
IN THE MATTER OF
INTER-CONTINENTAL SERVICES CORPORATION, ET
AL.

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

Docket C-2763. Complaint, Nov. 14, 1975-Dcision, Nov. 14, 1975

Consent order requiring two Shawnee Mission, Kans., debt collection agency affiliates, among other things to cease using legal-looking forms, letterheads or language that might deceive debtors or credit card holders, and making telephone misrepresentations. Further, the order limits the times during which the credit card holder or debtor may be called.

Appearances

For the Commission: *E. Eugene Harrison.*

For the respondents: *William S. Glickfield, Glickfield, Riley & Gillie, Marion, Ind.*

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 Inter-Continental Services Corporation, a corporation, and North American Credit

⁵ The Commission denies the motions by respondents in Docket Nos. 8940 and 8963 for oral argument.

Services, Inc., a corporation, and Jerome E. Baker, Jerry L. Nickell and James F. Bell, individually and as officers of said corporations, and Ronald A. Green and Thomas F. Fangrow, individually and as officers of Inter-Continental Services Corporation, and Richard L. Wilson, individually and as an officer of North American Credit Services, Inc., 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 Inter-Continental Services Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its principal office and place of business located at 2000 Johnson Dr., in the city of Shawnee Mission, State of Kansas.

Respondent North American Credit Services, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas, with its principal office and place of business located at 2000 Johnson Dr., in the city of Shawnee Mission, State of Kansas.

Respondents Jerome E. Baker, Jerry L. Nickell and James F. Bell are officers of both corporations. They formulate, direct and control the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondents.

Respondents Ronald A. Green and Thomas F. Fangrow are officers of Inter-Continental Services Corporation. They formulate, direct and control the acts and practices hereinafter set forth. Their address is the same as that of the corporate respondent.

Respondent Richard L. Wilson is an officer of North American Credit Services, Inc. He formulates, directs and controls the acts and practices hereinafter set forth. His 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 and the retrieval of credit cards for business organizations throughout the United States.

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 and retrieval business, to be sent by United States mail from respondents' place of business to creditors, debtors and other persons located throughout the United States and maintain, and at all times mentioned herein have maintained, a

substantial course of trade in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their collection and retrieval 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 and the retrieval of credit cards.

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

Your promptness may bear on your future credit.

We have been retained in an action against you.

If these cards are not received in three days, it may be necessary to take legal action to recover them.

Further delay in settlement of this action will leave our firm with no recourse but to institute proceedings.

We would like to discuss this matter with your employer.

RECOMMENDATION FOR CIVIL SUIT

NOTICE OF INTENT TO FILE SUIT

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 the property of the debtor.

4. Respondents are empowered to file legal actions against the debtor.

PAR. 7. In truth and in fact:

1. Corporate respondents are not credit reporting agencies and 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, normally, 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. Respondents are not empowered to file legal action against the debtor.

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 or the retrieval of credit cards. Typical of such acts and practices, but not all-inclusive thereof, are the following:

1. Respondents have mailed or caused to be delivered to debtors forms that resemble legal process.
2. Respondents have mailed or caused to be delivered to debtors letters which, taken as a whole, represent that such letters are from a law firm contemplating legal action.

PAR. 9. In truth and in fact:

1. Such forms are not legal process.
2. Such letters are not from a law firm, but in fact are from certain of corporate respondents' employees who are not licensed attorneys.

The use of such forms and letters misleads the recipient as to their nature, import, purpose and urgency. Therefore, the use by respondents of said forms and letters as set forth in Paragraph Eight was and is false, misleading and deceptive.

PAR. 10. In the further course and conduct of their business, respondents have contacted persons not liable for the alleged debts and discussed debtors' accounts with such persons.

PAR. 11. The aforesaid acts and practices of respondents as described in Paragraph Ten hereof have had and now have the tendency and capacity to endanger the alleged debtor's employment and job advancement and to invade his privacy. Therefore, the use by respondents of such acts and practices was and is unfair.

PAR. 12. 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 and other actions by reason of the said erroneous and mistaken belief.

The use by the respondents of the aforesaid unfair acts and practices has had and now has the tendency and capacity to induce alleged debtors into the payment of accounts and other actions by reason of the said unfair acts and practices.

PAR. 13. 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 or affecting 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 Kansas City 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 (60) days, and having duly considered the comments filed thereafter pursuant to Section 2.34 of its rules, now in further conformity with the procedure prescribed in Section 2.34 of its rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Inter-Continental Services Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Missouri, with its office and principal place of business located at 2000 Johnson Dr., city of Shawnee Mission, State of Kansas.

Respondent North American Credit Services, Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of Kansas, with its office and principal place of business located at 2000 Johnson Dr., city of Shawnee Mission, State of Kansas.

Respondents Jerome E. Baker, Jerry L. Nickell and James F. Bell are officers of said corporations. They formulate, direct and control the

policies, acts and practices of said corporations and their principal office and place of business is located at the above-stated address.

Respondents Ronald A. Green and Thomas F. Fangrow are officers of Inter-Continental Services Corporation. They formulate, direct and control the policies, acts and practices of said corporation, and their principal office and place of business is located at the above-stated address.

Respondent Richard L. Wilson is an officer of North American Credit Services, Inc. He formulates, directs and controls the policies, acts and practices of said corporation, and his principal office and place of business is located at the above-stated address.

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 Inter-Continental Services Corporation, a corporation, its successors and assigns, and its officers, and North American Credit Services, Inc., a corporation, its successors and assigns, and its officers, and Jerome E. Baker, Jerry L. Nickell and James F. Bell, individually and as officers of said corporations, and Ronald A. Green and Thomas F. Fangrow, individually and as officers of Inter-Continental Services Corporation, and Richard L. Wilson, individually and as an officer of North American Credit Services, Inc., and respondents' representatives, agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the collection of accounts or the retrieval of credit cards in or affecting commerce as "commerce" is defined by the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that any legal action is being considered, will be taken, or has been taken, or using any forms, letters or other documents which simulate legal process.

2. Representing, directly or by implication, that respondents or their agents or employees are attorneys, or misrepresenting in any manner the position or function of any of respondents, their agents or employees.

3. Representing, directly or by implication, that the failure of any individual to pay amounts requested, or to take any other action, will result in garnishment of wages, attachment of any property, or will affect the individual's credit rating.

4. Communicating or threatening to communicate with any alleged debtor's employer or any other person not liable for the debt, other than the spouse or attorney of the alleged debtor, except by order of a

court, or solely to locate an alleged debtor whose whereabouts are genuinely unknown by respondents, *Provided That*, in these circumstances, no mention of the alleged indebtedness is made.

5. Placing of any telephone call to any alleged debtor or to any individual from whom respondents wish to retrieve a credit card, in the time zone of such person, before the hour of 8:00 a.m. or after the hour of 9:00 p.m. on weekdays, including Saturdays; or before the hour of 11:00 a.m. or after the hour of 9:00 p.m. on Sundays unless permission is received from such person to so call.

6. Misrepresenting in any manner the consequences of individuals' or alleged debtors' failure to comply with any of respondents' requests or demands.

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 corporations shall forthwith distribute a copy of this order to each of their operating divisions, to each of their branch offices, and to each of their customers.

It is further ordered, That respondents notify the Commission at least thirty (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 or dissolution of subsidiaries or any other change in the corporations which may affect 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 in which they are engaged as well as a description of their duties and responsibilities.

It is further ordered, That the respondents herein 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.

IN THE MATTER OF
KENNECOTT COPPER CORPORATION

Docket 8765. Order, Nov. 18, 1975

Denial of petition to reopen proceeding to enlarge time for compliance.

Appearances

For the Commission: *Fiodie P. Favarella* and *Joseph Eckhaus*.

For the respondent: *John L. Warden, Sullivan & Cromwell*, New York City and *John Bodner, Jr.* and *Francis A. O'Brien, Howery, Simon, Baker & Murchison*, Wash., D.C.

ORDER DENYING PETITION TO REOPEN THE PROCEEDING TO
ENLARGE THE TIME FOR COMPLIANCE

On Oct. 14, 1975, respondent Kennecott Copper Corporation filed a "Petition To Reopen the Proceeding To Enlarge the Time for Compliance." By answer dated Nov. 10, 1975, the Bureau of Competition has opposed the petition.

The Commission is of the view that respondent's petition to reopen is not a proper vehicle for seeking an extension of time within which to comply with an order, and has determined to deny the petition, for the reasons elaborated in its order of May 5, 1975 [85 F.T.C. 848], denying a similar petition to reopen these proceedings to enlarge the time for compliance.

The Commission will consider separately respondent's request, filed simultaneously pursuant to Section 4.3(b) of the rules of practice, for an extension of time within which to comply with the order to cease and desist in this matter. Therefore,

It is ordered, That the "Petition To Reopen the Proceeding To Enlarge the Time for Compliance" be, and it hereby is, denied.

IN THE MATTER OF
AMERICAN GENERAL INSURANCE COMPANY

Docket 8847. Order, Nov. 18, 1975

Denial of motion by respondent and intervenor for reconsideration of 1972 order vacating administrative law judge's initial decision and remanding case for further proceedings.