

Complaint

67 F.T.C.

IN THE MATTER OF
JOHN H. WORTMAN

DOING BUSINESS AS
AMERICAN PLASTICS, ETC.

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

Docket C-895. Complaint, Apr. 27, 1965—Decision, Apr. 27, 1965

Consent order requiring a Chicago, Ill., seller of skip-tracing forms—postcard questionnaire forms—used for the purpose of obtaining information on delinquent debtors, to cease using such forms to obtain information without clearly revealing the purpose; representing falsely that “a new model car” or any other gift was being held for recipient pending receipt of completed form; and using such names as “Kar-Chance” to describe his business.

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 John H. Wortman, an individual trading and doing business as American Plastics, Kar-Chance Division of American Plastics, or Kar-Chance, 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, John H. Wortman, is an individual trading and doing business under the name of American Plastics, Kar-Chance Division of American Plastics, or Kar-Chance, with its principal place of business located at 80 East Jackson Boulevard, Chicago, Illinois.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the business of selling a printed mailing form under his trade name. Respondent causes said printed material when sold, to be transported from his place of business in the State of Illinois to purchasers thereof at their respective points of location in various other States of the United States. Respondent maintains, and at all times hereinafter mentioned has maintained, a course of trade in his said form in commerce as “commerce” is defined in the Federal Trade Commission Act.

PAR. 3. The said printed form sold by the respondent, as heretofore alleged, is designed and intended to be used, and has been used, by

collection agencies, merchants and others to whom it is sold for the purpose of obtaining information concerning alleged delinquent debtors with the aid and assistance of respondent as hereinafter set forth.

The said printed material consists of a double postcard perforated so as to permit the two parts to be easily separated. The detachable portion of the card gives the address "Kar-Chance, Division of American Plastics, 600 Michigan Building, Detroit 26, Michigan," which is a mail pick up and telephone answering service office used by respondent. The part of the card retained by the addressee has affixed thereto a five-cent stamp, and the portion to be detached and returned to the respondent bears a notice that postage will be paid by the addressee. Said postcard form sets out questions which, if answered, will provide information which is considered to be of value in the collection of accounts owed or alleged to be owed by the addressee. The purchaser of respondent's printed material above referred to fills in the name and address of the alleged debtors and/or the name and address of a known relative of the debtor, and sends the forms in bulk to respondent c/o Kar-Chance, 600 Michigan Building, Detroit 26, Michigan address. Respondent then mails or causes to be mailed the form individually from the aforesaid Detroit, Michigan address thereby receiving a Detroit, Michigan postmark. If the addressee completes the form and returns it, an envelope containing a small plastic toy automobile is sent to the person filling in the form. Respondent then forwards the completed form to the purchaser who is identified to respondent by a coded number appearing on the face of the form.

PAR. 4. The following is typical of the printed form sold by respondent and used in the aforesaid manner.¹

PAR. 5. By use of the name "Kar-Chance," the printed statement on the postcard form, "This is to inform you that your name has been chosen as the recipient of a new modeled car" and by other words on said postcard form and the general format thereof, respondent represents, directly or by implication, to those to whom the said postcard form is mailed that the respondent is in some capacity connected with the awarding of a car as a prize or gift, earned or won, which is being held for the addressee and will be forwarded upon his filling in said postcard form.

PAR. 6. The aforesaid representations and implications were and are misleading and deceptive. In truth and in fact, respondent's busi-

¹ Pictorial printed form omitted in printing.

ness has, so far as the recipient of said cards are concerned, nothing to do with the awarding of a prize or gift of a new car as the phrase "a new car" is generally understood. The persons from whom the said cards are intended to obtain information are not winners of a prize nor donees of a gift car or automobile, in the generally accepted sense of "car" or "automobile." The "new modeled car" to which the cards refer is nothing more than a small plastic toy in the shape of an automobile. The sole business of respondent, conducted as aforesaid, is to sell the printed form to others to be used by them for the purpose of obtaining information concerning alleged delinquent debtors by subterfuge. This practice constitutes a scheme to mislead and conceal the purpose for which the information is sought.

PAR. 7. The use, as hereinbefore set forth, of said form has had, and now has, the tendency and capacity to mislead and deceive persons to whom said form is sent into the erroneous and mistaken belief that the said representations and implications are true and induce the recipients thereof to supply information which they otherwise would not have supplied.

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(a)(1) of the Federal Trade Commission Act.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Bureau of Deceptive Practices proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

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

The Commission, having reason to believe that the respondent has violated the Federal Trade Commission Act, and having determined that complaint should issue stating its charges in that respect, hereby issues its complaint, accepts said agreement, makes the following jurisdictional findings and enters the following order:

1. Respondent John H. Wortman is an individual trading and doing business under the name American Plastics, Kar-Chance Division of American Plastics, or Kar-Chance, with principal place of business located at 80 East Jackson Boulevard, Chicago, Illinois.

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 John H. Wortman, an individual trading and doing business as American Plastics, Kar-Chance Division of American Plastics, or Kar-Chance, or trading and doing business under any other name or names, and respondent's representatives, agents and employees, directly or through any corporate or other device, in connection with the business of obtaining information concerning delinquent debtors, or the offering for sale, sale or distribution of forms, or other material, for use in obtaining information concerning delinquent debtors, or in the collection of, or attempting to collect, delinquent accounts in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, or placing in the hands of others for use, any form, questionnaire or other material, printed or written which does not clearly reveal that the purpose for which the information is requested is that of obtaining information concerning alleged delinquent debtors, or in the collection of, or attempting to collect, allegedly delinquent accounts.

2. Representing, or placing in the hands of others, any means by which they may represent, directly or by implication, that "a new modeled car." or other thing of value, is being held, readied or processed for proper delivery to persons from whom information is sought, unless respondent then has in his possession such new modeled car, or other thing of value, intended for such person and then only when the new modeled car, or other thing of value, is clearly and expressly disclosed and described.

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3. Using the name "Kar-Chance Division of American Plastics," "Kar-Chance" or any other name of similar import to designate, describe, or refer to respondent's business.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the