

Complaint

84 F.T.C.

IN THE MATTER OF

AMERICAN CREDIT BUREAU, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-2608. Complaint, Dec. 4, 1974 - Decision, Dec. 4, 1974*

Consent order requiring thirteen debt collection agencies, among other things to cease misrepresenting the nature of their business; misrepresenting that legal actions have been instituted against debtors; misrepresenting the remedies available to respondents or defenses available to debtors; harassing debtors; and misrepresenting the position or function of respondents' agents or employees.

Appearances

For the Commission: *Jackson R. Smith* and *Kendall H. MacVey*.
For the respondents: *Phillip T. Goldstein*, Phoenix, Ariz.

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 the corporations named in the caption hereof and Jerry Middleman, Jack J. Schwartz and Jerry Raker, individually and as officers of said corporations, hereinafter sometimes 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 American Credit Bureau, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Arizona with its principal office and place of business located at 714 East Van Buren, Phoenix, Ariz.

Respondent American Credit Bureau of Nevada, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada with its principal office and place of business located at 953 East Sahara Boulevard, Las Vegas, Nev.

Respondent American Credit Bureau of Tucson, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Arizona with its principal office and place of business located at 721 North Fourth Avenue, Tucson, Ariz.

Respondent American Creditors Bureau of Dallas, Inc., 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 8730 King George Drive, Dallas, Texas.

Respondent American Creditors Bureau of Houston, Inc., 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 5330 Gulton Drive, Houston, Texas.

Respondent American Creditors Bureau of Philadelphia, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania with its principal office and place of business located at 780 West Lancaster Avenue, Bryn Mawr, Pa.

Respondent American Creditors Bureau of Colorado, Inc., is a corporation organized existing and doing business under and by virtue of the laws of the State of Colorado with its principal office and place of business located at 1805 South Bellaire Street, Denver, Col.

Respondent American Collections, 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 280 North Central Avenue, Hartsdale, N. Y.

Respondent American Collections, Inc. of Georgia, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Georgia with its principal office and place of business located at 1430 West Peachtree Street, N.W., Atlanta, Ga.

Respondent Doctors' Business Bureau is a corporation organized, existing and doing business under and by virtue of the laws of the State of Arizona with its principal office and place of business located at 3943 East Broadway, Tucson, Ariz.

Respondent Lusk Collection Agency, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Arizona with its principal office and place of business located at 1115 East Broadway, Tucson, Ariz.

Respondent Affiliated Creditors Bureau, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its principal office and place of business located at 7 West Madison, Chicago, Ill.

Respondent Jemama Investment Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Arizona also trading as American Creditors Bureau of San Diego, with its principal office and place of business located at 625 Broadway, San Diego, Calif.; American Creditors Bureau of Los Angeles, with its principal office and place of business located at 3440 Wilshire Boulevard, Los Angeles, Calif.; and, American Creditors Bu-

Complaint

84 F.T.C.

reau of San Francisco, with its principal office and place of business located at 212 Sutter Street, San Francisco, Calif.

Respondents Jerry Middleman, Jack J. Schwartz and Jerry Raker are officers of the corporate respondents. They formulate, direct and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent American Credit Bureau, Inc.

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

PAR. 3. In the course of their business as aforesaid, respondents, and each of them, now cause, and for some time last past have caused money, contracts, business forms, information requests, payment demands and other commercial paper and printed materials, in connection with said collection business, to be sent by U. S. Mail from respondents' places of business to creditors, debtors and informants located through the United States and 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, respondents have, at all times mentioned herein, been in substantial competition, in commerce, with other corporations, firms and individuals engaged in the collection of delinquent accounts.

PAR. 5. In the course and conduct of their collection business, respondents have made, and are now making, numerous statements and representations, both orally, in conversations with debtors, and written, in various form letters, forms, documents and other printed materials which respondents mail or otherwise transmit to debtors. Typical of such oral and written statements and representations, but not all inclusive thereof, are the following:

American Credit Bureau

* * * * *

Protect your credit and it will protect you.

* * * * *

All information held confidential.

* * * * *

We have recently received an inquiry regarding above subjects, reportedly in your employ.

Your account as been referred to my desk to authorize a lawsuit against you through our attorney and the civil court.

This means that your pay will be subject to garnishment, your car subject to attachment whether paid for or not, your property subject to attachment whether paid for or not.

* * * * *

PRIOR TO COMMUNICATING WITH YOUR COMMANDING OFFICER AND CAUSING THIS NOTICE TO BECOME A PERMANENT PART OF YOUR SERVICE RECORD, WE SHALL ADVANCE YOUR FILE FOR PAYMENT OF THE ABOVE BALANCE IN FULL TO THIS OFFICE BY RETURN MAIL.

* * * * *

Unless we receive full payment, or partial remittance and definite arrangements for the balance at once, it will be necessary to ask your Commanding Officer and the Secretary of the Navy for their cooperation in seeing that you discharge your just and owing debts.

* * * * *

WE ARE HOLDING YOUR RETURN CHECK(S)!

You Should Contact Your Local Authority If You Are Not Familiar With Check Law.

* * * * *

ABOVE BALANCE REPRESENTS BAD CHECKS.

UNLESS PICKED UP AT HIS [sic?] OFFICE BY _____ WE SHALL FOLLOW THE USUAL PROCEDURE IN SUCH MATTER.

* * * * *

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

1. Respondents are credit reporting agencies and maintain general files as to the credit-worthiness of members of the public.
2. Failure to pay amounts requested will result in immediate legal action.
3. Failure to pay amounts requested will result in garnishment of wages or attachment of property of the debtor.
4. Failure by debtors serving in the U. S. Armed Forces to pay amounts requested will result in disciplinary action or the placement of unfavorable information in military personnel files.
5. Failure by debtors to pay amounts requested will result in criminal prosecution by law enforcement authorities.

PAR. 7. In truth and in fact:

1. Corporate respondents are not credit reporting agencies but are collection agencies which perform no credit reporting functions and keep no credit records other than those associated with accounts referred to them for collection.

2. Failure by debtors to pay amounts requested by respondents does not, uniformly, result in legal action.

3. Failure by debtors to pay amounts requested by respondents does not result in prejudgment garnishment of wages or attachment of property of the debtor.

4. Failure by debtors serving in the U.S. Armed Forces to pay amounts requested by the respondents does not result in disciplinary action or unfavorable information in military personnel files.

5. Failure by debtors to pay amounts requested by respondents does not result in criminal prosecution by law enforcement authorities.

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

PAR. 8. In the further course and conduct of their business respondents have engaged, and are now engaging in numerous acts and practices intended to induce payment of amounts requested from debtors. Typical of such acts and practices but not all inclusive thereof, are the following:

1. The placement of telephone calls to debtors at their places of employment.

2. The impersonation by respondents' collectors of government officials, law enforcement officers and agents of businesses other than that of debt collection.

3. The discussion of debtors' accounts with debtors' employers and supervisors.

4. The discussion of debtors' accounts with debtors' friends, relatives, co-workers and neighbors.

PAR. 9. The aforesaid acts and practices of respondents as described in Paragraph Eight hereof has had, and now has, the capacity and tendency to cause alleged delinquent debtors to feel embarrassment and interference in their private affairs. Therefore, the use by respondents of such acts and practices is, and was, unfair.

PAR. 10. 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 such statements and representations were, and are, true and to induce recipients thereof into the payment of accounts by reason of the said erroneous and mistaken belief.

PAR. 11. 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.

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 Los Angeles 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 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 sixty (60) days, and having duly considered the comments filed thereafter pursuant to Section 2.34(b) of its Rules, 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 American Credit Bureau, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Arizona, with its office and principal place of business located at 714 East Van Buren, Phoenix, Ariz.

Respondent American Credit Bureau of Nevada, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Nevada, with its office and principal place of business located at 953 East Sahara Boulevard, Las Vegas, Nev.

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Respondent American Creditors Bureau of Dallas, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas with its office and principal place of business located at 8730 King George Drive, Dallas, Tex.

Respondent American Creditors Bureau of Houston, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Texas with its office and principal place of business located at 5330 Gulton Drive, Houston, Tex.

Respondent American Creditors Bureau of Philadelphia, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Pennsylvania with its office and principal place of business located at 780 West Lancaster Avenue, Bryn Mawr, Pa.

Respondent American Creditors Bureau of Colorado, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Colorado with its office and principal place of business located at 1805 South Bellaire Street, Denver, Col.

Respondent American Collections, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York with its office and principal place of business located at 280 North Central Avenue, Hartsdale, N. Y.

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Respondent Affiliated Creditors Bureau, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Illinois with its office and principal place of business located at 7 West Madison, Chicago, Ill.

Respondent Jemama Investment Company, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Arizona also trading as American Creditors Bureau of San Diego, with its office and principal place of business located at 625 Broadway, San Diego, Calif.; American Creditors Bureau of Los Ange-

les, with its office and principal place of business located at 3440 Wilshire Boulevard, Los Angeles, Calif.; and American Creditors Bureau of San Francisco, with its office and principal place of business located at 212 Sutter Street, San Francisco, Calif.

Respondents Jerry Middleman, Jack J. Schwartz and Jerry Raker are officers of the corporate respondents. They formulate, direct and control the acts and practices of the corporate respondents, including the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent American Credit Bureau, Inc.

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 American Credit Bureau, Inc., American Credit Bureau of Nevada, Inc., American Credit Bureau of Tucson, Inc., American Creditors Bureau of Dallas, Inc., American Creditors Bureau of Houston, Inc., American Creditors Bureau of Philadelphia, Inc., American Creditors Bureau of Colorado, Inc., American Collections, Inc., American Collections, Inc. of Georgia, Doctors' Business Bureau, Lusk Collection Agency, Affiliated Creditors Bureau, Inc., all corporations, and Jemama Investment Company, Inc., a corporation, also trading as American Creditors Bureau of San Diego, American Creditors Bureau of Los Angeles, and American Creditors Bureau of San Francisco, their successors and assigns, and Jerry Raker, Jerry Middleman and Jack J. Schwartz, individually and as officers of said corporations, and respondents' officers, agents, representatives and employees, directly or through any corporate 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 directly or by implication, contrary to fact through the use of the terms "credit," "credit bureau" or "creditor's bureau," or any other terms of similar meaning or import, that the corporate respondents are credit reporting agencies or maintain general files concerning the credit worthiness of members of the public unless respondents clearly and conspicuously disclose in all communications, both oral and written, to alleged debtors from whom respondents seek to collect past due accounts, the true nature of their business operation by using the phrase "collection agency" in close conjunction with the name under which they are doing business.

2. Representing, directly or by implication, orally or in writing, contrary to fact, that legal action has been, is being or will be taken against a debtor.

3. Representing, directly or by implication, orally or in writing, contrary to fact or law, that failure by any debtor to pay amounts requested will result in garnishment of wages or attachment of property of the debtor; or misrepresenting, in any way, the remedies available to the respondents or to creditors or the defenses available to debtors in the jurisdiction in which collection is sought.

4. Representing, directly or by implication, orally or in writing, that failure by debtors serving in the U.S. Armed Forces to pay amounts requested will result in disciplinary action or unfavorable information in military personnel files unless such representations are expressly permitted by official directives or policy statements of the Department of Defense, or the Department of Army, Navy or Air Force; or misrepresenting, in any manner, the consequences of refusal by debtors serving in the U.S. Armed Forces to pay amounts requested.

5. Representing, directly or by implication, orally or in writing, that failure by debtors to pay the amounts requested will result in criminal action by law enforcement authorities.

6. Placing telephone calls to any alleged debtor at his place of employment or appearing in person at any alleged debtor's place of employment; *Provided, however,* That nothing herein shall prohibit any contact with the debtor at his place of employment before such debtor has requested, orally or in writing, that no telephone calls or personal visits be made to him at his place of employment, where respondents have been totally unable, after having exercised available lawful means, to a reasonable extent, to contact an alleged debtor by telephone or in person at his residence or elsewhere.

7. Representing, directly or by implication, orally or in writing, that any of respondents' employees are government officials, law enforcement officers or agents of businesses other than debt collection; or misrepresenting to any debtor, in any manner, the position or function of any of respondents' agents or employees.

8. Placing of any telephone call to any debtor between the hours, in the time zone of the debtor, of 9:00 o'clock P.M. and 8:00 o'clock A.M. on weekdays, including Saturdays, and between the hours of 9:00 o'clock P.M. and 11:00 o'clock A.M. on Sundays, without first receiving permission from such debtor to call during those hours.

It is further ordered, That respondents, their successors and assigns,

with respect to communications to persons other than the alleged debtor, cease and desist from:

- a. Communicating or threatening to communicate, or implying the fact or existence of any debt to a debtor's employer prior to any judgment, unless specifically called for by or necessary to a procedure prescribed by statutes.
- b. Communicating with or threatening to communicate, or implying the fact or existence of any debt to any other third parties, including former employers, other than one who might be reasonably expected to be liable therefor, except with the written permission of the debtor.
- c. Reporting a debt or an alleged debt to a credit bureau unless respondents also promptly report to said credit bureau the subsequent payment of said debt or alleged debt, or the resolution of any dispute concerning said debt, or alleged debt, or any change of status favorable to the debtor.
- d. Using any language or symbol, other than the identification of respondents as a collection agency, on envelopes or the contents thereof indicating that the communication relates to the collection of a debt.

Provided however, nothing herein shall prohibit any contact in an effort solely to locate a debtor, whose whereabouts are unknown, and where the fact or existence of a debt or alleged debt is not disclosed in any manner, directly or indirectly, except that respondents may identify themselves as a collection agency.

It is further ordered, That respondents, their successors and assigns, shall, within thirty (30) days after this order becomes final, serve by mail or otherwise cause to be served on its creditor clients or assignors of claims:

- (a) A copy of this Consent Order; and
- (b) A copy of the letter attached hereto as Appendix A signed by the President of the appropriate respondent.

It is further ordered, That:

- (a) The respondent corporations, their successors and assigns, shall distribute a copy of this order to each of their operating divisions.
- (b) Respondents, their successors and assigns, shall deliver a copy of this order to all present and future personnel engaged in collection procedures and secure a signed statement acknowledging receipt of said order from each such person. Furthermore, respondents shall instruct said employees or agents that the practices prohibited by this order are against respondents' business policy and that engagement in said practices will result in dismissal.

Decision and Order

84 F.T.C.

It is further ordered, That respondents, their successors and assigns, notify the Commission at least 30 days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

It is further ordered, That respondents, their successors and assigns, 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 have complied with this order.

APPENDIX A
(Respondents' Letterhead)

(Date)

Dear Client:

We have entered into a consent agreement with the Federal Trade Commission which requires certain standards of collection practices.

Our agreement with the Commission is for settlement purposes only and does not constitute an admission by us that the law has been violated. We are enclosing a copy of the Order for your information.

Very truly yours,

President

Enclosure

1593

Complaint

IN THE MATTER OF

SHAKLEE CORPORATION

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-2613. Complaint, Dec. 5, 1974 - Decision, Dec. 5, 1974*

Consent order requiring an Emeryville, Calif., distributor of food supplements, cosmetic and bath, and household products, among other things to cease misrepresenting the nutritional value of its concentrated protein supplement; failing to include a disclosure notice in advertisements which warns against the use of the product by infants under 1 year of age without prior consultation with a physician; misrepresenting the nutritional content of its product; and furnishing means or instrumentalities of misrepresentation or deception to its distributors.

Appearances

For the Commission: *Harrison J. Sheppard, Robert B. Galler and Barry I. Miller.*

For the respondent: *L. G. Farren, Emeryville, Calif.*

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 Shaklee Corporation, a corporation, 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 Shaklee Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its principal office and place of business located at 1900 Powell Street, Emeryville, Calif.

PAR. 2. Respondent is engaged in the advertising, offering for sale, and sale of food supplements, cosmetic and bath products, and household products. The products are manufactured by respondent or by others according to respondent's specifications, and are marketed through over 100,000 sales persons, who operate businesses designated "Distributorships," "Assistant Supervisorships" and "Supervisorships," located in all fifty states, and who sell to consumers at their homes and offices. In the course and conduct of the aforesaid business, respondent is now and for sometime past has been engaged in the publishing,