

Syllabus.

IN THE MATTER OF

F. W. DOBE.

COMPLAINT, FINDINGS AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.*Docket 1230—February 6, 1925.*

SYLLABUS.

- Where an individual engaged in teaching mechanical drafting by mail; in advertising his aforesaid business in newspapers, magazines, etc. and upon his letterheads and other stationery,
- (a) Represented that he was chief draftsman of a company which acted as consulting engineer and furnished designs for large plants and buildings and the machinery therefor, and employed mechanical draftsmen in such business under his supervision, the fact being that for a number of years the company referred to, originally organized by him, had been inactive and he had devoted all his time to the business of teaching;
 - (b) Represented that a great demand existed in the United States for the services of draftsmen at a salary of \$250 a month or more, that he would furnish to pupils a valuable course of instruction which would qualify them as proficient mechanical draftsmen capable of earning that amount or more, and would continue instructions after the completion of the prescribed course, without charge, until his pupils attained such proficiency as to procure such a salary, and that they would have no difficulty in obtaining employment through his efforts or otherwise at that or a higher figure, the fact being that in only a few cases were his pupils able to secure approximately such a salary, that in the majority of cases in which his pupils obtained employment, their salaries were at a much lower figure, and that while there is a general and constant demand for draftsmen with both technical and practical experience at salaries ranging from \$150 to \$250 a month and at higher salaries in the case of those with extraordinary training and ability, there is no general demand for inexperienced draftsmen, and their salaries range from \$75 to \$100 per month;
 - (c) Represented that he would give valuable and complete instruction free of charge to such pupils as assisted in securing others, the fact being that he merely allowed a commission to pupils rendering such service and thereby reduced the cost of the course to them; and
 - (d) Represented that the necessary tools, supplies and appliances required for the prosecution of the course would be furnished by him free of charge, the fact being that they were actually furnished as part of the lump sum charged for the course;

With the result that laborers and high-school students included in the class of persons reached by his advertisements were deceived and caused to take and pay for his course in preference to those of competitors who did not make such misrepresentations:

Held, That such false and misleading advertising, under the circumstances set forth, constituted unfair methods of competition.

Mr. Robert O. Brownell for the Commission.

McKercher & Link of New York City, for respondent.

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COMPLAINT.

Acting in the public interest pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission charges that F. W. Dobe, hereinafter referred to as respondent, has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act, and states its charges in that respect as follows:

PARAGRAPH 1. Respondent is an individual with his place of business in the city of Chicago, State of Illinois, and engaged in the business of teaching the art of mechanical drafting to persons hereinafter referred to as pupils, located at points in various States of the United States through and by means of correspondence with such persons in the following manner: Respondent sends from his said place of business in the city of Chicago, Ill., to pupils written lessons, instructions, charts, drawings, textbooks and various supplies, tools and appliances to be used by said pupils in and about the learning of said art; in consideration of which said pupils pay to respondent certain agreed sums of money. In the course and conduct of his said business respondent is in competition with other individuals, partnerships and corporations likewise engaged in the instruction of persons by correspondence in the various arts, sciences and branches of knowledge in interstate commerce.

PAR. 2. For about three years last past respondent, in order to secure pupils for his course of instruction referred to in paragraph 1 hereof, has caused advertisements offering said course of instruction to be inserted in various magazines, periodicals and newspapers of general circulation throughout the United States, or in various portions thereof, in which advertisements respondent has caused to be set forth numerous false, deceptive and misleading statements concerning his said course of instruction, the results which might be by the pupil expected therefrom, and certain valuable services which the respondent undertakes to render the pupil in connection therewith, among which statements are statements to the effect; that respondent is chief draftsman of the Engineers' Equipment Company; that said company acts as consulting engineer and furnishes designs for various large mechanical plants and buildings and the machinery therefor, and employs a large force of mechanical draftsmen in and about said business under the supervision of respondent as chief draftsman; that respondent offers to prospective pupils, free of charge, valuable and complete instruction in the art of mechanical

drafting together with the necessary tools, supplies and appliances for the prosecution of such studies; that respondent will continue to afford such instruction until the pupils are qualified and competent to discharge the duties of mechanical draftsmen and that thereupon respondent will place such pupils in lucrative positions at salaries of \$250 or more per month, either as employees of said Engineers' Equipment Company, or elsewhere; that a great demand exists in the United States for the services of such draftsmen, and that upon finishing respondent's said course of instruction the pupil will have no difficulty in obtaining employment through respondent's efforts or otherwise at a salary of approximately \$250 or more per month. Respondent has caused to be printed upon his letterheads and other stationery used in and about the prosecution of his said business statements and legends in consonance and of like import with the representations in this paragraph above set out.

In truth and fact said Engineers' Equipment Company is a corporation which respondent caused to be organized under the laws of the State of Illinois with himself, his wife and one other as incorporators, the capital stock of said corporation being owned in its entirety by respondent except for one share each held by his said wife and said other incorporator as qualifying shares; for more than three years last past said corporation has done no appreciable amount of business, has maintained and employed no mechanical draftsmen whatsoever; and respondent has performed no services for said corporation as its chief draftsman hereinbefore referred to, or as a draftsman in anywise whatsoever; respondent has at no time in the course of his said business given to pupils instruction in draftsmanship and the tools, supplies and appliances used in connection therewith and hereinbefore referred to, free of charge, but on the contrary has in all cases demanded and received compensation in money from such students for such instruction and property; respondent has not during said time except in a few instances secured employment for pupils taking or completing his said course of instruction at salaries approximating \$250 per month, but on the contrary has been able to secure employment for only a small number of such pupils and at salaries far below the sum of \$250 per month; the average or approximate salary obtainable by a draftsman qualified by a competent course of instruction but without practical experience has during said time been approximately \$75 to \$100 per month, varying with the ability of such draftsman, and there has not been during aforesaid time an unusual demand for the services of mechanical draftsmen offering a ready opportunity of employ-

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ment to practically inexperienced but otherwise qualified mechanical draftsmen.

PAR. 3. The use by respondent of the various false, misleading and deceptive statements in his advertising and upon his business stationery all as set out in paragraph 2 hereof, has the capacity and tendency to and does mislead and deceive many of the public throughout the United States into the belief that respondent is a highly qualified and experienced draftsman at the head of the drafting department of a large and important enterprise and thus qualified to instruct others in the art of mechanical drafting and thereafter able to carry out his hereinbefore mentioned undertaking to place his pupils in lucrative positions wherein such students will receive a monthly salary of \$250, or more; that respondent will give such instruction, and the tools, equipment and materials necessary to the pupils in connection therewith, free of charge, and that after the completion of said instruction such pupils will be by respondent placed in, or will readily find for themselves, positions as draftsmen at high and lucrative salaries, and to cause many of the public to enroll as pupils of respondent, to take such instruction and to pay respondent therefor substantial sums of money.

PAR. 4. There are among the competitors of respondent mentioned in paragraph 1 hereof many who do not falsely represent their courses of instruction to be free of charge; who do not falsely represent that a great demand exists for the services of persons instructed but without practical experience in the various arts and sciences which such competitors teach, and that upon the conclusion of the instruction their pupils will be placed in, or will readily find for themselves, employment at high and lucrative salaries and respondent's acts and practices all hereinbefore set out have the capacity and tendency to and do cause many of the public to take and pay for respondent's said course of instruction in preference to the courses in mechanical draftsmanship offered by respondent's said competitors and in many instances in preference to courses of instruction in other arts, sciences and departments of knowledge offered by said competitors.

PAR. 5. Respondent continues in the acts and practices under the circumstances and with the results all hereinbefore set out.

PAR. 6. The above alleged acts and things done by respondent are all to the prejudice of the public and respondent's competitors, and constitutes unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress entitled "An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER.

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act To create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission issued and served a complaint upon the respondent, F. W. Dobe, charging him with the use of unfair methods of competition in violation of the provisions of said act.

Respondent having entered his appearance and filed his answer herein, admitting that certain of the matters and things alleged in said complaint were true, in the manner and form therein stated, and denying other matters and things therein, and having filed herein a stipulation as to the facts, in which it is stipulated and agreed by the respondent and the chief counsel of the Federal Trade Commission that the Commission may take such a stipulation as to the facts as the facts in this proceeding and in lieu of testimony, and proceed forthwith to make its report stating its findings as to the facts and such order as it may deem proper to issue herein, without the introduction of testimony or the presentation of argument, the Federal Trade Commission, being fully advised in the premises, makes this its report, stating its findings as to the facts and its conclusion:

FINDINGS AS TO THE FACTS.

PARAGRAPH 1. Respondent is an individual with his place of business in the city of Chicago, State of Illinois, and is engaged in the business of teaching the art of mechanical drafting to persons hereinafter referred to as pupils, located at points in various States of the United States, through and by means of correspondence with such pupils in the following manner: Respondent sends from his said place of business in the city of Chicago, to pupils, written lessons, instructions, charts, drawings, textbooks, and various supplies, tools, and appliances to be used by said pupils in and about the learning of said art; in consideration of which said pupils pay to respondent certain agreed sums of money. In the course and conduct of his said business, respondent is in competition with other individuals, partnerships and corporations also engaged in the instruction of persons by correspondence in a like manner.

PAR. 2. For three years last past, respondent, in order to secure pupils for his course of instruction referred to in paragraph 1 herein, has caused advertisements offering said course of instruction to be inserted in various magazines, periodicals, and newspapers of general circulation throughout the United States, in which advertise-

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ments he has caused to be set forth statements concerning his said course of instruction, in which the following representations were made:

(a) That respondent was then chief draftsman of the Engineers' Equipment Company, and that said company acted as consulting engineer and furnished designs for various large mechanical plants and buildings and the machinery therefor, and employed mechanical draftsmen in said business under the supervision of respondent as chief draftsman.

The facts are that respondent is an accredited engineer from an institution in Germany, in which country he worked as engineer and designer in the Krupp Gun Works at Essen. He came to the United States in 1892, and thereafter acted as consulting engineer, using the trade name of Engineers' Equipment Company. In 1906, he incorporated his business under the same name, and carried on his work as consulting engineer up to the year 1920. In 1900, respondent commenced the personal instruction of pupils in draftsmanship. This branch of his work developed gradually, taking more and more of his time, until about 1920, since which date all of respondent's time was taken up by his instruction work, given by correspondence as set out in paragraph 1 herein. The Engineers' Equipment Company has been since 1920, and is now, inactive.

(b) That respondent would furnish to pupils a valuable prescribed course of instruction which would qualify them as proficient mechanical draftsmen capable of earning \$250 or more per month; and that respondent would continue giving instruction to pupils after they finished the prescribed course, free of charge, until the said pupils attained such proficiency as to procure said salary.

The facts are that respondent did furnish a regular course of instruction to pupils, the duration of time for completion of same depending upon the individual's ability and application, charging therefor the sum of \$90. In many cases respondent did furnish personal letters of instruction, and continued same after the pupil completed the regular course. In a few instances, said pupils were able to secure approximately such salary, but in the vast majority of cases where pupils obtained employment their salaries were much less than \$250 a month.

(c) That respondent offered to prospective pupils to furnish them, free of charge, valuable and complete instruction in mechanical drafting, provided they would assist in securing other pupils.

The facts are that respondent would and did allow a commission to pupils who secured other pupils for the same course of instruction, and in that way reduced the cost of the said course to the pupil who secured others.

(d) That respondent offered to prospective pupils, free of charge, the necessary tools, supplies, and appliances consisting of drafting instruments, drawing tables, boards, etc., needed in the prosecution of such studies.

The facts are that when he began the correspondence work in 1900, respondent charged for these mechanical appliances the sum of \$25, and that in 1912 he began to furnish them to pupils without a separate money charge, but included same in the charge of \$90 for the course of instruction. He then began to advertise that the said appliances were furnished "free," whereas they were actually furnished as part of the charge for the course of instruction, viz, \$90.

(e) That a great demand existed in the United States for the services of such draftsmen and that upon finishing respondent's course of instruction the said pupils would have no difficulty in obtaining employment through respondent's efforts or otherwise, at a salary of \$250 or more per month.

The facts are that there is a general and constant demand for draftsmen having not only a technical but a practical experience, and such experienced draftsmen usually receive salaries ranging from \$150 to \$250 per month, and higher salaries are paid only to those having extraordinary training and ability. There is no general demand for inexperienced draftsmen, and the salaries paid to them range from \$75 to \$100 per month.

PAR. 3. In the regular course of his said business, respondent caused to be printed upon the letterheads and other stationery used in said business, statements and legends in consonance with and of like import to, the representations set out in specifications (a), (b), (c), (d), (e) and (f) in paragraph 2 herein.

PAR. 4. The persons reading and answering the said advertisements of respondents, in various parts of the country, are generally carpenters, mechanics, high-school students, and in some cases, draftsmen desiring additional instruction.

PAR. 5. The representations in respondent's advertising to the effect that mechanical appliances were furnished "free," that pupils could be fairly assured of a salary of \$250 or more a month when finished with respondent's course of instruction, that a great demand for such draftsmen existed at salaries of \$250 or more per month,

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that the course of instruction could be obtained free by the pupil who assisted in obtaining other pupils, and that respondent was and is now engaged as consulting engineer in an active engineering business, all as set out above, were false and misleading, were prejudicial to competitors, and had the capacity and tendency to deceive and did deceive, a substantial part of said laborers and high-school students, by causing them to believe that the said representations were literally true, and to act in that belief.

PAR. 6. Among the competitors of respondent referred to in paragraph 1 hereof are several who do not represent that their courses of instruction are free of charge; who do not represent that a great demand exists for the services of persons instructed but without practical experience in the various arts and sciences which such competitors teach, and that upon the conclusion of the instruction their pupils will be placed in, or readily find for themselves employment at high and lucrative salaries, or that the advertiser will obtain lucrative positions for them; and respondent's acts and practices all hereinbefore set forth, have the capacity and tendency and to do cause some of the laborers and high-school students to take and pay for respondent's said course of instruction in preference to the courses offered by respondent's said competitors.

CONCLUSION.

The practices of respondent, F. W. Dobe, under the conditions and circumstances described in the foregoing findings as to the facts are unfair methods of competition in interstate commerce and constitute a violation of Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST.

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, and a stipulation of facts entered into on behalf of the Commission and the respondent, in which stipulation both said parties waived their rights to the introduction of evidence or the presentation of argument, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated Section 5 of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes,"

Order.

It is now ordered, That the respondent, F. W. Dobe, his agents, representatives, servants, and employees, do cease and desist from directly or indirectly representing orally or by written statement in the form of advertisements, letters or otherwise:

(a) That respondent is at the head of a corporation engaged in the business of consulting engineer, and employing a large force of draftsmen, unless and until such be the fact.

(b) That respondent will furnish instruction capable of fitting a pupil to receive a salary of \$250 or more per month, without charge other than the original cost of \$90 for the said course, unless and until the average salary received by said pupils who have finished said course shall amount to \$250 or more per month;

(c) That respondent will give free instruction to those pupils who assist in securing other pupils for the same course, unless and until such be the fact;

(d) That respondent will give free to pupils the necessary tools and supplies such as drafting instruments, drawing tables, boards, etc., needed in the prosecution of their courses, unless and until such be the fact;

(e) That a great demand exists in the United States for mechanical draftsmen at a salary of \$250 or more per month, unless and until such be the fact;

(f) That upon finishing respondent's course of instruction, pupils will have no difficulty in obtaining employment through respondent's efforts or otherwise at salaries of \$250 or more per month, unless and until such be the fact.

And it is further ordered, That respondent, F. W. Dobe, shall within thirty days after service upon him of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which he has complied with the order to cease and desist hereinbefore set forth.

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IN THE MATTER OF

ADOLPH GREENSPAN, IRVINE GREENSPAN, AND SAUL GOODMAN, PARTNERS DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF LEWIS FEATHER BED & PILLOW COMPANY.

COMPLAINT, FINDINGS AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SECTION 5 OF AN ACT OF CONGRESS APPROVED SEPTEMBER 26, 1914.

Docket 1104—February 9, 1925.

SYLLABUS.

Where a firm engaged in the sale by mail of feather beds, pillows, and allied articles, which it purchased from manufacturers thereof and resold to the consuming public at a profit and at prevailing prices demanded by dealers generally for articles of like kind and quality, and neither owning an interest in, controlling, nor operating any factory; in advertising its products in newspapers, magazines and other publications and in catalogues, circulars, price lists and other trade literature,

- (a) Represented that it manufactured the articles in which it dealt and sold the same direct to the consumer, at factory prices, thus eliminating the profits of the middleman, and depicted the exterior and interior views of its pretended factory;
- (b) Represented that the prices demanded by it were much lower than those formerly charged, and set forth in its advertising such pretended former prices, which were much higher than any ever demanded or received by it;

With the effect of misleading the purchasing public into believing that in dealing with it, it was securing unusually favorable prices; and

- (c) Described its products as being of differing grades and qualities and offered and sold the same under different trade names and labels, at varying prices, the fact being that the products so described did not differ in grade or quality;

With the effect of deceiving the purchasing public and of securing from purchasers of the purported higher grades, prices substantially in excess of the fair and reasonable value thereof and of the prices at which it offered and sold the same articles as the lowest purported grade:

Held, That such practices, under the circumstances set forth, constituted unfair methods of competition.

Mr. Alfred M. Craven, for the Commission.

Mr. Louis Leftwich of Nashville, Tenn., for respondents.

COMPLAINT.

Acting in the public interest pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to