

FEDERAL TRADE COMMISSION ACT

Docket C-2219. Complaint, May 16, 1972—Decision, May 16, 1972

Consent order requiring a Silver Spring, Maryland, collection agency to cease misrepresenting that respondents have instructed attorneys to begin legal proceedings against alleged debtors, implying that legal action has actually

taken place, misrepresenting the legal rights of alleged debtors, using fictitious job titles or organizational designations, and using unofficial or unauthorized documents.

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 Associated Claims, Inc., a corporation, and Carl I. Morris and Mrs. Carl I. (Gloria) Morris, individually and as officers of said corporation, hereinafter referred to as respondents, have violated the provisions of said Act, and its 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. Associated Claims, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 1005 Bonifant Street, Silver Spring, Maryland.

Respondents Carl I. Morris and Mrs. Carl I. (Gloria) Morris are officers of said corporation. Said respondents are now, and for some time last past have been, formulating, directing and controlling the acts and practices of the said corporate respondent, including the acts and practices herein set forth. Their business address is the same as that of the corporate respondent.

PAR. 2. Respondents are now, and for some time last past have been, engaged in the practice of collecting or attempting to collect any and all kinds of alleged delinquent accounts.

PAR. 3. In the course and conduct of their aforesaid business, respondents solicit and receive accounts for collection from businesses and professional people located in the District of Columbia and in the States of Maryland and Virginia and other states, which accounts the respondents seek thereafter to collect from debtors located therein. In carrying out their aforesaid collection business, respondents maintain, and at all times mentioned herein have 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 their collection business, at all times mentioned herein, respondents have been in substantial competition, in commerce, with other corporations, firms and individuals engaged in the collection of alleged delinquent accounts.

PAR. 5. In the course and conduct of their collection business, respondents transmit and mail, and cause to be transmitted and mailed, to alleged delinquent debtors, various form letters, forms,

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documents, and other printed materials. Typical, but not all inclusive, of the statements and representations in such material are the following:

1. Sometime ago we withdrew your account from the hands of our attorney in an effort to cooperate with you, for we believed that you would resume regular payments on your indebtedness.

* * * * *

We are, therefore, returning the account to our attorney with instructions to proceed legally against you, within five days from this date, without further notice to you.

* * * * *

Within the next few days our attorneys will be instructed to file suit and secure a judgment on this claim. Execution will then be issued against your property, and if no property is found, our attorneys will be instructed to proceed under Public Law 505 D.C. Statute which provides for garnishment execution against your wages. This procedure will involve additional costs which you will be obliged to pay.

3. When judgment is obtained, they will move to attach your wages, bank account, automobile, property, in accordance with the rights they enjoy under your State laws, to collect the amount you owe for goods delivered to you in accordance with a legally binding conditional sales contract they have with you.

4. IT'S IMPOSSIBLE to ESCAPE a Judgment. For a judgment may be renewed and thus remain in effect until paid—and it may be recorded everywhere. Your debt will have to be paid someday, so, to save expense, loss of credit and embarrassment, take care of it NOW.

5. Your account has been turned over to our LEGAL DEPARTMENT with instructions to bring an immediate SUIT and ATTACHMENT.

6. NOTICE OF IMPENDING GARNISHEE. * * * DEMAND AND SUPPLEMENTARY NOTICE. * * * THIS IS DEMAND, AND NOTICE TO YOU, THE DEBTOR.

The representations in 6., above, were set forth on official appearing documents.

PAR. 6. By and through the use of the above quoted statements and representations, and others of similar import and meaning but not specifically set forth herein, respondents have represented, directly or by implication:

1. That respondents have referred, are referring, or will refer delinquent accounts to attorneys.

2. That failure to pay the amount claimed as owing within a stated period of time will result in immediate legal action.

3. That failure to pay the amount claimed as owing within a period of time will result in attachment and garnishment proceedings against the property and wages of the debtor.

4. That, once judgment is entered against a debtor, it is impossible for the debtor to avoid payment thereof.

5. The respondents' organization has or maintains a separate legal department with qualified employees serving in this department.

6. Some forms used by respondents imply in form and content they are official documents duly issued or approved by a court of law or other government agency.

PAR. 7. In truth and in fact:

1. The failure of an alleged debtor to remit money to respondents within time period(s) indicated does not in most instances result in the immediate reference of such matters to attorneys.

2. The failure of an alleged debtor to remit money to respondents within time period(s) indicated does not in most instances result in the immediate institution of legal action to effect payment.

3. The failure of an alleged debtor to remit money to respondents within time period(s) indicated does not in most instances result in the immediate institution of attachment or garnishment proceedings to effect payment.

4. It is possible to avoid payment of a judgment, once such is entered, in a matter involving a debt. For instance, resort to bankruptcy proceedings will often avoid the payment of at least part of a judgment. Also, the restrictions and exemptions placed on the collection of judgments make it possible in some instances to avoid the payment of at least part of a judgment.

5. Respondents do not have a separate legal department with qualified employees serving in this department.

6. Forms used by respondents are not official documents issued or approved by a court of law or other government agency, but on the contrary are wholly private in origin.

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

PAR. 8. The use by the respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had, and now has, the tendency and capacity to mislead and deceive members of the public into the erroneous and mistaken belief that said statements and representations were, and are, true and to induce recipients thereof into the payment of alleged delinquent accounts by reason of the said erroneous and mistaken belief.

PAR. 9. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and 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.

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DECISION AND ORDER

The Federal Trade Commission, having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Washington, D. C. Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violation of the Federal Trade Commission Act; 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 aforesaid draft of complaint, 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 thereafter considered the matter and having determined that it had reason to believe that the respondents have 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 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 Associated Claims, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at 1005 Bonifant Street, Silver Spring, Maryland.

Respondents Carl I. Morris and Mrs. Carl I. (Gloria) Morris are officers of said corporation. They formulate, direct and control the policies, acts and practices of said corporation and their business address is the same as that of the aforesaid corporation.

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 Associated Claims, Inc., a corporation, its successors and assigns and its officers, and Carl I. Morris and Mrs. Carl I. (Gloria) Morris, individually and as officers of said corporation, and respondents' agents, representatives and employees,

directly or through any corporation, subsidiary, division or other device, in connection with the collection of, or attempt to collect, accounts in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, or causing to be represented by any means, directly or by implication, that respondents have instructed, are instructing, or will instruct an attorney to file suit against an alleged debtor unless the alleged debt is immediately paid in full or a specified amount is paid thereon unless the respondents have already instituted the aforesaid suit.

2. Representing by any means, directly or by implication, that:

- (a) legal action has been taken against the debtor; or
- (b) legal action is being taken against the debtor; or
- (c) legal action will be taken against the debtor unless the respondents have already instituted said legal action.

3. Representing by any means, directly or by implication that the post judgment rights of a creditor to attach property or garnish wages of a debtor are as specifically represented unless such is the fact in the jurisdiction in which collection is sought.

4. Informing a debtor of a creditor's right after judgment without disclosing at the same time that no judgment may be entered against the debtor unless the debtor has first been given notice and an opportunity to appear and defend himself in a court of law.

5. Representing, directly or by implication, by any means to a debtor that it is impossible to escape a judgment.

6. Using fictitious job titles or organizational designations or descriptions by any means in connection with respondents' business or misrepresenting in any manner any departmentalization of respondents' business.

7. Using any unofficial or unauthorized document which simulates or is represented by any means to be a document authorized, issued, or approved by a court of law or any other official or legally constituted or authorized authority, or misrepresenting, in any manner, the source, authorization, or approval of any document.

It is further ordered, That:

a. The respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

b. Respondents deliver a copy of this order to all of their present and future personnel and that respondents secure a

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signed statement acknowledging receipt of said order from each such person.

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

d. 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 of their compliance with this order.
