

Complaint

80 F.T.C.

IN THE MATTER OF

H&R BLOCK, INC.

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

Docket C-2162. Complaint, March 1, 1972—Decision, March 1, 1972

Consent order requiring a Kansas City, Mo., firm offering income tax preparation and other services to cease misrepresenting the terms and conditions of any guarantee, that respondent will reimburse customers for any addition he may have to make to his initial tax payment, that respondent will not assume liability for any additional taxes assessed, using information obtained from customer's tax data for purposes other than the tax return, and where respondent intends to transfer such information, to obtain customer's signature releasing the information.

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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 H&R Block, Inc., 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 H&R Block, Inc., 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 4410 Main Street in the city of Kansas City, State of Missouri.

PAR. 2. Respondent is now, and for some time last past has been, engaged in the advertising, offering for sale and sale of personal income tax preparation services, mutual funds and life insurance to the general public.

Respondent sells its aforesaid products and services directly and through various corporate subsidiaries, affiliates, and franchisees hereinafter referred to for convenience as respondent's representatives.

PAR. 3. In the course and conduct of its business as aforesaid, respondent now causes, and for some time last past has caused, monies, contracts, business forms and other commercial paper and printed materials in connection with said income tax preparation services, mutual funds and life insurance to be sent by United States

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mail from respondent's place of business in the State of Missouri to its local offices and franchises and purchasers of respondent's products and services located in various other States of the United States, and maintains and all times mentioned herein has maintained a substantial course of trade in said services in commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. In the course and conduct of its business, respondent and its representatives have disseminated, and caused the dissemination of, certain advertisements concerning the said income tax preparation services by various means in commerce, as "commerce" is defined in the Federal Trade Commission Act for the purpose of inducing and which were likely to induce, directly or indirectly, the purchase of said income tax preparation services.

PAR. 5. Among the advertisements disseminated in the aforesaid manner, are certain radio and television commercial broadcasts and newspaper and periodical insertions. In these radio and television commercial broadcasts, respondent utilizes the services of John Cameron Swayze, a noted news commentator and television personality, to narrate the broadcast script. The narration by John Cameron Swayze includes certain statements and representations respecting Block's size and extent of operation, the complexity of income tax preparation, the security which members of the consuming public will experience when their tax returns are prepared by Block, the thoroughness of Block's preparation procedures and the Block guarantee of accuracy. Typical of the statements and representations in said advertisements, but not all inclusive thereof, are the following:

A. Television

1. John Cameron Swayze for H & R Block, America's Largest Income Tax Service.

Tax reforms *this year* will affect every taxpayer.

Millions of Americans will be using the 1040 Long Form for the first time, because the 1040A Short Form, has been eliminated. *But * * ** the Long Form itself has been changed dramatically. It's completely revised. And the surtax is still with us, too * * * at a *higher* effective rate. All this confusion means that now, more than ever, you need the security and peace of mind H&R Block can provide.

They'll prepare, double-check and guarantee your return.

See H&R Block, the Income Tax People. (emphasis in original).

2. Signs play an important part in our lives. Most of us take them for granted, but here's one it will pay you to look for. It's the H&R Block sign, which appears in front of more than 4000 offices coast to coast.

It means that Block will prepare, double-check and guarantee your return for accuracy, making sure you receive every legitimate deduction. It means that the cost for all this service and peace of mind is surprisingly low, and deductible next year.

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So look for this sign, and trust H & R Block. There's no finer Tax Service in America. You'll be glad you got together.

3. It does make a difference who prepares your income tax, especially this year.

John Cameron Swayze here, with just *two* of the differences which have made H & R BLOCK America's Largest Income Tax Service.

First * * * income tax is BLOCK'S only business. They'll prepare and double-check your return to make sure you receive every legitimate deduction. Second * * * H & R BLOCK stands behind its work with this written guarantee * * *. If we make any error that costs you penalty or interest, we will pay that penalty or interest. The cost for this service? Surprisingly low, and the charge is deductible next year.

H & R BLOCK, a *good* place to place *your* confidence. You'll be glad you got together.

4. I'm John Cameron Swayze for H & R Block. Keeping abreast of the constantly changing tax rules and regulations is a full-time job. That's why you can't be a once-a-year expert when it comes to preparing your own income tax return.

The new Tax Reform Act, which will affect *everyone* for the first time this year, has brought about the most sweeping changes in history.

H & R Block understands these new regulations and will prepare, check and *guarantee* your return starting as low as \$5.

For peace-of-mind and accuracy—trust your tax return to the "Income Tax People". And look for this sign * * *

H & R Block, a *good* place to place your confidence. (emphasis in original).

5. Signs play an important part in our lives. Most of us take them for granted, but here's one it will pay you to look for. It's the H & R Block sign, which appears in front of more than 5,000 offices worldwide.

It means that Block knows the provisions of the new Tax Reform Act, which will affect *Every* taxpayer this year.

It means that Block will prepare, double-check and guarantee your tax return, making sure you receive every legitimate deduction.

It means that the cost for all this service and peace of mind is surprisingly low, and deductible next year. So look for this sign, and trust H & R Block.

There's no finer Tax Service in America. (emphasis in original).

6. We guarantee accurate preparation of every tax return. If we make any errors which cost you penalty or interest, we will pay that penalty or interest. That's the H & R Block guarantee.

I'm John Cameron Swayze with some plain talk about H & R Block.

They feel when you pay for their service, you are entitled to complete satisfaction. If Block's service falls short through no fault of yours, they must accept that responsibility at no additional cost to you.

So, it's little wonder over 8 million Americans will trust their tax returns to H & R Block this year. You should, too.

H & R Block—A *good* place to place your confidence.

7. We guarantee accurate preparation of every tax return.

I'm John Cameron Swayze, speaking for H & R Block, The Income Tax People. Since 1955, Block has been trying hard to provide the *finest* tax service available anywhere.

That's why, this year, H & R Block will *go* anywhere in the continental United States to prepare your tax return.

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If you are unable to come to one of the more than 5,000 H & R Block offices, Block will come to you, *wherever* you live or work. The cost for this special service will be slightly more than their regular fee, but they sincerely believe that competent, *guaranteed* tax preparation should be available to everyone. Just call your nearest H & R Block office and they'll come to you. That's H & R Block, a good place to place your confidence. (emphasis in original).

B. Newspaper and direct mail:

1. Fast accurate service guaranteed accurate by trained tax preparers.

* * * * *

The yearly tax changes hold no mystery for our Tax detectives.

* * * * *

Trained tax men take your data and bale it up fast so you have every tax deduction you've got coming.

* * * * *

* * * offer to appear with you, should your return be selected for audit by IRS.

* * * * *

We will appear with you at an audit without cost to you.

* * * * *

Every year Internal Revenue selects a number of returns for audit or review. If you receive any notice, call H & R Block first. This is part of our year round service at no extra charge to you.

PAR. 6. By and through the use of the above-quoted statements and representations, and others of similar import and meaning, but not expressly set out herein, respondent and its representatives have represented, and are now representing, directly or by implication, that:

1. Respondent will reimburse the taxpayer for any payments the taxpayer may be required to make in addition to his initial tax payment, if such additional payment results from an error made by respondent and its representatives in the preparation of the tax return.

2. If the customers' tax return is audited, respondent and its representatives will provide representation, without charge, by persons qualified and certified by, and enrolled to practice before, the Internal Revenue Service.

PAR. 7. In truth and in fact:

1. Respondent and its representatives do not reimburse the taxpayer for all payments he is required to make in addition to his initial tax payment if such additional payment results from an error made by respondent and its representatives in the preparation of the tax return.

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2. Respondents and its representatives do not provide representation by persons qualified and certified by, and enrolled to practice before, the Internal Revenue Service to their customers, in instances where the customer's tax return is audited.

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 its business, respondent and its representatives enter into a relationship with their tax preparation customers which is impliedly represented as, and is inherently, confidential and private in nature. As a result of the aforesaid relationship, respondent and its representatives are provided and receive certain information from their tax preparation customers. Data culled from the aforesaid information is given by respondent and its representatives to J.B. Grossman, Inc., which is a wholly-owned subsidiary of respondent and is managed, directed and controlled by respondent. On the basis of this data, J.B. Grossman, Inc., compiles several mailing lists of respondent's and its representatives' income tax preparation customers. Included on one such list is the name, address and occupation of the customer. Only customers that earn more than a certain stated income are included on this list. Other lists contain only the names and addresses of the customers. This data is of both a personal and financial nature and is private and confidential.

The aforesaid list which includes the name, address and occupation, and is limited with respect to the income of the customer is then furnished by respondent, through J.B. Grossman, Inc., to H & R Block Financial Services, a joint venture between respondent and Pennsylvania Life Insurance Company. The aforesaid joint venture, H & R Block Financial Services, is engaged in the sale of life insurance and mutual funds to the general public. Persons on the list provided by respondent to H & R Block Financial Services are contacted by direct mail literature and various other means for the purpose of soliciting the purchase of mutual funds and life insurance from H & R Block Financial Services.

The other lists which include the names and addresses of the customers of respondent and its representatives are sold or rented by J.B. Grossman, Inc., to various other business concerns, either directly or through mailing list brokers. Persons on these lists are contacted by the various business concerns which purchase the lists, through direct mail literature and other means, for the purpose of soliciting the purchase of various products and services.

Respondent uses, and has used, the aforesaid information gathered as a result of the preparation by respondent and its representatives of its customers' income tax returns in the manner hereinabove described without the prior knowledge and consent of its customers, and respondent has failed to disclose such use and intended use to its customers.

PAR. 9. The aforesaid acts and practices of the respondent, and the special relationship created by respondent with its customers as described in Paragraph Eight hereof, had had, and now has, the capacity and tendency to mislead respondent's customers into the erroneous and mistaken belief that the information they provided respondent will only be used for the purpose of preparation of their income tax returns and will remain confidential.

Therefore, the respondent's failure to disclose the use of the aforesaid information for purposes other than the preparation of its customers' tax returns is false, misleading and deceptive.

Furthermore, respondent's use of the aforesaid information for purposes other than the preparation of its customers' tax returns without the prior knowledge and consent of its customers is contrary to, and in substantial disregard of, the special relationship between respondent and its customers as described in Paragraph Eight, hereof, and is, and was, unfair.

PAR. 10. In the course and conduct of its business, and at all times mentioned herein, respondent and its representatives have been in substantial competition, in commerce, with corporations, firms and individuals in the sale of income tax preparation services of the same general kind and nature.

PAR. 11. The use by respondent and its representatives of the aforesaid false, misleading and deceptive statements and representations, and unfair acts and practices, has had, and now has, the capacity and tendency to mislead members of the public into the erroneous and mistaken belief that said statements and representations were and are true and into the purchase of respondent's and its representatives' income tax preparation services by reason of said erroneous and mistaken belief.

PAR. 12. The aforesaid acts and practices of the respondent and its representatives as herein alleged, were and are all to the prejudice and injury of the public and of respondent's and its representatives' competitors and constituted and now constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce, in violation of Section 5 of the Federal Trade Commission Act.

