

Complaint

87 F.T.C.

IN THE MATTER OF

UNITED COMPUCRED COLLECTIONS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-2806. Complaint, Mar. 11, 1976—Decision, Mar. 11, 1976*

Consent order requiring a Cincinnati, Ohio, debt collection agency, among other things to cease misrepresenting the nature, import, or urgency of communications used in the collection of delinquent debts; misrepresenting the initiation of legal action for nonpayment of alleged debts or the effect of nonpayment on credit status of the alleged debtor; and furnishing means and instrumentalities of misrepresentation or deception. Further, the order requires respondent to disclose in correspondence to alleged debtors that respondents do not accept payments nor ordinarily file suits.

Appearances

For the Commission: *Carthon E. Aldhizer.*

For the respondents: *James L. Cobb, Jr., Cobb, Combs, Beasley & Oldfield, Covington, Ky.*

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 United Compucred Collections, Inc., a corporation, and Wes Symmonds and Janet Symmonds, individually and as officers of said corporation, 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 United Compucred Collections, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio with its principal office and place of business located at 2780 Banning Rd., Cincinnati, Ohio.

Respondents Wes Symmonds and Janet Symmonds 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 in the past have been, engaged in the offering for sale and sale of a service to assist in the collection of alleged delinquent debts. This service consists of the

preparation by the respondents of a series of form notices and letters to be mailed to alleged debtors at regular intervals.

Two styles of forms are used in this series: (1) that which is titled SPEEDGRAM; and (2) that which bears the letterhead of United Compucred Collections, Inc.

PAR. 3. In the course and conduct of their business, respondents are now, and for some time in the past have been, engaged in sending to and receiving from persons, firms and corporations located in various States of the United States, by means of the United States mail, letters, notices, forms and other material for use in the collection of alleged delinquent debts. Respondents maintain, and at all times mentioned herein have maintained a substantial course of trade in said business in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of their business as aforesaid, and for the purpose of inducing the payment of alleged delinquent debts, the respondents mail or cause to be mailed to alleged delinquent debtors various printed forms and other printed material.

Typical and illustrative, but not necessarily all inclusive, of said forms and material are the following:

1. A yellow window envelope on which a return address is printed, with no name, in the upper left-hand corner.

2. A yellow printed form, styled SPEEDGRAM, designed to be inserted in the envelope described in subparagraph 1 of this Paragraph.

PAR. 5. By and through the use of the envelopes and forms described in subparagraphs 1 and 2 of Paragraph Four, respondents have represented, and are now representing, directly or by implication, that the communication is a telegraphic message.

PAR. 6. In truth and in fact, the communication is not a telegraphic message. Rather, it is a printed form letter, mailed to alleged delinquent debtors, which form by its color and appearance, styling, printing and format simulates a telegraphic message and which, by virtue of said simulation, misleads the recipient as to its nature, import, purpose and urgency.

Therefore, the use by respondents of said envelopes and forms as set forth in Paragraph Four was and is false, misleading and deceptive.

PAR. 7. In the course and conduct of their business and for the purpose of inducing the payment of alleged delinquent debts, respondents mail, or cause to be mailed, to alleged delinquent debtors various printed forms, letters and other printed material containing certain statements and representations.

Among and typical, but not all inclusive, of such statements and representations are the following:

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UNITED COMPUURED COLLECTION, INC.

* * * * *

* * * Your seriously delinquent account has been turned over to United Compuured Collections, Inc., by the First National Bank. If you wish to avoid further processing of this claim, please contact your creditor at once and make some satisfactory arrangement with them for payment of this account. Failure to do so may have an effect on your good credit and may result in your creditor's consulting his attorneys about legal action* * *.

* * * * *

* * * THE ABOVE CREDITOR HAS TURNED YOUR DELINQUENT ACCOUNT OVER TO US FOR COLLECTION* * *. ALL LAWFUL MEANS WILL BE TAKEN BY US TO COLLECT* * *. YOUR CREDIT RECORD WILL ALSO BE PROTECTED BY PAYMENT NOW* * *.

* * * * *

* * * United Compuured Collections, Inc., is giving notice to your creditor that you have failed to pay your debt. If your creditor sues you, legal fees, court costs, etc., may be charged against you and added to your debt. A judgment in court may subject you to attachment or other legal steps permitted to collect the debt. This may harm your credit rating* * *.

* * * * *

* * * Attached find a partially completed note. We recommend you see your attorney at once regarding its completion. If you or your attorney reject this method, it is suggested that you or your attorney contact your creditor at once or remit payment to your creditor immediately. Otherwise, your creditor may take court action against you.

* * * * *

PAR. 8. By and through the use of the aforesaid statements and representations, including the use of the word "collections" in the corporate name, and others of similar import and meaning not expressly set out herein, respondents have represented, and are now representing, directly or by implication that:

1. the said corporate respondent is a collection agency;
2. alleged delinquent debtors' accounts are referred to corporate respondent by creditors for collection;
3. legal action with respect to an alleged delinquent debt is about to be, or may be, initiated; and
4. if payment is not made in response to respondents' demands, the alleged delinquent debtor's general credit record may be adversely affected.

PAR. 9. In truth and in fact:

1. the said corporate respondent is not a collection agency;
2. alleged delinquent debtors' accounts are not referred to corporate respondent by creditors for collection; on the contrary, during this

series of letters and notices, the respondents merely exhort alleged delinquent debtors to pay their alleged creditors;

3. legal action with respect to an alleged delinquent debt is neither about to be, nor may it be, initiated; on the contrary, while respondents' service is being used, it is virtually certain that no legal proceedings are being initiated on the basis of alleged debtors' failure to respond to respondents' communications; and

4. if payment is not made in response to respondents' demands, the alleged delinquent debtor's general credit record will not be adversely affected.

Therefore, the statements and representations set forth in Paragraphs Seven and Eight were and are false, misleading and deceptive.

PAR. 10. In the course and conduct of their business, and at all times mentioned herein, respondents have been, and are now in substantial competition, in commerce, with corporations, firms and individuals engaged in providing services of the same general kind and nature as those provided by respondents.

PAR. 11. The use by respondents of the envelopes and forms as set forth in Paragraph Four hereof, has had, and now has, the tendency and capacity to mislead and deceive members of the public into the erroneous and mistaken belief that the said communication is a telegraphic message. Furthermore, the use by respondents of the aforesaid false, misleading and deceptive statements, representations and practices has had and now has, the tendency and capacity to mislead members of the public into the erroneous and mistaken belief that said statements and representations were and are true and to induce the payment of substantial sums of money by reason of said erroneous and mistaken belief.

PAR. 12. The aforesaid acts and practices of respondents, as herein alleged, were and are all to the prejudice and injury of the public and of respondents' competitors and constituted, and now constitute, unfair methods of competition 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 Commission having heretofore determined to issue its complaint charging the respondents named in the caption hereto with violation of the Federal Trade Commission Act, and the respondents having been served with notice of said determination and with a copy of the complaint the Commission intended to issue, together with a proposed form of order; 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 complaint to issue herein, 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 considered the agreement and having provisionally accepted same, and the agreement containing consent order having thereupon been placed 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 procedures prescribed in Section 2.34(b) of its Rules, the Commission hereby issues its complaint in the form contemplated by said agreement, makes the following jurisdictional findings, and enters the following order:

1. Respondent United Compucured Collections, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Ohio, with its office and principal place of business located at 2780 Banning Rd., Cincinnati, Ohio.

Respondents Wes Symmonds and Janet Symmonds 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 ordered, That respondents, United Compucured Collections, Inc., a corporation, its successors and assigns, and its officers, and Wes Symmonds and Janet Symmonds, individually and as officers of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the offering for sale, sale or distribution of any service or printed matter for use in the collection, or attempting to collect, or assisting in the collection of or inducing or attempting to induce the payment of alleged delinquent debts in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Using, or placing in the hands of others for use, envelopes, letters, forms or any other materials which by their appearance misrepresent a telegraphic communication.

2. Using, or placing in the hands of others for use, envelopes, letters, forms, or any other materials which misrepresent the nature, import, purpose or urgency of any communication; *provided*, that it shall not be a violation of this order for respondents to use within the message of any communication, in the same type size as is otherwise employed in the message, a truthful reference to or implication of urgency.

3. Representing, directly or by implication, that:

(a) respondents are prepared to recommend, initiate or cause to be initiated legal proceedings in the collection of an alleged delinquent debt;

(b) legal action with respect to an alleged delinquent debt has been, or is about to be initiated; or misrepresenting that legal action is imminent, will be or may be initiated;

(c) nonpayment of the alleged delinquent debt in response to respondents' demands will adversely affect the credit rating, record or status of the debtor with respect to any consumer reporting agency or any other third party; or misrepresenting the impact or effect of nonpayment upon the debtor's credit rating, record or status.

Provided, however, That it shall be a defense in any enforcement proceeding initiated under this Paragraph Three for the respondents to establish that such representations are factually correct.

4. Failing clearly and conspicuously to disclose in each letter, form or notice to alleged delinquent debtors the following statement:

This communication is a reminder of creditor's claim. United Compucred Collections, Inc., does not accept payment. United Compucred Collections, Inc., does not ordinarily file suit.

This statement shall be made in prominent type, of a size no smaller than the basic body copy in the letter, form or notice, and in a color which contrasts with the color of the stationery and writing or printing in the body of the letter, form or notice.

Provided, however, That the portion of the above statement, either as to accepting payment or the filing of suit, or both, shall not be required where respondent indicates specifically in a particular letter, form or notice that it will accept payment, file suit or institute legal proceedings and respondent does, in fact, accept payment, file suit or institute legal proceedings in that particular case, unless, suit was not filed due to subsequent instructions from the creditor or subsequent information from the debtor indicating nonexistence of the alleged debt.

5. Making any statement in any letter, form or notice to alleged delinquent debtors which is inconsistent with, negates or contradicts the affirmative disclosure required by Paragraph Four.

6. Placing in the hands of others the means and instrumentalities to represent any of the matters prohibited in Paragraph Three or which fail to comply with the requirements of Paragraphs Four and Five of this order.

It is further ordered, That the respondent corporation shall distribute a copy of this order to each of its operating divisions or departments and to each of its present and future officers, agents, representatives, or employees engaged in any aspect of the offering for sale, sale or distribution of any service or printed matter for use in the collection, or attempting to collect, or assisting in the collection of or inducing or attempting to induce the payment of alleged delinquent debts, and that said respondent secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered, That the 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 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 the order.

It is further ordered, That the individual respondents named herein promptly notify the Commission of the discontinuance of their business or employment with United Compucard Collections, Inc. 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 named herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, signed by the respondents, setting forth in detail the manner and form in which they have complied with this order.

IN THE MATTER OF

TRANS NATIONAL CREDIT CORPORATION, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE FEDERAL TRADE COMMISSION ACT*Docket C-2807. Complaint, Mar. 11, 1976—Decision, Mar. 11, 1976*

Consent order requiring a Hazleton, Pa., debt collection agency, among other things to cease misrepresenting the nature, import, or urgency of communications used in the collection of delinquent debts; misrepresenting the initiation of legal action for nonpayment of alleged debts or the effect of nonpayment on credit status of the alleged debtor; and furnishing means and instrumentalities of misrepresentation or deception. Further, the order requires respondent to disclose in correspondence to alleged debtors that respondents do not accept payments nor ordinarily file suits.

Appearances

For the Commission: *Carthon E. Aldhizer.*

For the respondents: *Daniel Smith, Arent, Fox, Kintner, Plotkin & Kahn*, Washington, D.C. *Bart E. Ecker, Laputka, Bayless, Ecker & Cohn*, Hazleton, Pa.

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 Trans National Credit Corporation, a corporation, and Robert F. Mitchell and Pat L. Bangor, individually and as officers of said corporation, 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 Trans National Credit Corporation, is a corporation organized, existing and doing business under and by virtue of the laws of the Commonwealth of Pennsylvania with its principal office and place of business located at Citizens Bank Bldg., Hazleton, Pennsylvania.

Respondents Robert F. Mitchell and Pat L. Bangor 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 in the past have