

Complaint

88 F.T.C.

IN THE MATTER OF

NOSOMA SYSTEMS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF THE
FEDERAL TRADE COMMISSION ACT*Docket C-2841. Complaint, Sept. 28, 1976 — Decision, Sept. 28, 1976*

Consent order requiring a Vineland, N.J., debt collection agency and three of its affiliates among other things to cease, prior to obtaining a judgment, from communicating or threatening to communicate with a debtor's employer or other parties, other than spouse or attorney, who have no liability for the debt. Further, if respondents do not reveal that the inquiry concerns debt collection, they may communicate with third parties to locate a debtor whose whereabouts are genuinely unknown, or to determine the extent of a debtor's income or property.

Appearances

For the Commission: *Elliot Feinberg*.

For the respondents: *Hartman, Schlesinger, Schlosser & Foxton*,
Mount Holly, N.J.

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, as amended, and by virtue of the authority vested in it by said Act, the Federal Trade Commission, having reason to believe that the parties named in the caption hereof, 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 Nosoma Systems, Inc., (hereinafter referred to as Nosoma) is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its principal office located at 600 Landis Ave., Vineland, New Jersey.

Respondent Capital Collection Service of Vineland, Inc. (hereinafter referred to as CCS Vineland) is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its office and principal place of business located at 600 Landis Ave., Vineland, New Jersey.

Respondent Capital Collection Service of Atlantic City, Inc. (hereinafter referred to as CCS Atlantic City) is a corporation organized, existing and doing business under and by virtue of the laws of the State

of New Jersey with its office and principal place of business located at 1112 Tilton Road, Northfield, New Jersey.

Respondent Capital Collection Service of Willingboro, Inc. (hereinafter referred to as CCS Willingboro) is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its office and principal place of business located at 129 High St., Mount Holly, New Jersey.

Respondents CCS Vineland, CCS Atlantic City and CCS Willingboro are now, and for some time last past have been, doing business as Capital Collection Service. Respondent Nosoma is now, and for some time last past has been, doing business as Capital Collection Service, Central Credit Collectors and Woodbury Credit Systems.

Corporate respondents are affiliate corporations employing the same operating procedures and collection practices. In addition, said respondents share various corporate services including, but not limited to, sales personnel whose accounts are allocated among corporate respondents' collection offices.

Respondent Thomas L. Norris is an individual and officer of all the aforementioned corporate respondents. He formulates, directs and controls their acts and practices including the acts and practices hereinafter set forth. His address is the same as that of corporate respondent Nosoma.

Respondent John G. Marshall, Jr. is an individual and officer of respondents Nosoma and CCS Atlantic City. He formulates, directs and controls their acts and practices including the acts and practices hereinafter set forth. His address is the same as that of corporate respondent CCS Atlantic City.

Respondent R. J. Sopourn, Jr., is an individual and officer of respondents Nosoma and CCS Willingboro. He formulates, directs and controls their acts and practices including the acts and practices hereinafter set forth. His address is the same as that of corporate respondent CCS Willingboro.

All of the aforementioned respondents have engaged in and have cooperated and acted together in the acts and practices hereinafter alleged.

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

PAR. 3. In the course and conduct of their business as aforesaid, respondents solicit and receive accounts for collection from businesses and professional people located in the State of New Jersey and in various other States of the United States, which accounts the respondents seek thereafter to collect from debtors in the State of New

Jersey. In the further course and conduct of their business, respondents transmit collection messages from their places of business within the State of New Jersey to third parties located in the various other States of the United States. The respondents 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, as amended.

PAR. 4. In the course and conduct of their business, and at all times mentioned herein, respondents have been and now are, in competition in or affecting commerce with other corporations, firms and individuals in the attempted collection and collection of consumer debts on behalf of creditors.

PAR. 5. In the course and conduct of their business as aforesaid, respondents have engaged in the practice of threatening to communicate and communicating prior to judgment the fact of the debt, its date and amount and the name of the creditor, both by telephone and in writing, directly and indirectly, to employers of debtors, and to other third parties not liable therefor.

PAR. 6. The practice of contacting employers of debtors and other third parties prior to judgment as alleged in Paragraph Five above, has had or tends to have the following effects:

1. Predictably placing debtors in fear of loss of their jobs, or in fear of loss of opportunities for advancement or promotion, or in fear of incurring the enmity of employers, or in fear of being subjected to ridicule from co-workers, other third parties, or employers as well as general injury to their reputation.

2. Causing debtors to pay debts, some of which may be in dispute, because of pressure from employers and other third parties receiving such communications or because they are fearful that employers and other third parties will receive such communications, or because of the embarrassment to which the debtors are subjected as a result of such communications.

PAR. 7. The aforesaid acts and practices of respondents, as herein alleged, are to the prejudice and injury of the public and respondents' competitors and constituted, and now constitute, unfair acts and practices in or affecting commerce in violation of Section 5 of the Federal Trade Commission Act, as amended.

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 New York 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, 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 Nosoma Systems, Inc., (hereinafter referred to as Nosoma) is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its principal office located at 600 Landis Ave., Vineland, New Jersey.

Respondent Capital Collection Service of Vineland, Inc. (hereinafter referred to as CCS Vineland) is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its office and principal place of business located at 600 Landis Ave., Vineland, New Jersey.

Respondent Capital Collection Service of Atlantic City, Inc. (hereinafter referred to as CCS Atlantic City) is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its office and principal place of business located at 1112 Tilton Road, Northfield, New Jersey.

Respondent Capital Collection Service of Willingboro, Inc. (hereinafter referred to as CCS Willingboro) is a corporation organized, existing and doing business under and by virtue of the laws of the State of New Jersey with its office and principal place of business located at 129 High St., Mount Holly, New Jersey.

Respondents CCS Vineland, CCS Atlantic City and CCS Willingboro are now, and for some time last past have been, doing business as Capital Collection Service. Respondent Nosoma is now, and for some

time last past has been, doing business as Capital Collection Service, Central Credit Collectors and Woodbury Credit Systems.

Respondent Thomas L. Norris is an individual and officer of all the aforementioned corporate respondents. He formulates, directs and controls the acts and practices of the corporate respondents and his address is the same as that of corporate respondent Nosoma.

Respondent John G. Marshall, Jr., is an individual and officer of corporate respondents Nosoma and CCS Atlantic City. He formulates, directs and controls the acts and practices of said corporate respondents and his address is the same as that of corporate respondent CCS Atlantic City.

Respondent R.J. Sopourn, Jr., is an individual and officer of corporate respondents Nosoma and CCS Willingboro. He formulates, directs and controls the acts and practices of said corporate respondents and his address is the same as that of corporate respondent CCS Willingboro.

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 Nosoma Systems, Inc., a corporation doing business as Capital Collection Service, Central Credit Collectors and Woodbury Credit Systems, and Capital Collection Service of Vineland, Inc., Capital Collection Service of Atlantic City, Inc. and Capital Collection Service of Willingboro, Inc., corporations, their successors and assigns, and their officers and Thomas L. Norris, John G. Marshall, Jr. and R.J. Sopourn, Jr., individually and as officers of some or all of said corporations, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the collection of consumer debts, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

Communicating or threatening to communicate with the debtor's employer or any agent of the employer or any other person not liable for the debt other than the spouse or the attorney of the debtor;

Provided, however, that nothing herein shall prohibit such communications in order to locate a debtor whose whereabouts are genuinely unknown to the creditor and respondents, to determine the nature and extent of the debtor's property or income, or pursuant to an order of a court; nor shall anything herein prohibit respondents from engaging an attorney or an agent, if authorized by the creditor, for the purpose of collection of the alleged indebtedness; and

Further provided, that in the course of an attempt to locate a debtor or determine the extent of his income or property the use of any language or symbol on envelopes or in the contents therein or any oral communication indicating that the communication relates to the collection of a debt shall be deemed a communication of the alleged debt prohibited by this order.

It is further ordered, That respondents shall maintain for a period of two years with respect to each delinquent debtor, records which shall consist of copies of all collection letters, dunning notices, requests for information and similar correspondence delivered to such debtor or third parties or an indication of what form items were sent; a record or tabulation of all telephone calls made to or about the debtor showing the identity of the caller, the date and time of the call, the identity of the recipient of the call, the telephone number called, the purpose and result of the call; and copies of all documents pertaining to collection efforts such as referral to lawyers or other agencies and legal documents utilized in collection efforts.

It is further ordered, That the respondents shall forthwith distribute a copy of this order to each of their operating divisions, collection managers and to all personnel or other parties including attorneys and collection agencies responsible for or engaged in the collection of consumer debts.

It is further ordered, That respondents notify the Commission at least 30 days prior to any proposed change in any of the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation or corporations, 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 each individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment, and of each affiliation with a new business or employment. In addition, for a period of ten years from the effective date of this order, the respondent shall promptly notify the Commission of each affiliation with a new business or employment whose activities include the collection of consumer debts, or of his affiliation with a new business or employment in which his own duties and responsibilities involve the collection of consumer debts. Such notice shall include this respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged as well as a description of respondent's duties and responsibilities in connection with the business or employment.

The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

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.

It is further ordered, That no provision of this order shall be construed in any way to annul, invalidate, repeal, terminate, modify or exempt respondents from complying with agreements, orders or directives of any kind obtained by any other agency or act as a defense to actions instituted by municipal or State regulatory agencies. No provision of this order shall be construed to imply that any past or future conduct of respondents complies with the rules and regulations of, or the statutes administered by the Federal Trade Commission.

Commissioner Dole not participating by reason of absence.

IN THE MATTER OF
OWENS-CORNING FIBERGLAS CORPORATION

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

Docket C-2842. Complaint, Sept. 30, 1976 — Decision, Sept. 30, 1976

Consent order requiring a Toledo, Ohio, manufacturer, seller, and distributor of fibrous glass products, among other things to cease misrepresenting the amount of energy or money the consumer can save as a result of installing respondent's insulation; misrepresenting the basis for savings claims; misrepresenting the insulation characteristics of its product; and failing to disclose pertinent facts and conditions which are significant to the customer and which affect the savings claim made. Further, respondent must maintain accurate records of documentation which supports advertising claims made.

Appearances

For the Commission: *Vivian Soljanik*.

For the respondent: *William L. Kreutz* and *Steven M. Mayer*, Toledo, Ohio.

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 Owens-Corning Fiberglas 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 Owens-Corning Fiberglas Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware, with its principal office and place of business located at Fiberglas Tower, Toledo, Ohio.

PAR. 2. Respondent Owens-Corning Fiberglas Corporation is now, and for some time last past has been, engaged in the manufacture, advertising, offering for sale, sale, and distribution of fibrous glass products, including but not limited to, residential building insulation products, which, when sold, are shipped to purchasers located in various States of the United States. Thus, respondent maintains, and at all times mentioned has maintained, a substantial course of trade in said fibrous glass building insulation products.

PAR. 3. Respondent Owens-Corning Fiberglas Corporation, at all