

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

Docket C-1810. Complaint, Oct. 20, 1970—Decision, Oct. 20, 1970

Consent order requiring a Joliet, Ill., individual engaged in the business of operating a debt collection agency to cease using debt collection forms which simulates a government document or inaccurately states the rights of a creditor against a debtor, using any envelope which appears governmental or has a Washington, D.C., return address without indicating that it is not from the United States Government, threatening legal action, and threatening to contact delinquent's debtor's employer.

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Complaint

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 A. Jones, an individual doing business as Illinois Collection 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 William A. Jones is an individual doing business as Illinois Collection Service. The office and principal place of business of Illinois Collection Service is located at 24 West Van Buren Street, Joliet, Illinois.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the business of operating a debt 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 maintained, a substantial course of trade in commerce, as "commerce" is defined in the Federal Trade Commission 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, 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 before action is taken on said claim.

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

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Parts of the form are printed in Gothic style type and the form is similar in appearance to an official or governmental document. 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

STATE OF ILLINOIS

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:

FINAL DEMAND BEFORE SUIT

You are hereby notified that we hold a claim against you in the name of the above plaintiff for the amount indicated, and unless payment or satisfactory arrangements are made within five days, suit will be instituted for collection of same.

IT WILL BE NECESSARY TO INFORM YOUR EMPLOYER, IF SATISFACTORY ARRANGEMENTS FOR THE PAYMENT OF THIS ACCOUNT ARE NOT MADE WITH THIS OFFICE *AT ONCE*.

4. A printed form containing the following statements:

PEREMPTORY DRAFT

VALUE RECEIVED

Demand is hereby made upon you for payment, on or before ----- of the total sum, past due, shown on statement made a part of this Peremptory Draft.

You are hereby notified that in the event that this Draft is not honored within the time allowed, Statutory Process will be recommended to enforce payment, without further notice whatever being sent you.

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.

4. That failure of an alleged delinquent debtor to remit money to respondent will cause respondent to contact the debtor's employer in order 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.

4. The failure of an alleged delinquent debtor to remit money to respondent is not always followed by immediate employer contact. On the contrary, employer contact is 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, false, misleading, and deceptive.

PAR. 7. By and through the use of the statements and representations quoted under subparagraph 2 of Paragraph Four, respondent misrepresents and inaccurately states the rights of creditors under applicable laws. The sole purpose of said statements and representations is to coerce and 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 statements and representations quoted under subparagraph 4 of Paragraph Four, respondent represents that a debt collection form is a "draft" which the recipient thereof must "honor." Said form is not a draft and its sole purpose is to coerce and induce alleged delinquent debtors to remit money to respondent.

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 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 Consumer Protection 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 William A. Jones is an individual doing business as Illinois Collection Service. The office and principal place of business of Illinois Collection Service is located at 24 West Van Buren Street, Joliet, 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 William A. Jones, an individual doing business as Illinois Collection 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 right 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, however,* 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

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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. Representing, directly or by implication, that an alleged delinquent debtor's employer will be contacted unless such action will in fact be taken as represented if the debtor fails to make payment or otherwise settle his account.

5. Falsely representing that a form or notice used for debt collection purposes is a draft or similar instrument.

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.

OKC CORP. AND OKLAHOMA LAND AND CATTLE
COMPANY