

It is ordered, That the aforesaid motion be, and it hereby is, denied with respect to both requests.

IN THE MATTER OF
G C SERVICES CORPORATION, ET AL.
CONSENT ORDER, ETC., IN REGARD TO THE ALLEGED VIOLATION
OF THE FEDERAL TRADE COMMISSION ACT

Docket C-2511. Complaint, Apr. 16, 1974—Decision, Apr. 16, 1974

Consent order requiring a Houston, Tex., collection agency, among other things to cease using printed material which cause harassment, fear or undue embarrassment to alleged debtors receiving them or which simulates legal process; misrepresenting that past due accounts have been referred to an attorney for collection or legal action has been or is about to be instituted; or threatening to contact a debtor's employer or to institute legal processes.

Appearances

For the Commission: *Joseph Hickman.*

For the respondents: *John C. Bagalay*, Houston, Tex.

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 G C Services Corporation, formerly doing business as Gulf Coast Collection Agency, a corporation, and Jerold B. Katz, William A. Inglehart and Martin M. Katz, 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 G C Services Corporation formerly doing business as Gulf Coast Collection Agency is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Texas with its principal office and place of business located at 3333 Fannin Street, in the city of Houston, State of Texas.

Respondents Jerold B. Katz, William A. Inglehart and Martin M. Katz are individuals and are officers of the corporate respondent. They formulate, direct, and control the acts and practices hereinafter set forth. Their 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 business of collection of delinquent accounts for business

organizations throughout the United States. Respondents' collection procedures include sending through the United States mail various collection forms, letters and other printed materials to alleged debtors, from respondents' place of business in Tex. and branches in Calif., Fla., Ga., Ill., Mo., N. Y. and Ohio to various other States in the United States and receiving through the United States mail forms, letters, checks, payment and other printed materials from alleged debtors located in these states and other states other than the aforesaid states. Respondents maintain, and at all times hereinafter mentioned have maintained, a substantial course of trade in their said collection business in commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 3. Respondents' forms, letters and other printed materials, as hereinbefore described, are designed and intended to be, and are, used by respondents for the purpose of obtaining information concerning alleged debtors of customers of respondents and in the collection of delinquent accounts which are to be paid directly to respondents for benefit of customer.

PAR. 4. In the course and conduct of their business respondents have caused and cause to be sent through the mail from their place of business located in the State of Texas and various other States of the United States letters, forms and other printed materials for the purposes set forth in Paragraph Three. Typical, but not all inclusive of such letters, forms and other printed materials are the following:

Does your child know that the books from Doubleday Book Club are not paid for? Is it fair for your child to be embarrassed at school when you are legally responsible for the bill?

\$9.20 is a small amount. Pay it now to avoid further contact.

It will be humiliating for your child when our collector calls. You owe the \$9.20 to Doubleday Book Club. Your child does not.

* * * * *

Why are you forcing us to have our collector in San Jose, California contact you at your home or place of employment?

He will spend whatever time and expense is necessary to liquidate this debt. We mean business.

It's up to you. * * * We must have \$7.58. Your deadline is October 22, 1970.

* * * * *

"You" ordered the merchandise from 69 Grolier Annual, Lawrence Bauer.

"You" ran up the bill, Lawrence Bauer.

"You" owe the money, Lawrence Bauer.

"You" are going to pay this bill, Lawrence Bauer.

"You" are going to send us full payment today.

"We" are going to see that you do

* * * * *

Where is the money Pete Rodriquez? We want the \$5.66 now! No more chances Pete Rodriquez, this is it. Your time is up. Either you pay now or our collector will get every last cent.

PAR. 5. By and through the use of the aforesaid statements and representations, and others of similar import but not specifically set forth herein, the respondents thereby make implied threats that respondents will embarrass and harass alleged debtor so as to force him to pay bills sent to him.

PAR. 6. Such forms, letters and other printed materials are placed in the mail at fifteen day intervals. Respondents usually continued to mail such forms, letters and other printed materials at such intervals, regardless of notification by alleged debtor that the account is disputed or not owed.

PAR. 7. The use of the forms, letters and other printed materials described in Paragraphs Four and Five mailed at periodic intervals as described in Paragraph Six which causes embarrassment and harassment of alleged debtors is contrary to the established public policies of the United States and is an unfair practice.

PAR. 8. The use by respondents, as hereinabove set forth in Paragraph Four 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 and to the erroneous and mistaken belief that said statements and representations were and are true and to induce payment by respondents for benefit of respondent's customers, whether the amounts claimed by respondents are in fact due and owed.

PAR. 9. In the course and conduct of their business, respondents cause, and have caused, to be sent from their various places of business throughout the United States letters, forms, and other printed materials to alleged debtors whose accounts have become delinquent. Said letters, forms and other printed materials contain many statements or representations as to actions that have been taken or will be taken to effect the collection of such delinquent accounts. Typical, but not all inclusive of such statements, are the following:

We are forwarding the file of T L Posten to our lawful agent in Monterey Pk, California. We will instruct that firm to enforce the purchase agreement as follows:

Plaintiff	:	Grolier Enterprise
Defendant	:	T L Posten
Jurisdiction	:	Monterey Pk, California
For	:	\$11.99

Our date of action is Sept 08 1970. The \$11.99 in our office before this date is the only way for dismissal.

* * * * *

We are transferring the above claim from delinquent accounts to our legal file.

1524 FEDERAL TRADE COMMISSION DECISIONS

Complaint

83 F.T.C.

Enclosed you will find the necessary papers and information to sue the above named debtor, as he has not paid his legal obligation nor has he been willing to work out a reasonable schedule of payments.

Service of Citation may be served at place of employment or residence. Upon obtaining a judgement, please file for a Writ of Execution.

We request you hold the enclosed papers for five (5) days, in order to give debtor an opportunity to make payment to this office.

* * * * *

When your account was turned over to us for collection, we were requested to take all necessary legal action for the immediate collection of this past due debt that you owe our client.

Due to your claim of hardship, we made special arrangements with you to give you ample time to pay this account on an installment basis.

Now that you have breached your agreement we must protect the interest of our client and refer this account to an Attorney with instructions to proceed as follows:

- A. Service of Citation at your home or place of employment.
- B. The taking of depositions and written interrogatories.
- C. Summons to appear in Court with your Attorney.
- D. Default judgments, garnishments, foreclosures and attachments.

The choice is yours. * * *

Either we receive payment from you within the next five days as agreed or we will proceed as outlined above.

* * * * *

We are forwarding the file of Marian Diorio to our collection agent for Lansdowne, Pennsylvania. We will instruct that firm to enforce the purchase agreement as follows:

Creditor	:	RCA Record Club
Debtor	:	Marian Diorio
Location	:	Lansdowne, Pennsylvania
For	:	\$2.89

Our date of action is December 05, 1970. The \$2.89 in our office before this date is the only way to prevent this encounter.

* * * * *

We will not hesitate to employ every available lawful means which we have at our disposal until we collect all money owed our client. The only way for you to settle this matter without legal involvement and further notice is for you to pay what you owe without further delay.

By means of the foregoing statements or representations respondents represent, directly or by implication, that if delinquent accounts are not settled to respondents' satisfaction they will be collected by legal action.

In truth and in fact legal action with respect to the alleged delinquent accounts has not been, nor in many cases is it about to be initiated. Therefore, the aforesaid statements and representations were and are false, misleading and deceptive.

PAR. 10. Respondents, directly and through their representatives request and for some time last past have requested alleged debtors to

give to respondents a series of postdated checks which, when obtained are from time to time presented to the alleged debtors' banks for payment.

By and through the use of these postdated checks respondents have the means of threatening alleged debtors with criminal prosecution for violation of the laws of various states, relating to the issuance of worthless checks, in case sufficient funds are not on deposit in alleged debtors bank accounts.

PAR. 11. The aforesaid acts and practices of respondents, as herein alleged, were and are to the prejudice and injury of the public and constituted, and now constitute unfair or deceptive acts or 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 respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the Dallas Regional Office staff 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, G C Services Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas, with its principal office and place of business located at 3333 Fannin Street, Houston, Tex.

Respondents, Jerold B. Katz, William A. Inglehart, and Martin M. Katz, are officers of said corporation. They formulate, direct and control the policies, acts, and practices of said corporation and their address is the same as that of said 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 further ordered, That respondents G C Services Corporation, formerly doing business as Gulf Coast Collection Agency Company, a corporation, its successors and assigns, and its officers and Jerold B. Katz, William A. Inglehart, and Martin M. Katz, individually and as officers of said corporation and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the collection of accounts in commerce, as "commerce" is defined by the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using any forms, letters, or other printed materials which cause, or which respondents should know are likely to cause, harassment, fear, or undue embarrassment to alleged debtors who receive them.

2. Representing orally or in writing, or placing in the hands of others the means and instrumentalities by and through which they may represent, directly or by implication that:

- (a) Past due accounts that are being or have been referred for collection to an attorney when these accounts are not being nor have they been so referred;

- (b) Legal action with respect to an allegedly delinquent account has been or is about to be or may be initiated unless the respondents are able to establish that at the time the representation was made (1) legal action has been initiated or was about to be initiated, and (2) the true nature of the legal action was clearly and completely disclosed.

3. Using forms or any other items of printed or written matter which simulates legal process.

4. Representing orally or in writing that alleged debtor's employer has been notified or may be notified that any or all of the following actions have been or will be taken when no such action or actions have been or will be taken:

- (a) Suit instituted against the alleged debtor to collect the alleged sum due;

- (b) The alleged debtor's wages attached;

(c) The alleged debtor's wages garnished.

5. Using any means or devices for the collection of delinquent accounts from alleged debtors in circumstances where it has been brought to respondents' attention:

(a) That said debt has been paid;

(b) That said debt is being billed to an improper person;

(c) That alleged debtor is not liable to respondents' client for the reason that the client has not provided any articles, devices, services or other items of value to the alleged debtor;

(d) That materials ordered have been returned;

(e) That materials received were unordered merchandise, and debtor is under no obligation to pay for such merchandise, or

(f) That there would be a defense in an action brought on the disputed debt;

until such time as respondents can furnish to alleged debtor an affirmative written reply from their clients that said debt is, in fact, a just one.

6. Receiving from alleged debtors post-dated checks, which will not be deposited immediately or which will be held by respondents or their representatives for more than fifteen business days after date of receipt.

It is further ordered, That respondents maintain and make available records relative to complaints received by respondents involving the acts and practices prohibited by this order and which describe steps taken by respondents to investigate and dispose of said complaints. Said records shall be maintained for a period of six (6) months from the date such complaint is received, for inspection and copying by the Federal Trade Commission.

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

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

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment

1528 FEDERAL TRADE COMMISSION DECISIONS

Complaint

83 F.T.C.

in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondent 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 in which they