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Complaint

IN THE MATTER OF

JAMES W. HARRISON TRADING AS INTERSTATE HIGH
SCHOOL PRESS ASSOCIATIONCONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-1948. Complaint, June 24, 1971—Decision, June 24, 1971*

Consent order requiring a Denmark, S.C., individual doing business as the Interstate High School Press Association to cease using any words implying that respondent's business is nonprofit or affiliated with any press-media, inducing the purchase of advertising by implying that he is aiding athletes, implying that the respondent is an association, misrepresenting that respondent's publications have the endorsement of many high school coaches, and misrepresenting that respondent's directories are distributed free to coaching staffs and public libraries.

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 James W. Harrison, individually and trading as Interstate High School Press Association, 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 James W. Harrison is an individual trading and doing business as Interstate High School Press Association with his office and principal place of business located at 226 East Hammond Street, Denmark, South Carolina.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the business of publishing and distributing, on an annual basis, a national directory of high school athletes known as "Who's Who in High School Athletics." Said directory is caused by respondent to be circulated from its point of publication in one State to purchasers located in various other States of the United States. Respondent has also published and distributed a directory of high school athletes called "Who's Who in South Carolina High School Athletics," and maintains, and at all times mentioned herein has maintained, a substantial course of trade in said publications in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. Respondent in the course and conduct of his business represents and has represented, directly or by implication, to prospective advertisers as well as to coaches and athletes of the various high schools throughout the United States, that the "Who's Who" athletic annuals published by Interstate High School Press Association, are endorsed by, affiliated with, or the official publication of the National Federation of State High School Athletic Associations or other nationally recognized high school athletic associations.

Further, a substantial part of respondent's income is derived from the sale of advertising space in the "Who's Who" directories to business concerns located throughout the United States. The respondent contacts said business concerns by mail and other means seeking to induce them to purchase advertising space in said publications by the use of materials which in appearance and form implies that it is a bill for advertising in the "Who's Who" publications and that the recipient thereof is obligated for the amount indicated.

PAR. 4. In truth and in fact, the "Who's Who" athletic annuals published by Interstate High School Press Association are not endorsed by, affiliated with, or the official publication of the National Federation of High School Athletic Associations or other recognized national high school athletic associations, but are independently operated by the respondent.

Moreover, the materials simulating bills for advertising space in the "Who's Who" athletic annuals are, in truth and in fact, merely solicitations for advertising and the recipient is not obligated for the amount designated.

PAR. 5. In the course and conduct of his business, as aforesaid, and for the purpose of selling the "Who's Who" athletic directories or advertising space in said publications, respondent distributes and has distributed by means of the United States mails, and in various other ways to prospective purchasers, letters, circulars, advertising material, advertisements and various other kinds of promotional material containing statements and representations respecting his business. Typical and illustrative of the foregoing, but not all inclusive, are the following:

(a) Published advertisements to high school coaches and athletes:

You have been nominated to *Who's Who in High School Athletics*.

There are many advantages to be gained from such a project as this. College coaches have been begging for such a publication to assist them in their recruiting (sic). Copies are made available to schools and libraries. * * *

The publication will include outstanding athletes from all over the United States. Interstate High School Press Association is sponsoring the publication.

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This is an invaluable aid to any college coach involved in the competitive field of recruiting. This could aid us in discovering the talented overlooked athlete.

A North Carolina College Coach

(b) Published materials to advertisers:

"WHO'S WHO IN HIGH SCHOOL ATHLETICS
INTERSTATE HIGH SCHOOL PRESS ASSOCIATION
P. O. BOX 216, DENMARK, SOUTH CAROLINA 29042

_____ PAGE AD '69-'70 EDITION \$ _____
STATE _____ SECTION _____ REP. _____

THANK YOU FOR HELPING US HELP THE YOUNG PEOPLE
OF YOUR STATE."

PAR. 6. By and through the use of the above quoted statements and representations and various other statements and representations of similar import and meaning, but not expressly set forth herein, respondent represents, and has represented, directly or by implication that:

1. Interstate High School Press Association, the trade name used by respondent in its written advertising and promotional materials, is a non-profit organization, which is affiliated with some aspect of the press media and is approved by the National Federation of State High School Athletic Associations or other nationally recognized high school athletic associations.

2. It is an "association" composed of a five member committee which formulates policy and compiles, verifies and evaluates informational data submitted by athletes nominated for publication in the "Who's Who" athletic directories.

3. "Interstate" had received numerous requests after its publication of "Who's Who in South Carolina High School Athletics," to expand into other States and publish "Who's Who in High School Athletics."

4. The "Who's Who" athletic annuals have the endorsement of many high school administrators, coaches and athletes because of its invaluable contribution in recognizing outstanding high school athletes who would otherwise go unnoticed.

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5. There are many advantages to be gained from the "Who's Who" athletic directories; one being that college coaches have been begging for such publications to aid them in their recruiting.

6. The nominees who appear in "Who's Who in High School Athletics" are the nation's top high school athletes.

7. Copies of "Who's Who in High School Athletics" are made available "free of charge" to college coaching staffs as well as public and high school libraries.

PAR. 7. In truth and in fact:

1. Interstate High School Press Association is a profit-making concern, which is neither affiliated with any aspect of the press media nor approved by any nationally recognized high school athletic association.

2. "Interstate" is not composed of a committee which formulates its policy but is solely owned and operated by the respondent.

3. The demand to expand "Who's Who in South Carolina High School Athletics" into an athletic directory of national stature was merely a fabrication by respondent to induce participation by the various high school coaches and athletes throughout the United States.

4. The athletic annuals published by Interstate High School Press Association are not endorsed by any high school administrators, coaches or athletes. Furthermore, the "Who's Who" publications do not necessarily honor outstanding high school athletes but recognize only those nominated athletes who wish to participate.

5. College coaches have not shown a genuine interest in the "Who's Who" athletic annuals as evidenced by their lack of enthusiasm in purchasing the annuals for use in their recruiting program; furthermore, the only advantage to be gained by an athlete's appearance in the said directories is for purposes of vanity.

6. The nominees who appear in "Who's Who in High School Athletics" are not the nation's top high school athletes. In actual practice, a small percentage of those high school coaches contacted make nominations in respondent's publication and the information furnished by the athletes is unverified.

7. Copies of "Who's Who in High School Athletics" are not made available "free of charge" to college coaching staffs, or public or high school libraries.

Therefore, the statements and representations as set forth in Paragraphs Three, Five and Six hereof were, and are false, misleading and deceptive.

PAR. 8. The use by the respondent of the aforesaid false, mislead-

ing and deceptive statements, representations and practices has had, and now has, the capacity and tendency to mislead prospective advertisers, as well as coaches and athletes of the various high schools throughout the United States, into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of either advertising space or the athletic directories by reason of said erroneous and mistaken belief. The unfair and deceptive practice engaged in by the respondent of sending materials simulating bills for advertising space in said publications, without prior authorization, has subjected business concerns to unlawful demands for payment of nonexistent debts.

PAR. 9. In the conduct of his business, at all times mentioned herein, respondent has been in substantial competition, in commerce, with corporations, firms and individuals likewise engaged in the publication of newspapers and other periodicals and in the selling of advertising to be inserted therein and particularly with the publishers of newspapers and periodicals published or endorsed by high school athletic associations.

PAR. 10. The aforesaid acts and practices of the respondent, as herein alleged, were and are all to the prejudice and injury of the public and of the 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 Deceptive Practices 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 signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

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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 placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34(b) of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent James W. Harrison is an individual trading as Interstate High School Press Association with his office and principal place of business located at 226 East Hammond Street, Denmark, South Carolina.
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 James W. Harrison, individually, and trading as Interstate High School Press Association, or under any other name, and respondent's representatives, agents and employees, directly or through any corporate or other device in connection with the soliciting, offering for sale or sale in commerce of advertising space in the athletic directory, "Who's Who in High School Athletics," or any other publication, whether published under that name or any other name, and in connection with the offering for sale, sale or distribution of said annual directory, or any other publication, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using the words "Press Association," or any other word or words of similar import or meaning, as a part of any corporate or trade name, or representing in any manner that respondent's business is a non-profit concern, connected with the press media and affiliated with or approved by a nationally recognized high school athletic association; or misrepresenting, in any manner, the title or status of respondent's business.
2. Inducing or seeking to induce any business concern to purchase advertising space in or contribute to respondent's publication by means of expressed or implied representations that respondent is a nationally recognized high school athletic association helping athletes of the various States.
3. Sending bills, letters or notices to any person or firm with

regard to advertising space which is to be printed, inserted or published on behalf of said person or firm, or in any other manner seeking to exact payments for any such advertisement, without a bona fide order or agreement to purchase said advertisement.

4. Representing, directly or by implication, that respondent is an "association" composed of a committee which formulates policy and compiles, verifies and evaluates informational data submitted by the various athletes nominated for publication in respondent's athletic directories.

5. Representing, directly or by implication, that a great demand exists or has existed for respondent's publication, "Who's Who in South Carolina High School Athletics," and that such demand prompted publication of respondent's expanded athletic directory; or misrepresenting, in any manner, the demand for respondent's publications.

6. Representing, directly or by implication, that respondent's athletic directories have the endorsement of many high school administrators, coaches and athletes because of the recognition given outstanding high school athletes not previously honored for their athletic achievements; or misrepresenting, in any manner, the endorsement of respondent's publications.

7. Representing, directly or by implication, that a high school athlete's participation in respondent's athletic annuals will greatly enhance the possibility of his receiving an athletic scholarship from a college; or misrepresenting, in any manner, the advantages to be gained by an athlete's appearance in respondent's publications.

8. Representing, directly or by implication, that athletes appearing in respondent's athletic publications are the nation's top high school athletes.

9. Representing, directly or by implication, that copies of respondent's athletic directories are made available "free of charge" to college coaching staffs as well as public and high school libraries; or misrepresenting, in any manner, the distribution of respondent's publications.

It is further ordered, That the respondent notify the Commission at least thirty (30) days prior to any proposed change in respondent's business such as assignment or sale, resulting in the emergence of a successor business, corporate or otherwise, the creation of subsidiaries, or any other change which may affect compliance obligations arising out of the order.

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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