

IN THE MATTER OF

H. REISMAN & COMPANY AND HARRY REISMAN, INDIVIDUALLY AND AS PRESIDENT OF RESPONDENT H. REISMAN & COMPANY

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

Docket 1377—September 25, 1926

SYLLABUS.

Where a corporation engaged in the sale by mail of watches, jewelry, and other articles of merchandise described in its catalogues, and also in the sale of such merchandise and catalogues to those desiring to engage in a similar business, in response to its advertisements; and the president, manager, and principal owner of the aforesaid corporation; in describing the articles dealt in as above set forth in their catalogues,

- (a) Made numerous false and misleading statements and representations relative thereto, variously and falsely representing the same as composed in whole or in part of gold, platinum, and other precious metals, or ornamented with sapphires, rubies, pearls, and other precious stones, or covered and finished in leather, "art leather" and "leatherette", or made of ivory or "French Ivory", the fact being that the stones and other substances used were not those named, but only imitated or resembled the same;
- (b) Represented articles depicted and described therein as having been purchased from the manufacturers and in some instances imported, and as offered at prices below prevailing retail prices, due to elimination of profits of middlemen, the fact being that such articles were purchased from domestic wholesalers and resold at a profit; and
- (c) Set forth pretended prevailing retail prices for the articles depicted and described, which were greatly in excess of those at which such articles were offered, the fact being that said purported retail prices were greatly in excess of prevailing prices, which were substantially similar to those at which such articles were offered and sold;

With the result that many of the consuming public were induced to purchase said articles in reliance upon the truth of such statements and representations, many persons conducted a mail order business in such articles through and by means of the aforesaid catalogues in reliance upon the truth thereof, and the means of defrauding the public was placed in the hands of vendees, who well knew the facts, by enabling them to offer and sell such articles through and by means of such catalogues; to the prejudice of competitors who dealt in merchandise composed in whole or in part of the aforesaid precious metals, stones or other substances, truthfully so represented, and of competitors who dealt in merchandise neither so composed, nor so represented, or who did not thus misrepresent retail prices, or sources of supply and alleged advantages in price, and with the effect of diverting business from and otherwise injuring and prejudicing the aforesaid competitors:

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

Mr. Charles Melvin Neff for the Commission.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent company, an Illinois corporation engaged in the sale by mail of watches, articles of jewelry, and other articles to persons in the various States, and with principal office and place of business in Chicago, and respondent individual, its president and majority stockholder, with advertising falsely or misleadingly, misrepresenting prices, and placing in the hands of others the means of defrauding the public, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondents, as charged, made many false and misleading statements and representations in their catalogues, concerning the character and quality of their merchandise, and the composition and value thereof, including the following misrepresentations:

Watches, articles of jewelry and other articles as composed in whole or in part of gold, platinum and other precious metals and as ornamented with sapphires, rubies, pearls, and other precious stones, the fact being that the articles in question did not contain the aforesaid precious metals and were not fitted and ornamented with precious stones as above set forth, but only with imitations thereof;

Certain articles as made, covered and finished with leather, "art leather" and "leatherette", the fact being that the material in question was not leather, but simply resembled the general appearance thereof;

Articles composed of a material resembling ivory in color and general appearance as made of ivory and "French ivory";

Articles as purchased from the manufacturers and in some instances as imported by respondents from foreign countries, and therefore offered at less than their usual and prevailing retail prices through elimination of the profits of middlemen, the fact being that they were purchased from wholesalers and resold at a profit over and above the price paid therefor by respondents to such wholesaler;

Articles as usually sold by the retail trade at specified retail prices greatly in excess of those at which offered in respondent's catalogues, the fact being that the purported retail prices were greatly in excess of actual prevailing retail prices for such articles, which actual retail prices were substantially the same as those at which the articles were offered by respondents in their catalogues.

Such false and misleading statements and representations, according to the complaint, had the capacity and tendency to cause, and the effect of causing many of the consuming public to purchase the various articles in reliance upon the truth of such statements and representations.

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Respondents further, as charged, offered to sell their merchandise and copies of their catalogues containing such false and misleading statements, for the purpose of enabling the purchaser to conduct a mail order business similar to that done by them as above described, advertising such offer in newspapers, magazines and periodicals of general circulation, and thereby procured many persons to enter such mail order business and to conduct the same as above set forth, respondent's printing upon the catalogues furnished to its vendees, thus secured, catalogues similar to its own as above described, upon which it printed such names or trade names as desired, under which it said vendees conducted their mail order businesses believing, in many cases that statements and representations in such catalogues were true.

Respondents further, as charged, placed in the hands of others, in the above practice, means of defrauding the public by enabling unscrupulous persons, who knew the facts concerning respondent's said merchandise, to offer and sell the same, by means of said catalogues, to the consuming public, many of whom purchased various articles of such merchandise from respondent's said vendees in reliance upon the truth of the false and misleading statements and representations therein contained.

The aforesaid acts and practices, engaged in for about five years preceding the complaint, were, as charged, all to the prejudice of the public and respondent's competitors, and tended to and did divert business from and otherwise injure and prejudice said competitors, many of whom deal in watches, jewelry and other articles composed in whole or in part of gold, and other precious metals and ornamented with genuine sapphires and other precious stones, and who rightfully and lawfully so represent them, others of whom deal in articles similar to those dealt in by respondent, without misrepresenting their nature, quality or the materials of which composed, and many of whom also in nowise misrepresent their retail prices as substantially lower than prevailing prices in the trade and as representing prices which eliminate the profits of middlemen, when such is not the fact.

Upon the foregoing complaint the Commission made the following

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an act of Congress approved September 26, 1914, the Federal Trade Commission issued and served its complaint upon the respondents, H. Reisman & Co., a corporation, and Harry Reisman, individually and as president of respondent, H. Reisman & Co., charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act.

Respondents having entered their appearance herein and having made, executed and filed an agreed statement of facts, in which it is stipulated and agreed by respondents that the Federal Trade Commission shall take such agreed statement of facts as the facts in this case and in lieu of testimony, and proceed forthwith upon such agreed statement of facts to make its findings as to the facts and conclusion and such order as it may deem proper to enter therein, without the introduction of testimony or the presentation of argument in support of the same or in opposition thereto, and thereupon this proceeding came on for decision, and the Commission having duly considered the record and being fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. At the time of and for several years immediately prior to the issuing of the complaint herein the respondent H. Reisman & Co. was and is now a corporation organized under the laws of Illinois with its principal office and place of business located in the city of Chicago in said State. The respondent, Harry Reisman, was and is now president of the said corporation and at all times managed, conducted and administered its business and affairs and owned a majority of the capital stock of said corporation.

The said respondents are now and have been for about five years last past engaged in the business of selling watches, articles of jewelry and other articles of merchandise by mail to persons residing at points in various States of the United States, all in the manner hereinafter more particularly described. They caused their said articles of merchandise when so sold to be transported from their said principal office and place of business in the city of Chicago, Ill., into and through the other States of the United States to their said vendees at their respective points of residence. In the course and conduct of their said business the respondents were and now are in competition with other individuals, partnerships and corporations also engaged in the sale of watches, articles of jewelry and other articles of merchandise in commerce between and among the various States of the United States.

PAR. 2. That the respondents have at all times conducted their said business in part in the following manner:

They entered into correspondence with customers and prospective customers who resided at points in various States of the United States, and solicited the purchase of said articles of merchandise and sent to said customers and prospective customers catalogues in

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said articles of merchandise were depicted and described, and solicited orders for said merchandise to be sent to respondents by mail. Through said means the respondents obtained many orders for articles of their said merchandise from, and made many sales thereof to, said customers and prospective customers residing at points in various States of the United States, and the respondents filled said orders and completed such sales by causing the articles of merchandise so ordered and purchased to be transported from their said principal place of business in the city of Chicago, Ill., to said vendees at their said respective points of residence.

PAR. 3. That in their said catalogues the respondents caused to be printed and set forth many false and misleading statements and representations concerning the character, kind and quality of their said merchandise, the materials of which sundry of said merchandise were composed together with the value of said articles of merchandise. That among said statements and representations were the following:

(a) Statements and representations to the effect that certain watches, articles of jewelry and other articles of merchandise depicted and described in said catalogues were, respectively, composed in whole or in part of gold, platinum and of other precious metals, and were ornamented with sapphires, rubies, pearls, and other precious stones, when in truth and in fact said articles, respectively, contained no gold, platinum, or other precious metals whatsoever, and were not fitted and ornamented with sapphires, rubies, pearls, and other precious stones, but on the contrary were fitted and ornamented with stones which were not sapphires, rubies, pearls, and other precious stones, and which imitate and resemble genuine sapphires, rubies, pearls, and other precious stones in color and general appearance;

(b) Statements and representations to the effect that certain articles of merchandise depicted and described in said catalogues were, respectively, made, covered and finished in leather, "art leather" and "leatherette." Whereas in truth and in fact said articles were not made, covered or finished in leather in any wise whatsoever, but on the contrary, were made, covered and finished in material not leather and which resembled leather only in general appearance;

(c) Statements and representations to the effect that certain articles of merchandise depicted and described in their said catalogues were made of ivory and "French ivory," whereas in truth and in fact the said articles were not made of ivory and contained no ivory whatever, but were, on the contrary, composed of material which was not ivory and which only resembled ivory in color and general appearance;

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(d) Statements and representations to the effect that sundry articles depicted and described in their said catalogues were purchased from the manufacturers of said articles and in some instances were purchased in foreign countries by respondents, and imported by them into the United States, and that for that reason said articles were offered for sale by the respondents at prices below the usual and prevailing retail prices for articles of like kind and character because of the alleged elimination of the profits of middlemen. Whereas in truth and in fact respondents purchased said articles of merchandise from wholesalers located in the United States and resold said articles at a profit over and above the prices paid therefor by the respondents to said wholesalers, and did not purchase the said articles of merchandise from the manufacturers thereof, whether located in this or foreign countries.

(e) Statements and representations to the effect that various articles of said merchandise depicted and described in said catalogues were usually and habitually sold by the retail trade at certain specified retail prices set out in said catalogues. The prices so set out were greatly in excess of the prices at which said articles were offered for sale by respondents, which said last named prices were likewise set out in said catalogues. Whereas in truth and in fact the said purported usual retail prices so asserted to prevail in the trade were greatly in excess of the true and actual retail prices prevailing in the trade for said articles and for articles of like kind and quality, and that the true and actual retail prices which prevailed in the trade were substantially equal to these said prices at which said respondents offered for sale and sold their said articles of merchandise.

PAR. 4. All the aforesaid false and misleading statements and representations made by the respondents have the capacity and tendency to cause and have caused many of the consuming public to purchase respondents' said watches, articles of jewelry, and other articles of merchandise in the belief that said statements and representations are true.

PAR. 5. Respondents conducted their business in part as follows:

They caused advertisements to be inserted in newspapers, magazines, and periodicals of general circulation throughout the United States and in certain sections thereof, in which advertisements respondents offered to sell and supply to others their aforesaid merchandise and also to sell and supply copies of their said catalogues containing all the aforesaid false and misleading statements and representations for the purpose of enabling the purchaser himself to conduct a mail order business similar to the said business con-

ducted by the respondents, hitherto described herein. That by means of said advertisements the respondents procured many persons to enter such mail order business and to purchase from said respondents, articles of said merchandise, and also copies of said catalogues thereafter to conduct such mail order business through and by means of said catalogues in like manner as said business was conducted by respondents and hitherto described herein. That upon the said catalogues so sold the respondents caused to be printed such names and trade names as the said vendees, respectively, desired to conduct the mail order business hitherto described. That many of said vendees thereafter conducted such mail order business through and by means of said catalogues in the manner hereinbefore described, in the belief that all the aforesaid false and misleading statements and representations set forth in the said catalogues were true.

Furthermore, the respondents by means of their acts and practices herein set out placed in the hands of certain vendees the means of defrauding the public by enabling said vendees, who well knew the truth of the facts concerning respondents' said merchandise, and who well knew that respondents' aforesaid statements and representations set out in said catalogues were false and misleading, to offer for sale and to sell said articles of merchandise to the consuming public through and by means of said catalogues.

That many among the consuming public residing at points in various States of the United States purchased sundry articles of said merchandise from respondents, believing that the aforesaid false and misleading statements and representations set forth in said catalogues were true.

PAR. 6. That there are among the competitors of the respondents referred to, many who dealt in and sold, and who now deal in and sell watches, jewelry, and other articles of merchandise fabricated, respectively, in whole or in part of gold, platinum and other precious metals and fitted and ornamented with sapphires, rubies, pearls and other precious stones, and made in whole or in part of ivory and leather, and who truthfully so represent. That there are others of said competitors who dealt in and sold, and who now deal in and sell, articles of merchandise of like kind and quality and made of like materials as respondents' merchandise hereinbefore described and who in nowise made or make false and misleading statements and representations as to the nature and quality of their said merchandise or the materials from which the same are fabricated.

Further, that among the respondents' said competitors there are those who in nowise represent that the retail prices of their merchandise were substantially lower than the retail prices prevailing in the

trade for articles of like kind and quality, and who in nowise represent that they sell their said merchandise at retail prices which represent the elimination of profits of the middlemen when such is not the fact.

The respondents' acts and practices herein set out tended to and did and now tend to and do divert business from and otherwise injure and prejudice said competitors.

CONCLUSION

The practices of said respondents under the conditions and circumstances described in the foregoing findings are to the injury and prejudice of the public and respondents' competitors and are unfair methods of competition in commerce and constitute a violation of the 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 and the statement of facts agreed upon by the respondents and counsel for the Commission, filed herein, and the Commission after due consideration having made its findings as to the facts and its conclusion that the respondents have each of them violated 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";

It is now ordered, That you, the respondents and each of you cease and desist:

1. From making false statements and representations concerning goods, wares and merchandise offered by you for sale in interstate commerce whether such statements and representations are made by you in advertisements, circulars, catalogues, or otherwise.

2. From stating either in advertisements, catalogues, or otherwise, that goods, wares, and merchandise, more particularly watches, articles of jewelry and other articles of merchandise, offered for sale therein by you, in interstate commerce, are composed in whole or in part of gold, platinum and other precious metals, and are ornamented with sapphires, rubies, pearls, and other precious stones when in fact such articles and merchandise contain no gold, platinum, or other precious metals and are not fitted and ornamented with sapphires, rubies, pearls, and precious stones, but are, on the contrary.

fitted and ornamented with stones which are not in fact sapphires, or rubies, or pearls, or other precious stones and which in color and general appearance only imitate and resemble said precious stones.

3. From making statements and representations, either in advertisements, catalogues or otherwise, that articles of merchandise mentioned and described in said advertisements and catalogues as offered for sale by you in interstate commerce are covered and finished in "art leather" and/or "leatherette" unless said articles are in fact made of or covered with real leather.

4. From making statements and representations either in advertisements, catalogues or otherwise, that articles of merchandise, mentioned and described in said advertisements and catalogues or otherwise, are made of "ivory" and "French ivory" unless such articles are in fact made of real ivory.

5. From making statements and representations either in advertisements, catalogues or otherwise, that the articles mentioned and described in said advertisements and catalogues are purchased by you in foreign countries and are imported by you into the United States, unless in truth and in fact you really do purchase abroad and import the goods, wares and merchandise so advertised and catalogued.

6. From stating and representing either in advertisements, or catalogues or otherwise that the goods, wares and merchandise sold and offered for sale by you in interstate commerce are purchased by you from the manufacturers thereof when in fact the goods, wares and merchandise are not purchased by you from the manufacturers thereof but from brokers or wholesalers or other middlemen.

7. From stating and representing either in advertisements, or catalogues or otherwise that the goods, wares and merchandise sold by you in interstate commerce are usually and habitually sold by the retail trade at certain specified retail prices unless such prices are in fact usual retail prices prevailing in the retail trade for goods, wares and merchandise of like kind and quality.

8. From otherwise misstating and misrepresenting the value and character of your business, the kind, character and quality of your goods sold therein, your sources of supply and the usual and prevailing prices at which others sell like goods, wares and merchandise of similar kind and quality, all in interstate commerce.

It is further ordered, That the respondent, H. Reisman & Co. and Harry Reisman, individually, shall within sixty days after the service upon them of a copy 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 the order to cease and desist hereinbefore set forth.

by the respective pupil stating his opinion of the course, and that such pupil has been especially chosen for this purpose, the fact being that respondent's regular price is about \$25.

Said acts and practices, engaged in for about three years preceding the complaint, had the capacity and tendency, as charged, to cause many of the public to take and purchase respondent's course of instruction and pay respondent substantial sums in reliance upon the truth of the aforesaid statements and representations, and in the belief that they would derive and obtain various advantages from respondent's course by reason of its purported size, good standing, large and efficient staff and advantages in price, and such acts and practices were, as charged, to the prejudice of the public and respondent's competitors, and tended to divert business from and otherwise injure and prejudice said competitors, many of whom do not thus misrepresent the nature and character of their business and professional organization and standing, or of the courses of study offered by them or the financial and other advantages to be derived by their pupils, and such acts and practices thereby have the capacity and tendency to cause many of the public to take and pay for respondent's said course in preference to courses of instruction offered by its aforesaid competitors.

Upon the foregoing complaint, the Commission made the following

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a complaint upon the respondent, La Fayette Institute, Inc., charging it with the use of unfair methods of competition in commerce in violation of the provisions of section 5 of said act. The respondent having entered its appearance and filed its answer herein, thereafter upon request of counsel for respondent a stipulation containing an agreed statement of facts and also an agreement that the said facts may be taken in lieu of testimony and other evidence in this proceeding was entered into by and between the chief counsel of the Federal Trade Commission and the respondent herein. The said stipulation of facts also provided that the Commission may proceed thereon to make its findings as to the facts and its conclusion drawn therefrom and enter its order disposing of this proceeding without written briefs or oral argument.

Thereupon this proceeding came on for decision, and the Commission having duly considered the record and the stipulation as to the facts aforesaid, and being fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom:

Complaint

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

Mr. T. B. Dixon for the Commission.

Mr. Cornell Schreiber, of Toledo, Ohio, for respondent.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a New Jersey corporation engaged in teaching business management and administration to persons in the various States, and with principal office and place of business in Philadelphia, with advertising falsely or misleadingly and misrepresenting product or service in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent, as charged, occupying one room only in the La Fayette Building in Philadelphia, and engaged in offering only its one course of instruction in business management, with no separate departments and no staff of professors, instructors, and experts, but conducting its said course through its officers and various employees who were not connected with any other institution of learning in anywise other than with respondent, in its letters and trade literature and through oral representations by its agents to prospective pupils made many false, misleading and deceptive statements and representations concerning itself and its course of study, including the following:

Statement La Fayette Institute, Inc., La Fayette Building, Philadelphia, Pa., upon its letterheads and other business stationery and literature, thereby falsely importing and implying that it owns, controls or occupies the entire building;

Statement that its course is under the administration of the Department of Business Administration of the La Fayette Institute, Inc., thereby falsely importing and implying that it maintains and conducts a number of departments of which the aforesaid department is one;

Statement that it maintains a large and efficient staff of many well known professors, instructors, recognized authorities and experts in connection with its course, such professors and instructors being likewise upon the faculties of many well known universities, colleges and other institutions of learning of high standing throughout the United States; and

Statement that the regular price for its course is \$75, but that a special price of \$25 is offered in consideration of a letter to be written

by the respective pupil stating his opinion of the course, and that such pupil has been especially chosen for this purpose, the fact being that respondent's regular price is about \$25.

Said acts and practices, engaged in for about three years preceding the complaint, had the capacity and tendency, as charged, to cause many of the public to take and purchase respondent's course of instruction and pay respondent substantial sums in reliance upon the truth of the aforesaid statements and representations, and in the belief that they would derive and obtain various advantages from respondent's course by reason of its purported size, good standing, large and efficient staff and advantages in price, and such acts and practices were, as charged, to the prejudice of the public and respondent's competitors, and tended to divert business from and otherwise injure and prejudice said competitors, many of whom do not thus misrepresent the nature and character of their business and professional organization and standing, or of the courses of study offered by them or the financial and other advantages to be derived by their pupils, and such acts and practices thereby have the capacity and tendency to cause many of the public to take and pay for respondent's said course in preference to courses of instruction offered by its aforesaid competitors.

Upon the foregoing complaint, the Commission made the following

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

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Thereupon this proceeding came on for decision, and the Commission having duly considered the record and the stipulation as to the facts aforesaid, and being fully advised in the premises, makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent is a corporation organized under the laws of the State of New Jersey, with its principal office and place of business in the city of Philadelphia, State of Pennsylvania. It is engaged in the business of teaching business management and administration to persons residing at various points in various States of the United States, by selling a correspondence course of study. In the course of its said business respondent causes to be inserted in newspapers and other publications, advertisements offering its said course of instruction and soliciting pupils therefor. It also employs agents who solicit and sell said course of instruction to prospective pupils in various States of the United States. Respondent supplies said agents with trade literature which they display in soliciting prospective pupils to take respondent's course of instruction. Upon securing pupils through said means for its course of study, respondent sends through the mail from its said place of business in the city of Philadelphia, Pa., to such prospective pupils in the various places of residence in the various cities of the United States, written or printed lessons or lecture texts, instructions, examination or quiz papers, and text books to be used in connection with said course of instruction, in consideration of which said pupils pay to respondent certain agreed sums of money. In the course and conduct of its said business respondent is in competition with other individuals, partnerships and corporations also engaged in the instruction of persons in business management and administration by respondent through the mails and by the use of similar agencies as employed by the respondent.

PAR. 2. In the letters, trade literature, advertisements in newspapers, and also by its agents or solicitors the respondent sets forth many misleading and deceptive representations and statements concerning its course of study, its contracts, its prices for the course, and its reasons for reducing the regular advertised price.

By the methods used as aforesaid the respondent advertises "a course in business management under and through several different departments" that are shown in said advertising matter under different heads, namely "The Department of Managerial Control", "The Department of Accounting and Finance", "The Department of Sales and Commerce, and said advertising matter further shows that under these departments are the subdivisions or courses in "Commercial Law", "Business Organization", "Business Correspondence", "Economics and Statistics", "Principles of Accounting", "Cost Accounting", "Auditing", "Banks and Banking", "Sales and Sales Management", "Traffic and Rates", "Foreign Sales and

Advertising". The facts are that there is only one department and only one course of study furnished by the respondent which is the course in "Business Management." There are no other departments connected with the respondent, La Fayette Institute, Inc.

The "Canvass" used by the solicitor which is prepared and furnished by the respondent with directions that the impression contained therein be conveyed to the prospect misleads and deceives the prospective pupil by leaving the impression that the agent is representing "the Department of Business Administration of La Fayette Institute"; that this is only one of several departments of this institute, when in fact and in truth it is the only department and is maintained in one room in the La Fayette Building in the city of Philadelphia, Pa.

The "Canvass" aforesaid and also the advertising literature is deceptive and misleading because it conveys the idea that respondent La Fayette Institute has a faculty of teachers or instructors associated with it whose names are arranged in such order and given such prominence as to carry out the idea and make the impression that they are the faculty of the respondent when in truth and in fact there is no faculty and the names of the professors used in the literature and the "canvass" of the agents are the names of men who have prepared manuscripts for respondent upon the various subjects taught in its courses which were afterwards bound into volumes by respondent and are sold as the text in connection with said course, and said text writers or professors whose names appear in said advertising matter have no connection with, nor interest in the respondent, the sale of its course or the advancement of its business.

The advertising matter and "canvass" used by agent as aforesaid is misleading and deceptive because it conveys the idea that the respondent is connected with some university, or is an extension course of some university or college, when in truth and in fact it is not in any way connected with any university or college, nor is it an extension of any university or college or other institution of learning.

PAR. 3. The respondent advertises through the various mediums aforesaid that its regular price for its course of study is \$75, and inserted a full-page advertisement in the Chester Times, a newspaper published in Chester, Pa., on November 1, 1923, setting forth the advantages of its course of study and containing the names of professors and instructors purporting to be connected with the several departments which it purported to maintain, and stating, as is stated in all of its trade literature, that the regular price of said course is \$75; also the "canvass" or sales talk of the agent was in harmony

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with such advertising matter and is all deceptive and misleading because in truth and in fact the regular sale price of said course is not \$75 but the course is always sold for a sum less than \$25. (A copy of the "canvass" or argument furnished by the solicitors is attached hereto and marked "Canvass" for identification.) The course was never sold for \$75, but is invariably sold at the price or prices ranging from \$22.40 to \$24.80. The prospective pupil is misled and deceived into believing that a reduction in price from \$75 to \$22.40 is to be made in consideration of a letter being written giving an opinion as to the merits of the course, and the signing of what is known as a "publicity or credit contract" whereby the purchaser agrees to answer eight inquiries from the agent of the respondent or other prospective pupils that may be referred to him. They are misled and deceived by the representations in advertisements to the effect that the publicity or credit contract is a special benefit, reducing the price from \$75 to less than \$25 because of their influential position in the community when in truth and in fact the price is not reduced at all and they are given no benefit because of any influential standing or prominence in the community, but by reason of the advertisements and the sales talk of the agents aforesaid they are deceived and misled into such belief and are therefore induced to execute a contract and enter into the required agreements purchasing said course of study, all of which advertisement, canvass and argument has the tendency and capacity to and does deceive and mislead the purchasing public and induce them to enter into contracts with the respondent when otherwise they would not have done so, and by reason of the use of the various mediums of deception and misrepresentation as aforesaid the purchasing trade is diverted from other institutions who are engaged in interstate commerce in selling similar courses of instruction by correspondence and who truthfully advertise and represent their courses of study and their price and all of their related interests.

PAR. 4. In the course and conduct of its said business respondent causes to be set forth on its letterheads, business stationery, contracts and other literature, the statement, "La Fayette Institute, Inc., La Fayette Building, Philadelphia, Pennsylvania", thereby importing and implying that respondent owns, controls and occupies the entire La Fayette Building mentioned upon said letterheads, contracts, stationery and other literature, and causes to be printed and set forth in the aforesaid literature statements designed to give the impression, and which have the tendency to and do mislead and deceive the public and prospective students into the belief that the course of study to be sold is a course of study which is under the particular administration of the Department of Business Administration of

said La Fayette Institute, Inc., thereby importing, implying and conveying the impression that the said Department of Business Administration is only one of many other departments maintained by said Institute which is maintained and conducted as a large educational institution using the whole of the La Fayette Building, in Philadelphia, Pa., when in fact it only has one room as aforesaid, with no faculty of instructors to carry on said course of instruction and is conducted from its said office entirely by a secretary and two or three stenographers and clerks as a commercial enterprise. The use of the false and misleading statements and advertisements heretofore set forth has the capacity and tendency to and does mislead and deceive prospective students and the public into the belief that the respondent is a large educational institution equipped to give various educational courses. Many students are induced to enroll in said institution and purchase its course of study as a result of such misleading advertising, representations and statements. The result of the method adopted by the respondent is to cause those who are contemplating taking such a course to make a contract with respondent when if not deceived and misled by the advertising matter and the representations of the solicitors they would not do so. The representations and statements mentioned herein, especially the statements of a salesman in California, representing an independent company who are reselling respondent's course, had the tendency to and did mislead and deceive the purchasing public and prospective pupils into the belief that respondent was connected with or an extension course of some other university or college in the State of Pennsylvania and that the office in California was a western branch of said eastern university or college, and because of such deceptive and misleading representations the purchasing public and prospective pupils were induced to and did enter into contracts or agreements whereby they purchased the course of respondent when if not deceived and misled they would not do so.

CONCLUSION

The practices of respondent, La Fayette Institute, Inc., under the conditions and circumstances described in the foregoing findings as to the facts are unfair methods of competition in interstate commerce and to the prejudice of the public, and respondent's competitors, 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

10 F. T. C.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the stipulation as to the facts entered into by counsel for the Commission and by respondent, La Fayette Institute, Inc., and the Commission having made its findings as to the facts with its conclusion that said respondent has violated 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",

It is now ordered, That respondent, La Fayette Institute, Inc., its agents, representatives, servants, and employees, cease and desist, either directly or indirectly, by oral or written statements, catalogues, pamphlets, letters, circulars, or any other form of advertising, from stating:

(1) That the course of instruction offered by respondent is usually and regularly given for \$75, but that in consideration of the student writing a testimonial letter and agreeing to answer other inquiries the course will be furnished for a smaller amount, thus making a substantial saving.

(2) Using the word "Department" in connection with its course in Business Administration, so as to give the impression that said course is only one of several different courses offered by respondent.

(3) Using or allowing to be used, its trade or corporate name for its business, in such way as to convey the impression that it is connected with, or an extension course of, any university, college, school or other established institution of learning.

(4) That it is the owner or occupant of the entire building, known as the La Fayette Building in Philadelphia, Pa., in which it has its office.

(5) Using the names of professors and instructors in various universities, who have prepared text books for respondent to use in its course in such a way as to convey the impresssion that said professors and instructors are connected with, interested in, or employed by respondent in its course of study or the sale of the same.

Findings

IN THE MATTER OF
SYNTHETIC PRODUCTS COMPANY

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

Docket 1372—October 9, 1926

SYLLABUS.

Where a corporation engaged in the manufacture of a compound for use in softening rubber and rendering it more resilient, and in the sale thereof, designated, labeled, branded, and advertised the same as "liquid rubber" notwithstanding the fact said product contained no rubber; with the capacity and tendency to mislead and deceive purchasers in reference to the composition thereof and induce the purchase of such product in said mistaken belief and thereby divert trade from competitors who truthfully designated and described their products: .

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

Mr. T. B. Dixon for the Commission.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, an Ohio corporation engaged in the manufacture of a compound for use in softening and rendering rubber more resilient and in the sale thereof to manufacturers of rubber articles in various States, and with principal office and place of business in Cleveland, with naming product misleadingly, misbranding, or mislabeling and advertising falsely or misleadingly, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce, in that, for more than a year preceding the complaint it labeled and branded its said product as "Liquid Rubber", and so advertised the same in various pamphlets, leaflets and other literature offering its said products and issued to the trade and describing the uses thereof, notwithstanding the fact that said product contained no rubber whatsoever, with the capacity and tendency to mislead and deceive customers and prospective customers in respect of the composition thereof and to induce the purchaser of said product in such mistaken belief; all to the prejudice of the public and respondent's competitors.

Upon the foregoing complaint, the Commission made the following

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of an act of Congress approved September 26, 1914, the Federal Trade Commission issued and served a com-