

Complaint

IN THE MATTER OF

C. N. COX DOING BUSINESS UNDER THE TRADE NAME
AND STYLE THE NORTON INSTITUTE

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

Docket 1581. Complaint, Mar. 14, 1929—Decision, Dec. 9, 1930

Where an individual engaged in conducting correspondence courses for the competitive examinations of the United States Civil Service Commission,

- (a) Adopted and employed the trade name The Norton Institute and represented one C. H. Norton as president thereof, the fact being that said individual's place of business consisted of a portion of two office rooms, the business was conducted by himself with one clerical assistant, with no structural organization, and the name of the supposed president was entirely fictitious and represented no one connected in any way with the business in question;
- (b) Falsely represented the prices at which his courses were offered as "special" prices and lower than those usually received by him;
- (c) Published and distributed letters of recommendation falsely represented as having been received from persons who had taken his courses, the fact being that such letters, if genuine, had no application to said courses;
- (d) Represented in advertising circulars and circular letters that his courses had been prepared by men of experience in the matters concerned and were sufficient to enable applicants quickly and effectively to prepare for and pass aforesaid competitive examinations and qualify for appointment to such positions as Forest Ranger, United States Mail Service, etc., the fact being that he failed to show necessary age limits or other prerequisites, gave misinformation as to number of questions, failed to state that a mental test and practical experience were necessary in certain positions, and in other respects gave many erroneous answers, and failed adequately to cover subjects of examination as prepared by said Commission; and
- (e) Made such statements in newspaper advertising and "help wanted" columns as "Men, get Forest Ranger job, \$125-\$200 month and home furnished; hunt, fish, trap. For details, write Norton Institute", etc., thereby strongly implying himself to be an employer of labor or an employment agency;

With capacity and tendency to deceive the public and induce persons to enroll and pay for his said courses in reliance upon the truth and accuracy of the aforesaid representations, and to divert patronage from his competitors:

Held, That such practices, under the conditions and circumstances set forth, were to the injury and prejudice of the public and competitors and 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

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respondent individual, engaged in furnishing courses of instruction by correspondence purporting to qualify applicants or subscribers to apply for and succeed in competitive examinations for positions in various departments of the Government service so as to become appointed thereto, and with residence in Denver, with misrepresenting product or service, business status or advantages, and prices, and advertising falsely or misleadingly in regard thereto, 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, engaged, as above set forth, represents his said courses in advertisements, printed circulars, letters, and otherwise as adequate and sufficient to qualify applicants and subscribers to apply for and succeed in examinations, so as to be eligible for appointment in the various government services, that the courses are given by the Norton Institute, of which one C. H. Norton is president, advertises the same in newspapers under the classification "help wanted"; publishes fictitious and false letters of recommendation represented as received from persons who had applied or subscribed for and received respondent's courses, and represents prices or fees as fictitious sums or amounts, in some instances approximately 50 per cent greater than the price customarily asked and received;¹ the facts being that the courses in question are not reasonably adequate or sufficient for the purposes for which offered and sold, contain materially erroneous statements, are offered to the public generally without the essential information that certain positions are limited as to the age of those who will be appointed and in other respects, the business is an individual business, the name C. H. Norton is fictitious, no one so named being connected with the business, and respondent "in advertising his said courses in newspapers under the 'help wanted' classification appeals to prospective applicants or subscribers as a prospective or possible employer when such is not the fact".

"The aforesaid acts and things done by respondent", as alleged by the complaint, "during the times above mentioned have the tendency and capacity to mislead and deceive the public, applicants or subscribers aforesaid, into the belief that respondent's courses of instruction are furnished by an institution or organization having officers, such as a president, usually associated with important functions, responsibilities, and control of the subject matter or business of an organization; into the belief that the said courses of instruc-

¹ According to the complaint, "among others, the respondent represents and has represented the price or fee for the Forest Ranger Service at from \$8.75 to \$10 whereas the regular and customary price charged and received by him for the said courses has never been greater than from \$6 to \$8."

tion are adequate and sufficient for the purposes for which they are offered and sold by respondent, are free from material and erroneous statements and are applicable to the members of the public regardless of age and other restrictions; into the belief that the respondent's said letters and recommendations represent the true estimate and value of respondent's courses of instruction by subscribers who have used them, and that the prices asked and received by respondent are 'low' or 'special' prices for the same. The advertising of respondent in newspapers under the classification, 'help wanted', has the tendency and capacity to mislead and deceive the public into an exaggerated or unreasonable belief of successful results from subscribing to the said courses of instruction by purporting to be from an employer or one who controls, more or less, the employment of others; and said acts and things done by respondent have the further tendency and capacity to cause members of the public to apply for and subscribe for respondent's said courses of instruction in preference to the courses of instruction offered by respondent's competitors"; all to the injury and 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" (38 Stat. 719), the Federal Trade Commission, on the 14th day of March, 1929, issued and thereafter served its complaint against the respondent C. N. Cox, charging him with the use of unfair methods of competition in commerce, in violation of the provisions of said act.

Respondent having entered his appearance and filed an answer to the said complaint, a hearing was had before a trial examiner theretofore duly appointed, and testimony was heard and evidence received in support of the charges stated in the complaint, the respondent not appearing at this hearing although duly notified pursuant to the rules of the Commission. Thereafter this proceeding came on regularly for decision and the Commission having duly considered the record and being now fully advised in the premises, makes this its report stating its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent C. N. Cox is now and has been for a number of years engaged in the city of Denver in the State of Colo-

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rado in the business of conducting a correspondence school and in furnishing by correspondence courses of instruction purporting to qualify persons taking said courses to apply for and to succeed in competitive examinations conducted by the United States Civil Service Commission, so as to be entitled to be appointed to positions in various departments of the Government service of the United States. Respondent offers his said courses of instruction to the public and to the applicants and subscribers therefor, in advertisements, newspapers, printed circulars, circular letters, and otherwise, and sends, in interstate commerce, the lessons comprising said courses of instruction to the subscribers of said courses, who are called students, located in various States of the United States and the District of Columbia. Respondent is now and has been during the time aforesaid, in competition with many other persons and corporations in the United States, engaged in the furnishing of instruction upon the subjects of the instruction furnished by respondent and similar subjects, and in sending and transporting lessons and other printed matter into and through the various States of the United States in interstate commerce.

PAR. 2. Respondent in the course and conduct of his business, does advertise his business under the name of "The Norton Institute" and represents one "C. H. Norton" to be president of said institute; when in truth and in fact respondent's place of business consists of a portion of two office rooms, and is conducted by himself with one clerical assistant. The business has no structural organization such as is usually contemplated by the word "Institute". The name "C. H. Norton", represented to be the president of the said "The Norton Institute", is entirely fictitious, there being no one of that name in anywise connected with respondent's said business.

PAR. 3. Respondent in the course and conduct of his said business, offers his courses of instruction at certain specified prices, which are represented to be "special" prices and lower than the prices usually received by him, when in truth and in fact the said prices represented to be "special" are the usual going prices received by the respondent for the courses of instruction, respectively.

PAR. 4. Respondent in the course and conduct of his business, publishes in circular letters and for the purpose of inducing persons to subscribe for the said courses, letters of recommendation, which are represented as having been received by respondent from persons who have taken said courses; when in truth and in fact the letters so published were not received by respondent, and if genuine, had no application to respondent's courses of instruction.

PAR. 5. Respondent in the course and conduct of his business states and represents in his advertising circulars and circular letters that the lessons of instruction are prepared by men of experience, and that the courses of instruction are sufficient to enable applicants for competitive examinations held by the United States Civil Service Commission to pass such examinations and thereby qualify for appointment to such positions as Forest Ranger, United States Mail Service, General Clerical Positions, Laborers, and Postal Service. For example, in a certain circular circulated by respondent (Com. Ex.¹), respondent says in part:

The basis of our courses is prepared by men who have behind them many years of **ACTUAL EXPERIENCE** as civil service employees. They know just what you need to know to get in, and what you are expected to do after you get in. They are based on **ACTUAL EXPERIENCE** in Government service and will enable you to prepare for the examination in the shortest possible time. They give you just the information and help you need and we are so sure of their worth that we send them under an absolute **MONEY BACK AGREEMENT**. Read the enclosed order blank; it protects you.

Again on page 14 of Commission's Exhibit 1, being a circular letter sent to prospective students, respondent says:

With the right kind of instruction preparation for these examinations is not hard and takes but a short time. That is what I am offering you—**COURSES THAT GIVE YOU THE RIGHT KIND OF INFORMATION**. These courses are prepared by men who have had years of **ACTUAL EXPERIENCE** in Government work. **THEY ARE NOT CORRESPONDENCE COURSES**. They are sent complete at one time. The experience and understanding of the Government service that is the basis of these courses places the instruction for you in a way that is simple, easy to understand, short and complete. One old Civil Service man says "Your courses are so simple a child could pass the examination if it could follow your instructions".

The principal course of instruction sold by respondent during the time he has been in business is a course of instruction consisting of 37 mimeographed pages received in evidence as Commission's Exhibit No. 6(a) in Forestry, purporting to qualify the student taking the course, and enable him to pass the United States Civil Service examination for a position of Forest Ranger, a position under the Forest Service of the United States Department of Agriculture. The said course of instruction in Forestry is inadequate for the purposes represented, for the following reasons:

(a) It does not show the necessary ages for qualification. This omission might cause a great many people below 21 or above 35 years of age, and not having military experience, to take the course and pay money to the respondent when they could not benefit materially therefrom. An omission of such a vital prerequisite to

¹ Exhibits not published.

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securing the prizes held out by respondent is a serious objection to the sufficiency of the course.

(b) The course gives misinformation regarding the number of questions in the examination, and fails to state that a mental test is a prerequisite to the practical examination. This latter omission might lead many ineligible to pay for the course.

(c) The course contains many erroneous answers and does not cover adequately subjects of the examination as prepared by the Civil Service Commission.

(d) There is no mention made as to the necessary experience applicants must have had in order to pass these examinations, when, as a matter of fact, the only people who pass them and secure appointments are those with actual field and forest experience, successful applicants often having had forestry school experience of from 6 months to 2 years. In examinations held by the United States Civil Service Commission, out of 80 competitors who stated they had taken the Norton Institute course, but four passed the examination, and the examination papers of these four showed them all to have had considerable practical experience.

PAR. 6. Respondent in his newspaper advertising and in the "help wanted" columns thereof, advertises as follows:

Men, get Forest Ranger job, \$125-\$200 month and home furnished; hunt, fish, trap. For details, write Norton Institute, 1541 Temple Court, Denver, Colo.

Such advertisement is false and misleading and by strong implication represents that the advertiser, the respondent, is an employer of labor or an employment agency, when such is not the fact.

PAR. 7. The false and misleading representations set forth in paragraphs 2, 3, 4, 5 and 6 hereof, each has the capacity and tendency to deceive the public and to induce persons to enroll as students and pay for respondent's courses of instruction in reliance upon the truth and accuracy of such representation, and to divert patronage from respondent's competitors.

CONCLUSION

The practices of said respondent, under the conditions and circumstances described in the foregoing findings, are to the injury and prejudice of the public and of respondent's 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, the answer of the respondent, the testimony and evidence introduced, and briefs and oral arguments of counsel, and the Commission have made its findings as to the facts and its conclusion that the 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, C. N. Cox, his agents and employees, in connection with selling or offering for sale courses of instruction in interstate commerce between and among the several States of the United States and in the District of Columbia, do cease and desist from:

(a) Representing in any manner that "C. H. Norton" is the president of the so-called Norton Institute or has any connection whatever with respondent's business.

(b) Representing in any manner that the prices of the courses of instruction sold by the respondent are other than the prices at which said courses are actually sold.

(c) Publishing letters of recommendation represented to have been received by respondent unless such letters be genuine and actually received by respondent.

(d) Representing in newspaper advertising, "help wanted" columns or otherwise, that the respondent does or can furnish the job or position of Forest Ranger.

(e) Representing that his course of instruction in forestry is sufficient to adequately prepare persons to take the United States Civil Service examinations for the position of Forest Ranger, unless and until such course of instruction be modified so as to afford information on every subject included in such examination.

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

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IN THE MATTER OF
CLICQUOT CLUB 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 1819. Complaint, May 3, 1930—Decision, Dec. 9, 1930

Where a corporation engaged in the manufacture and sale of ginger ale represented that its said product had been aged six months, and, later, "Aged six months in the making", in newspapers, magazines, and other publications, on counter displays and fountain hangers, and on labels or stickers attached to the product or the containers thereof, and through radio broadcasting, and similarly represented ginger ale not so aged as unripe, undesirable, and injurious, fact being that said product was not so aged but only the flavoring mixture used therein, constituting one-fifth of 1 per cent by weight; with capacity and tendency to mislead and deceive the public and to divert trade to it from competitors and with effect of furnishing to wholesale and retail dealers means enabling them to mislead and deceive their customers and prospective customers into believing said product to be six months old when offered for sale and sold by it and into purchasing same in reliance on such erroneous belief:

Held, That such practices, under the circumstances set forth, were to the injury of the public and competitors and constituted unfair methods of competition.

Mr. James M. Brinson for the Commission.

Mr. Ralph M. Greenlaw, of Providence, R. I., 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 Rhode Island corporation, engaged in the manufacture and sale of ginger ale, with principal place of business in Millis, Mass., and with factories and warehouses in various States, with advertising falsely or misleadingly, and misbranding or mislabeling as to qualities of product, 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, engaged as above set forth, states in newspapers, catalogues, counter displays, fountain hangers, and other advertising and on the labels or stickers attached to its product or the containers thereof, and through the radio that ginger ale not aged six months is unripe, undesirable, and injurious and that its own product through such aging, has "derived a fullness of flavor and mellowness of tone", fact being its said product had not been so aged; with capacity and tendency to mislead and deceive the public, and with effect of furnishing wholesale and retail dealers with the means of enabling them to mislead their own customers