

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.

IN THE MATTER OF

JOSEPH L. PORTWOOD ET AL TRADING AS
THE PORTWOOD COMPANY

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

Docket 8681. Complaint, Apr. 14, 1966—Decision, Mar. 27, 1970

Order modifying, pursuant to a decision of the U.S. Court of Appeals Tenth Circuit, dated November 14, 1969, 418 F.2d 419, an earlier order dated January 19, 1968, 73 F.T.C. 68, which prohibited an Albuquerque, N. Mex., mail-order philatelic stamp business from sending unordered stamps to prospective customers and using coercive tactics to collect for such merchandise, by deleting from Paragraph (5) of the order the affirmative statement that the recipient need not preserve the stamps, and adding the provision that payment for used merchandise is required, unless the law of recipient's State permits use of unsolicited articles without payment.

ORDER MODIFYING ORDER TO CEASE AND DESIST

Respondents, Joseph L. Portwood and Betty Portwood, having filed in the United States Court of Appeals for the Tenth Circuit a petition for review of the order to cease and desist issued herein on January 19, 1968 [73 F.T.C. 68]; and the court, on November 14, 1969 [8 S.&D. 1053], having issued its opinion and entered its judgment affirming the Commission's finding of violation of Section 5 of the Federal Trade Commission Act but modifying the order to cease and desist;

Now, therefore, it is hereby ordered, That the aforesaid order of the Commission to cease and desist be, and it hereby is, modified in accordance with the said opinion and judgment of the court of appeals to read as follows:

It is ordered, That respondents Joseph L. Portwood and Betty Portwood, individually and trading and doing business as The Portwood Company, or under any other trade name or names, or through any corporate or other device, their agents, representatives, or employees, in connection with stamps, philatelic supplies, or any

other product in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

(1) Misrepresenting, directly or by implication, the legal relationship, if any, that exists between respondents and the mailees to whom respondents send their philatelic stamps, philatelic supplies, or other merchandise;

(2) Misrepresenting, directly or by implication, the legal obligation, if any, that exists between respondents and the mailees to whom respondents send their philatelic stamps, philatelic supplies, or other merchandise;

(3) Using threats, intimidation, or coercion (including the threat of legal action) to compel respondents' mailees to perform any act or to refrain from any act that such mailees are under no legal obligation to perform or to forego;

(4) Resorting to any subterfuge or coercion to sell their merchandise;

(5) Sending any communication (including bills, invoices, reminders, letters, or notices) to, or making any demands or requests of, any person that seeks to obtain payment for or the return of merchandise sent without a prior express written request by the recipient, unless such communication clearly and conspicuously states all of the following:

(a) that the merchandise is being sent to the recipient unsolicited,

(b) that the recipient is not obligated to return the merchandise, and

(c) that he is required to pay for the merchandise only if he decides to purchase it or uses it, and not then if the law of the recipient's State permits him to use unsolicited merchandise without payment.

(6) Representing, directly or by implication, contrary to the fact, that respondents will refer "accounts" to any other organization, attorney, or firm of attorneys for collection or for legal action;

(7) Misrepresenting in any manner the legal consequences of their mailees' failure to pay for or return merchandise that has been sent to said mailees without a prior order therefor or in spite of specific directions from said mailees not to send such merchandise; and

(8) Sending merchandise without first obtaining a specific order therefor after respondents have been notified by the mail-

337

Order

ees that shipments of unordered merchandise are to be discontinued.

It is further ordered, That respondents 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 the order to cease and desist contained herein.

IN THE MATTER OF

CUSTOM CARPET SHOP OF VIRGINIA, ET AL.