

Complaint

14 F. T. C.

IN THE MATTER OF
AMERICAN POULTRY SCHOOL AND T. E. QUISENBERRY

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

Docket 1508. Complaint, Apr. 3, 1928—Decision, Feb. 17, 1931

Where a corporation engaged in conducting correspondence course in poultry raising and in sale of books, poultry feed and remedies, and its president and manager; in its advertisements in poultry and farm journals and other magazines, and in enrollment blanks, circular letters and other matter,

(a) Stated and represented certain things including baby chicks, books, life scholarships and bulletins were furnished free, fact being that compensation therefor was at all times included in price charged and received for said course; and

(b) Stated and represented that said course was offered at a special and lower price than that usually received, to a representative poultry raiser in each community (to be appointed as its local representative), through elimination of usual large advertising appropriation and the passing on of such saving or benefit, facts being that such pretended special offer was made to all prospective pupils indiscriminately and supposed special price was its usual and ordinary price;

With capacity and tendency to deceive public and induce persons to enroll as students and pay tuition specified in reliance upon truth and accuracy of such representations and thus to divert trade from competitors to them:

Held, That such practices, under the conditions and circumstances set forth, were to the 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 respondent American Poultry School, a Missouri corporation engaged in the sale of courses of instruction by correspondence in poultry culture to persons in various States, and also of articles incidental and accessory thereto, together with baby chicks, and with principal place of business in Kansas City, Mo., and respondent T. E. Quisenberry, president of said corporation and actively engaged in the management and control of the business activities thereof, with advertising falsely or misleadingly as to free products or things, and prices, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent corporation, as charged, engaged as above set forth and under the active management and control of respondent Quisenberry, in advertising its aforesaid courses, etc., in newspapers, magazines, periodicals and other publications of general circulation and in enrollment and other blanks, catalogues, letters, circulars, and other forms of written, mimeographed or printed nature makes false and misleading statements to the effect that—

The usual full cash or selling price for the course, etc., is a certain sum, specified, but it is offering the same, together with aforesaid incidentals, etc., at a reduced and special price substantially lower than the other, the pretended reduced price is offered only for a limited time as specifically set out, and aforesaid baby chicks are given to the pupils free and without compensation to it or cost or expense to the pupils, facts being that the pretended reduced price is its regular full tuition or selling price for the whole course, together with the articles and accessories involved, the so-called regular price and pretended time limit are fictitious, and the price of or compensation for the baby chicks is at all times included in and constitutes a part of the ordinary selling price or tuition.

Use by respondent school, so under the control of respondent Quisenberry, of such "trade practice and method of competition, to wit, the making of said false statements and representations as above set forth, has the tendency and capacity to mislead and deceive the public and prospective pupils, and will probably mislead and deceive the public and prospective pupils, into the erroneous belief" that aforesaid statements and representations are true, and that respondent school is offering to sell and deliver to prospective pupils the course and incidentals and accessories at a substantially lower selling price, as specified, than the regular price, with a resulting financial saving and advantage to each prospective pupil to the amount of the pretended reduction, that such reduction is offered only for a limited time, as set forth, that the school offers to give and gives baby chicks to its pupils without compensation to it and without cost or expense to the pupils and that, therefore, respondent school "for the limited time so specified, and because of such pretended reduced or special tuition or selling price, and because such pupils receive such 'baby chicks' without price or compensation to said respondent, and without cost or expense to such pupils, offers the best available opportunity to procure the education represented by said course of instruction and information and to procure such articles and things above referred to" and said acts and practices of re-

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spondents, as charged, are all to the prejudice of the public and of their competitors and constitute unfair methods of competition in commerce.

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 on the 3d day of April, 1928, issued and thereafter served upon the respondents American Poultry School and T. E. Quisenberry a complaint, charging them with the use of unfair methods of competition in commerce in violation of the provisions of section 5 of said act of Congress. The respondents having entered their appearance and filed their answer herein, a hearing was had and evidence was thereupon introduced on behalf of both the Commission and the respondents before an examiner of the Commission theretofore duly appointed. Thereafter, this proceeding came on for final hearing upon the record, briefs and oral argument, and the Commission having duly considered the matter and being fully advised in the premises, now makes this its findings as to the facts and its conclusions drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. Respondent American Poultry School is a corporation organized and existing under the laws of the State of Missouri with its principal place of business at Kansas City in said State. Respondent T. E. Quisenberry is its president and is in charge of the management of the business carried on by such corporation, which is that of conducting a correspondence school, giving instruction in the raising of poultry, and also in selling books and poultry feed and remedies for poultry diseases. The course of instruction furnished by respondents consists of 38 lessons printed in pamphlets, each containing two lessons. Said lessons together with other printed matter are furnished to all students enrolling for the course of instruction.

PAR. 2. In the course and conduct of the said business respondents upon the enrollment of pupils cause to be transported by mail and otherwise the course of instruction and such articles of merchandise as are furnished as a part of such course of instruction into and through States other than Missouri, in interstate commerce, to the

several students at their respective points of location in the various States of the United States. Said respondent school has pupils in nearly every State of the United States. In the course and conduct of its business respondent school is in competition with other schools, corporations and individuals in the United States, engaged in furnishing instructions in poultry raising and in sending and transporting lessons and other printed matter into and through the various States of the United States in interstate commerce.

PAR. 3. As a means of securing persons to enroll as pupils and to pay the tuition specified the respondents advertise extensively in poultry and farm journals and other magazines having a general circulation in the United States and send to persons answering such advertisements enrollment blanks, circular letters and other forms of printed or mimeographed matter containing descriptions, statements and representations in regard to the course of instruction and the terms upon which pupils may enroll as such.

PAR. 4. In such advertisements, enrollment blanks, circular letters and other forms of advertising mentioned in paragraph 3 hereof, respondents, among other things, have stated and represented and do now state and represent that certain articles including baby chicks, books, life scholarships and bulletins were furnished free and without cost or expense to the pupils enrolling for the course. Such representations were and are false and misleading in that the price of, or compensation to the respondents for, said articles are at all times included in, and constitute a part of, the price charged and received by the respondents as the price of the course of instruction:

PAR. 5. Respondents also in their advertising mentioned in paragraph 3 hereof have stated and represented and now state and represent that the course is being offered to the public at a special price and at a lesser price than the price usually and ordinarily received by respondents; whereas in truth and in fact such purported special price is not a special price, but the ordinary and usual price. For example, in an enrollment blank which has been used by respondents since December 15, 1927, and is still in use and has been sent during said period of time to every person answering the journal and magazine advertisements, respondents state and represent as follows:

I want to appoint you as our representative in your locality. This will not take up any of your time but will give you special privileges and give you the benefit of a special offer such as has never before been made in the history of the poultry business.

Order

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LIFE SCHOLARSHIP IN THE AMERICAN POULTRY SCHOOL

* * * * *

You ask how we can afford to make such an offer. Well, it is like this. We spend nearly \$100,000 a year in advertising and circulars. We have decided this year to cut our appropriation in half and give our students the benefit of this big saving. I have, therefore, decided to select at least one representative poultry raiser in each community and make him an offer of our Complete Practical, Commercial and Breeding Course, which is the most complete and thorough course offered by this school for *only* \$12.50 (and which has never been sold for less than \$30 to \$35 cash).

Said statements and representations are false and misleading in that the offer of appointment as a representative is not a special offer, but is made to all prospective pupils indiscriminately, and the price specified as the price of the course is not a special price or special privilege to the prospective pupil for the reason that said purported special price of \$12.50 has been the usual and ordinary price received by said respondents for said course since December 15, 1927.

PAR. 6. The false and misleading representations set forth in paragraphs 4 and 5 hereof, severally have the capacity and tendency to deceive the public and to induce persons to enroll as students in respondent's school and pay the specified tuition in reliance upon the truth and accuracy of such representations, and thus divert trade to respondents from their competitors.

CONCLUSION

The practices of said respondents under the conditions and circumstances described in the foregoing findings are to the 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 on the complaint of the Commission, the answer of the respondents, the evidence introduced on behalf of the Commission and said respondents and briefs filed, and the Commission having made its findings as to the facts and its conclusion that said respondents, American Poultry School and T. E. Quisenberry, have violated the

provisions of an act of Congress, approved September 26, 1914, entitled "An act to create a Federal Trade Commission, to define its power and duties, and for other purposes",

It is now ordered, That respondent, American Poultry School, its officers, agents and employees, and respondent T. E. Quisenberry, in connection with selling or offering for sale course of instruction or articles of merchandise in interstate commerce between and among the several States of the United States and in the District of Columbia, do cease and desist from:

(1) Representing to prospective students or to the public that the usual or regular selling price of any course of instruction is greater than the price at which such course of instruction is usually offered for sale.

(2) Representing that the price of any course of instruction offered is a special price or reduced price, or a price that is lower than the price ordinarily and usually received when such is not the fact.

(3) Representing that any article of merchandise or other thing is furnished free to pupils or prospective pupils when the price or value of such article of merchandise or other thing is included in the price specified as the price of the course of instruction.

It is further ordered, That the said respondents, American Poultry School and T. E. Quisenberry, shall within 60 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.

IN THE MATTER OF
DOMINO HOUSE, INCORPORATED, AND MARGARET
SULLIVAN

COMPLAINT (SYNOPSIS), FINDINGS, AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 23, 1914

Docket 1718. Complaint, Oct. 31, 1929—Decision, Feb. 17, 1931

Where a corporation engaged under the trade name "Beauty Arts Society" in the sale of a course in permanent and marcel waving and hair cutting, together with a curling iron, as a part thereof, and an individual, its president, in direct charge and control thereof; in soliciting sale of said course and iron through circular letters, advertising circulars, pamphlets, and application blanks, and in other advertising literature,

- (a) Represented said supposed society as a national organization composed of beauty specialists, experts, and a faculty, and with openings for new members and purported to offer the prospective purchaser or pupil membership in such supposed organization, through aforesaid application blanks, with advantage of becoming one of its resident marcel waving specialists, privilege of permanent consultation with society's experts, a membership certificate, right to use of name "Beauty Arts Society" as a member in full standing, and active backing of said society, and placed on the title page of the course in marcel waving the words, "Prepared by the faculty of the Beauty Arts Society" and represented the lessons as so prepared that they proceeded logically through the art and technique of said trade or occupation, and that lists of answers sent in by pupils were examined carefully by the teachers and returned with corrections, facts being that the supposed society was fictitious and nothing more than a trade name employed as above set forth, and aforesaid offers, promises, statements and representations were false and misleading; and
- (b) Represented in circular letters, etc., that the regular price of the membership fee including said course in marcel waving was \$10, but that for a limited time and as part of a special offer said membership was being sold for the reduced price of \$9.85 and each person would be given free the complete \$10 course in hair cutting and a professional waving iron, making such statements as "You actually save half the regular fee by becoming a member now", "Professional waving iron absolutely free", "Free course in hair cutting for ten days only—regular price \$10", "This letter can be worth \$19.15 to you", facts being that \$9.85 was the regular price for everything and the so-called special offer was not limited nor in fact a special offer, but open for acceptance at any time by sending in the application blanks and \$9.85, and said statements and representations were false, deceptive and misleading;

With tendency and capacity to mislead the public and prospective purchasers and induce the purchase of said course and article in reliance upon the truth of aforesaid offers, promises, statements and representations and thereby divert trade to said corporation and individual from competitors, and with effect of so misleading and deceiving such public and purchasers: