
IN THE MATTER OF
SIMON & SCHUSTER, INC.

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

Docket C-755. 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 on letterheads of the fictitious "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC.", that a bona fide collection agency of that name had delinquent accounts for collection and that, if payment was not made, the customer's credit rating would be adversely affected.

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 Simon & Schuster, 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 Simon & Schuster, 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 630 Fifth 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 publications, books and other merchandise to the general public directly through the United States mails and through distributors, jobbers and dealers.

PAR. 3. In the course and conduct of its business, respondent now causes and for some time last past has caused its said publications, books and other merchandise, when sold, to be shipped from its place of business in the State of New York to purchasers thereof located in the 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 publications, books, 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 and for the purpose of inducing the payment of purportedly delinquent accounts that have arisen from the mail order sale of certain publications, books and other merchandise, 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, NEW YORK

Re: Claim of:

SIMON AND SCHUSTER, INC.

Your past due account has been turned over to us for collection by our client.

* * * * *

With credit assuming an ever increasing role in our economy, the importance of a good credit record cannot be stressed too strongly. * * *

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, directly and by implication that:

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

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

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

d. The letters on the letterheads 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 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.

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

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 said "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 prac-

910

Decision and Order

tices 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 Simon & Schuster, 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 630 Fifth 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 Simon & Schuster, 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 publications or books 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 other fictitious name, or any trade name owned in whole or in part by respondent or over which respondent exercises direction or control, is an independent, bona fide collection or credit reporting agency;

Complaint

65 F.T.C.

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

3. 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 separate, bona fide credit reporting agency;

4. Delinquent accounts have been turned over to a bona fide, separate collection agency for collection unless respondent in fact has turned such accounts over to such agency;

5. 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 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

TIMED ENERGY, INC., ET AL.

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

Docket C-756. Complaint, June 11, 1964—Decision, June 11, 1964

Consent order requiring Bellmore, Long Island, N.Y., distributors to the general public of vitamins and other merchandise to cease representing falsely that delinquent customers' accounts were transmitted to an independent collection agency and, through the use on letterheads of the fictitious name "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC.", or "John J. Murphy, ATTORNEY AT LAW", that a bona fide collection agency or an outside attorney was handling the account and that the customer's credit rating would suffer 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 Timed Energy, Inc., a corporation, and James E. True, Patricia M. Gallehr and Leon

Weiss, individually and as officers of said corporation, hereinafter referred to as respondents, have 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. Respondents Timed Energy, 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 2750 Merrick Road, Bellmore, Long Island, in the State of New York.

Respondents James E. True, Patricia M. Gallehr and Leon Weiss are individuals and officers of said corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the advertising, offering for sale, sale and distribution of vitamins and other merchandise to the general public. Said vitamins and merchandise are advertised, sold and payment made therefor through the United States mails.

PAR. 3. In the course and conduct of their business, respondents now cause, and for some time last past have caused, their said merchandise, when sold, to be shipped from their 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 maintain, and at all times mentioned herein have maintained, a substantial course of trade in said merchandise in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business and for the purpose of inducing the payment of purportedly delinquent accounts, respondents have made certain statements and representations through letters and materials sent through the United States Mails to purportedly delinquent customers who have purchased vitamins or other merchandise.

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

(a) On the letterhead of "TIMED ENERGY, 419 Park Ave. South, N.Y. 16, N.Y."

Dear Friend:

Is there some reason why you have not paid the enclosed bill? Please don't consider this a "collection letter," but rather a friendly note to find out if there is some reason why you have not paid the enclosed statement. * * *

Dear Member:

Complaint

65 F.T.C.

When we wrote to you a few weeks ago we asked you to please pay our bill "in the hat" because our bill was long over due. So far we have not heard from you, nor have we received your payment * * *

Dear Friend:

Before sending your file to a professional collection agent who may call on you personally to collect this long past due account, I have instructed our Credit Manager to let me appeal to you once more.

Let's face the facts. It will be embarrassing to you, and this method of collecting is expensive.

From your standpoint the bill must be paid eventually, so why delay and risk this embarrassment and expense? * * *

(b) On the following letterhead:

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

Dear Friend:

We have been notified by one of our members, Timed Energy, Inc., of your failure to pay a past due account. A duplicate of their statement is enclosed. They have engaged us to collect this balance due. * * *

SECOND NOTICE

A duplicate statement of your account with Timed Energy Inc. is enclosed herewith.

Our client states that you have been given every opportunity to pay this honest debt, and we have already offered you this same opportunity.

Please be advised that we are giving you another chance 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. * * *

(c) On the following letterhead:

John J. Murphy
ATTORNEY AT LAW 15 WEST 38TH ST., NEW YORK 18, N.Y.
TAKE NOTICE THAT:

I have been consulted by my client in connection with their claim against you for goods sold and delivered, in the amount shown on the enclosed statement.

My client advises that this claim arises from an order placed by you, shipped to you, but not paid for despite several demands by my client.

I have been requested to write you to offer one final opportunity to pay this bill. May I strongly urge you to pay this outstanding obligation immediately. * * *

PAR. 5. By and through the use of the aforesaid statements, representations and practices, and others of similar import not specifically set out herein, respondents represent and have represented directly or by implication that:

(a) If payment is not made, the delinquent customer's name is transmitted to a bona fide independent collection agency.

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

(c) Respondents have 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) Mr. John J. Murphy is an outside attorney at law, located in New York City, to whom the delinquent customer's account has been transferred for collection.

(f) Letters and notices on the letterheads of "THE MAIL ORDER CREDIT REPORTING ASSOCIATION INC.", and "John J. Murphy, Attorney at Law" have been prepared and mailed by said organization or named attorney.

PAR. 6. In truth and in fact:

(a) If payment is not made, the delinquent customer's name is not transmitted to a bona fide independent collection agency.

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

(c) Respondents have 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 delinquent customer's account has not been transferred to Mr. John J. Murphy for collection or for any other purpose.

(f) The letters and notices on the letterheads of "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC." and "John J. Murphy, Attorney at Law" have not been prepared or mailed by said organization or named attorney. Said letters and notices have been prepared and mailed or caused to be mailed by respondents. Replies in response to said letters and notices are forwarded unopened to respondents.

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 respondents 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

Decision and Order

65 F.T.C.

substantial sums of money to respondents by reason of said erroneous and mistaken belief.

PAR. 8. The aforesaid acts and practices of respondents, 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 respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents 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 respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents 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 respondents 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 Timed Energy, 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 2750 Merrick Road, Bellmore, Long Island, in the State of New York.

Respondents James E. True, Patricia M. Gallehr, and Leon Weiss are officers of said corporation, and their address is the same as that of said corporation.

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

ORDER

It is ordered, That respondents Timed Energy, Inc., a corporation, and its officers, and James E. True, Patricia M. Gallehr and Leon Weiss, 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 and distribution of vitamins 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. Delinquent accounts will be turned over to a bona fide, separate collection agency or attorney for collection unless respondents establish 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 or attorney for collection unless respondents establish that such is the fact;

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

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

(4) 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 respondents establish that where payment is not received, the information of said delinquency is referred to a separate, bona fide credit reporting agency;

(5) "John J. Murphy" or any other person or firm is an outside, independent attorney at law or firm of attorneys representing respondents for collection of past due accounts unless respondents establish that a bona fide attorney client relationship exists between respondents and said attorney or attorneys, for purposes of collecting such accounts;

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

It is further ordered, That the respondents herein 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 this order.

Complaint

65 F.T.C.

IN THE MATTER OF

GOLDEN PRESS, INC.

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

Docket C-757. Complaint, June 11, 1964—Decision, June 11, 1964

Consent order requiring New York City distributors of books and other merchandise to the public to cease representing falsely to purportedly delinquent customers that if payment was not made, their name would be referred to a bona fide credit reporting agency and the customer's credit rating would be adversely affected; and, through use on letterheads of the fictitious "THE MAIL ORDER CREDIT REPORTING ASSOCIATION, INC.", that an independent collection agency of that name was handling the account.

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 Golden Press, 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 Golden Press, 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 850 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 and other merchandise 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 and other merchandise, when sold, to be shipped from its places of business and sources of supply in the State of New York to purchasers thereof located in the 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 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 certain books and other merchandise for sale through the United