

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

Commissioners: Robert Pitofsky, Chairman
Mary L. Azcuenaga
Janet D. Steiger
Roscoe B. Starek, III
Christine A. Varney

In the Matter of)	DOCKET NO. C-3668
)	
SHERMAN G. SMITH,)	DECISION AND ORDER
individually and doing business)	
as STARR COMMUNICATIONS.)	

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft of complaint which the Chicago Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondent with violation of the Federal Trade Commission Act; and

The respondent, his counsel, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent 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 respondent that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true 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 respondent has 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 no comments having been filed thereafter by interested parties pursuant to § 2.34 of its Rules, now in further conformity with the procedure prescribed in §2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent Sherman G. Smith is an individual doing business as Starr Communications with his principal office or place of business at 78 West Broadway, No. 2007 North, Salt Lake City, Utah 84101.

2. The acts and practices of the respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

I.

IT IS ORDERED that respondent Sherman G. Smith, his agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of the "U.S. Government Tracer Business Program," or any other business opportunity, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting, in any manner, the past, present, or future profits, earnings, income, or sales from such business opportunity.

II.

IT IS FURTHER ORDERED that respondent Sherman G. Smith, his agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of the "U.S. Government Tracer Business Program," or any other business opportunity, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, in any manner, the past, present, or future profits, earnings, income, or sales from such business opportunity, unless at the time of making such representation respondent possesses and relies upon competent and reliable evidence that substantiates the representation.

III.

IT IS FURTHER ORDERED that for five (5) years after the last date of dissemination of any representation covered by this Order, respondent, or his successors and assigns, shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. All materials that were relied upon in disseminating such representation; and

- B. All tests, reports, studies, surveys, demonstrations, or other evidence in his possession or control that contradict, qualify, or call into question such representation, or the basis relied upon for such representation, including complaints from consumers.

IV.

IT IS FURTHER ORDERED that respondent shall:

- A. Within thirty (30) days from the effective date of this Order deliver a copy of this Order to each of his officers, agents, representatives, and employees who are engaged in the preparation or placement of advertisements, promotional materials or other such sales materials covered by this Order.
- B. For a period of ten (10) years from the effective date of this Order deliver a copy of this Order to each of his future officers, agents, representatives, and employees who are engaged in the preparation or placement of advertisements, promotional materials or other such sales materials covered by this Order, within three (3) days after the person assumes such position.

V.

IT IS FURTHER ORDERED that from the date this Order becomes final, respondent shall notify the Commission within thirty (30) days of the discontinuance of his present business or employment and of each affiliation with a new business or employment. Each notice of affiliation with any new business or employment shall include his new business address and telephone number, current home address, and a statement describing the nature of the business or employment and the duties and responsibilities.

VI.

IT IS FURTHER ORDERED that within sixty (60) days after service of this Order, and at such other times as the Commission may require, respondent shall file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this Order.

VII.

This Order will terminate on June 12, 2016, or twenty years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the Order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any paragraph in this Order that terminates in less than twenty years;
- B. This Order's application to any respondent that is not named as a defendant in such complaint; and
- C. This Order if such complaint is filed after the order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this paragraph as though the complaint was never filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

Donald S. Clark
Secretary

SEAL

ISSUED: June 12, 1996