

Complaint

86 F.T.C.

IN THE MATTER OF

STATE CREDIT ASSOCIATION, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-2722. Complaint, Aug. 27, 1975—Decision, Aug. 27, 1975*

Consent order requiring a Seattle, Wash., debt collection agency, among other things to cease misrepresenting the attachment, garnishment or foreclosure of any assets, wages, or property without making various disclosures to the alleged debtor, and instituting suits in counties other than where the defendant resides or the debt was incurred. Further, respondent is required to comply with the F.T.C.'s "Guides Against Debt Collection Deception."

Appearances

For the Commission: *Gregory L. Colvin.*

For the respondents: *David Gossard, Seattle, Wash.*

COMPLAINT

The Federal Trade Commission, having reason to believe that State Credit Association, Inc., a corporation, and D. Keith Lasswell, individually and as an officer of said corporation, hereinafter sometimes referred to as respondents, have violated the provisions of Section 5 of the Federal Trade Commission Act, and that a proceeding in respect thereof would be in the public interest, hereby issues this complaint stating its charges as follows:

PARAGRAPH 1. Respondent State Credit Association, Inc. (hereinafter SCA) is a Washington corporation with its office and principal place of business located at 1314 Howell St., Seattle, Wash.

Respondent D. Keith Lasswell is an officer of SCA. He formulates, directs and controls the policies, acts and practices of said corporation, including those hereinafter set forth, and his business address is the same as that of SCA.

PAR. 2. Respondents are now and have been engaged in the business of collecting or attempting to collect alleged money obligations as agents or assignees of various creditors. Allegations stated below in the present tense include the past tense.

PAR. 3. In the course of its business, SCA engages in substantial interstate commercial intercourse, including transmittal of letters, checks and documents through the United States mails among the various States of the United States. In the course of its business, SCA solicits and receives accounts and other kinds of money obligations for collection from persons and firms, including interstate corporations,

located outside the State of Washington. SCA, in such instances, acts as agent or assignee of said creditors. Some of SCA's collection activities involve money obligations incurred outside of the State of Washington and allegedly owed by persons or firms resident inside the State of Washington. Some of SCA's collection activities involve money obligations incurred inside the State of Washington and allegedly owed by persons or firms resident outside the State of Washington. Further, SCA frequently refers money obligations for collection to persons and firms located outside the State of Washington, and, according to its own letterhead, maintains agents throughout the United States and the World. Thus, respondents are engaged in commerce, as "commerce" is defined in the Federal Trade Commission Act.

Deceptive Forms

PAR. 4. In the course of its business, SCA causes to be transmitted, to those whom it pursues for collection of alleged money obligations, printed forms, copies of which are set forth below:

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NOTICE OF IMPENDING ACTION

THIS DAY OF 19
CLAIM

You are hereby notified that it is our intention to immediately proceed to ascertain, what assets, wages or other property, real or personal, belonging to you may be held subject to the debt claimed herein. We intend to, upon advice of our counsel, take whatever action is deemed most appropriate in this matter.

FEDERAL TRADE COMMISSION	
File No. 73-3077	COMMISSION EXHIBIT No. 7
INVESTIGATIONAL	
In the Matter of: <i>State Credit Ass'n, Inc.</i>	
Date 11-6-73	Witness: <i>Legal Reporter</i>

Commencement of this action will be withheld for five days to permit you to settle without recourse to such action. It is in your interest to consider how you will be affected now and in the future if such intended action is carried out.

FURTHER DELAY CAN COST YOU
(as awarded by the court)

Principal	\$	_____
Interest	\$	_____
Court Costs	\$	_____
TOTAL	\$	_____

SEND \$ _____ NOW TO

STATE CREDIT ASSOCIATION, INC.
P.O. Box 9444 — Queen Anne Station
188 Thomas
Seattle, Washington 98109
Phone MU 3-3713

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48 HOUR NOTICE

FINAL NOTICE

FEDERAL TRADE COMMISSION
File No. 732,307, COMMISSION EXHIBIT No. 8
INVESTIGATIONAL

In the Matter of: State Credit Ass'n.

Date: 11-16-73, Witness: Leswell C. Renner, Jr.

NOTICE IS HEREBY GIVEN THAT THIS ITEM HAS ALREADY BEEN REFERRED FOR LEGAL ACTION.
We will at any time after 48 Hours take action as determined by our counsel as necessary and appropriate to secure payment in full, together with such costs and fees as will accrue.

PAY THIS AMOUNT NOW

IF SUIT IS TO BE STOPPED

ESTIMATED COSTS
(AS A COURT MAY AWARD)

Principal

Interest

Court Costs

Fees

TOTAL Could Be

STATE CREDIT ASSOCIATION, INC.
P.O. Box 9444 — Queen Anne Station

158 Thomas
Seattle, Washington 98109

Phone MU 2-2913

Complaint

86 F.T.C.

THIS IS YOUR
NOTICE OF CREDIT DEFAULT

You have Five (5) Days from This Date

Individuals whose account has been in arrears need not regard their credit standing completely jeopardized. They should IMMEDIATELY, upon receipt of this notice, send payment in full to the undersigned.

Dated this _____ day of _____ 19____

RE: _____

\$ _____

Interest at the Annual Percentage Rate of _____ % since _____ amounting to \$ _____ has been added to and is included in the account claimed above.

YOU ARE HEREWITH NOTIFIED:

1. That the above account has, for value received, been assigned to us for Immediate Collection Procedures.
2. That the above entitled Account is in **DEFAULT** and that Immediate Collection Procedures will be taken unless this is paid AT ONCE.
3. That Merchants and Professional Men are reluctant to extend Credit to individuals who have a Record of Unpaid Collection Accounts.
4. That Credit Privileges are often refused to individuals who have unpaid delinquent accounts.
5. That to prevent this matter proceeding further you must IMMEDIATELY pay the same in full.

PROTECT YOUR CREDIT STANDING By Promptly Sending \$ _____ to _____

STATE CREDIT ASSOCIATION, INC.
 P.O. Box 9444 — Queen Anne Station
 158 Thomas
 Seattle, Washington 98109
 Phone MU 2-2913

FEDERAL TRADE COMMISSION	
File No. 732-3077	COMMISSION INVESTIGATIONAL CASE No. 9
In the Matter of: State Credit Assn.	
Date 11-6-73	Witness: Haswell Reporter: Jm

This is in no way a Legal Form or a Simulated Legal Form. It is advisable to Pay the amount called for Immediate since Legal Forms served by the Sheriff require payment of Court Costs and Service Fees in addition.

PAR. 5. Through the use of statements and representations in said forms, SCA has misrepresented, directly or by implication, that:

A. Form 1

1. SCA will attach, garnish, foreclose, or otherwise take possession of some part of the assets, wages, or other property of the person against whom collection activities are being pursued, without allowing or being required to allow such person any defense or recourse except payment of the demanded amount of money.

2. Legal action on the allegedly unpaid obligation is about to be initiated.

3. If SCA does not receive full payment of the allegedly unpaid obligation within the specified time period, SCA will commence suit.

B. Form 2

1. The allegedly unpaid obligation has been referred to an attorney.

2. An attorney is actively involved in pursuing or reviewing a collection matter in preparation for initiation of legal action.

3. Legal action on the allegedly unpaid obligation has been or is about to be initiated.

4. If SCA does not receive full payment of the allegedly unpaid obligation within the specified time period, SCA will commence suit.

C. Form 3

1. SCA engages in credit reporting activities or engages in providing information to credit reporting agencies.

2. The existence of the allegedly unpaid obligation has impaired such person's credit standing already and can only be corrected by full payment to SCA.

3. Failure to make full payment to SCA of the alleged obligation within the specified time period will result in impairment of the credit standing or credit privileges of the person against whom collection activities are being pursued.

These threats have the capacity and tendency to mislead those who allegedly owe such money obligations as to their legal rights and as to the status of the collection activities being conducted against them, and thus tend to induce payment by such persons.

Therefore, the statements and representations referred to in Paragraphs Four and Five are deceptive and unfair.

Gag Calling

PAR. 6. In the course of its business, SCA collects or attempts to collect information by telephone using an assumed identity, or disguising the purpose for which information is desired. Such a practice is commonly known as "gag calling" in collection terminology.

Since recipients of such calls may be misled as to the true identity or

purpose of the callers, they may be induced to provide information which is not in their interest to supply and which they normally would not voluntarily furnish. Therefore, this practice is deceptive and unfair.

Questioning of Others in the Debtor's Home

PAR. 7. In the course of its business, SCA telephones private residences and if the alleged debtor is not home, SCA proceeds to question other persons in the home, including minor children, about telephone numbers, places of employment or other information to facilitate collection.

Many persons in such a situation, especially minor children, cannot understand the nature or importance of information requested and are not in a position to determine whether or how they should respond to such questions. Thus, SCA may obtain private information from the child or other person which is not in the alleged debtor's interest to supply and which such debtor normally would not voluntarily furnish.

Therefore, this practice is unfair.

Use of Judicial Process

PAR. 8. SCA regularly resorts to use of judicial process in collection matters not resolved by private settlement. The defendants in such cases are predominately low-income or middle-income persons not represented by counsel. SCA sues in its own name as assignee of the alleged money obligations and usually obtains default judgments against such defendants.

PAR. 9. SCA commences almost all its collection lawsuits in the district and superior courts of King County, Wash. In many of the superior court suits defendants reside, or incurred the underlying obligations, outside of King County, in places up to 200 or more miles from the court. Courts located in the county where defendants reside or where they incurred the underlying obligations could be used for these suits. Through such use of distant and inconvenient forum, SCA effectively deprives defendants of a reasonable opportunity to appear, answer and defend the lawsuits. Therefore, this practice is unfair.

PAR. 10. For its superior court lawsuits, SCA uses confusingly worded summonses which give defendants inadequate or misleading directions as to the proper procedure for responding. These summonses have the tendency to mislead defendants into defaulting. Thus, SCA effectively deprives defendants of a reasonable opportunity to appear, answer and defend the lawsuits. Therefore, this practice is unfair and deceptive.

PAR. 11. The use of the deceptive statements and representations

described above has the tendency and capacity to lead alleged debtors into the erroneous and mistaken belief that the statements and representations are true. As a result of this belief, and as a result of these and other unfair practices described above, such alleged debtors are coerced and intimidated into paying the amounts claimed against them.

PAR. 12. The acts and practices alleged above are all to the prejudice and injury of the public and 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 Seattle 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 sixty 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:

A. Respondent State Credit Association, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Washington, with its office and principal place of business located at 1314 Howell St., Seattle, Wash.

Respondent D. Keith Lasswell is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation and his address is the same as that of said corporation.

B. 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

I

It is ordered, That respondents State Credit Association, Inc., a corporation, its successors and assigns, and its officers, and D. Keith Lasswell, individually and as an officer of SCA, and respondents' agents, representatives and employees, hereinafter collectively "respondents," directly or through any corporation, subsidiary, division or other device, in connection with the collection of money obligations or any other form of obligation or claim in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from representing in writing, orally, visually, or in any other manner, directly or by implication, that:

A. Respondents can or will attach, garnish, foreclose, or in any manner take possession of any part of the assets, wages or other property of anyone, or initiate any legal action unless (a) at the time of such representation, respondents have a present legal right to take such action, (b) respondents specify truthfully, in immediate conjunction with such representation, how soon such action will be taken if payment of the obligation is not made, and (c) respondents regularly take such action within the specified time period when no payment is made.

B. Any allegedly unpaid obligation has been referred to an attorney unless such is the fact.

C. An attorney is actively involved in pursuing or reviewing a collection matter in preparation for initiation of legal action unless such is the fact.

D. Legal action on an allegedly unpaid obligation has been or is being initiated unless such is the fact.

E. Respondents engage in credit reporting activities of any kind or engage in providing information to credit-reporting agencies.

F. The existence of an allegedly unpaid obligation has impaired or will impair any person's credit standing or credit privileges or that only payment to respondents can correct or avoid any credit impairment.

II

It is further ordered, That respondents, in any communication with any person or firm during any part of collection activities, refrain from engaging in any representations which disguise, obscure, or detract

from respondents' true identity or the true purpose of the communication.

III

It is further ordered, That respondents, when speaking to persons present in the alleged debtor's home other than the debtor himself or herself, do forthwith cease and desist from attempting to obtain any information other than (1) whether the caller may speak to the debtor and, if the debtor is not present, (2) when the debtor is expected to be home, and (3) whether there is a telephone number where the debtor can be reached. When speaking to persons under the age of twelve (which respondents may verify by direct question if necessary), respondents cannot attempt to obtain any information other than whether the caller may speak to an adult.

IV

It is further ordered, That respondents comply with all provisions of the Federal Trade Commission's "Guides Against Debt Collection Deception" existing at the time this Order is finally accepted.

V

It is further ordered, That respondents do forthwith cease and desist from instituting suits except in the county where the defendant resides at the commencement of the action, or in the county where the defendant signed the contract sued upon, or, if there was no written contract, where the obligation was incurred. This provision shall not preempt any rule of law which further limits choice of forum or which requires, in actions involving real property or fixtures attached to real property, that suit be instituted in a particular county.

VI

It is further ordered, That when respondents institute suit in any superior court in Washington State, they shall attach, to any summons served upon defendants, a notice which gives defendants adequate directions as to the proper procedure for responding to the suit and avoiding default. The notice shall use clear and unconfusing language, and shall appear clearly, conspicuously, and in type at least as large as typewriter pica type. Should superior court rules or procedures change respondents shall forthwith modify the notice accordingly. The initial form of the notice, and any modifications thereof, shall be subject to approval by authorized representatives of the Federal Trade Commission. Respondents shall not make any representation in writing, orally,

visually or in any other manner, directly or by implication, which disguises, obscures, or detracts from the proper procedure for responding to the suit or for avoiding default.

VII

It is further ordered, That respondents shall forthwith deliver a copy of this order to each of their subsidiaries, operating divisions and employees engaged in collection activities.

VIII

It is further ordered, That respondents notify the Commission at least thirty 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.

IX

It is further ordered, That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment or of his affiliation with a new business or employment in the debt collection industry, in the event of such discontinuance or affiliation. Such notice shall include the respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

X

It is further ordered, That the respondents herein shall within sixty 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.

IN THE MATTER OF
THE HOUSE OF SCHILLER, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT

Docket C-2723. Complaint, Aug. 27, 1975—Decision, Aug. 27, 1975

Consent order requiring a Long Island City, N.Y., manufacturer and distributor of plastic slipcovers, among other things to cease using bait and switch tactics in the sale of its merchandise.

Appearances

For the Commission: *Jerry R. McDonald.*

For the respondents: *Pro se.*

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 House of Schiller, Inc., a corporation, and Lawrence Kane and Donald Sherman, 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 The House of Schiller, 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 41-40 27th St., Long Island City, N.Y.

Respondents Lawrence Kane and Donald Sherman are individuals and are officers of the corporate respondent. They formulate, direct and control the acts and practices of the corporate respondent, including 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 advertising, offering for sale, sale and distribution of plastic slipcovers to members of the purchasing public at retail.

PAR. 3. In the course and conduct of their business as aforesaid, respondents now cause, and for some time last past have caused, their said merchandise, when sold, to be shipped from their place of business located in the State of New York, to purchasers thereof located in various other States, and maintain, and at all times mentioned herein