

IN THE MATTER OF
THE AMERICAN SCHOOL OF HOME ECONOMICS

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 1557. Complaint, Feb. 5, 1929—Decision, Jan. 25, 1930

Where a corporation organized under the not for profit laws, and engaged in giving courses of instruction in home economics and related subjects, by correspondence; in its advertisements in magazines and periodicals of general circulation throughout the United States and in advertising matter and letters to prospective pupils,

- (a) Represented that it was an institution organized and incorporated to operate without profit, the facts being that while it had secured no profits for distribution as such, salaries of its "director" and its secretary depended upon its success in securing pupils and remuneration therefrom for tuition, textbooks and supplies, said director was and had been its practical owner, with full control over its business, policies and textbooks sold, and with royalty rights therein, and its said business was his business venture for profit in the same way that correspondence schools incorporated under the for profit laws are business ventures;
- (b) Represented that it maintained a large staff of competent and well-known instructors and teachers who taught and supervised its courses and work of pupils therein, the facts being that only five or six were actually so engaged, and, mostly, on a part-time basis only, and that some of the more than 20 educators in the home-economics field listed by it as "officers of instruction" or supervisors, and authors, and identified by their educational connections, never gave instruction other than by the authorship of a textbook used in the courses, and others had long ceased through death or otherwise, to give actual instruction other than such authorship;
- (c) Represented that through special classes, club rates, subscriptions, and otherwise and for a limited time only it offered and sold its courses at prices substantially lower than the regular prices usually and habitually commanded and secured by it therefor, the fact being that its pretended reduced prices were those at which it regularly sold its courses unconditionally and substantially to all persons alike;
- (d) Represented that it gave free of charge to pupils textbooks and outfits of tools, appliances, and materials for use in study and pursuing its courses, the fact being that the price of said textbooks, etc., was included in the price demanded and received by it for its said courses;
- (e) Represented that pupils taking and completing certain of its courses in cooking and catering would thereby be qualified and enabled to obtain employment at high and lucrative figures or to engage in catering at great profits, the facts being that the profits made or salaries secured by such persons were seldom if ever, comparable to the figures of \$5,000, \$10,000, or \$12,000 mentioned;

- (f) Depicted a large building in its advertising, on its certificate of matriculation, and upon letterheads, together with its corporate name and address and the words "Chartered by the State", etc., and in some cases, the words "in which are located the offices of 'A. S. H. E.'", the facts being that said building belonged to a corporation with which it was once affiliated and some pupils of which it still instructed, and that it occupied only four rooms therein; and
- (g) Listed as its board of trustees, persons eminent in the home economics or women's club fields, the facts being that its aforesaid director was the entire board for all intents and purposes and had been since a few years after its organization, and that 4 of the 11 persons set forth, to give standing to the school, were listed as trustees after their deaths and that at the only meeting of the board, some 20 years before, the greater number appeared by proxy:

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

Mr. Eugene W. Burr 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 Illinois corporation engaged in the business of giving courses of instruction in various arts, sciences, professions, and branches of learning to persons in various States, and with principal office and place of business in Chicago, with advertising falsely or misleading as to business status, size and personnel, prices, free goods or supplies, results to be anticipated or promised, and money back guarantee, 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, for about five years last past, in its advertisements, letters, and business literature, among other things, has—

Falsely represented itself as a nonprofit organization, conducting its business accordingly, and as having a large staff of competent and well-known instructors engaged in teaching and supervising its courses and the work of the pupils;

Represented that by means of special classes, club rates, etc., and for a limited time only it offers and sells the courses at prices substantially lower than those regularly charged by it, and that it gives its pupils free of charge textbooks, outfits, tools, etc., used by them in pursuing its courses, the fact being that the pretended reduced prices are its regular prices and that the price of the textbook, etc., is included in the price demanded and received by it for its said courses;

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Represented that pupils completing its courses in cooking and food catering will thereby be enabled to obtain employment at high compensation or engage in the catering business at great profits, the fact being that the great majority of its pupils are not able to bring about such results;

Pretended to guarantee that pupils completing courses in cooking, catering, and candy making will, within 60 days following completion of such courses, profit from catering and sale of candy to an amount greatly in excess of that paid for tuition for the courses concerned and that tuition will be refunded to those not so profiting;

Falsely represented that pupils purchasing the course in candy making, represented as taught and supervised "by one Alice Bradley, whom respondent represents to be a nationally known authority in the art of cookery, will be granted the exclusive privilege of selling within certain territory, candy made by such pupils with the right to use in connection with such sales a signed statement by the said Alice Bradley to the effect that such candies are by her approved, recommended, and guaranteed for wholesomeness and purity";

Displayed on its letterheads, business literature, and diplomas the picture of a large building, "thereby importing and implying that respondent occupies said building in its entirety", the fact being that it occupies only two rooms thereof; and

Made "many other false, misleading, and deceptive statements and representations concerning its said school and its courses of instruction of like tenor and effect";

With the capacity and tendency to cause many of the public to purchase its courses in reliance upon the aforesaid statements and representations, and in preference to courses of competitors, many of whom do not misrepresent their courses, and with the tendency thereby to divert business from and otherwise injure and prejudice such 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 corporation, charging it with unfair methods of competition in commerce in violation of the provisions of said act.

The respondent having entered its appearance by its director and having duly filed its answer, requested that negotiations be entered

into looking toward a settlement of the facts. Thereupon negotiations were had and a stipulation made and approved, in so far as the facts were found to be susceptible of settlement.

A hearing was had upon such issues of fact as were not settled by stipulation before an examiner of the Commission theretofore duly appointed, and counsel for the Commission offered evidence in support of the charges of the complaint, and said respondent by its director offered evidence in its defense, all of which was recorded, duly certified, and transmitted to the Commission. Thereupon, oral argument having been waived, this proceeding came on for decision on the record, the examiners report and briefs in support of and in opposition to the complaint, and the Commission being fully advised in the premises, makes its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. That the respondent, American School of Home Economics, is a corporation organized June 24, 1905, under the laws of the State of Illinois, providing for the incorporation of organizations, not formed for pecuniary profits with its principal office and place of business in the city of Chicago of said State. Respondent was incorporated for the avowed purpose of providing instruction for home makers and mothers aiming to increase their efficiency, to the end that the measure of health and happiness may be increased and for the purpose of providing for courses of instruction by correspondence. It is engaged in the business of giving courses of instruction in arts, sciences, professions, and branches of learning in home economics and related subjects by correspondence. Since the organization of respondent, pupils have been enrolled to the number of forty to fifty thousand, and its graduates number about 2,000. There are 250 pupils at present taking its course in home economics; between 600 and 700 were enrolled in 1928 in its "candy making for profit" course, and 300 to 400 in its "cooking for profit" course. Previous enrollment in its home economics courses amounted to as many as 500 for several years. Respondent's income for 1927 was \$47,428.25; for 1928, \$52,555.61; in each year its disbursements and its bills payable amounted to something more than its income.

PAR. 2. In the course of its said business, for the purpose of securing pupils, respondent has caused and causes its advertisements offering its courses of instruction to be inserted in magazines and periodicals of general circulation throughout the United States and sends to prospective pupils advertising matter offering and describing its courses of instruction. Upon securing pupils, who are located

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in all parts of the United States and in certain foreign countries, by said described means, for its courses of instruction, respondent sends by mail from its place of business in Chicago to pupils at their respective places of residence printed and mimeographed lessons, instructions, textbooks, and in one of its courses tools and equipment to be used by its pupils in pursuing and studying its courses of instruction. The pupils transmit to the respondent, and its agents and instructors, their written exercises and examination papers and, in some courses, samples of their cooking. In consideration of its instruction and other services respondent's pupils contract to pay and remit to respondent agreed sums of money. Respondent sells to such pupils as desire to purchase their supplies for use in its cooking and candy-making courses and it ships such supplies from Chicago to its pupils at their several points of residence. In the course and conduct of its business respondent is in competition with other individuals, partnerships, and corporations also engaged in the business of giving courses of instruction in various arts, sciences, professions, and branches of learning by correspondence through the mails, and having pupils who reside in various States of the United States to whom they send written lessons, instructions, and textbooks to be used by their pupils in pursuing and studying such courses of instruction. No other correspondence school has exactly parallel courses, but there are several correspondence schools one or more of which cover the same ground. Public educational institutions have similar courses. Textbooks in home economics published by the director of respondent have been in use by numerous schools and colleges in home economics courses in various parts of the United States.

PAR. 3. In its advertisements, letters and business literature hereinabove referred to, designed to secure pupils, respondent causes to be set forth certain false, misleading, and deceptive statements and representations, including the following:

(a) Respondent represents that it is an institution organized and incorporated to operate without profit. While respondent has not secured profits for the purpose of distribution as such, the salaries received by Director Le Bosquet, and by the secretary of respondent, Miss Jessie F. Beadle, depend upon the success of the school in securing pupils and in collecting from them remuneration for tuition and for textbooks and supplies. Director Le Bosquet is and has been practically the owner of respondent, having full control over its business and its policies and also of the sets of textbooks which are being sold by respondent in connection with the business of respondent corporation. When the school was first organized in

1903 it was part of the American School of Correspondence, with the name of the American School of Household Economics. By a contract of July 1, 1905, the American School of Household Economics turned over to respondent all rights, good will, office stationery and equipment, textbooks on hand and tuition accounts amounting to \$1,390.20 for the sum of \$2,240.56 with the condition that respondent should carry out the contracts of instruction which the American School of Household Economics had with 738 pupils at that time. It was also provided in this contract that respondent should purchase its textbooks and lessons from the Home Economics Association which undertook to complete a set of 12 textbooks and the necessary lessons for the course and to give respondent credit and financial backing such as to render respondent a self-sustaining concern. In January, 1907, this contract was abrogated by a new contract by which the Home Economics Association canceled a debt of respondent to it of \$8,770.89 for notes of \$3,000, and arranged with respondent to pay a royalty for the use of electrotypes, plates, etc., used in preparing the textbooks, amounting to \$2,000 a year. Subsequently the Home Economics Association, which had been organized for the purpose of preparing and publishing textbooks and lessons for respondent and for sale to others than respondent, was dissolved as a corporation and its assets passed to Director Le Bosquet, so that the obligations which the Home Economics Association had undertaken are now undertaken by Director Le Bosquet, and the obligations to the Home Economics Association undertaken by respondent are said obligations of respondent to Director Le Bosquet personally. The royalties, however, have not been paid in full, for any year, to Director Le Bosquet. Respondent's business is virtually the business of Director Le Bosquet. It is his business venture for profit in the same way that correspondence schools incorporated under laws for the organization of corporations for profit are business ventures.

(b) Respondent represents that it maintains a large staff of competent and well-known instructors and teachers to teach and supervise and who actually do teach and supervise the respondent's courses of instruction and the work of the pupils in pursuing and taking such courses. In certain of its bulletins circulated to prospective pupils, under the heading "Officers of Instruction," respondent listed more than 20 names of educators in the home economics field identifying each by his or her educational connection and usually designating each person as a supervisor or instructor in one of respondent's courses. As a matter of fact, certain of these "supervisors" or "instructors" thus named never gave instruction other than by the

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authorship of a textbook used in the courses and certain others had long ceased, by death or otherwise, to give actual instruction, other than such authorship. The respondent has but five or six persons actually engaged in its work of instruction and the greater number of these are engaged but part time. Hence it is misleading for respondent to advertise that it has the large force of supervisors or instructors named in its bulletin. In a later form of the bulletin sent to pupils, issued in 1928, the same list is given and the several persons listed under the caption "Officers of Instruction" are further described as authors of works. Instructors now actively engaged in the teaching work of respondent, either for whole or part time, are Miss Alice Bradley, of Boston; Mrs. Mary P. Washburne, Wauwatosa, Wis.; Fred C. Smith, of Storm Lake, Iowa; Miss Helen J. T. Phillips, of Chicago; Mrs. Laura Bradley, of Boston; and Miss Pearl Andrews, of Boston. The record indicates that respondent has sufficient teaching force to look after its courses of instruction in detail.

(c) Respondent represents that by means of special classes, club rates, scholarships and otherwise, and for a limited time only it offers and sells its respective courses of instruction at prices substantially less than the regular prices usually and habitually commanded and secured by respondent for such courses. In fact such purported reduced prices are the same prices at which respondent regularly gives and sells its said courses of instruction unconditionally and substantially to all persons alike.

(d) Respondent represents that it gives free of charge to pupils taking and purchasing respondent's courses of instruction textbooks, outfits of tools, appliances and materials to be used by the pupils in studying and pursuing such courses of instruction. In fact, such textbooks, tools, appliances, and materials are not given free of charge by respondent to its pupils, but the price thereof is included in the price demanded and received by respondent for such courses of instruction respectively. For approximately 10 years the prices of the home economics courses given by respondent have been uniform. The maximum price for time payments therein shown for full course is \$70 and the cash payment for such course is \$63. Other full courses are \$60 on time and \$54 for cash; limited courses are given as low as \$36 for cash or \$40 on time. These prices have been in effect for 10 years and have been uniform in the course of that time. The tuition fee for courses in candy making for profit and in cooking for a profit was advanced in October, 1927, from \$35 payable \$5 per month to \$45 payable \$5 per month with reductions in each case for cash.

(e) Respondent represents that pupils taking and completing certain of respondent's courses of instruction in the art of cooking and food catering will thereby be qualified and enabled to obtain employment at high and lucrative compensation or engage in business of catering foods at great profits. In fact the profits made by pupils of the school and the salaries attached to places secured by persons because of having qualified themselves by taking respondent's courses are seldom or never comparable with the figures of \$5,000 or \$10,000 or \$12,000 mentioned in respondent's literature. Many of respondent's pupils do make some profits through activities carried on along lines for which they are qualified by the taking of respondent's courses and respondent, in many cases, when asked to do so, has secured positions for its pupils sufficiently satisfactory so as to be accepted by these pupils.

(f) In some of its advertising literature, on its certificate of matriculation, and upon its letterheads of correspondence sent to pupils and prospective pupils respondent sets forth a picture of a large building across either the face of which or below which is printed "American School of Home Economics, Chicago, U. S. A." Immediately beneath the building is the line "Chartered by the State of Illinois in 1905." Such picture imports and implies that the building is the property of respondent and is occupied chiefly or in its entirety by respondent. Respondent does not own the building so depicted upon its letterheads and other literature, and occupies but four rooms therein. In other printed matter respondent declares under such picture, "in which are located the offices of A. S. H. E." The building is the property of the American School of Correspondence with which respondent was once affiliated and some pupils of which respondent still instructs.

(g) In some of its pamphlet literature sent to pupils and prospective pupils respondent lists, under the headline "board of trustees" 11 persons, most of whom are now or formerly were eminent in the home economics or women's club fields. Eight or nine editions of these pamphlets have been issued in the course of the activities of respondent and have been circulated freely to its pupils and prospective pupils. In fact Director Le Bosquet is the entire board for all intents and purposes and has been since a few years after the respondent was organized. Respondent was incorporated by Ella W. Neville, Helen C. Kimberly, and Maurice Le Bosquet, and under its articles of incorporation these three were made its board of directors in whose hands the articles of incorporation had placed the management of the corporation. When respondent prepared its by-laws they were headed "By-laws of the board of trustees," and

article 3 of the by-laws provided for "members of the association who shall hereinafter be designated as the board of trustees shall consist of those persons who sign the certificate of incorporation, and such other persons as may be duly elected in accordance with the provisions of these by-laws. The members of this association shall not exceed 30 in number, at least one-half of whom shall eventually be graduates of the school. * * *" One meeting of the board of trustees was called in January, 1906, at which the greater number appeared by proxy. No other meeting of this "board of trustees" ever has been held. The names were carried in respondent's literature in order to give a standing to the school. Four of the trustees have died and in fact were dead at times that they were listed in literature of the respondent as such trustees.

PAR. 4. In its literature sent to pupils and prospective pupils respondent asserts that pupils completing certain of its courses of instruction in cooking, food catering, and candy making will, upon completion of such courses or within 60 days thereafter gain profits from catering foods and selling candies to an amount greatly in excess of the prices paid by such pupils for their courses and that all tuition fees will be refunded to pupils who do not so gain such profits. This representation is substantially correct. Where pupils failed to make profits in excess of the cost of their tuition respondent refunded their tuition. The average profits gained within 60 days, however, were not greatly in excess of the expense of the course of instruction. In its literature sent to its pupils and prospective pupils respondent further represents that pupils taking a certain course of instruction in candy making offered by respondent, which course is supervised by Miss Alice Bradley, of Boston, a nationally known authority in the art of cookery, would be granted exclusive privilege of selling within prescribed territory candy made by such pupils with the right to use in connection with such sales a signed statement by Miss Bradley to the effect that such candies have been approved by her as to quality and are recommended and guaranteed for wholesomeness and purity. This statement is substantially correct, the allegations of the complaint (par. 2, subpars. (f) and (g)) with reference to the representations in this paragraph described are not sustained by the proof.

PAR. 5. Respondent's false, misleading, and deceptive representations in its literature sent to the pupils and prospective pupils, as set forth in paragraph 3, subparagraphs (a) to (g), inclusive, have the capacity and tendency to mislead and deceive the public as to the benefits to be derived from such courses and to cause many of the public to subscribe for and to purchase respondent's courses in the belief that said statements and representations are true.

CONCLUSION

The acts and things done by respondent under the conditions and the circumstances described in the foregoing findings are to the injury and prejudice of the public and are unfair methods of competition in interstate 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 considered by the Federal Trade Commission upon the complaint of the Commission, the answer of respondent, a stipulation as to certain of the issues of fact and the oral and documentary evidence introduced both in support of the complaint and by way of defense, and the Commission having made its findings as to the facts, together with its conclusion that 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 the respondent, American School of Home Economics, its officers, agents, and representatives, do cease and desist from the following methods of competition:

(a) Advertising or otherwise representing that respondent does not conduct its business for profit.

(b) Advertising, representing, or describing as "instructors" or "teachers", or by a like designation, persons, whether they were authors of textbooks used by respondent or not, who are not actually engaged in the giving of instruction by correspondence at the time such representation or description be made.

(c) Advertising or otherwise offering to the public or to prospective pupils special class rates, club rates, and/or tuition charges otherwise designated as reduced or special rates whether or not the same be advertised or otherwise offered as obtainable by pupils applying to respondent during a limited time only, when in fact, the said class rates, club rates, or allegedly special tuition rates, are charges not less than the regular rates or tuition of the respondent for the course or courses of study so advertised or offered.

(d) Advertising or in any way representing that any textbooks, tools, appliances, equipment and/or materials to be used by pupils in any course of study given by respondent are free, when in fact, the price of cost thereof is included in the charge or tuition for the respective course of instruction in which the same are to be used.

(e) Advertising or stating to the public or any part thereof or to prospective or actual pupils that, by virtue of the completion of any of respondent's courses, pupils will be qualified and enabled to obtain employment at high and lucrative compensation or to engage in the catering of foods at great profit.

(f) Including in its letterheads, advertising material, matriculation certificate and/or other matters issued by respondent a picture of the building in which the respondent has rooms, with the wording "American School of Home Economics," without using in the immediate context therewith the words, "In which the American School of Home Economics has quarters," or without using equivalent explanatory phraseology indicating clearly that the respondent does not own or occupy, save in a limited way, the building pictured, the said last described phraseology to be made in letters not less than one-half as high and one-half as wide as the lettering giving the name of the school, and to have, except as to the size of letters, the same coloring, clearness, conspicuousness, as the wording giving the name of respondent's school, and from including the picture of such building, although omitting the name of the respondent's school, without including the said described explanation.

(g) Advertising or stating in its printed or circular matter or in correspondence that respondent's school is conducted or supervised by officers and/or a board of trustees so long as the said supposed officers and/or board of trustees bear no active or supervisory relation to the affairs of respondent, and/or publishing or otherwise using the names of persons as officers and/or trustees of respondent who have ceased to act as officers or trustees of respondent and to bear any active or supervisory relation to respondent and the school conducted by respondent at the time such advertisement or statement be made.

It is further ordered, That the respondent, American School of Home Economics, shall within 60 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 hereinabove set forth.

Syllabus

IN THE MATTER OF

JACOB WOODNICK AND PHILIP WASSERMAN AS CO-PARTNERS, DOING BUSINESS UNDER THE TRADE NAMES AND STYLES, ENTERPRISE FURNITURE FACTORY, AND ENTERPRISE UPHOLSTERED FURNITURE 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 1569. Complaint, Feb. 21, 1929—Decision, Jan. 30, 1930

Where two partners engaged in selling to the public and to retailers furniture bought by them from the manufacturers in a completed state, excepting only certain three-piece living room suites of davenports and chairs, which still required to be and were by them upholstered; with the expectation that such false representations of material facts, made with the knowledge of their falsity and as an inducement to buy, would be relied upon by purchasers,

- (a) Used in their said business a trade name including the words "furniture factory" and displayed and featured said name on large signs on their four-story building and in advertising dining room, bedroom, said living room, and other suites, and tables, chairs, springs, mattresses, etc., dealt in, together with depictions of said building and signs; and
- (b) Represented themselves as furniture manufacturers offering their said products directly to the consumer, with consequent savings and advantages through direct purchase, and otherwise through direct dealings with the factory, making such statements in offering the different suites and articles as "Why not look over our factory and prices now?" "Our factory price for this beautiful suite now only \$149. You save at least \$125 on this purchase," "Enterprise Furniture Factory. Save 50 per cent. Factories—Reading—Harrisburg—New Brunswick, N. J. Enterprise makes (list of States) The country takes," "The greatest opportunity to refurnish your home with all new furniture at factory prices," "Are you getting most for your money? Make sure—See this factory first," "Bedroom and dining room suites at factory prices," "Come in and see how your furniture is built." "We are a factory by itself. We sell direct to the consumer." "New 1928 styles are here now for your selection. As manufacturers we get the styles ahead of the retail dealers. You can now select from the very newest styles * * * buy direct and save 50 per cent," "You save here on our low rent and one profit," "Our factory must be kept busy at all times," "Being equipped with a large factory we can absolutely guarantee the construction to be the best in the state * * *," "What Enterprise can do no retail store can";

With the tendency and capacity to mislead and deceive members of the public into believing its said place or places of business to be furniture factories and said partners to be manufacturers of the aforesaid davenports and chairs and other furniture dealt in, charging purchasers only the one manufacturer's profit, and saving said purchasers the profits of middle-