

GOVERNMENT EMPLOYEES' EXCHANGE, INC., ET AL.

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

Docket C-1893. Complaint, Apr. 6, 1971—Decision, Apr. 6, 1971

Consent order requiring a Washington, D.C., publisher and distributor of a biweekly newspaper for government employees to cease publishing advertisements for any firm without prior authorization, failing to discontinue such advertisements after being notified, and seeking to collect for such unauthorized advertisements.

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 Government Employees' Exchange, Inc., a corporation, and Sidney Goldberg and Barbara Goldberg, a/k/a Barbara Harlos, individually and as officers of said corporation, hereinafter referred to as respondents, have 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 Government Employees' Exchange, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its principal office and place of business located at 1913 I Street, N.W., Washington, D.C.

Respondents Sidney Goldberg and Barbara Goldberg, a/k/a Barbara Harlos, are officers of said corporation. They formulate, direct, and control the acts and practices of the corporate respondent, including the acts and practices herein set forth. Their address is Box 90 A8, Glenelg, Maryland.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the publishing, offering for sale, sale, and distribution of *The Government Employees' Exchange*, a biweekly newspaper, and in the solicitation of advertisements for inclusion therein.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time past have caused, their said newspaper, when sold, to be transported from their place of business located in the District of Columbia, or from the places of business of their consignees, to purchasers thereof located in various States of the United States and the District of Columbia, and maintain, and at all times mentioned herein have maintained, a substantial course of trade in said newspaper in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business aforesaid, respondents solicit buyers for advertising space in the said newspaper by telephone and other means.

As a result of such solicitations, respondents publish advertisements in their said newspaper, sometimes under authority of an executed written contract and at other times under authority of an oral contract.

In a substantial number of instances, however, respondents have engaged in the unfair and deceptive practice of placing advertisements of various persons and firms in their newspaper without having received authorization from such persons or firms. Respondents have in other instances obtained authorization from persons or firms for publication of advertisements but have published such advertisements for a period of time in excess of that which was authorized.

Respondents have then sought to exact payment from such persons and firms for such unauthorized advertisements. This unfair and deceptive practice engaged in by respondents of publishing unauthorized advertisements and seeking to exact payment therefor has subjected firms and individuals to harassment and unlawful demands for the payment of non-existent debts.

Therefore, the acts and practices as set forth in Paragraph Four hereof were and are unfair, false, misleading and deceptive acts and practices.

PAR. 5. In the course and conduct of their business, and at all times mentioned herein, respondents have been, and are now, in substantial competition, in commerce, with corporations, firms, and individuals, engaged in the sale of advertising space in newspapers and other publications.

PAR. 6. The use by respondents of the aforesaid unfair and false, misleading and deceptive acts and practices, statements and representations has had, and now has, the capacity and tendency to mislead and deceive members of the public into the erroneous and mistaken belief that said statements and representations were, and are true and into the payment of substantial sums of money by reason of said erroneous and mistaken belief.

PAR. 7. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' 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 Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereof with violation of the Federal Trade Commission Act, and the respondents 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 respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents 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 respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having considered the agreement and having accepted same, and the agreement containing consent order having thereupon been placed 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 in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent Government Employees' Exchange, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its principal office and place of business located at 1913 I Street, NW., Washington, D.C.

Respondents Sidney Goldberg and Barbara Goldberg, a/k/a Barbara Harlos, are officers of said corporation and their address is Box 90 A8, Glenelg, Maryland.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

It is ordered, That respondents Government Employees' Exchange, Inc., a corporation, and its officers, and Sidney Goldberg and Barbara Goldberg, a/k/a Barbara Harlos, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporate or other device, in connection with the solicitation, offering for sale or the sale of advertising, in any newspaper or other publication in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Placing, printing or publishing, or causing to be placed, printed or published, any advertisement on behalf of any person, firm or corporation, in any publication without a prior authorization, order or agreement to purchase said advertisement.

2. Placing, printing or publishing any advertisement after being notified by the advertiser, or his duly authorized representative, that the advertisement is to be discontinued.

3. Sending, or causing to be sent, bills, letters or notices to any person, firm or corporation with regard to any advertisement which has been or is to be printed, inserted or published on behalf of said person, firm or corporation, or in any manner seeking to exact payment for any such advertisement, without a prior and specific authorization, order or agreement to purchase the said advertisement.

It is further ordered, That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

It is further ordered, That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the

589

Complaint

emergence of a successor corporation, the creation or dissolution of subsidiaries or of any change in the corporation which may affect compliance obligations arising out of the order.

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 of their compliance with this order.