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

Docket C-753. Complaint, June 11, 1964—Decision, June 11, 1964

Consent order requiring a New York City distributor of books and other publications to cease representing falsely to purportedly delinquent customers that delinquent accounts will be transferred to an attorney for collection. and through the use on letterheads of the fictitious name "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC.," that past-due accounts have been referred to a separate agency of that name for collection.

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 Grolier Enterprises 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 Grolier Enterprises 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 845 Third 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, sale and distribution of books, publications and other merchandise through the United States mails and by other means to the general public.

PAR. 3. In the course and conduct of its business, respondent now causes and for some time last past has caused its said books, publications and other merchandise, when sold, to be shipped from its place of business 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, publications and other 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, sells and distributes certain books and publications through the United States mails. Said merchandise is delivered and payment made therefor through the mails.

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

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

a. On the letterhead of Grolier Enterprises, Inc.:

Dear Customer:

We don't want to place your account with an attorney or collection agency. But, what are we to do? It is seriously overdue and our requests for payment remain ignored.

Legal work means added cost and you will be liable for those costs. * * *

b. On another 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, Grolier Enterprises, Inc., of your failure to pay a past-due account. * * *

URGENT

Your failure to settle your account leaves our client no choice but to take immediate action per our previous letters.

If, within fifteen days from this date, settlement in full has not been received, our client has stated that they will unconditionally turn your account over to their attorneys with instructions to proceed with the necessary legal steps to enforce collection.

You realize, of course, that such action may result in court costs payable by you in addition to the amount due. * * *

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

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

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

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

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

PAR. 6. In truth and in fact:

a. If payment is not made, the delinquent customer's account is not transferred to an attorney to institute suit or other legal steps unless the amount of indebtedness is substantial.

b. "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.

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

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

e. The letters on the letterheads of "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC." have not been prepared and mailed by said organi-

zation. 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 Grolier Enterprises 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 845 Third 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, Grolier Enterprises Inc., a corporation and its officers, agents, representatives and employees, successors or assigns, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of books, publications 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. Delinquent accounts will be turned over to an attorney to institute suit or other legal action where payment is not made, unless respondent establishes that such is the fact;

2. (a) Delinquent accounts will be turned over to a bona fide, separate collection agency for collection unless respondent establishes that a prior determination had been made in good faith to make such referral;

(b) Delinquent accounts have been turned over to a bona fide, separate collection agency for collection unless respondent establishes that such is the fact;

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

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. A customer's name will be or has been 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 that where payment is not received, the information of said delinquency is referred to a separate, bona fide credit reporting agency;

6. Letters, notices or other communications which have been prepared or originated by respondent have been prepared or originated by any other person, firm or corporation.

It is further 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 this order.

IN THE MATTER OF

THE CONDE NAST PUBLICATIONS INC.

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

Docket C-754. Complaint, June 11, 1964—Decision, June 11, 1964

Consent order requiring a New York City distributor of "Glamour" and "House and Garden" magazines to the public to cease representing falsely to purportedly delinquent customers on letterheads of the fictitious name "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC.", that delinquent accounts had been turned over to an independent collection agency of that name with instructions to take legal action and that the customer's credit rating would be adversely affected if payment was not made.

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 The Conde Nast Publications 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 The Conde Nast Publications 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 at 420 Lexington 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 "Glamour" and "House and Garden" magazines 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 magazines and merchandise, when sold, to be shipped from its place of business and sources of supply in the States of New York and Connecticut 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 magazines and merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its business and for the purpose of inducing the payment of purportedly delinquent accounts that have arisen from the sale of subscriptions to the aforesaid magazines, respondent has engaged in the practice of disseminating certain correspondence on the letterhead of "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC.," of New York. In said correspondence, respondent has made certain statements and representations for the purpose of inducing payment of the purportedly delinquent accounts.

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

THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC., CREDIT REPORTS—COLLECTIONS
NEW YORK 18, N.Y.

We have been notified that one of our members, House & Garden, Incorporating Living For Young Homemakers, of your failure to pay a past-due account for a subscription to this magazine which you ordered some time ago. A duplicate of their statement is enclosed. They have engaged us to take whatever steps are necessary to secure payment.

SECOND NOTICE

A duplicate statement of your account with House & Garden, Incorporating Living For Young Homemakers is enclosed herewith. We have been instructed to take any necessary steps to effect collection. * * * We are giving you a final opportunity to make payment. Although the sum involved is small, it is our business to collect our clients' delinquent accounts regardless of size, and we are organized for this purpose. In the event that House & Garden takes legal action, you may not be aware that court costs and legal fees must be paid by the person against whom judgment is rendered. Legal action against you may result in considerable additional expense to you. If you doubt this statement we suggest that you consult your own attorney. * * *

FINAL NOTICE

Your account with House & Garden Incorporating Living For Young Homemakers was turned over to us sometime ago for collection. * * * This is the last request for payment which we shall send. * * *

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 has represented, directly or by implication that:

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

(b) Respondent has turned over to "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC." the delinquent account of the customer for collection and with instructions to institute suit or take other legal action to collect the amount purportedly due.

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

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

PAR. 6. In truth and in fact:

(a) "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 purposes of disseminating collection letters.

(b) Respondent has not turned over to "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC." the delinquent account of the customer for collection or any other purpose and has not instructed said organization to institute suit or take other legal action or collect the amount purportedly due.

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

(d) The letters on the letterhead of "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC." have not been prepared and mailed by said organization. Said letters 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, representations and practices 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 The Conde Nast Publications 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 420 Lexington 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 The Conde Nast Publications Inc., a corporation, and its officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution of magazines 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. "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC.," any fictitious name, or any trade name over which respondent exercises any direction or control, is an independent, bona fide collection or credit reporting agency;

2. Delinquent accounts have been or will be turned over to "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC." with instructions to institute suit or take other legal action to collect amounts purportedly due; or that any accounts have been or will be turned over to any organization, attorney, firm of attorneys, or person with instructions to institute suit or other legal action unless respondent establishes that such is the fact;

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

4. A customer's name has been 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 that where payment is not received, the information of said delinquency is referred to a bona fide credit reporting agency;

5. Delinquent accounts have been turned over to a bona fide, separate collection agency for collection or any other purpose unless respondent in fact has turned such accounts over to such agencies.

6. Letters, notices or other communications in connection with the collection of respondent's accounts which have been prepared or originated by respondent, have been prepared or originated by any other person, firm or agency;

Provided, however, That the words "agents" and "representatives" as used herein in the preamble to the numbered provisions of the order shall not be deemed to include a bona fide and independent collection agency or attorney.

It is further 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 this order.