

Complaint

IN THE MATTER OF
SCHOOL OF APPLIED ARTCOMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 1485. Complaint, Oct. 19, 1927—Decision, Nov. 28, 1927*

Where a corporation engaged in conducting a correspondence school in applied art; in its advertisements, correspondence, and business literature,

- (a) Represented that it would give a special or extra discount of 20 per cent from the regular price of any of its courses to pupils enrolling within a stated limited time, the fact being that the purported reduced prices were its regular, usual prices; and
- (b) Represented that it would give free of charge to pupils taking any of its courses of instruction, an artist's outfit of tools, materials and appliances, to be used in connection with its courses of instruction, and to pupils completing its courses, a set of instruction books covering and relating to the same, the fact being that in both cases the price of the outfit and books was included in the price demanded and received by it for its said courses;

With the capacity and tendency to cause many of the public to subscribe for and purchase its courses in reliance upon the truth of the aforesaid representations, and to take its courses in preference to those of competitors, who do not make misrepresentations as to reductions in prices or the giving of outfits of tools and appliances, books or other things, with their courses, free of charge, and thus to divert business from and otherwise injure and prejudice such competitors:

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

Mr. Alfred M. Craven 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, a Michigan corporation, engaged in giving courses of instruction in applied art by correspondence through the mail, and with principal office and place of business in Battle Creek, with advertising falsely or misleadingly in misrepresenting prices and in offering falsely as free, commodities or services charged for in price demanded, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Findings

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Respondent, as charged, caused to be set forth in its advertisements, correspondence and business literature, false and deceptive statements and representations that it would give a special discount of twenty per cent from the regular price of any of its courses to pupils enrolling therefor in a stated limited time, would give free of charge to pupils taking any of its courses "an artist's outfit of tools, materials and appliances to be used in and about pursuing the courses of instruction taken", and that upon completion of any of such courses, it would give to the pupil free of charge a set of instruction books relating to the course so completed, the fact being that the prices at which it sells its courses, after deducting the purported discounts, are its regular prices, and that the outfits and instruction books represented as given free are included in the regular price for the course.

Such statements and representations, as alleged, had the capacity and tendency to cause many of the public to subscribe for and purchase its courses in reliance upon the aforesaid representations and to cause many of the public to subscribe for and purchase said courses in preference to those of competitors, who do not make such representations, and thus to divert business from and otherwise to injure and prejudice such competitors; 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, 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 its complaint upon the respondent, School of Applied Art, a corporation, charging it with the use of unfair methods of competition in commerce in violation of the provisions of section 5 of said act.

Respondent filed its answer to the complaint and in said answer states that it waived hearing on the charges set forth in the complaint and refrained from contesting the proceeding.

Thereupon this proceeding came on for decision, and the Federal Trade Commission having duly considered the record and being fully advised in the premises, pursuant to subdivision (2) of Rule III of the Rules of Practice heretofore adopted by the Commission, makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent is a corporation organized under the laws of the State of Michigan with its principal office and place of business in the city of Battle Creek in said State. It is engaged in the business of giving courses of instruction in applied art by correspondence through the mail to persons hereinafter referred to as pupils residing at points in various States of the United States. In the course of its said business and in order to secure pupils therefor respondent causes advertisements to be inserted in magazines, periodicals and other publications of general circulation throughout the United States and in various sections thereof and sends to prospective pupils booklets, pamphlets, leaflets, and other like business literature describing its said courses of instruction and setting forth the prices for same and the conditions under which same are offered. Upon securing pupils through said means for its said courses of instruction respondent sends by mail from its said place of business in the city of Battle Creek, Mich., to such pupils at their respective places of residence in various States of the United States written lessons, instructions, and textbooks to be used by said pupils in and about pursuing and studying said courses of instruction, in consideration of which said pupils pay and remit 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 giving courses of instruction in applied art and in other arts, sciences and branches of knowledge by correspondence through the mails.

PAR. 2. In its aforesaid advertisements, correspondence, and business literature respondent causes to be set forth false, misleading and deceptive statements and representations to the effect:

(a) That respondent will give a special or extra discount of 20 per cent from the regular price of any of its said courses to pupils enrolling for any such course within a stated limited time. In truth and in fact said purported less prices at which said courses are thus offered are the regular prices of respondent's said courses, respectively, and said regular prices never have been and are not now greater in amount than said purported reduced prices.

(b) That respondent will give free of charge to pupils taking any of respondent's said courses of instruction an artist's outfit of tools, materials and appliances to be used in and about pursuing the courses of instruction taken. In truth and in fact said outfit is not given free of charge by respondent to its pupils but the price of said outfit is included in the price demanded and received by respondent for each of its said courses of instruction, respectively.

Order

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(c) That upon completion of any of respondent's said courses of instruction respondent will give to the pupil free of charge a set of instruction books covering and relating to the course of instruction so completed. In truth and in fact said set of books is not given by respondent to the pupil free of charge but the price of such set of books is included in the price demanded and received by respondent for each of its said courses of instruction, respectively.

PAR. 3. Aforesaid false and misleading statements and representations concerning its said courses of instruction all as in paragraph 2 hereof set out have the capacity and tendency to cause many of the public to subscribe for and purchase respondent's said courses in the belief that said representations are true.

PAR. 4. There are among competitors of respondent referred to in paragraph 1 hereof many who do not, like respondent, make false and misleading statements and representations to the effect that the prices charged for said competitors' courses of instruction are reduced prices when such is not the case, or that said competitors give free with their said courses of instruction outfits of tools and appliances, books or other things when such is not the case. Respondent's acts and practices as found in paragraph 2 hereof have the tendency and capacity to cause many of the public to subscribe for and purchase respondent's said courses of instruction in preference to the courses offered by said competitors. Respondent's said acts and practices thus tend to divert business from and otherwise to injure and prejudice said competitors.

CONCLUSION

The practices of the said respondent under the conditions and circumstances described in the foregoing findings are to the prejudice of the public and respondent's competitors and are unfair methods of competition in commerce and constitute a violation of the provisions 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 considered by the Federal Trade Commission and the Commission having made its findings as to the facts and its conclusion that respondent has violated the provisions 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";

It is now ordered, That the respondent, School of Applied Art, its officers, agents, and employees do cease and desist:

(1) From representing in advertisements, correspondence, or otherwise that respondent's courses of instruction or any of them are offered at a less price than the price therefor which the respondent usually receives, when such is not the fact; or, in any manner misrepresenting the regular and usual price of any such course of instruction.

(2) From representing in its advertisements, correspondence or otherwise that respondent gives or will give free of charge tools, appliances, books or other articles when in fact such articles are regularly included in the price of a course of instruction.

It is further ordered, That the respondent, School of Applied Art, shall within 30 days after the service upon it of a copy of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinbefore set forth.

IN THE MATTER OF

LEROY A. KLING, JOHN E. WEDDELL, WILLIAM R. DURGIN, CECIL WIDDEFIELD, COPARTNERS DOING BUSINESS UNDER THE TRADE NAMES AND STYLES DR. EAGAN MANUFACTORY, DR. S. J. EAGAN, DR. EAGAN LABORATORY, PHARMACEUTICAL PRODUCTS, LTD.; KLING-GIBSON COMPANY

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

Docket 1352. Complaint, Oct. 23, 1925—Decision, Dec. 16, 1927

Where a firm engaged in the sale of toilet preparations, purchased by it from manufacturers who prepared and compounded the same according to their own formulæ, and neither associated in any way in the conduct of its business with a physician, nor operating any factory or laboratory whatsoever, and doing business under the trade names and styles "Dr. Eagan Manufactory", "Dr. S. J. Eagan", "Dr. Eagan Laboratory" and "Pharmaceutical Products, Ltd."; and a corporation engaged in the preparation and publication of its advertising, and in extending it financial aid, and sharing in its profits; in advertising said preparations in booklets, leaflets, trade literature, magazines, and periodicals of general circulation,

- (a) Featured the aforesaid trade names;
- (b) Falsely represented such preparations as made in accordance with the private formula of a Dr. S. J. Eagan, represented as a person of great ability, experience, and standing in his profession, and as compounded in their factory and laboratory under his direct supervision;
- (c) Falsely represented, among other things, that certain gloves offered and sold as "Dr. Eagan's Magic Gloves", were medicated with a marvelous solution prepared by such doctor and whitened, softened, etc., the hands through one night's wearing, and were renewed as to their aforesaid alleged virtues through the application thereto of a solution named by them "Rémedicator", and made false and misleading representations of a similar tenor concerning preparations respectively designated as "Dr. Eagan's Hand Tissue Builder", and "Dr. Eagan's Skin Whitener";
- (d) Represented that their "Dr. Eagan's Medicated Soap" contained the same ingredients as the gloves and skin whitener, and that their "Facial Film" contained "Neoplasma", worth \$5,000 a pound, and adrenalin, of a similar value, and that said facial film when applied to the face would, within a few hours or minutes, remove all wrinkles, blemishes, traces of age, etc., and renovate the face to a condition of youthful beauty by rebuilding the skin structure, and flesh beneath, the fact being that the first-named product contained no medicament whatsoever, that the so-called "Neoplasma" was purely fictitious, that adrenalin was worth about \$16 a pound, and that said facial film would not produce the results claimed for it; and