

Complaint

77 F.T.C.

IN THE MATTER OF

GERALD WHITE

DOING BUSINESS AS

PILGRIM FINANCIAL SERVICE

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

Docket C-1778. Complaint, Aug. 11, 1970—Decision, Aug. 11, 1970

Consent order requiring a Lawrence, Mass., respondent engaged in the business of operating a collection agency to cease using various debt collection forms, using an envelope which has a Washington, D.C., return address, and misrepresenting that legal action will be taken against debtors.

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 Gerald White, an individual doing business as Pilgrim Financial Service, 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 Gerald White is an individual doing business as Pilgrim Financial Service. The office and principal place of business of Pilgrim Financial Service is located at 125 South Broadway, Lawrence, Massachusetts.

PAR. 2. Respondent is now, and for some time past has been, engaged in the business of operating a collection agency.

PAR. 3. Respondent solicits and receives accounts for collection from business and professional people. In the course and conduct of his business, respondent has engaged, and is now engaged, in commercial intercourse, in commerce, among and between various States of the United States, including the transmission and receipt of monies, checks, collection letters and forms, contracts, and other written instruments. In carrying out his aforesaid collection business, respondent maintains, and at all times mentioned herein has main-

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tained, a substantial course of trade in commerce as "commerce" is defined in the Federal Trade Commisison Act.

PAR. 4. In the course and conduct of his business as aforesaid, respondent has transmitted and mailed, and has caused to be transmitted and mailed, to alleged delinquent debtors and to other persons various forms and other printed material.

Typical and illustrative of such forms and material, but not all inclusive thereof, are the following:

1. A printed form and a brown window envelope in which the form is mailed, containing the following statements:

Final Demand for the Payment of Debt

PAYMENT DEMAND, 748 Washington Building, Washington, D.C.

NOTICE MAILED FROM WASHINGTON, D.C., BY PAYMENT DEMAND.

This Demand is made to give you a last opportunity to pay and to lay a foundation for action on said claim if the same is not paid within the time aforesaid.

The Form Enclosed Is Confidential—No One Else May Open.

Parts of the form are printed in Gothic style type and the form is similar in appearance to a U.S. government check. The brown window envelope, with a return address of 748 Washington Building, Washington, D.C., is similar in appearance to envelopes used by governmental agencies for official purposes.

2. The printed form described in subparagraph 1 of this Paragraph also contains the following statements:

Subject to the Laws of the

COMMONWEALTH OF MASSACHUSETTS

A Creditor may request an Attorney-at-Law to attach Property such as Automobile, Jewelry, Boat, Live Stock, Crops, Machinery, House, Real Estate, Bank Account, Bank Vault, Stocks, Bonds and Earnings, Commission or Salary.

3. A printed form containing the following statements:

Court action has been requested by your Creditor.

Legal procedure will cost you additional expense in Process Servers Fees and Court Costs, Besides you will have to take time out to appear in Court,

This is to advise you that this is your final opportunity to pay your legally and past due debt of \$----- to -----.

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4. A printed form sent to employers of alleged delinquent debtors which contains the following statement:

Gentlemen:

Would you kindly pass this message to _____ asking him to call me at once.

This form bears the name "Mr. Raymond White," along with respondent's telephone number and business address.

PAR. 5. By and through the use of the statements and representations quoted under subparagraphs 1 and 3 of Paragraph Four, and others of similar import and meaning not specifically set forth herein, respondent represents, directly or by implication:

1. That "Payment Demand" is a bona fide organization authorized to effect collection of alleged delinquent accounts.

2. That "Payment Demand" is an agency of the U.S. Government or operates under the aegis of the U.S. Government.

3. That failure of an alleged delinquent debtor to remit money to respondent will result in the immediate institution of legal action to effect payment.

PAR. 6. In truth and in fact:

1. "Payment Demand" is not a bona fide organization authorized to effect collection of alleged delinquent accounts, but is merely a name placed on the forms by the supplier thereof.

2. "Payment Demand" is not an agency of the U.S. Government and does not operate under the aegis of the U.S. Government.

3. The failure of an alleged delinquent debtor to remit money to respondent does not always result in the immediate institution of legal action. On the contrary, legal proceedings are not generally used as a collection device.

Therefore, the statements and representations as set forth in subparagraphs 1 and 3 of Paragraph Four and in Paragraph Five hereof, were, and are, unfair practices and are false, misleading, and deceptive.

PAR. 7. By and through the use of the statements and representations quoted under subparagraph 2 of Paragraph 4, respondent misrepresents and inaccurately states the rights of creditors under applicable state laws. The sole purpose of said statements and representations is to induce alleged delinquent debtors to remit money to respondent.

Therefore, the aforesaid acts and practices were, and are, unfair, misleading, and deceptive.

PAR. 8. By and through the use of the forms described in subparagraph 4 of Paragraph Four, respondent conceals the purpose for which such communications are made. The sole purpose of said

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forms is to induce alleged delinquent debtors to contact respondent and to obtain information by subterfuge.

Therefore, the aforesaid acts and practices were, and are, unfair, misleading, and deceptive.

PAR. 9. In the course and conduct of his business as aforesaid, and at all times mentioned herein, respondent has been, and is now, in substantial competition, in commerce, with corporations, firms, and individuals engaged in the business of collecting alleged delinquent accounts.

PAR. 10. 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 public into the erroneous and mistaken belief that said statements and representations were, and are, true and into the payment of alleged delinquent accounts and the supplying of information which they otherwise would not have supplied, by reason of said erroneous and mistaken belief.

PAR. 11. The aforesaid acts and practices of respondent, as herein alleged, were, and are, all to the prejudice and injury of the public and of respondent's competitors, and constituted, and now constitute, unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 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 Industry Guidance 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 agreement is for settlement purposes only and does not constitute an admission by the respondent that the law has been violated as alleged in said complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent

has violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and having placed said agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Gerald White is an individual doing business as Pilgrim Financial Service. The office and principal place of business of Pilgrim Financial Service is located at 125 South Broadway, Lawrence, Massachusetts.

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 Gerald White, an individual doing business as Pilgrim Financial Service, or 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 solicitation of accounts for collection or the collection of, or attempts to collect, alleged delinquent accounts or the obtaining of, or attempts to obtain, information concerning alleged delinquent debtors, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any debt collection form or other material.

a. which appears to be, or simulates, an official or governmental form or document;

b. which bears the name "Payment Demand" or any other name which creates the false impression that a party other than respondent is attempting to collect an alleged debt;

c. which misrepresents or inaccurately states the rights of a creditor under state law to attach the real or personal property, income, wages, or other property of an alleged delinquent debtor.

d. which contains a statement of the rights of a creditor to attach after judgment the real or personal property, income, wages, or other property of an alleged delinquent debtor without disclosing that judgment may not be entered against the debtor unless he has first had an opportunity to appear and defend himself in a court of law: *Provided, how-*

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ever, That it shall be a defense hereunder for respondent to establish that a form containing a statement prohibited by this paragraph (d) is sent only to debtors against whom final judgments have been obtained.

2. Using any envelope for debt collection purposes:
 - a. which appears to be, or simulates, an official or governmental envelope;
 - b. which purports to come from a party other than respondent;
 - c. which contains a Washington, D.C., return address without disclosing in a prominent place, in clear language, and in type at least as large as the largest type used on said envelope, respondent's name and the fact that the enclosed forms do not come from the United States Government;
 - d. which contains the statement "The Form Enclosed Is Confidential No One Else May Open" or any statement of similar import.
3. Representing directly or by implication, that legal action will be instituted against an alleged delinquent debtor unless such legal action will in fact be instituted as represented if the debtor fails to make payment or otherwise settle his account.
4. Using any form, questionnaire, or other debt collection communication, whether written or oral, which does not clearly and conspicuously disclose that the purpose of such communication is to obtain information concerning an alleged delinquent debtor or to collect an alleged delinquent account.

It is further ordered, That 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 of his compliance with this order.