

May, 1961, become the decision of the Commission; and, accordingly:
It is ordered, That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist.

IN THE MATTER OF
TUSECK ENTERPRISES, INC., TRADING AS
THE CARL COMPANY ET AL.

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

Docket 8117. Complaint, Sept. 16, 1960—Decision, May 3, 1961

Order requiring a concern in Lisbon, Ohio, engaged in selling printed forms for use in collecting past-due accounts to collectors and collection agencies who in turn send them to delinquent debtors, to cease giving the impression that such papers are official forms and constitute legal process, by means of the captions "FINAL NOTICE BEFORE SUIT" or "... BEFORE STATUTORY GARNISHMENT", and other language used, the general make-up, size and kind of type, presence of a simulated official seal, etc.

Mr. Daniel H. Hanscom for the Commission.

Moore & Moore, of Lisbon, Ohio, by *Mr. W. B. Moore, Jr.*, for respondents.

INITIAL DECISION BY WILLIAM L. PACK, HEARING EXAMINER

1. Respondents are charged with violation of the Federal Trade Commission Act through the sale and distribution of certain allegedly misleading printed forms, the forms being designed for use by creditors and collection agencies in undertaking to collect debts from delinquent debtors. In their answer respondents admit all of the factual allegations in the complaint, only the conclusions being denied. Hearings have been held at which evidence, both in support of and in opposition to the complaint, was received. Proposed findings and conclusions have been submitted, oral argument having been waived, and the case is now before the hearing examiner for final consideration. Any proposed findings or conclusions not included herein have been rejected.

2. Respondent Tuseck Enterprises, Inc., is an Ohio corporation with its office and principal place of business located at 108 West Washington Street, Lisbon, Ohio. The corporation also does business under the name The Carl Company. Respondents Frank J. Tuseck and Joyce L. Tuseck are officers of the corporation and formulate, direct and control its policies, acts and practices.

3. As already indicated, respondents are engaged in the business of selling printed forms designed for use in collecting past due debts, the forms being sold to creditors and collection agencies who in turn send them to delinquent debtors.

4. There is no dispute over the element of interstate commerce. The forms are sold and shipped by respondents in substantial quantities to purchasers located in various States of the United States other than the State of Ohio.

5. Examination of certain of the forms received in evidence leaves no doubt that they are misleading in that they simulate legal process.

One of the forms (CX 1 A) is captioned: "FINAL NOTICE BEFORE SUIT". Blanks are provided for insertion of the name of the state and county and of the creditor and debtor. The form then reads:

TO THE ABOVE NAMED DEBTOR

TAKE NOTICE: You are hereby notified that this is your final opportunity to pay your legally and past due debt of \$-----to the above named Creditor.

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THEREFORE: If payment is not received on or before the _____ day of _____ A.D., 19____, proceedings may be taken against you by default.

JUDGMENT WILL BE ASKED TO INCLUDE
 I FULL PRINCIPAL DUE
 II MAXIMUM LEGAL RATE OF INTEREST
 III ALL COURT COSTS
 IV ALL COSTS OF COLLECTION
 V REASONABLE ATTORNEY'S FEES

Executed this _____ day of _____ A.D. 19____, in the State and County aforesaid.

Signed _____

In the lower left-hand corner of the form is a seal simulating an official seal.

6. A second form (CX 2) is similar to that described above except that instead of reading: "**** proceedings may be taken against you by default", the form reads: "**** proceedings *will* be taken against you by default" (Emphasis supplied). This form also contains a simulated official seal.

7. A third form (CX 3 A) is captioned "FINAL NOTICE BEFORE STATUTORY GARNISHMENT" and reads:

TO THE ABOVE NAMED DEBTOR

TAKE NOTICE: That the above named creditor has a liquidated claim against you in the amount of \$_____.

Demand has been made against you numerous times, but you have pleaded poverty and destitution. Now we find that you have been working all the time and earning a steady salary.

NOW THEREFORE: You are hereby ordered and directed to pay the above shown indebtedness on or before the _____ day of _____ A.D., 19____, or a garnishment proceedings may be taken against your wages, income and/or property pursuant to the laws of this state.

Here again there is a simulated official seal on the form.

8. Two of the three forms (CXs 1 A and 3 A) have on the back the words "Final Notice before Suit" or "Final Notice before Statutory Garnishment", the words in each case being in the position where such words would ordinarily appear on the back of a court summons or other legal process.

9. Not only the actual language used in the forms, but their general make-up, size and kind of type, presence of the purported seal, etc. all contribute to the impression that the papers are official forms and constitute legal process. Unquestionably they would be so understood by many debtors.

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10. On behalf of respondents, it is pointed out that statutes of the State of Ohio require that advance written notice of certain court proceedings be given the defendant by the plaintiff, particularly where extraordinary legal remedies such as attachment or garnishment are sought. The answer, of course, is that the present proceeding is not at all directed against the giving of such notice as is contemplated by the statutes in question. What is involved here is the use of forms which create the impression, or certainly are likely to create the impression, that they themselves constitute legal process.

11. The fact that respondents do not themselves send the forms to debtors is immaterial, as is also the fact that respondents' own customers are not deceived. The offense here is the placing in the hands of others means and instrumentalities whereby such parties are enabled to mislead and deceive members of the public.

12. The acts and practices of respondents constitute unfair and deceptive acts and practices in commerce in violation of the Federal Trade Commission Act. The proceeding is in the public interest.

ORDER

It is ordered. That the respondents, Tuseck Enterprises, Inc., a corporation, trading as The Carl Company, or under any other name, and its officers, and Frank J. Tuseck and Joyce L. Tuseck, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of printed forms or other material designed for use in collecting debts, do forthwith cease and desist from:

(1) Selling to or otherwise placing in the hands of others respondents' present forms designated "Final Notice Before Suit", "Demand for Payment", and "Final Notice Before Statutory Garnishment".

(2) Selling to or otherwise placing in the hands of others any other forms or material which simulate legal process.

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 3rd day of May 1961, become the decision of the Commission; and, accordingly:

