

IN THE MATTER OF

WILLIAM SMARZ TRADING AS
MERCANTILE AND MEDICAL CREDIT ADJUSTERS

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

Docket C-1092. Complaint, Aug. 3, 1966—Decision, Aug. 3, 1966

Consent order requiring a Jersey City, N.J., collection agency to cease using deceptive means to collect delinquent accounts or implying that the information it solicits is for some official government purpose.

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 William Smarz, an individual, trading and doing business as Mercantile

and Medical Credit Adjusters, 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 William Smarz is an individual trading and doing business as Mercantile and Medical Credit Adjusters, with his office and principal place of business located at 26 Journal Square, Jersey City, New Jersey.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the operation of a collection agency and in collecting debts owed to others, upon a commission basis, contingent upon collection.

PAR. 3. In the course and conduct of his business, respondent now, and for some time last past has been, receiving accounts for collection from persons, firms and corporations located outside the State of New Jersey and has been referring accounts which he has received for collection to persons, firms and corporations in States other than the State of New Jersey and has been collecting accounts owed by persons, firms and corporations who are located outside the State of New Jersey. In addition thereto respondent has caused certain forms hereinafter referred to, to be transported from his place of business in the State of New Jersey to addresses in other States of the United States and has sent and received, by means of the United States mail, letters, checks and documents to and from States other than the State of New Jersey and maintains, and at all times herein mentioned has maintained, a substantial course of trade in said business in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of his business, respondent frequently desires to obtain information as to the current addresses, places of employment and other pertinent information as to persons whose delinquent accounts the respondent is seeking to collect. For this purpose he uses, and has used, certain printed forms.

Typical and illustrative, but not all inclusive, of said forms is the following:

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CURRENT STATUS REQUEST	BUREAU OF ACCOUNTING AUDITS	Certificate No.
CLAIMANTS REIMBURSEMENT PAYMENT AUTHORIZATION	N.T.B. Division Dept. 68—"L" Section 1029 Vermont Ave. N.W. Washington, D.C. 20003	Applicants Must Answer All Questions on Reverse Side in Order to Have This Form Validated.
Return This Form Completed Within 5 Days in the Envelope Enclosed.	The Claimants, through their Distribution and Disbursement Agent WILL PAY AND TRANSMIT TO ADDRESSEE the sum of money authorized herein, as a Refund—Reimbursement	Please Do Not Staple, Fold or Mutilate or Attach Paper Clips to This Form. This Card Will Be Processed Through a Filing System.

For This Purpose Claimant Has Established a Verification Fund Having At All Times a Minimum of

ALLOW NINETY DAYS FOR RECEIPT OF CHECK

If Your Name Above Is Incorrect — Correct
for actual disbursement made in affirmatively replying to this query
No Stamps Necessary

FIFTY FIVE DOLLARS

READ CAREFULLY

The Federal Trade Commission, an agency of the U. S. Government, has ordered that full truth and disclosure be given the recipient of this locate form, as to the purpose and intent of same. Such disclosure is indicated herein.

Present Home Address:

Street Address	City	State	Zip#	Apt. #	Tel. #
Your social security number			If married, husband or wife social security number		

TO BE COMPLETED BY YOU

IF MARRIED, HUSBAND OR WIFE TO COMPLETE

Name of Employer: _____	Name of Employer: _____
Address: _____	Address: _____
City: _____ State: _____	City: _____ State: _____
Your Signature: _____	Your Signature: _____
Date: _____	Date: _____

This request from an agency, acting for its principals, none of whom are government facilities in order to elicit current data which will enable its principal to correct, and up-date pertinent records, and where necessary, permit proper initiation of measures for recovery or adjudication of claims it has outstanding with addressee. Compliance and/or acknowledgment of his query, is neither mandatory, or fixed by statute.

DO NOT WRITE

HERE

Series Control _____

Index _____

By _____

Number _____

Dated _____

Said form is approximately 7" x 3" in size, of pink color and is mailed in a brown official appearing window envelope with a return address of "N.T.B. Division, Department 88—'L' SECTION, 1029 VERMONT AVE. N.W., WASHINGTON, D.C. 20005." Also enclosed is a return business reply envelope addressed the same as the return address on the envelope previously referred to.

Each of these forms is enclosed with a return envelope, sealed and addressed, and, mailed in bulk to the said return address from where it is mailed to the respective addressees, postage having been placed thereon by a postage machine with a Washington, D.C. postmark.

If any of the above forms are returned by the addressee in the return envelope they are mailed in bulk by some person at the Washington, D.C. address to the respondent without being opened.

PAR. 5. Through the use of the name "Bureau of Accounting Audits, N.T.B. Division, Dept. 88—'L' Section" and the Washington, D.C. address and postmark, and the imprinting of the words "Fifty Five Dollars" and by other words on said forms, and the general format and appearance of said forms, respondent represents, directly or by implication, to those to whom the form is mailed:

(1) That a substantial sum of money is being held for the addressee;

(2) That the sender is communicating with the addressee in some official governmental capacity; and

(3) That the information is required for official governmental purposes.

PAR. 6. In truth and in fact:

(1) No substantial sum of money is being held for the addressee by the respondent or by any other person or agency;

(2) The sender is not acting in any official capacity but respondent desires the information solely for the purpose of locating the person to whom the form is addressed; and

(3) The information is not required for official purposes.

The sole purpose of said form is to locate delinquent debtors by subterfuge. This practice constitutes a scheme to mislead and conceal the purpose for which the information is sought.

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

PAR. 8. The aforesaid acts and practices of the 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 William Smarz is an individual trading and doing business as Mercantile and Medical Credit Adjusters, with

his office and principal place of business located at 26 Journal Square, Jersey City, New Jersey.

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 respondent William Smarz, trading and doing business as Mercantile and Medical Credit Adjusters, or 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 attempt 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 and conspicuously reveal that the purpose for which the information is requested is that of obtaining information concerning alleged delinquent debtors.

2. Representing, or placing in the hands of others any means by which they may represent, directly or by implication, that money or a free gift or any other thing of value, is being held for the person from whom information is sought.

3. Using the name "Bureau of Accounting Audits, N.T.B. Division, Department 88 'L' Section" or any other name or words of similar import to designate, describe or refer to respondent's business; or representing, directly or by implication, that any private inquiries, forms or communications emanate from or are connected with an official or governmental agency or are used to solicit information for official or governmental purposes.

4. Misrepresenting, in any manner, the identity of the sender or origin of any inquiry, the purpose for which information is sought, or the nature or status of respondent's business.

5. Placing in the hands of others the means and instrumentalities whereby they may misrepresent in any manner the

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purpose for which information is sought by them or the nature or status of their business.

It is further ordered, That the respondent herein shall, within sixty (60) days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with this order.
