

Complaint

85 F.T.C.

IN THE MATTER OF

ROBERT N. BARNES T/A NATIONAL CREDIT
EXCHANGE, ETC.CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION AND FAIR CREDIT REPORTING ACTS*Docket C-2646. Complaint, Mar. 10, 1975 - Decision, Mar. 10, 1975*

Consent order requiring a Canton, Ill., consumer credit reporting agency, among other things to cease violating the Fair Credit Reporting Act by furnishing credit reports to persons who do not have permissible purpose for receiving such information.

Appearances

For the Commission: *David G. Grimes, Jr.* and *Ronald G. McCauley.*
For the respondents: *Pro se.*

COMPLAINT

Pursuant to the provisions of the Fair Credit Reporting Act and the Federal Trade Commission Act, and by virtue of the authority vested in it by said Acts, the Federal Trade Commission, having reason to believe that Robert N. Barnes, an individual, trading and doing business as National Credit Exchange and National Fraudulent Check Bureau, hereinafter referred to as respondent, has violated the provisions of said Acts, 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 Robert N. Barnes is an individual trading and doing business as National Credit Exchange and National Fraudulent Check Bureau, with his office and principal place of business located at 445 W. Elm St., Canton, Ill.

PAR. 2. Subsequent to Apr. 25, 1971, in the ordinary course and conduct of his business, respondent has compiled and published lists containing, among other things, the names and addresses of consumers together with statements or indications that such consumers have outstanding unpaid bills, or together with statements or indications that such consumers have issued forged checks, checks drawn upon nonexistent accounts, or checks which have been returned by the drawee bank because of insufficient funds or other reasons.

The information contained in the aforesaid lists concerning consumers whose names and addresses appear therein bears on said consumers' credit worthiness, credit standing, credit capacity, charac-

ter, general reputation, personal characteristics and/or mode of living. Therefore, each of the aforesaid lists constitutes a series of consumer reports as "consumer report" is defined in Section 603(d) of the Fair Credit Reporting Act.

Respondent is, and has been, for monetary fee, regularly engaged in the practice of assembling such information on consumers for the purpose of furnishing such lists to third parties, and regularly uses a means or facility of interstate commerce for the purpose of preparing and/or furnishing said lists. Therefore, respondent is a consumer reporting agency as "consumer reporting agency" is defined in Section 603(f) of the Fair Credit Reporting Act.

PAR. 3. At the time respondent furnishes the aforesaid consumer reports in list form, respondent does not have reason to believe that each person to whom the consumer reports are furnished has a legitimate business need for the information in connection with a business transaction involving each consumer reported upon, nor does respondent have reason to believe that each recipient otherwise intends to use the information for a purpose set forth in Section 604 of the Fair Credit Reporting Act. Further, the furnishing of such consumer reports is neither in response to a court order nor in accordance with the written instructions of each consumer to whom the reports relate.

Respondent, in the ordinary course and conduct of his business, as aforesaid, furnishes consumer reports to persons, as "person" is defined in Section 603(b) of the Fair Credit Reporting Act, who do not have a legitimate business need or other permissible purpose to receive the consumer reports furnished to them, as required by Section 604(3) of the Act.

By furnishing consumer reports as described above, respondent has violated and is violating Section 604 of the Fair Credit Reporting Act.

PAR. 4. By and through the acts and practices described in Paragraph Three above, respondent has failed to maintain reasonable procedures to limit the furnishing of consumer reports to the purposes listed under Section 604 of the Fair Credit Reporting Act, and has furnished consumer reports to persons under circumstances in which there are reasonable grounds for believing that such reports will not be used for a purpose listed in Section 604 of such Act. Therefore, respondent has violated and is violating Section 607(a) of the Fair Credit Reporting Act.

PAR. 5. The acts and practices set forth in Paragraphs Three and Four above, were and are in violation of the Fair Credit Reporting Act, and, pursuant to Section 621(a) of that Act, said acts and practices

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 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 Consumer Protection 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

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 sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34(b) of its rules, the Commission hereby issues its complaint, making the following jurisdictional findings, and enters the following order:

1. Respondent Robert N. Barnes is an individual trading and doing business as National Credit Exchange and National Fraudulent Check Bureau, with his office and principal place of business located at 445 W. Elm St., Canton, Ill.
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 respondent Robert N. Barnes, an individual, trading and doing business as National Credit Exchange, National Fraudulent Check Bureau, or any other name or names, his successors and assigns, and respondent's agents, representatives and employees, directly or through any corporate or other device, in connection with

the collecting, preparation, assembling and/or furnishing of consumer reports as "consumer report" is defined in Section 603(d) of the Fair Credit Reporting Act (Pub. L. 91-508, 15 U.S.C. §1601, *et seq.*), shall forthwith cease and desist from:

1. Furnishing any consumer report to any person unless such report is furnished:

a. in response to the order of a court having jurisdiction to issue such order; or

b. in accordance with the written instructions of the consumer to whom the report relates; or

c. to a person which respondent then has reason to believe intends, at the time the information is furnished, to use the information:

(1) in connection with a credit transaction involving the consumer on whom the information is to be furnished and involving the extension of credit to, or review or collection of an account of, the consumer; or

(2) for employment purposes; or

(3) in connection with the underwriting of insurance involving the consumer; or

(4) in connection with a determination of the consumer's eligibility for a license or other benefit granted by a governmental instrumentality required by law to consider an applicant's financial responsibility or status; or

(5) in connection with a business transaction involving each consumer reported upon.

2. Furnishing consumer reports in list form, unless the identity of the consumer to whom the information relates is not disclosed on such list and cannot be determined without the use of a unique identifier, such as social security number, drivers' license number, or bank account number. The identifier used must be provided by the consumer at the time of the transaction with the user.

3. Failing to maintain reasonable procedures necessary to limit the furnishing of consumer reports to the purposes listed under Section 604 of the Act as provided by Section 607 of the Act.

It is further ordered, That respondent deliver a copy of this order to cease and desist to all present and future personnel of respondent engaged in the preparation and/or furnishing of consumer reports, and that respondent secure a signed statement acknowledging receipt of said order from all such personnel.

It is further ordered, That respondent promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the

Order

85 F.T.C.

nature of the business or employment in which he is engaged, as well as a description of his duties and responsibilities.

It is further ordered, That respondent shall, within sixty days after service upon him of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he had complied with this order.
