtaining information concerning delinquent debtors. We find that the form letters herein found to be false and misleading fail to reveal their true purpose and deceive recipients to the extent that they do not know why the information is being requested. Accordingly, we believe that an appropriate disclosure provision in the order is necessary to prevent further deception. *Mitchell S. Mohr, t/a National Research Company, et al. v. Federal Trade Commission*, 272 F. 2d 401 (9th Cir., 1959). See also the order in *National Clearance Bureau, et al., Docket No. 6648*, affirmed *National Clearance Bureau, et al. v. Federal Trade Commission*, 255 F. 2d 102 (3d Cir., 1958).

The hearing examiner in his initial decision ordered that the com-

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plaint be dismissed as to respondent National Liquidators, Incorporated, and its officers. He found, however, that both the corporate and individual respondents cooperate and act together in carrying out the acts and practices which he found to be unlawful. The corporate respondents occupy the same place of business at 7410 Beverly Boulevard, Los Angeles, California. Individual respondents Harold O. Jackson and Marion E. Jackson are officers of both corporations and E. W. Pond is director of both corporations. These individuals formulate, control and direct the policies, acts and practices of both corporate respondents. While it was not found that National Liquidators, Incorporated, directly engaged in all of the practices alleged to be unlawful, this corporation acted with the other respondents in carrying out such practices and shares the responsibility for the violations. Moreover, the finding that respondents used deceptive form letters relates to both corporate respondents. In the circumstances, we see no reason to distinguish between the corporate respondents so far as the remedy is concerned. If the order is to be effective in a case such as this where respondents have acted together and where they operate what is in effect a single business, it must encompass all the respondents. Accordingly, we hold that the examiner erred in dismissing the complaint as to National Liquidators, Incorporated, and its officers.

The respondents' appeal is denied and the appeal of counsel in support of the complaint is granted. It is directed that an appropriate order be entered.

FINAL ORDER

Respondents, except National Liquidators, Incorporated, and counsel supporting the complaint having filed cross-appeals from the hearing examiner's initial decision, and the matter having come on to be heard by the Commission upon the whole record, including briefs in support of and in opposition to the appeals, and the Commission having rendered its decision denying respondents' appeal and granting the appeal of counsel in support of the complaint and directing that an appropriate order be entered:

It is ordered, That the first sentence in numbered paragraph 6 of the findings contained in the initial decision be, and it hereby is, modified to read as follows:

Through the use of the name of National Retail Board of Trade, Inc., in the course and conduct of the aforesaid business, this respondent and the individual respondents represented, and now represent, that the corporation so named is a nationwide organization of retailers.

It is further ordered, That the paragraph numbered 7 of the findings contained in the initial decision be, and it hereby is, modified to read as follows:

7. Through the use of the name National Liquidators, Incorporated, in the course and conduct of the aforesaid business, this respondent and the individual respondents represented, and now represent, that the corporation so named is engaged in the liquidation business. The firm of National Liquidators, Incorporated, is engaged solely in the business of collecting accounts, and while it is true that the term "liquidation" is broad enough in meaning to include a collection business, it also can mean a person appointed to carry out the winding up of the affairs of a company. It, therefore, may be used in such a manner as to represent that it could be to the financial advantage of the person involved to reply to correspondence in which it appears. In evidence in this record is a letter containing the letterhead "National Liquidators, Incorporated". This letter also includes the company's emblem on which appears the following words: "National Liquidators, Incorporated—A National Institution". The form letter is signed by M. E. Jackson, auditor. When used in this context, the name National Liquidators, Incorporated, represents that it would be to the financial advantage of the party for which the information is requested, if the recipient will reply. In fact, the only purpose of the letter is to locate a debtor and collect a debt. The representation, therefore, is false, misleading and deceptive. The name National Liquidators, Incorporated, when so used, has the capacity and tendency to mislead recipients into the erroneous and mistaken belief that such representation is true and may induce them because of such erroneous and mistaken belief to furnish information which they would not have otherwise provided.

It is further ordered, That the paragraph numbered 8 of the findings contained in the initial decision be, and it hereby is, modified by deleting the words "The complaint further alleges that" and by capitalizing the word "the" immediately following the deleted words.

It is further ordered, That paragraph numbered 9 of the findings contained in the initial decision be, and it hereby is, modified by inserting at the end thereof the following sentence:

It is, therefore, found that each of the representations set forth in subparagraphs 1 through 5 in paragraph 8 above, is false, misleading and deceptive.

It is further ordered, That the paragraph numbered 10 of the findings contained in the initial decision be, and it hereby is, modified by inserting the words "by creditors" immediately following the word "accounts".

It is further ordered, That the footnote to the paragraph numbered 10 of the findings contained in the initial decision be, and it hereby is, modified to read as follows:

¹ The respondents contend that the use of these representations are not misleading to creditors because the representations are not made to creditors. This contention is rejected. At least one of the representations appears on forms presented to creditors. Reference is made to Commission Exhibit 3, a contract used for assigning accounts. Some of the representations involved appear on forms intended to be sent to debtors, but even these forms could come to the attention of creditors. Moreover, the contention fails to establish a defense since some or all of the false representations have the tendency and capacity to deceive debtors into an erroneous and mistaken belief as to the true nature of respondents' business and induce them because of such erroneous and mistaken belief to furnish information which they would not have otherwise provided.

It is further ordered, That the first sentence of the paragraph numbered 11 of the findings contained in the initial decision be modified to read as follows:

In the course and conduct of their aforesaid business by collecting accounts, respondents frequently seek, and have sought, to ascertain the current address of persons from which they are attempting to collect accounts.

It is further ordered, That the initial decision be, and it hereby is, modified by substituting for the paragraphs numbered 12, 13 and 14 of the findings contained in the initial decision, the following paragraphs:

12. The first letter quoted above is sent to debtors. It is so phrased as to cause a debtor to believe that there may be some financial advantage in furnishing the information. The statement therein that "This is a matter of importance to the proper person", combined with the term "Liquidation" signifies or suggests possible benefit. The truth is that the sole purpose of the letter is to locate a debtor and collect a debt. Therefore, the representations as to financial advantage in this first form letter are found to be false, misleading and deceptive. The use by the respondents of this form letter has the capacity and tendency to mislead a substantial number of debtors into the erroneous and mistaken belief that such representations are true and may induce them because of such erroneous and mistaken belief to furnish information which they would not have otherwise provided.

13. The second form letter quoted above is sent to the debtor's employer. While there is nothing in the body of this form letter

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which is false or deceptive, nevertheless, taken in its entirety it is misleading in its overall effect. The letter contains the letterhead of the National Retail Board of Trade, Inc., or National Liquidators, Incorporated, and the emblem of the respective companies, one of which contains the words "National Retail Board of Trade—A National Institution" and the other "National Liquidators, Incorporated—A National Institution". The letter is signed by M. E. Jackson, Auditor. The representation in the letter, considering it as a whole, is that it would be to the financial advantage of the employee if the recipient employer will reply. In fact, the only purpose of the letter is to locate a debtor and collect a debt. The representation, therefore, is false, misleading and deceptive. This form letter has the capacity and tendency to mislead recipients into the erroneous and mistaken belief that such representation is true and may induce them because of such erroneous and mistaken belief to furnish information which they would not have otherwise provided.

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

It is ordered, That respondents, National Retail Board of Trade, Inc., a corporation, and National Liquidators, Incorporated, and their officers, and Harold O. Jackson and Marion E. Jackson, individually and as officers of said corporations, and E. W. Pond, individually and as a director of said corporations, and said respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the solicitation of accounts for collection, or the collection of, or attempts to collect accounts, or to obtain information concerning delinquent debtors, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication:

- (a) That they have corresponding bonded attorneys or professional collectors; or that they have any other persons or firms associated with them, unless such is the fact;
- (b) That they have associate offices;
- (c) That they are an organization for the protection of creditors;
- (d) That they obtain investigations or reports through banks, employers or other organizations;
- (e) That they issue credit reports;
- (f) That they are a national institution by using the emblem containing the words "National Retail Board of Trade—A National Institution" or "National Liquidators, Incorporated—A National Institution" or by any other means.

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2. Using the name National Retail Board of Trade Inc., or any other name of similar import; or representing, directly or by implication, that they are an organization of retailers or are connected in any manner with retailers or an organization of retailers.

3. Representing, through use of deceptive trade names or in any other manner, that their business is other than that of a private collection agency engaged in collecting past due accounts.

4. 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 initial decision of the hearing examiner, as modified, be, and it hereby is, adopted as the decision of the Commission.

It is further ordered, That the respondents 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.