

IN THE MATTER OF
 AMERICAN BUSINESS BUILDERS, INC., W. M. OSTRANDER,
 AN INDIVIDUAL AND AS PRESIDENT, AND SETH
 MOYLE, AN INDIVIDUAL

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

Docket 1680. Complaint, Mar. 22, 1930¹—Decision, Feb. 24, 1931

Where a corporation engaged in the sale of its so-called "Ostrander System for Becoming a Real Estate Specialist," with about 35,000 students and doing business in competition with some 185 resident schools in colleges and institutions teaching courses in real estate, and also with the home study courses of the American Real Estate Institute of the National Ass'n of Real Estate Boards; and two individuals, its president and vice president; in advertising and describing said course and service in newspapers, popular magazines, booklets bearing such captions as "How to Become a Real Estate Specialist" and "Success Stories," letters, circulars, bulletins, mass meetings for avowed purpose of building sales organizations for development projects, lantern slides, and otherwise,

- (a) Represented that said president, operating under said "System," with little education, no experience nor influence, and only \$5 capital had made \$100,000 in less than five years as a real estate specialist, and described the course as affording "complete instruction for becoming a real estate specialist," and expert, and as "the most complete * * * ever prepared," " * * * complete course in real estate education, training and service. Nothing * * * overlooked. Nothing * * * omitted," making such statements as "My practical proved-out time-tested methods make it easy for you to get started in a profitable business * * * such clear * * * instruction that you can not go wrong," a money-back bond eliminated risk to the subscriber, and it would give \$1,000 for proof of any other course or service which had helped as many people make as much in as short a time, facts being that aforesaid individual's success, described in glowing terms in its advertisements along with similar opportunities allegedly open to people in all walks of life, irrespective of age or training, was accomplished long prior to publication of such statements, through use of said system, based on long distance selling, group advertising and the unusual and disapproved practice of charging advance fees on sale of property, that following official investigation such practice was abandoned by said individual, who had not been actively engaged in real estate business for many years preceding statements here in question, course would not fit beginner to be a successful real estate specialist, giving a comprehensive knowledge of real estate salesmanship, was not complete as advertised, and would not establish a person in business and was objectionable in advocating "ballyhoo" methods of selling

¹ Amended complaint.

development property, and alleged bond was merely said president's promise to return the subscriber's money if not entirely satisfied, the course was returned and the claim made within 30 days after final payment, with statement in writing of reasons;

- (b) Represented that said System was used by Ostrander students to enable them to make "big" money—not less than \$5,000 a year—and in their own home and spare time, with little education, influence or business experience, and set forth alleged testimonials from successful students purporting to describe the making of "wonderful profits," ranging from \$5,000 to \$25,000 a year and over, and with single transactions yielding profits amounting to many thousands of dollars, using such captions as "If you were down and out," "From Failure to Success," "New Lives for Old," "Amazing Profits," "Learn to make money from a money-maker," facts being that earnings set forth had not been realized, instances related were isolated, and not representative, or profits or earnings were received as a result of speculation in "boom" times, and that some of the letters were written in response to the corporation's offer of a monthly cash prize for the best letter and were sometimes published without the writer's permission and without the corporation's knowledge as to truth or falsity of the statements contained, and the corporation regularly solicited and published students' testimonials and prize letters in its "National Real Estate Review"; and
- (c) Featured an alleged "nation-wide clamor for Ostrander trained specialists" with price of its course reduced in response thereto, to "prepare 1,000 men and women for these opportunities in this million dollar field," and represented that numerous well known real estate firms in various cities demanded Ostrander trained men and women and that students would be placed with such firms by the corporation's employment bureau, after completing the course, and be given an opportunity to earn from \$1,000 to \$2,000 a month under the guidance of established experienced real estate men without a penny of extra cost, facts being there was no such demand, said president had advertised and circularized real estate development companies in various sections soliciting business for Ostrander students in the territory concerned and calling attention to their alleged success as set forth in aforesaid testimonial letters, and published, without permission, responsive letters of inquiry thus elicited, in said circulars, and that large numbers of students were placed with real estate development concerns under secret arrangements, through which said corporation received commissions on all sales made by and in some instances to such students, the vast majority of whose resulting earnings were only nominal and much less than advertised;

With capacity and tendency to mislead and deceive the public, students and prospective students into believing that aforesaid president had recently used said "System" in building up a successful real estate business, earning as much as \$40,000 a year, without capital, education or previous experience, and that anyone without education, etc., could, through study of the course, earn large profits, in his own home and spare time, that others, similarly situated, taking said course and using such system had been eminently successful, that students were in demand by large real estate firms throughout the country because of their training under said system, and that the corporation would obtain positions for its students with such

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firms where they could earn from \$5,000 to \$25,000 a year, without cost to the students and without profit to the corporation, its officers or employees, and into subscribing for said corporation's course in preference to the courses of competitors, in reliance upon such beliefs, and thereby diverting students and prospective students from competitors who do not make such false, exaggerated and deceptive statements and representations:

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

Mr. Everett F. Haycraft for the Commission.

Mr. Walter L. Bryant, of New York City, for respondents.

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 Business Builders, Inc., a New York corporation engaged in the sale, by correspondence of its so-called "Ostrander System for becoming a real estate specialist," and with principal place of business in New York City, respondent W. M. Ostrander, its president and owner of a majority of its stock, and respondent Seth Moyle, its former vice president, with advertising falsely or misleadingly, and making misrepresentations as to results and nature of, and demand for, product or service offered, indorsements or testimonials used, and "money-back bond," 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, in advertising its course in newspapers and otherwise makes use of the classification "Wanted—Your Services," thereby appealing to prospective applicants or subscribers as a prospective or possible employer, when such is not the case, and respondent, further, in advertising its said course in magazines and newspapers published throughout the United States, in printed circulars and form letters and otherwise makes false, exaggerated and misleading and deceptive statements and "representations concerning said course of instruction and service; the amounts of money capable of being earned in real estate selling and general salesmanship; the giving free to applicants and subscribers for said course of instruction of a certain consultation service; and a subscription to the National Real Estate Review; a course of 24 lectures on practical real estate methods by leading real estate experts; and a Money-Back Bond insuring applicants and subscribers complete satisfaction with the said course or the refund of their tuition fees, to the effect that persons completing respond-

* As amended.

ent's said course of instruction become real estate specialists and experts and enjoy yearly incomes of not less than \$5,000; that a subscription to the magazine known as the National Real Estate Review is given free to students taking respondent's said course; that respondent's course of instruction fits a student for every department of the real estate business; that respondent has a standing offer of \$1,000 in gold for proof of any business course, training or system that is helping as many men and women make as much money in as short a time as respondent's successful real estate system; that respondent's Money-Back Bond protects a student from loss if said student is not fully satisfied with respondent's methods of instruction and feels that he has not received full value for his money."

The facts are that the value of the educational literature included in respondents' course sold for \$60 or \$65 depending on the installment arrangements made, is about \$12, said course is not reasonably adequate or sufficient for purposes for which offered and sold, average person completing same does not secure for his services thereafter sums of money represented, consultation service and subscription referred to are not given free but are included in price charged for course as a whole, lectures referred to are not delivered by persons associated with respondent, but consist of chapters of a book called "Practical Real Estate Methods", printed and sold in pamphlet form by the publishers, and "money-back bond" is not that of respondent corporation, secured by a third party, but the individual and unsecured promise of respondent Ostrander to return tuition fees paid in, under certain conditions, to dissatisfied students.

Aforesaid acts and things done by respondent corporation as alleged, "have the tendency and capacity to mislead and deceive the public, applicants, and subscribers aforesaid, into the belief that the said course of instruction is adequate and sufficient for the purposes for which it is offered and sold by respondent; that respondent's advertisements, letters, and other literature, are free from overstatements, or misrepresentations relating to actual or probable earnings of subscribers to its said course of instruction; that certain services, and a subscription to the National Real Estate Review is given without extra charge to subscribers for said course of instruction; and that said money-back bond is the bond of the respondent secured and guaranteed by a third party.

"The advertising matter issued by respondent corporation under the classification 'Wanted—Your Services' has the tendency and capacity to mislead and deceive the public into an exaggerated or

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unreasonable belief of successful results from subscribing to the said course of instruction by proposing to be from an employer or one who controls more or less the employment of others.

"The said acts and things done by respondent corporation have the further capacity and tendency to cause members of the public to apply for and subscribe for respondent's said course of instruction in preference to the courses of instruction offered by respondent's competitors."

Respondent corporation, furthermore, as charged, in cooperation with respondent individuals, "has sought to induce prospective students to enroll with respondent and take up its said course of instruction by representing in its advertising matter, heretofore described herein, that the said respondent W. M. Ostrander had made a net profit of \$100,000 in less than five years as a 'real estate specialist,' operating under the so-called 'Ostrander System' with little education, no experience, no influence and only \$5 capital, and that the said Ostrander System was being used to-day by Ostrander students to enable them to make big money in their own home, in their spare time, with little education, or influence or business experience, and reference is made to numerous so-called testimonial letters, alleged to have been received from successful Ostrander students, and purporting to describe the manner in which said students had succeeded in 'making wonderful profits,' ranging from \$8,000 a year to as high as \$14,000 in six months."

The facts are said Ostrander had not been actively engaged in the real estate business since about 1910, the "system" in question consisted of listing advertising real estate in various towns and communities in the daily papers and charging the owners an advance or retainer fee, in addition to regular commission in event of sale. "System" was and is disapproved by real estate boards, trade publications and Government officials, and has not been used by said Ostrander since about 1905 when he promised Post Office officials to discontinue the practice, his profits from real estate business were derived principally from such advance or retainer fees and not from commissions from actual sales (it appearing that from 1903 to 1905 he sold about 1,800 properties of some 17,000 listed), the testimonials contain many false and misleading statements, frequently referring to isolated instances resulting from speculation and extraordinary profits in boom times and in others having been made without basis of fact in response to respondent's offer of prizes for best letters as to writer's use of \$200 to start or build up a business, and published by respondent without permission of the writer's knowledge of the truth or falsity of the statements therein contained.

Respondent corporation, further, as charged, has sought to induce enrollments through representing in its advertising that there was "A nation-wide clamor for Ostrander-trained specialists", and that numerous "well-known real estate firms located in various cities of the United States are demanding 'Ostrander-trained men and women', 'Ostrander-trained specialists', 'Ostrander Realty Experts' and that after students completed their course of instruction they would be placed with said real estate firms by respondent's employment bureau, where they would be given an opportunity to make large salaries ranging from \$1,000 to \$2,000 a month, under the guidance of established and experienced real estate men 'without a penny of extra cost'".

The facts are that respondents had solicited said firms and particularly subdivision development companies, for the placing of students, citing alleged instances of such students' success and using letters of inquiry in response to such solicitation without the writer's permission, and that respondent corporation either directly or through respondent Moyle made "and entered into secret agreements with certain subdivision development companies in various cities of the United States, particularly in New York City and Buffalo, in the State of New York, Detroit and Flint, in the State of Michigan, and Chicago in the State of Illinois, whereby said respondent corporation furnished said real estate development companies with students and prospective students residing in the territory contiguous to the respective cities named, and the real estate development companies gave full and part-time employment to said students and prospective students, and in some instances sold students and prospective students plots of ground located in their subdivisions, paying to said respondent corporation either directly or through respondent Seth Moyle, who has direct charge of this phase of said respondent corporation's activities, certain fixed commissions on all sales of real estate made to or by Ostrander students, or prospective students furnished by said respondent corporation to the said real estate development companies, or a flat commission on all sales made by said real estate development companies; and the fabulous salaries or income alleged to have been received by Ostrander students as represented by said respondent corporation in its advertising matter were grossly exaggerated or erroneously described, or are isolated instances of sales made by Ostrander students under the arrangement with said real estate development companies, described herein, during 'boom' times."

Aforesaid acts and things done and representations made by respondents, as alleged, "have the capacity and tendency to mislead

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and deceive the public and prospective students into the belief that the said respondent W. M. Ostrander had successfully used the so-called 'Ostrander System,' which he was offering to prospective students in the real estate business without experience, or education, and only nominal capital, and that any one without education and experience and capital by the use of said respondent's system, could make big money in their own home, in their spare time, and that others who had taken respondent's course of instruction and had used the so-called 'Ostrander System' had been successful, although they had little education, no business experience and no capital; and further, that Ostrander students were in demand by large real estate firms throughout the country because of their training under the Ostrander System, and that said respondent corporation would obtain positions for students with said real estate firms, paying large salaries, without cost to the students and without profit to the said respondent corporation, its officers and employees," and said acts and things "have further capacity and tendency to cause members of the public to apply for and subscribe to respondent corporation's said course of instruction in preference to the courses of instruction offered by the said respondent corporation's competitors," and are all to the injury and prejudice of the public and respondents' competitors and constitute unfair methods of competition.

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. 717), the Federal Trade Commission on June 29, 1929, issued and served its complaint upon the respondent, American Business Builders, Inc., and on March 22, 1930, issued and served its amended complaint upon American Business Builders, Inc., W. M. Ostrander, and Seth Moyle, respondents above named in which said complaint and amended complaint it is charged that respondents have been and now are using unfair methods of competition in interstate commerce in violation of the provisions of section 5 of said act. The said respondent, American Business Builders, Inc., having filed its answer to the original complaint and all the said respondents having filed their answers to the amended complaint hearings were held and evidence was introduced on behalf of the Commission and respondents before an examiner of the Federal Trade Commission duly appointed.

Whereupon this proceeding came on for final hearing on briefs and oral argument, the briefs having been filed on the part of the Commission and the respondents, and counsel for the Commission and the respondents having been heard in oral argument, 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. The respondent, American Business Builders, Inc., hereinafter referred to as the respondent corporation, is a corporation organized in May, 1921, under the laws of the State of New York with its principal office and place of business in the City of New York in that State. Respondent W. M. Ostrander is president and Respondent Seth Moyle was, prior to October, 1929, vice president of said corporation, which since the date of its incorporation, has been under the direct management and control of said individual respondents.

PAR. 2. Since its organization the respondent corporation has been and now is engaged in selling a certain course of instruction and service under the designation or title "Ostrander System for Becoming a Real Estate Specialist" to persons located in the various States of the United States and in foreign countries and has caused and still causes said course of instruction and service consisting of written lessons, textbooks, and pamphlets, when sold by it, to be transported by United States mail from its said place of business to, into and through other States of the United States, to said persons who purchased the same from respondent corporation located in various States of the United States and in the District of Columbia. Said respondent corporation in the course and conduct of its said business is in competition with other corporations, associations, and individuals engaged in the sale and distribution of courses of instruction sent by them through the United States mail in interstate commerce to persons located in various States of the United States and in the District of Columbia. Respondent corporation obtains students or subscribers for its course of instruction by means of advertisements placed in newspapers and popular magazines in general circulation throughout the United States and booklets, letters, circulars, and bulletins sent through the United States mail to persons and individuals replying to said advertisements, and also by certain sales promotion work in connection with its employment service which will hereinafter be more particularly described. Respondent sells between

8,000 and 9,000 courses of instruction each year at prices ranging from \$60 to \$65 each, and has had during the past five years and now has about 35,000 students receiving said courses of instruction located in nearly every State of the United States and in the District of Columbia.

PAR. 3. Respondent corporation in the course and conduct of its said business, described herein, has sought to induce prospective students to subscribe for its said course of instruction by representing in its advertising matter, hereinbefore described, that the respondent W. M. Ostrander had made a net profit of \$100,000 in less than five years (without indicating dates) as "A Real Estate Specialist" operating under the so-called "Ostrander System" with little education, no experience, no influence, and only \$5 capital; and that the said Ostrander System was being used to-day by Ostrander students to enable them to make big money in their own home in their spare time with little education, influence, or business experience, quoting from testimonial letters alleged to have been received from successful Ostrander students and purporting to describe the manner in which said students had succeeded in "making wonderful profits" ranging from \$8,000 a year to as high as \$14,000 in six months. The following representations contained in said advertisements during 1928, 1929 and 1930 are typical.

IF YOU WERE DOWN AND OUT

And I agreed to start you in a big, new money-making business of your own—WITHOUT CAPITAL OR EXPERIENCE—a business in which I have helped other ambitious men and women double, triple and QUADRUPLE their earnings, would you jump at it? You BET YOU WOULD!

Well, you may not be down and out. But if you are earning a CENT LESS than \$100 a week—\$5,000 a year—here is your chance to break into real estate MY WAY—build a big-profit business of your own—right at home—in your spare time—without capital or experience. My free book tells the whole story. Get it now!

FROM FAILURE TO SUCCESS

I like to get hold of the down-hearted—the discouraged—the "has beens" and the "also rans." It gives me a big "kick"—a real thrill—every time I help a man or woman who felt they were failures. It's easy enough to make successful men more successful. But give me the man who is struggling along—trying to make both ends meet—who has never had a real "look-in" on business success. The most fun I get out of life is turning such men into happy, contented, prosperous, independent business men. And I'm doing it right along! There's F. G. Baum, past 50, lost his job as bookkeeper, sick, discouraged, down-hearted. I got Baum started and he cleaned up \$8,000 his first year. And J. M. Patterson. He'd just landed in Texas with a baby, a sick wife and only \$10.20 in his pocket. He started to use my Successful Real Estate System, and writes me that he will clean up \$20,000 in profits this year. Send for my free book. Learn how I am helping others—and how I can help you—win big business success.

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NEW LIVES FOR OLD

I teach ambitious men and women my way of making big money in the Real Estate Business, without capital or previous experience. I give them new lives for old. I transform them from low-salaried employees to successful employers—in business for themselves—independent—prosperous—contented—men and women from 21 to 79—from all walks of life—former mill-hands, clerks, railroad men, barbers, hotel employees, grocers, salesmen, bookkeepers, teachers, ministers, printers, musicians, insurance solicitors, etc., etc. Take "Bill" Dakin for example. He worked for 50 years in a New York steel plant. Never had any schooling to speak of. Never had any real estate experience. Bill jumped at my offer. Writes me that last month he earned \$1,125 my way. Write for a free copy of my book to-day. Learn how wide-awake men and women are changing their jobs—trading old lives for new—with my System for Becoming a Real Estate Specialist. Address President, American Business Builders, Inc., Dept. J-55, 205 East 42 St., New York.

AMAZING PROFITS—\$17,000 IN ONE DEAL

Eugene Walfrath, formerly in the clothing business. Got my scientific System for making money in real estate. Cleaned up \$17,000 in one deal. Free book tells how he did it.

* * * * *

\$8,500 IN 17 WEEKS

That's the big money Chas. F. Worthen, Massachusetts, made with my successful Real Estate System. Free book tells you how I helped him to do it!

* * * * *

I STARTED WITH \$5.00 AND MADE \$100,000 IN 5 YEARS IN THIS BILLION DOLLAR BUSINESS

I was down and out, but averaged \$20,000 a year profit with a "fool idea." Since then I have showed hundreds how to make big money as Real Estate Specialists. Write for my free book. It tells my story and their story and points the way for you.

Some years ago I found myself broke. I was sick, tired and discouraged. But I had an idea.

I told some friends my idea. They laughed at me. I had no capital to invest. I had a little job—but could not afford to leave it. So I had to work my idea in my spare time. I had no office, so used my own room.

With my "fool" idea, in a few months I was making a nice living. Within two years I averaged \$1,000 a month. Five years later I had made \$100,000.

I had little education, no experience, no influence. My idea was to conduct a real estate business on a different plan. I reasoned this way: even with the haphazard methods used by real estate men they were making big money. My plan was new and different and so much better that I could not help succeeding.

Since then I have written down all the secrets I learned in the Real Estate business and I have taught these secrets to hundreds in all walks of life.

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READ MY STORY—AND OTHERS

My story, and the stories of many following in my footsteps, is told in my amazing free book. Write for it. That's the first step to take. Mail me the coupon. Read how W. E. Shoop, former weaver, made \$6,000 on his first sale; how Mrs. Evalynn Balster, widowed school-teacher, made \$5,500 commission on her first sale; how Eugene Walfrath, former clothier, cleared \$17,000 on one deal; how Thomas C. Mone, Jr., former insurance man, made \$28,000 in 6 months. How H. G. Stewart earned \$14,400 in commissions in 6 months. How Earl Beam earned \$910 in his spare time after supper. How Anthony C. Maurell made \$4,100 in 3 months. How Al West made \$3,200 in 15 days. How A. D. Perkins, former furniture dealer, made \$2,556 in 2½ months. How F. D. Bennett made \$435 on his first day. They all did it using my methods. * * *

HOW I MADE A FORTUNE WITH A "FOOL" IDEA

Learn my money-making secret—Be a Real Estate Specialist—
Start at home, in your spare time—Use my successful system—free
book shows how

"IT'S a fool idea!"

That's what my friends said, when I told them about my idea for starting a real estate business "on the side."

But with that "fool" idea I made more than one hundred thousand dollars net profit.

No matter who you are, where you are, or what your sex or present occupation, if you want to do what I did—if you want to get out of the \$25-a-week crowd and build up a high-class money-making business of your own—right at home—in your spare time—send at once for my free book, which opens wide the door of the biggest and best money-making business opportunity you ever heard of in your whole life.

USE MY SUCCESSFUL SYSTEM

When I started in real estate, I tossed overboard all the hit-or-miss, haphazard, rule-of-thumb methods of the past, and put into operation a system of my own which is as superior to the old way as the modern Mazda lamp is superior to the tallow candle of our forefathers.

With little education—no experience—no influence—and less than five dollars capital—I started in my spare time and met with instant success.

If you want to follow in my footsteps—if you want to use my amazingly successful system—send for my free book now. It tells how I succeeded—how I have helped other men and women win big success—how you, too, can succeed—how you can have a splendid business of your own and make more money than you ever made before.

In a booklet entitled "How to Become a Real Estate Specialist" which is sent to every person answering newspaper and magazine advertisements hereinbefore described, a detailed statement of what purports to be the history of W. M. Ostrander is set forth under the following caption:

HOW I MADE OVER \$100,000 IN LESS THAN 5 YEARS

From the 8-hour-day grind to independence!
 From daily drudgery to joyous work!
 From a few dollars a week to \$40,000 in a single year!
 That is my history as a real estate specialist.

Some of the typical statements contained therein are as follows:

I had neither money nor experience when I started work in the Real Estate field. I had something that is always more than either of those two things; namely, *an original idea, which was also practical.*

My idea was to get away from the mixing in every and all branches of Real Estate, and to specialize in the *advertising and sales* end of the business. I aimed to persuade as many owners as possible to spend some money in the *right kind* of advertising—and I planned, also to list as many properties as possible.

The success that I was able to attain was due to my laying aside the "cut and dried" methods of the average Real Estate business and by carefully developing a really new—and highly practical—system of my own. Results proved its worth beyond any possibility of question.

That, in brief, is the history of how I started as a Real Estate Specialist.

And how *my history* now becomes *your opportunity* is fully set forth in the following pages of this book.

On another page in this same booklet the following representations are made as to respondent Ostrander's experience, without indicating when it was done:

I'VE SOLD OVER 5,000 PROPERTIES IN THE 48 STATES

The only man who can show you how to sell real estate is the man who has sold it, and that is what I have done—sold it in every section of this country. In fact, considering the great variety of the properties and the many locations in which I have made sales, I don't believe the real estate sales record of any man can match mine.

No other man in America, that I ever heard of, has sold as many different kinds of property in so many different locations, as I have.

The man whose real estate experience has been confined to one town—one country—or, even one state—has had a limited and restricted experience compared with me, for I have sold property in *every* state, in the District of Columbia and in Canada.

LEARN TO MAKE MONEY FROM A MONEY MAKER

You want to make money. So does every normal man and woman. And it is a worthy ambition. To desire the good things of life for yourself and your loved ones is only right and proper. But you can't learn how to swim from a man who has never been in the water. Neither can you expect to learn how to make money from a man who never made any.

In teaching you how to make money as a Real Estate Specialist, I am only teaching you to do *what I have already done.*

I have had years of experience in the real estate business.

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I have sold thousands of properties, of various sizes and kinds, throughout the entire length and breadth of this country.

And I have made net profits running as high as \$40,000 in a single year.

Not only have I made big money myself, I've shown hundreds of others how to make big money. My methods can be used by anyone. You'll read stories in this book that will astound you—stories of widows, of boys, of men past 50 who were broken down in health and spirit, yes ready to die; grocers, clerks—all kinds of people, from all walks of life. They've all made big money using my successful Real Estate system.

I showed *them* how—and I can, and will show *you* how.

In truth and in fact respondent W. M. Ostrander had not been actively engaged in the real estate business for many years prior to the publication of the foregoing statements and when he was engaged in that business, operating under the so-called Ostrander system, he advertised extensively in publications, such as the Rural New Yorker, that he could sell property wherever it was located and listed thousands of properties charging the owner of the properties an advance or retainer fee to cover the expenses of advertising in newspapers in various sections and communities, the amount of such fee to be included in the commission if the property was sold. In April, 1905, respondent Ostrander in a report to the United States Post Office inspector in Philadelphia, Pa., in the course of an investigation being conducted by that Department with respect to the activities of said respondent, stated that from January 1, 1903, to January 1, 1905, he had listed 17,000 pieces of property and had made 727 sales; that he had received as advertising or retainer fees in his real estate department from owners of property \$322,449.29 and as commissions realized from the sale of property \$83,243.60; that during that period of time he had expended in advertising real estate \$161,928.54, salaries \$97,843.90 and had realized a net profit of \$187,905.79 from his entire business. At that time respondent Ostrander promised the United States Post Office inspector he would discontinue charging retainer or advance fee when property was listed for sale and that after that date any such fees received would be returned. The practice on the part of real estate agents or brokers of charging advance fees in the sale of property is one which is not customary and is not approved by the Realty Boards of New York City, composed of the leading real estate firms.

Furthermore, the testimonial letters published by the respondent corporation as described herein contained many false and misleading statements with respect to the earnings of the individuals named in respondent's advertising matter, said earnings not having been realized to the amount stated or the instances related were isolated and not typical and the profits or earnings were received as a result of speculation in the purchase and sale of real estate in "boom" times; and

some of the letters were written by students or subscribers to respondent corporation's course of instruction in response to respondent corporation's offer to pay prizes for the best letter of not more than 500 words describing how the student would use \$200 to start in business or to improve a business already begun and said letters were written and submitted to the respondent corporation in response to such offer and in some instances were published without the permission of the writers thereof and without knowledge on the part of respondent corporation as to the truth or falsity of the statements contained therein. Specific findings as to such a practice are hereinafter set forth in paragraph 5.

PAR. 4. Respondent corporation in the course and conduct of its said business described herein in cooperation with respondent Ostrander has sought to induce prospective students to subscribe for its said course of instruction by making statements in its advertising matter hereinbefore described with respect to the so-called "Ostrander System," of which the following are typical:

Fits you for every department of business;

A complete instruction for becoming a real estate specialist;

The most complete course of training in the real estate business ever prepared;

My Successful System. In the Ostrander System for becoming a real estate specialist you get a complete course in real estate education, training, and service. Nothing has been overlooked. Nothing has been omitted;

My practical, proved-out, time-tested methods make it easy for you to get started in a profitable business * * *. My lessons give such clear, concise, straightaway instructions that you can not go wrong;

My system covers the entire field of real estate in a complete and interesting way. In fact it is the most thorough, complete, simple, successful, money-making real estate system ever prepared.

In truth and in fact respondent corporation's course of instruction consists of 36 lessons which were mimeographed and sent to the students in groups of 3, covering in a general way the whole real estate field but emphasizing in certain "lessons" the so-called "Ostrander-System" of selling property. For instance, in the fourth lesson "How to List Property" reference is made to three methods, namely, (1) the ordinary old time system; (2) the exclusive listing; and (3) the Ostrander way, which is as follows:

I am going to summarize for you, now, what LISTING under THE OSTRANDER SYSTEM really means, in contrast to the other two methods. And NOTE THIS WELL: *What I tell you here will serve you as the best possible selling argument when you are building up a list of clients!*

Under the OSTRANDER SYSTEM the entering of properties in card-index files, where they can be instantly referred to, is only an incidental "first step"—and yet that is about all that the ordinary Real Estate agent does for a client. But under my system the property doesn't remain merely "listed." It doesn't stay "buried," waiting for some one to ask about it, before it is resurrected.

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EACH PROPERTY IS ADVERTISED—by an attractive, strong advertisement—in those “mediums” most likely to reach THE PROSPECTIVE BUYERS WHO WILL WANT THAT PROPERTY. Also, from the many INQUIRIES received, regarding various properties, the names of all persons who might be interested in that property in question are selected, and a DETAILED DESCRIPTION IS SENT to each of them. REFERENCE BOOKS (like R. G. Dun's), DIRECTORIES, CLIPPINGS, and other sources, also, furnish names of persons to whom to send such descriptions.

It is a part of THE OSTRANDER SYSTEM TO ADVERTISE PROPERTIES, EXTENSIVELY, and thus INQUIRIES are received from people who want almost EVERY IMAGINABLE KIND OF REAL ESTATE in localities ALL OVER THE COUNTRY. Unless a property is very large, or very unusual in some respect, *many of these inquiries will apply in regard to it, at least in a general way.*

It is also a characteristic part of THE OSTRANDER SYSTEM to KEEP IN TOUCH with representative REAL ESTATE BROKERS THROUGHOUT THE COUNTRY, and when one of these brokers writes in that he knows of some one who wants a property like one of those in your files, then A DESCRIPTION OF SUCH PROPERTY IS SENT TO THAT BROKER.

When INQUIRIES are received AS A RESULT OF THE INDIVIDUAL ADVERTISEMENTS of a property, those inquiries are vigorously FOLLOWED UP, until the person who has inquired makes a purchase, or else definitely states that *he is no longer interested.*

And ALWAYS, ALL THE TIME, it is an important point to KEEP AFTER EACH and every person who has become INTERESTED AS A RESULT OF THE CORRESPONDENCE carried on—CAREFUL COMPARISON being made of all fresh inquiries that develop.

Properties are listed, not just to stay in the files until some one “happens along” who wants them. Properties are listed to BE SOLD—and EVERY POSSIBLE EFFORT IS MADE TO SELL THEM!

When a Property Owner lists *with the average Real Estate Agent* using the old-time methods (or lack of methods) *that owner doesn't get any real SERVICE.* Under THE OSTRANDER SYSTEM, a fair ADVERTISING FEE is charged to cover the expense of THE OSTRANDER KIND OF LISTING. It is clear that THE OSTRANDER SERVICE could not possibly be rendered unless AN ADVERTISING FEE were paid, and it is also obvious that it would be entirely unfair for anyone to expect to receive such service without paying a reasonable fee.

THAT SERVICE IS HIGHLY VALUABLE, and means BIG RETURNS FOR THE CLIENT. And since there is considerable expense connected with “pushing” an individual property, that expenditure would be a dead loss to THE OSTRANDER REAL ESTATE SPECIALIST under the following circumstances, unless a fee were charged by way of protection—

When a client finds a buyer, himself.

When a client, for one reason or another, withdraws his property from the market.

When a sale is lost on account of a faulty title.

When a death “ties up” an estate.

When a property is listed at a “fancy” price.

When a client finds a buyer through the services of some other agent.

When a sale is lost as a result of a client's exaggerated (too "flowery") description.

When a property is destroyed by fire.

When a sale is prevented because of some unforeseen disturbing condition over which the OSTRANDER SPECIALIST has no control.

I am giving you below, as a guide, a list of the usual ADVERTISING FEES to be charged for THE OSTRANDER WAY of listing properties. It is to be remembered, of course, that these fees are not unchangeably *fixed*. THEY MAY BE VARIED to meet particular conditions or to special desires of individual OSTRANDER SPECIALISTS:

Property priced at—

\$1,000 or less charge Adv. Fee of.....	\$5
\$1,000 to \$3,000 charge Adv. Fee of.....	10
\$3,000 to \$10,000 charge Adv. Fee of.....	15
\$10,000 to \$20,000 charge Adv. Fee of.....	20
\$20,000 to \$30,000 charge Adv. Fee of.....	25
\$30,000 to \$50,000 charge Adv. Fee of.....	30
\$50,000 to \$75,000 charge Adv. Fee of.....	40
\$100,000 and up charge Adv. Fee of.....	50

Be careful not to misunderstand the term "ADVERTISING FEE." Realize, thoroughly, that if you accept an advertising fee from a Client, you *must* spend that money for advertising his property. Be sure to keep a clear record of this money—when received and also when and how spent.

When you advertise a client's property, get from the publication or the publication's agent, a receipted bill for the advertisement and paste a COPY OF THE ADVERTISEMENT thereon. You should of course keep on advertising that client's property until the amount of money he had paid you as an advertising fee has been used up.

In a later Lesson, I explain how to prepare your advertising, and my SCRAP-BOOK OF ADVERTISEMENTS GIVES TO YOU A SPLENDID COLLECTION OF EFFECTIVE ADS.

What you have studied in this Lesson has shown you, that the OSTRANDER SYSTEM, beyond any question or doubt is DISTINCTIVE, COMPREHENSIVE, EFFICIENT, and gets RESULTS. From what you have learned here, you know now what it means to list property the OSTRANDER WAY. You know the most effective way to handle the more purely MECHANICAL DETAILS of the lists; and you know, too, what is FAR MORE IMPORTANT—the HIGHLY VALUABLE SERVICE that the OSTRANDER REAL ESTATE SPECIALIST renders in LISTING PROPERTY for a client—and just how he is able to render that service. You know how to BUILD UP PROPERTY LISTS, how to KEEP ADDING TO THEM, and how to KEEP THEM REALLY ALIVE.

In my method, which I have described, of HOW TO LIST PROPERTY there are UNLIMITED POSSIBILITIES. In closing, however, I want to remind you once more of the extreme importance of the HUMAN FACTOR—that is, the importance of YOUR OWN INDIVIDUAL EFFORTS, which must be *ceaseless, unrelenting, persistent*.

An eminent engineer has evolved an interesting formula which can be very appropriately quoted here. He says, "THE EFFICIENCY OF ANY PROCESS INVOLVING HUMAN BEINGS AND EQUIPMENT EQUALS THE

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EFFICIENCY OF THE HUMAN BEING MULTIPLIED BY THE EFFICIENCY OF THE EQUIPMENT." In the present case THE OSTRANDER SYSTEM is the equipment that you have to work with—and IT IS 100 PER CENT EFFICIENT. Now what you should aim for is to DEVELOP 100 PER CENT EFFICIENCY IN YOURSELF AND THE RESULT WILL BE 100 PER CENT RESULTS. That, of course, is not to be accomplished in a day—but it is the ideal to be aimed at, and by KEEPING EVERLASTINGLY AT IT—as I said before—you will every day come nearer and nearer your goal.

The text of the course was actually prepared by respondent Ostrander and a text writer who had never had any experience in the real estate business.

Interspersed throughout the 36 "lessons" are numerous quotations from testimonial letters received from alleged successful students of the Ostrander System, most of which contain many false and misleading statements with respect to the earnings of the individuals named, said earnings not having been realized or the instances related were isolated and the earnings were received as a result of speculation in the purchase and sale of real estate in "boom" times and in no instance was the so-called Ostrander System of selling used by the testimonial writers. Supplementary to the course of instruction, and really made a part of it, many booklets and pamphlets containing suggestions and ideas of various real estate men, including particularly 24 lectures on "Practical Real Estate Methods" which were printed as a textbook in a Y. M. C. A. course of instruction in New York City approximately 15 years ago and the copyright of which is now owned by the respondent corporation. Each student is also entitled to receive and does receive copies of the "National Real Estate Review", a trade publication of the respondent corporation containing principally copies of testimonial letters and prize letters received from alleged successful students and pictures of such students and also so-called inspirational articles written to induce the students to continue the study of the respondent corporation's course of instruction, including a prize letter offer.

As to the value of the course, there is some conflict in the evidence. According to distinterested and impartial expert real estate educators called by the Commission respondent corporation's course of instruction contains a number of well-known and generally accepted principles presented in a forcible and attractive manner and also many pointers by a persuasive writer and salesman well acquainted with the principle of "selling psychology" making it interesting and suggestive to a real estate broker, but it is also ingeniously devised, overoptimistic in tone, with promises greater than its performance and a claim to originality where none exists; promising

complete scientific training and overemphasizing the value of the so-called course as against personal qualifications, such as ability, personality, etc., it is likely to attract the incapable, incompetent, and unfit and lead them to believe the elements of success in the real estate business is something that may be acquired and put on like a garment rather than the result of innate qualifications which may be associated and developed by proper study, the course, to a large extent, teaches selling tricks rather than a fundamental real estate knowledge and it makes claim to originality for the "Ostrander System" which consists solely of the idea of the advertising of listed properties and of requiring the owners to contribute toward the expense of such advertising which has been a known practice among some real estate men in New York and elsewhere; so far as the value of the course is concerned, more complete and valuable knowledge can be gotten by the study of a number of books on real estate; the course does not teach a prospective real estate salesman everything he needs to know, as advertised; it is not a practical proven-out, time-tested, workable system of instruction, as advertised; it is absolutely impossible for the uneducated, untrained man knowing nothing about real estate to establish himself in a high-class, independent real estate business simply by studying the "Ostrander System"; that part of the course which teaches salesmen in regard to selling lots and development properties is pernicious because it encourages clever talkers with no other qualifications, men of easy consciences with little, if any, knowledge of real estate principles to go on, with arguments that the course gives, based upon the fortunes made by outstanding examples in the past, and upon the sayings of famous men, regarding wise real estate investments, to go out among ignorant and uneducated people, often illiterate foreigners and sell lots in so-called "Developments" varying in merit from none at all to fair, and as to which the salesmen used to possess little, if any, judgment of his own to carry through transactions of that character with total disregard of the interests of the buyer, exemplified by page 5, lesson 17, of the said course of instruction which reads as follows in describing the success of one of respondent Ostrander's students:

A development recently opened by them makes its appeal particularly to foreigners, Italians, Ukrainians, Poles and Germans. He opened a store on the East side in the heart of the foreign district and a ballyhoo was carried on there which led the prospect to inspect and finally buy the property. Many sales were made right in the store from the map without property inspection at all.

That the Ostrander course is not the most complete course in real estate business that had ever been prepared; it is not the most

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thoroughgoing, comprehensive or practical real estate course ever prepared and does not equip the student for success in any branch of the business; that much of it is superficial, misleading and inadequate and is rather a treatise on clever salesmanship applied to real estate than a course in real estate practice.

On the other hand, according to the educator called by the respondent who was an expert in subdivision and development properties but who had no experience in general real estate business, the respondent corporation's course of instruction is a very good course of fundamental instruction to meet the needs of the man of limited education who lacks the time or the money to attend a residence course, and in a simplified form it gives most of the material that is given in a college course. It was admitted by this witness, however, that the course would not fit the beginner to be a successful real estate specialist, that no theoretical training will establish a man in business; nor will the course give a comprehensive knowledge of the art and science of real estate salesmanship although it would give a general knowledge; an uneducated, untrained man could establish himself in a high class real estate office by means of the course provided he had the ability and adaptability; the main idea of the respondent corporation's course of instruction is respondent Ostrander's system of listing and advertising property as set forth in the first lesson; the course is not a complete course in real estate as advertised, although it is practical, and he does not approve of so-called "ballyhoo" method of selling development property which is advocated in the said course, to which objection was made by the other experts.

PAR. 5. Respondent corporation in the course and conduct of its said business described herein sought to induce prospective students to enroll with respondent corporation, or subscribe for its course of instruction by representing in advertising matter hereinbefore described, particularly in a booklet entitled "Success Stories" which is sent to all prospective students through the United States mail and also furnished to them at mass meetings called by respondents Moyle and Ostrander as hereinafter set forth, to the effect that persons completing respondent's course of instruction became real estate specialists and experts and earn incomes of not less than \$5,000 per year; and publishes testimonial letters purporting to set forth the experiences of successful students who have taken the Ostrander course of instruction and by the training thereby received were enabled to earn from \$5,000 to \$25,000 per year, when in truth and in fact the testimonial letters published by the respondent corporation as described herein contain many false and mis-

leading statements with respect to the earnings of the individuals named in respondent corporation's advertising matter, said earnings not having been realized, or the instances related were isolated and were not typical or representative examples of the experience of average earnings of Ostrander students and the profits or earnings were received as a result of speculation in the purchase and sale of real estate in "boom" times, and some of the letters were written by Ostrander students in response to respondent corporation's offer to pay a cash prize of \$200 each month for the best letter of not more than 500 words describing how the student would use \$200 to start in business or to improve a business already started, and said letters were written and submitted to the respondent corporation in response to such offer and were sometimes published without the permission of the writers thereof and without knowledge on the part of the respondent corporation as to the truth or falsity of the statements contained therein. Furthermore, respondent corporation regularly followed the practice of soliciting testimonial letters from its students and publishing said testimonial letters and prize letters in the "National Real Estate Review", a trade publication edited and published by the respondent corporation and circulated among the Ostrander students, as aforesaid. The following are typical illustrations:

Mr. Eugene Walfrath, whose testimonial letter is advertised by the respondent corporation under the caption "Amazing Profits, \$17,000 in one deal," was never engaged in the real estate business, had never realized the profits mentioned and the letter he wrote to respondent corporation in which reference was made to such profits was in response to an offer for a prize.

Mr. Charles F. Worthen of Massachusetts, who was alleged to have made \$8,500 in 17 weeks, realized this amount during a boom in real estate in his section of the country in the spring and summer of 1926; that he had not earned as much in subsequent years and had done nothing for a couple of years as the factories were closed up in the mill towns; that he had written the letter containing the statement quoted by the respondent corporation in response to a request for testimonial letters from the respondent corporation; and that he had subsequently received a prize of \$200 on another letter written in response to respondent corporation's offer.

Mr. W. E. Shoop from his testimonial letter, is quoted by respondent corporation as having made \$6,000 on his first sale, did not make that amount of money and as a matter of fact has not been engaged in the real estate business since completing respondent corporation's course of instruction.

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Mr. Thomas C. Mone, Jr., who is advertised by respondent corporation as having made \$28,000 in 6 months, realized these earnings, principally from profits from purchase and sale of real estate in boom times in 1926, and has not realized such profits since that time and at the time of the hearing in this case was not making any money in the real estate business and had only made nominal profits in the last year or two.

Likewise Mrs. Kate Luke, whose testimonial letter was extensively used by respondent corporation in its advertising matter as earning an average income of \$200 per week or \$10,000 per year, actually earned over a period of 18 months approximately \$6,000, although she had not received this amount because of cancellation of some of her sales.

Also Mr. A. W. Fosgreen, whose testimonial letter was used by respondent corporation many times in its advertising matter, particularly in the booklet entitled "Success Stories" under the caption "Made \$8,000 in Three Months," was never engaged in the real estate business but had studied respondent corporation's course of instruction in 1926 during a real estate "boom" and at that time he made \$8,000 profits on the purchase and sale of some real estate, and although he allowed respondent to use his picture in 1927 he had not given permission since that time.

Mr. H. D. VanHouten, whose testimonial letter was also used by respondent corporation in advertising matter and particularly in the booklet "Success Stories" under the caption "Sold Over \$100,000 Worth of Property the First Year Under Your Methods," denied that he had made sales amounting to that after taking respondent corporation's course of instruction but had done so in 1925, the year before he subscribed for the course. Although he had made sales amounting to \$80,000 in 1927 he had not been able to sell that amount since and had done very little real estate business in 1929.

Mr. August Roeder, whose testimonial letter was also used many times in respondent corporation's advertising matter described herein under the caption "Makes \$150,000 in Less Than Four Years," although he admitted writing a testimonial letter containing such a statement in 1926, explained that he had never been in the real estate business but was engaged in the restaurant business and also operated a gasoline station, although he had bought and sold some real estate from 1923 to 1926; and that he took Ostrander's course in 1924 and 1925 but had not made profits amounting to \$150,000 as stated in his testimonial letter, the explanation being that was the valuation on certain real estate which he purchased and which had enhanced during the time he was taking the course of instruction.

Mr. Harry Irving Andrews, whose prize letter was used by the respondent corporation as a testimonial letter many times in its advertising matter under the caption "Net Profits of \$12,000 in Two Months" had never sold any real estate and had never made profits of that amount, the explanation being that the letter which he wrote for the \$200 prize was a "visualizing" letter.

Mr. Irving F. Hunt, whose testimonial letter was used many times by respondent corporation in its advertising matter described herein in connection with the employment service of respondent corporation as having achieved success with respondent corporation's system and is becoming a \$25,000 a year man in less than 18 months, was never engaged in the general real estate business but had been general manager of the George J. Brown organization, a lot development organization in New York City, and later of the D. T. Richards Co. and previously assistant general manager of the B. W. Sangor Co.; that although he had never sold a piece of real estate himself he had acted in the capacity of sales manager and had earned about \$8,000 a year from overwriting commissions on sales made by salesmen including Ostrander students and prospective students who were employed as part time salesmen in the organizations with which he was associated; he had received a \$200 prize and although he stated on direct examination for the respondent that the prize letter which was published in the National Real Estate Review under the caption "From a Short Story Writer to a Real Estate Expert in Fourteen Weeks" was a true statement of his experience he admitted on cross examination that the caption used was exaggerated; that he could not consider himself an expert in 14 weeks; that he did not follow the practice mentioned in the letter with respect to the Ostrander System of long distance selling, nor the system of group advertising which the Ostrander System taught; that he did not know of any real estate firms that used that system; and that his firm did not, and when asked why he did not put the Ostrander System into effect in his firm he replied that he was too busy selling real estate. He also admitted that only one lesson in the course was on Subdivision Properties in which he was interested; and that the only thing he got out of the course to assist him was the "basic thoughts leading me to investigate."

Mrs. Aurora G. Altman, whose testimonial letter was used many times by respondent corporation under the caption "Makes \$1,000 Monthly" and with a statement to the effect that she made these earnings "the Ostrander Way", had been engaged in selling real estate before she took the Ostrander System and has since been employed as sales manager by the George J. Brown Co., a lot de-

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velopment company, for about three years during which time from May 1, 1928, to May 1, 1930, she earned less than \$15,000 according to the records of that company.

Mr. Anthony C. Maurell, whose testimonial letter was used many times by respondent corporation in its advertising matter as hereinbefore described under the caption "Earns \$4,133 in Three Months", earned this amount during the spring of 1927 during a real estate "Boom" in New Jersey and has never earned that amount in that length of time since. During the period from April, 1929, to April, 1930, he earned commissions amounting to approximately \$7,500; he also received a \$200 prize for a letter he wrote the respondent corporation in February, 1928, in response to its offer.

Mr. George Bischoff, whose testimonial letter was used by the respondent corporation in its advertising matter under the caption "From Dishes to Dollars. A Restaurant Waiter Becomes a Real Estate Specialist" and with the representation that he earned a commission of \$1,833.53 in less than three months, on direct examination when he testified for the respondent corporation, stated that he had earned the commissions stated in his letter and that his average income since he started in business was \$4,000 per year; that he had taken the Ostrander course of instruction in 1926. On cross examination he testified that he had been selling Long Island development properties with the Commonwealth Associates, where a number of Ostrander students and prospective students were employed as part-time salesmen. According to the records of that concern during the period of time from January 1, 1929, to October 1, 1929, he earned commissions amounting to \$2,659. He also admitted on cross examination that the so-called Ostrander System which he had learned in the course of instruction as to listing of properties, that is the charging in advance of fees for advertising, had not been used by him; that it was very hard to list properties that way; that it was not practical.

Mr. William Dakin, whose testimonial letters were often used by respondent corporation in advertising matter and in mass meetings where Ostrander students and prospective students were urged to join sales organizations of lot development companies, under the representation that after 50 years in the steel mills he started all over again as a real estate specialist, making a wonderful success and making \$1,325 a month in his spare time and earned \$25,000 a year after he had gone into business for himself, on direct examination for the respondent corporation gave credit for his alleged success to the Ostrander System which he studied in 1925 and 1926; that he had earned \$3,200 in working in part time and that he had made some profit in the sale of some development properties in New York

City and Buffalo, estimating an income of \$5,000 a year including the profit on the sale of two houses. During 1929 he estimated he had made \$3,500. On cross examination he admitted that he did not use the Ostrander System in listing properties, that is charging owners a fee for advertising, although he had tried it once; that he saw that the advertising fee would interfere with his business. He also admitted that he received a prize of \$200 in 1926 for writing a letter for the respondent corporation in response to its offer.

PAR. 6. Respondent corporation in the course and conduct of its said business described herein, in cooperation with the said individual respondents, W. M. Ostrander and Seth Moyle, has sought to induce prospective students to subscribe for respondent corporation's course of instruction by representing in advertising matter hereinbefore described that there was "Nation-Wide Clamor for Ostrander Trained Specialists" and that numerous well-known real estate firms located in various cities of the United States demanded "Ostrander-Trained Men and Women"; "Ostrander-Trained Specialists"; "Ostrander Realty Experts" and that after students had completed their course of instruction they would be placed with such real estate firms by respondent corporation's employment bureau where they would be given an opportunity to earn from \$1,000 to \$2,000 a month under the guidance of established and experienced real estate men without a penny of extra cost. In one circular or broadside which was mailed by respondent corporation to all prospective students in 1928 respondent Ostrander advertised under the caption—

HERE IS MY ANSWER TO THIS NATION-WIDE
CLAMOR FOR MORE OSTRANDER-TRAINED
SPECIALISTS

My System At A Reduction Of Almost 30%—In Order to Prepare
1,000 Men and Women At Once For These Opportunities In This
Million Dollar Field

accompanied by a picture of respondent Ostrander and a map of the United States graphically indicating the alleged demand for Ostrander students, specialists, and experts, in various cities and States of the United States, particularly New York City, Stamford, Conn., Philadelphia, Pa., Buffalo, N. Y., Detroit and other cities in Michigan; Cleveland, Ohio, Chicago, Ill., Peoria, Ill., Indianapolis, Ind., Alabama, Florida, Mississippi, and Texas. Excerpts from letters alleged to have been received from real estate concerns in these various localities were also set forth in the bulletin to show "The Nation-Wide Clamor." In the lower right-hand corner is a picture of "126 Ostrander students placed with one big company" referring

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to a development company of New York City, George J. Brown organization. In this same circular pictures of approximately 80 alleged successful Ostrander students with short statements of their accomplishments are set forth with the following statement in large type:

Do You Want Earnings Like These?

followed by the following statement in small type—

My System Will Soon Put You Into This Big Money Class No Matter Where You Live, What You Are Doing Now, What Your Previous Education Has Been, How Old You Are, Whether or Not You Want To Operate Independently or Whether You Devote Spare or Full Time.

Respondent corporation also advertised in leading magazines as follows:

Wanted—Men, Women. Make \$5,000 to \$25,000 a year in Real Estate;

Wanted—Your Services as a Real Estate Specialist. Make Big Money!;

Wanted—100 Men with Cars. \$5,000, \$10,000, \$20,000 a year. Do What these Folks Did. Get My Free Book. Be a Real Estate Specialist. Start in Your Own Spare Time. Build a Permanent Business Of Your Own. Make More Money Than you Ever Made Before.

In truth and in fact there was no demand for Ostrander students as represented by respondent Ostrander in the foregoing described advertisements. During the year 1927 respondent Ostrander advertised in magazines and circularized real estate development companies in various sections of the United States and solicited business for Ostrander students located in the territory covered by such real estate firms. In doing so he called attention to the alleged success of these students in that type of work, enclosing a reprint of a page taken from the National Real Estate magazine featuring the alleged success of certain Ostrander students according to testimonial letters containing false and misleading statements with respect to the earnings of the individuals named, such earnings not having been realized or the instances were isolated and the earnings were received as a result of speculation in the purchase and sale of real estate in "boom" times. In respect to this circular letter and the advertisements referred to respondent corporation received inquiry from a number of real estate development companies during the year 1927, asking for full details, some of them stating that Ostrander students could be used in the sale of development properties, and such letters of inquiry were published in said circulars by respondents without the permission of the writers thereof.

Respondent Moyle, during the time he was vice president of the respondent corporation, had charge of its activities in placing Ostrander students and prospective students with real estate firms

which activities began in the fall of 1927 when he was instrumental in getting a number of Ostrander students and prospective students to join the sales force of the E. A. White organization in New York City, which concern was engaged in the sale of development property. Some of the students and prospective students made purchases from the White organization. In February, 1928, respondent Moyle, representing the respondent corporation, arranged a mass meeting of Ostrander students and prospective students in the Manhattan Opera House in New York City for the avowed purpose of building up a sales force for the George J. Brown organization, a newly organized lot development selling company. This meeting was attended by approximately 1,500 people and talks and speeches were made by alleged successful Ostrander students as well as respondents Ostrander and Moyle. As a result of that meeting a large number of Ostrander students and prospective students were employed as part time salesmen by the George J. Brown organization where they were placed under sales managers and were trained to sell development property. From time to time since that time similar meetings have been held and the sales force of the George J. Brown organization has thus been replenished as the unsuccessful salesmen would drop out. Respondent Moyle, representing the respondent corporation, assisted in this project by sending out circular letters urging students and prospective students to attend meetings of the George J. Brown organization and calling attention to the wonderful opportunities to be found in the sale of development properties. More than 13,000 prospective students and 2,500 students were solicited in this manner, in the metropolitan area surrounding New York City, in behalf of the George J. Brown organization and a smaller number in behalf of the Commonwealth Associates, another lot development organization in New York City.

Under a secret arrangement between respondent corporation and the George J. Brown organization, respondent corporation through respondent Seth Moyle received a commission of $2\frac{1}{2}$ per cent on all sales made by Ostrander students or prospective students employed by the George J. Brown organization until October, 1928, when it was agreed that the respondent corporation was to receive 1 per cent on all sales made by the George J. Brown organization. A similar secret arrangement was made between the respondent corporation and Commonwealth Associates, except that the commission received by the respondent corporation was 3 per cent on all sales made by Ostrander students and prospective students employed by the Commonwealth Associates.

During the year 1929, respondent Moyle, representing the respondent corporation prior to October, 1929, and thereafter representing

the Seltru Corporation, a subsidiary organized for that purpose by the respondent corporation, entered into secret agreements with the following-named real estate development companies whereby Ostrander students and prospective students were furnished such development companies as part-time salesmen with the understanding that respondent corporation was to receive a commission on all sales made by, and in some instances to, Ostrander students and prospective students:

Percy Wilson Co., Chicago, Ill.;

Liggett & Graul, Detroit and Flint, Mich.;

William Doerr, Buffalo, N. Y.;

Marentette Realties Corp., Detroit, Mich., development in Windsor, Canada.

The usual method followed by respondent Moyle in cooperation with the above-named real estate development companies to build up their sales forces with Ostrander students and prospective students was for him to mail to such students and prospective students in the vicinity of the real estate lot development company, circulars, bulletins, and form letters announcing a mass meeting to be held at a central point where Ostrander students would be given an opportunity to apply the knowledge they had been given by the Ostrander System in a practical remunerative way and citing a number of alleged successful Ostrander students who made thousands of dollars in a few months' time, such representations being false and misleading with respect to the earnings of the individuals named, said earnings not having been realized, or the instances related were isolated and the profits or earnings were received as a result of speculation in the purchase and sale of property in "boom" times and not as a result of any training received under the Ostrander System. Letters containing similar references to the alleged success of Ostrander students were sent to prospective students urging them to attend the meeting of the lot development company where they would be given a chance to earn while they learned. When the meetings were held they were usually addressed by respondents Moyle and Ostrander and lantern slides containing pictures of the alleged successful students in the Ostrander course and bulletins and circulars and verbal representations were made with respect to such individuals to the same general effect. Copies of "Success Stories," a pamphlet published by respondent corporation, featuring the alleged success of Ostrander students which has been hereinbefore described, were distributed at such meetings. During the years 1928 and 1929, respondent Moyle, representing the respondent corporation, circularized approximately 10,000 prospective students and 2,500 students outside of the metropolitan area of New York City in the manner just described.

The total amount of commissions earned and received during 1928 to 1930 by the respondent corporation from the respective development companies is as follows:

	Earned	Received
George J. Brown	\$28, 123. 61	\$12, 800. 16
Commonwealth Associates.....	4, 689. 15	2, 175. 20
Liggett & Gaul.....	3, 452. 50	804. 57
Percy Wilson.....	243. 29	243. 29
Marentette Realities Corp.....	450. 00	450. 00

While a few of the Ostrander students became sales managers and were enabled to earn substantial commissions on sales made in lot development projects, the earnings of the vast majority of the cases of Ostrander students and prospective students in said projects were nominal and were not as large as advertised by respondent corporation in its advertising matter. For instance, in the Commonwealth Associates organization in New York City were 42 Ostrander students and prospective students were employed as salesmen during the period beginning July 1, 1929, to May 1, 1930, only 3 earned more than \$1,000 in gross commissions during that period of time, although one earned approximately \$2,600 during the period from January 1, 1929, to October 1, 1929, and the sales manager, who although not an Ostrander student claimed he had read the Ostrander course of instruction while employed in a printing office, earned \$12,300 during the 16 months' period from January 1, 1929, to May 1, 1930. The earnings of the other 37 ranged from \$31 to \$700, the great majority being less than \$100. In the George J. Brown organization which is prominently featured in respondents' advertising matter in this connection, the largest earnings were made by a sales manager from March, 1928, to May 1, 1930, and amounted to \$14,600.

PAR. 7. Respondent corporation in the course and conduct of its said business described herein represented in its advertising matter heretofore described that there was no risk to the subscriber "because of a money-back bond issued by the respondent corporation which would protect the subscriber", when in truth and in fact such alleged "bond" was merely a promise on the part of respondent Ostrander to return to the subscriber or student the amount paid in if he was not fully satisfied, "provided he returns the course and makes his claim within thirty days after final payment has been made and states in writing his reasons why such claim has been made." Respondent corporation also advertised and represented in its said advertising matter herein described that it would give \$1,000 in gold for proof of any other business course in service of any kind that has helped as many people make as much money in as short a time as respondent corporation's real estate course and service.

Findings

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PAR. 8. Said respondent corporation in the course and conduct of its said business described herein is in competition with approximately 185 resident schools in various colleges and other institutions of learning, located throughout the several States, teaching courses on real estate, and the American Real Estate Institute, sponsored by the National Association of Real Estate Boards, which, for a number of years, has been publishing and distributing home study courses on real estate and, which, in 1927 began the publication of specialized courses, including a course on real estate selling, such course being published and distributed in interstate commerce in substantial quantities to the members of real estate boards and their employees throughout the country. Said competitors in the course and conduct of their said business have not utilized the practices and methods followed and observed by said respondent corporation as heretofore set forth.

PAR. 9. The aforesaid acts and things done, and the representations made by the said respondent corporation and individual respondents W. M. Ostrander and Seth Moyle, have the capacity and tendency to mislead and deceive the public, students and prospective students, into the belief that the said respondent W. M. Ostrander had recently used the so-called Ostrander System in building up a successful real estate business, earning as high as \$40,000 per year with no capital and without education or previous experience, and that through the study of respondent corporation's course of instruction featuring the so-called "Ostrander System", anyone without education, experience, or capital by the use of said system could earn large profits in their own homes in their spare time, and that others who were taking respondent corporation's course of instruction, and had used the so-called "Ostrander System", had been eminently successful although they had had little education, experience and capital; and further that Ostrander students were in demand by large real estate firms throughout the country because of their training under the "Ostrander System", and that said respondent corporation would obtain positions for its students with such real estate firms, where such students could earn from \$5,000 to \$25,000 annually without cost to the students and without profit to the respondent corporation, officers, or employees; and in that belief and relying upon said representation to apply for, and subscribe to, respondent corporation's course of instruction in preference to the course of instruction offered by competitors of said respondent corporation, thereby diverting students and prospective students from said competitors that do not make such false, fictitious, exaggerated, misleading and deceptive statements and representations.

CONCLUSION

The acts and practices of respondent set forth in the foregoing findings as to the facts constitute, under the circumstances therein stated, unfair methods of competition in interstate commerce in violation of 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".

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, answer of the respondents, and testimony having been taken and the Commission having made its findings as to the facts and its conclusion that the respondents have been and now are violating 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",

It is now ordered, That the respondent corporation, American Business Builders, Inc., its officers, directors, agents, representatives, servants, and employees, and individual respondents, W. M. Ostrander and Seth Moyle, their agents, representatives, servants, and employees, do cease and desist directly or indirectly by advertisements in magazines and newspapers, or in circular letters, bulletins, pamphlets, broadsides, or by lantern slides, or films, or otherwise in connection with the sale of a course of instruction in interstate commerce between and among the several States of the United States, or between any State and the District of Columbia, or in the District of Columbia:

1. Representing in any way that the so-called Ostrander System for becoming a "Real Estate Specialist" is proved-out, time-tested, and covers the entire field of real estate; and is the most thorough, complete, successful, money-making real estate system ever prepared, or words to that effect.

2. Representing in any way whatsoever the earnings or experience of respondent Ostrander, while engaged in the real estate business, so as to make it appear that such earnings and experience resulted from the use of the so-called "Ostrander System" of selling real estate, and that the students to-day, with little capital and no experience, by the study of said Ostrander course and by the use of the so-called "Ostrander System" taught by said course, will be enabled thereby to earn as much in the real estate business as said respondent Ostrander.

3. Representing in any way whatsoever that upon the completion

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of, or by taking said course of instruction, a person will become a real estate "specialist" or "expert" and will be enabled to earn from \$5,000 to \$25,000 per year by the use of the so-called "Ostrander System" as taught in said course of instruction either in business for himself or with an established real estate firm.

4. Misrepresenting in any way whatsoever the earnings of students or persons who are taking or have completed said course of instruction, and particularly from representing that profits obtained from speculation in real estate constituted earnings or commissions received by such students or persons, as a result of the use of the so-called "Ostrander System" of selling real estate.

5. Publishing in any way whatsoever testimonial letters or excerpts therefrom or parts thereof received from students who are taking or have completed said course of instruction, purporting to set forth their success in the real estate business as a result of taking said course of instruction when respondents, or any of them, know or by the exercise of reasonable care should know that the statements in the testimonial letters quoted are untrue or misleading.

6. Publishing in any way whatsoever in whole or in part letters received from students taking, or having completed, said course of instruction, when the same are submitted in response to offers for cash prizes or other prizes of substantial value without disclosing the fact that said letters had been written by said students in response to offers for cash prizes or other prizes of substantial value.

7. Representing in any way whatsoever that there is at the present time a great demand among established real estate firms for "Ostrander-trained specialists," or men and women trained under the so-called "Ostrander System" or who have taken said course of instruction.

8. Representing in any way whatsoever that students taking and students having completed said course of instruction have been or will be placed by respondent corporation or by one of its representatives with real estate development companies so as to make it appear that said students would be given a preference over any other agents of said development companies, and without disclosing that said development companies paid commissions to said respondents directly or indirectly for all students and prospective students or other individuals not students or prospective students employed by said development companies upon the recommendation of the respondents, or any of them.

9. Publishing in any way whatsoever, in whole or in part, letters received from real estate development companies with respect to demand for employment of Ostrander students, when such letters are not current and are printed without their dates, or in such a man-

ner as to represent or imply that such a demand exists as of the time of their publication, when such is not the fact; and also when such letters are induced by misrepresentations of the respondents as to the experience or earnings of Ostrander students in the sale of real estate; and also without disclosing the fact, when it is a fact, that such development companies pay commissions directly or indirectly to respondents or some of them on all sales made by Ostrander students who may be employed by such development companies.

10. Representing in any way whatsoever that the promises, agreements, or obligations of respondents, or any of them, are under bond, unless and until respondent corporation executes a bond, or bonds, to cover said promises, agreements, and obligations, and in sufficient amount to indemnify against any default in said promises, agreements or obligations.

It is further ordered, That each of the said respondents within 60 days from and after the date of the service upon them of this order, shall file with the Commission a report or reports in writing, setting forth in detail the manner and form in which they are complying and have complied with the order to cease and desist hereinabove set forth.

Complaint

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IN THE MATTER OF

ISAAC SHAININ, BERNARD SHAININ, SOLOMON SHAININ
AND JESSE SHIENSIN, A PARTNERSHIP TRADING
UNDER THE FIRM NAME AND STYLE OF I. SHAININ &
COMPANYCOMPLAINT (SYNOPSIS), FINDINGS AND ORDER IN REGARD TO THE ALLEGED
VIOLATION OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 1780. Complaint, Apr. 7, 1930—Decision, Mar. 10, 1931*

Where a firm engaged in sale of Chinese art goods, vases and semiprecious stones, imported and sold, described and invoiced as "rose quartz" beads, beads carved from rose quartz and artificially dyed to supply the distinctive natural rose tint lacked by such particular beads and long associated by trade and public with beads sold under aforesaid designation, without disclosing to wholesaler vendees the essential and material fact that said inferior and less costly beads had been so dyed or artificially colored or tinted; with capacity and tendency to mislead and deceive such vendees into believing said heads to be those possessing the natural rose color and in large demand for necklaces by reason thereof, and to induce their purchase in reliance on such belief, and put into the hands of dealers means of misleading their own dealer customers, prospective customers, or consumers, as the case might be, and thereby divert trade to said firm from competitors engaged in selling as rose quartz beads, beads possessing such natural rose color, without artificial heightening, deepening, dyeing or tinting:

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

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondents Isaac Shainin, Bernard Shainin, Solomon Shainin, and Jesse Shensin, partners, engaged in the importation and sale of Chinese art goods, vases, and semiprecious stones to wholesale jewelry dealers, with misrepresenting nature 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 partners, as charged, engaged as above set forth, import, offer and sell, and by invoice or otherwise describe and designate as and for rose quartz beads, beads cut or carved from so-called quartz, and so dyed as to acquire and have the deep rose color long and still identified by the public with genuine rose quartz beads carved from quartz in Germany, Switzerland and elsewhere,