

dismissed.

Commissioner MacIntyre concurring only in the result.

IN THE MATTER OF
GEORGE MACY COMPANIES, INC.

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

Docket C-740. Complaint, Apr. 30, 1964—Decision, Apr. 30, 1964

Consent order requiring a New York City mail order dealer in books and other publications, certain of which were sold under the name of The Heritage Club, to cease representing falsely in letters to purportedly delinquent customers that the delinquent's name had been transmitted to a bona fide credit

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reporting agency or would be transferred to an attorney to institute suit for collection, and that if payment was not made his credit rating would be adversely affected, and, by use of "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC." on letterheads, that a bona fide organization by that name had prepared and sent the letters.

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 George Macy Companies, Inc., a corporation, 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 George Macy Companies, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 595 Madison Avenue, in the city of New York, State of New York.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale and sale of books and other merchandise to the general public by and through the United States mails.

PAR. 3. In the course and conduct of its business, respondent now causes and for some time last past has caused its said books and merchandise, when sold, to be shipped from its place of business and sources of supply in the State of New York to purchasers thereof located in various other States of the United States and in the District of Columbia, and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said books and merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its business, respondent offers for sale certain books and publications through the United States mails under the name The Heritage Club. Said books and publications are distributed and payment made therefor through the United States mails.

For the purpose of inducing the payment of purportedly delinquent accounts that have arisen from the aforesaid transactions, respondent has made certain statements and representations in letters and notices disseminated through the United States mails to purportedly delinquent customers.

Typical, but not all inclusive of said statements and representations are the following:

a. On the letterhead of The Heritage Club:

The amount of money which you owe us is not large! We hope you will not let it create a rift in our pleasant relationship. * * *

It is not possible for us to determine whether you have been negligent, or whether you want to avoid paying for your books. * * * If you are a charming and honest person, then you will be insulted if we turn your account over to an attorney for collection. Yet since you have not paid our bill, and have not replied to the letters we sent you, we must turn your account over to an attorney if you will not write us now. * * *

b. On the letterhead:

THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC.

CREDIT REPORTS—COLLECTIONS

NEW YORK 18, N.Y.

We have been notified by one of our members, The Heritage Club, of your failure to pay a past-due account of * * *

While ours is a credit and collection agency, our endeavor is that of mediator: between you a customer with a past-due account of \$ and one of our members The Heritage Club.

* * * * *

The action on your part of either sending a payment or an explanation now is necessary to circumvent The Heritage Club from turning your account over to special counsel.

We have been notified by the Heritage Club that in five days they will file with special counsel your debt of \$. Only your immediate remittance of this sum, to the Club at 595 Madison Avenue, will prevent this action.

PAR. 5. By and through the use of the aforesaid statements, representations and practices, and others of similar import not specifically set out herein, respondent represents and has represented that:

a. The delinquent customer's name has been transmitted to a bona fide credit reporting agency.

b. If payment is not made, the customer's general or public credit rating will be adversely affected.

c. "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC." is a separate, bona fide collection and credit reporting agency located in New York City.

d. Respondent has turned over to said "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC.", the delinquent account of the customer for collection and other purposes.

e. If payment is not made, the delinquent customer's account will be transferred to an outside attorney with instructions to institute suit to take other legal steps to collect the outstanding amount due.

f. The letters on the letterhead of the said "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC." have been prepared and mailed by said organization.

PAR. 6. In truth and in fact:

a. The delinquent customer's name has not been transmitted to a bona fide credit reporting agency.

b. If payment is not made, the customer's general or public credit rating is not adversely affected.

c. "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC." is not a separate, bona fide collection agency or credit reporting agency. Said organization is a fictitious name utilized by respondent and others for the purpose of disseminating collection letters.

d. Respondent has not turned over to said "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC." the delinquent account of the customers for collection or any other purpose.

e. If payment is not made, the delinquent customer's account is not transferred to an outside attorney with instructions to institute suit or other legal steps to collect the outstanding amount due.

f. The letters on the letterhead of the said "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC." have not been prepared and mailed by said organization. Said letters and notices have been prepared and mailed or caused to be mailed by respondent. Replies in response to said letters and notices are forwarded unopened to respondent.

Therefore, the statements and representations as set forth in Paragraphs Four and Five hereof were and are false, misleading and deceptive.

PAR. 7. The use by respondent of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead members of the purchasing public into the erroneous and mistaken belief that said statements and representations were and are true and into the payment of substantial sums of money to respondent by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondent, as herein alleged, 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, in violation of Section 5 of the Federal Trade Commission Act.

DECISION AND ORDER

The Commission having heretofore determined to issue its complaint charging the respondent named in the caption hereof with violation of the Federal Trade Commission Act, and the respondent having been served with notice of said determination and with a copy of the

complaint the Commission intended to issue, together with a proposed form of order; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondent of all the jurisdictional facts set forth in the complaint to issue herein, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as set forth in such complaint, and waivers and provisions as required by the Commission's rules; and

The Commission, having considered the agreement, hereby accepts same, issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent George Macy Companies, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 595 Madison Avenue, in the city of New York, 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 George Macy Companies, Inc., a corporation, and its officers, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of books, or other merchandise, 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. A customer's name has been or will be turned over to a bona fide credit reporting agency or that a customer's general or public credit rating will be adversely affected unless respondent establishes where payment is not received, that the information of said delinquency is referred to separate bona fide credit reporting agency;

2. Delinquent accounts will be or have been turned over to a bona fide, separate collection agency or attorney for collection unless respondent in fact turns such accounts over to such agencies or attorney;

3. Delinquent accounts have been turned over to "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC." for collection or any other purpose;

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4. "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC.", any other fictitious name, or any trade name owned in whole or in part by respondent or over which respondent exercises any direction or control, is an independent, bona fide collection or credit reporting agency;

5. Notices or other communications which respondent has, or have caused to be, prepared, written or mailed, have been sent by "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC.", or any other