

Syllabus

IN THE MATTER OF

AVIATION INSTITUTE OF U. S. A., INCORPORATED

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

Docket 1834. Complaint, May 20, 1930—Decision, September 21, 1931

Where a corporation (1) engaged in selling a correspondence course in aviation to students in practically all the States, and in many foreign countries from its place of business in Washington, D. C., and (2) headed by a person, who held no commission as lieutenant or other officer in the Navy or in the Air Corps of the United States Army or any other branch thereof, and held no office in any department or branch of the Government but had come to be identified in the public press, in official correspondence, and otherwise, by his name, and title as a former lieutenant in the Navy, as a result of his part in a famous Navy trans-Atlantic flight, and of other subsequent exploits,

- (a) Included the letters U. S. A. prominently in its trade name Aviation Institute of U. S. A. and in its corporate name Aviation Institute of U. S. A., Incorporated or Aviation Institute of U. S. A., Inc., and made extensive use of said trade name in its business and school stationery and papers, advertisements, catalogues, enrollment blanks, printed lessons, etc., and, less frequently, of its corporate name or both, and in connection with such use of said trade and corporate names usually set forth on the same line the words "Washington, D. C.";
- (b) Made general use of the title "Lieutenant" or the abbreviations thereof in referring to its aforesaid head or president in catalogues, enrollment blanks, advertisements, and other printed matter bearing its trade or corporate names and Washington address, as above set forth, and referred therein to said lieutenant and "staff";
- (c) Displayed and used in catalogues, advertisements, enrollment blanks, textbooks, registration and graduation certificates, and other printed matter an insignia or trade-mark consisting of wings separated by a shield and resembling in such respects the Naval Aviation insignia and those employed by the air corps of the United States Army, though distinguishable therefrom by careful side by side comparison;
- (d) Made use of pictorial representations of what might be said to be the dome of the National Capitol and of the Washington Monument on letter-heads, and in catalogues reproduced a letter of indorsement addressed to its said president by the Assistant Secretary of War on the official letter-head of the War Department, and set forth in such catalogues (1) statements emphasizing its Washington location and the Government activities centering there and relating to the conduct and development of aviation in its various phases, and (2) the indorsement of the course by Army and Navy officials, etc., together with said letter, and stated that such factors "help make Aviation Institute training the complete service that it is";

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With the capacity and tendency to mislead and deceive the public and to cause it to enroll for said course and contract therefor under the erroneous belief that it or its course was officially connected or closely affiliated with the Army or Navy or some department of Government or was under supervision or direction of some officer or employee thereof and conducted in accordance with the requirements of the Army, Navy, or some Government branch, and that through such supposed official connection or affiliation it was in a better position to give information and instruction than its competitors, and with the capacity and tendency thereby to prejudice and injure the public, divert trade unfairly from and otherwise prejudice and injure competitors' business, and operate as a restraint upon and a detriment to freedom of fair and legitimate competition in the conduct of the business concerned in interstate commerce:

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. James W. Nichol, for the Commission.

Mr. Marvin Farrington, of Washington, D. C., for respondent.

SYNOPSIS OF COMPLAINT

Reciting its action in the public interest, pursuant to the provisions of the Federal Trade Commission Act, the Commission charged respondent, a New York corporation, engaged in the sale of a course of instruction in aviation by correspondence, and with principal place of business in Washington, D. C., with using misleading corporate name and advertising falsely or misleadingly as to Government indorsement or connection, in violation of the provisions of section 5 of such act, prohibiting the use of unfair methods of competition in interstate commerce.

Respondent, as charged, engaged as above set forth, and having no official connection with the Army, Navy, nor any department or branch of the Government, nor conducting its course in accordance with the requirements or under the supervision or direction thereof, or any officer or employee thereof, though headed by a former lieutenant in the flying service of the Navy,² employs trade and corporate names including the letters "U. S. A.",³ features the same in catalogues, advertisement, and enrollment blanks etc., displays a depiction of wings simulating the well-known insignia adopted and

² But who at and since respondent's organization held no commission as lieutenant or other officer in the Navy or in the Army or in any office in any department or branch of the Federal Government.

³ As alleged in the complaint: "The letters 'U. S. A.' constitute an abbreviation of the terms 'United States Army' and 'United States of America'; and they are and at all times herein mentioned have been understood and recognized by the purchasing public of the United States as signifying and indicating 'United States Army' and 'United States of America'."

used by the Army, makes extensive use of the military title formerly held by its head, sets forth depictions of the dome of the Capitol and of the Washington Monument on its letterheads, dwells upon and emphasizes official aviation activities of one sort and another, and official investigations, etc., relating to aviation in connection with its own Washington location,⁴ claims indorsements by Army and Navy officials, and reproduces a facsimile of a letter of indorsement from the Assistant Secretary of War, on the official letterhead of the War Department.

Respondent's use, as alleged, "of said letters U. S. A. in its corporate and trade names, with or without the simulation of the insigna adopted and in use by the United States Army in connection with its flying service, the extensive use of the military title "lieutenant", and the use by it in its advertising matter of pictorial representations and expressions, as set forth * * * in advertising its course of instruction in the art of aviation and in soliciting students therefor—all as hereinbefore set forth—is calculated to and has had and has the capacity and tendency to mislead and deceive the public, and/or does mislead and deceive the public, and cause, a substantial portion thereof to enroll as students with said respondent, Aviation Institute of U. S. A., Inc., and to purchase said printed or written lessons, instructions, charts, drawings, textbooks, and various supplies and appliances to be used by said students in and about the study and acquisition of the art of aviation, under the erroneous belief that said respondent, Aviation Institute of U. S. A., Inc., is officially connected or closely affiliated, either directly or indirectly, with the United States Army or Navy, or with some other department or branch of the Federal Government;⁵ and/or that its course of instruction is conducted in accordance with the requirements or under the supervision or direction of the United States Army or Navy, or some other department or branch of the Federal Government, or some officer or employee thereof; and/or, that because of such supposed official connection or affiliation, as set forth above said respondent is in a better position to give information and instructions than competing institutions teaching the art of aviation by correspondence."

⁴ Matter, in this connection, taken, as alleged, from respondent's advertising may be found set forth, *infra.*, in the findings, at page 260 (paragraph beginning "The Aeronautics Bureau", etc.), page 261 (paragraph beginning "The general offices", etc.), and page 261 (paragraph beginning "There are definite reasons", etc.).

⁵ In this general connection complaint alleges: "The United States Army and Navy both maintain aviation schools, where courses in military and naval aviation, respectively, are given students wishing to qualify for commissions in these branches; the Aeronautics Branch of the Department of Commerce is engaged in the promotion and regulation of civil aeronautics; and the Air Mail Service of the Post Office Department has general supervision of the transportation of mail by air."

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The aforesaid alleged false, misleading and deceptive acts and practices of respondents, as charged, "under the circumstances and conditions hereinbefore set forth, have and had the capacity, tendency and effect of unfairly diverting trade from and otherwise injuring the business of respondent's competitors, are to the prejudice and injury of the public, 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," the Federal Trade Commission issued and served a complaint upon the respondent, Aviation Institute of U. S. A., Inc., charging said respondent with the use of unfair methods of competition in commerce in violation of the provisions of section 5 of said act. The respondent thereafter having filed answer to said complaint, and having made, executed, and filed an agreed statement of facts, in which it is stipulated and agreed by and between the respondent and the Federal Trade Commission that the said Commission may take said agreed statement as the facts in this proceeding and in lieu of testimony in support of the charges stated in said complaint or in opposition thereto, and that said Commission may proceed upon said agreed statement to make its report, stating its findings as to the facts (including inferences which it may draw from the said stipulated facts) and its conclusion based thereon, and enter its order disposing of the proceeding—the right of both the Commission and respondent to file briefs and present oral argument being expressly reserved; thereafter this matter came on regularly for final hearing on the briefs of counsel and oral argument, and the Commission, having duly considered the record, and being now fully advised in the premises, makes this its findings as to the facts and conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. (a) Respondent, Aviation Institute of U. S. A., Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of New York. The original certificate of incorporation, which was filed April 21, 1926, was under the name of Aviators Preparatory Institute, Inc., and under this name an office was established at 501 Fifth Avenue, New York City, and later at 71 West Forty-fifth Street, New York City, the corporation having

a capitalization of 240 shares of no par value stock. The name of the corporation was changed to Aviation Institute of U. S. A., Inc., by a certificate filed July 5, 1927, and during the month of July, 1927, the office was removed to 1115 Connecticut Avenue, Washington, D. C., where it has since been located. The officers of the corporation are: Walter Hinton, president, James E. Smith, vice president and treasurer, and M. V. Engelbach, secretary and general manager. (Agreed statement of facts, par. 1 (a).)

(b) Since its organization, respondent has been and is now engaged in the business of selling a course of instruction and instruction service in the art of aviation, by correspondence through the United States mails, to persons hereinafter referred to as students, residing in the District of Columbia and at points in various States of the United States. Respondent's present enrollment records include students in practically every State of the United States and many foreign countries. (Agreed statement of facts, par. 1 (b).)

(c) In the course of its said business, and in order to secure students therefor, respondent has caused and causes advertisements offering its course of instruction and instruction service to be inserted in newspapers, magazines, periodicals and other publications of extensive circulation throughout the United States and various sections thereof. After securing the names of prospective students by means of advertisements inserted, published and distributed as thus set forth, respondent sends, to said prospective students, catalogues, letters, leaflets, and other like literature offering and describing its course of instruction and instruction service and setting forth the terms upon which it is sold, etc. (Agreed statement of facts, par. 1 (c).)

(d) As a result of the advertisements, catalogues, letters, leaflets, and other like literature inserted, published and distributed as aforesaid, numerous students execute the contract contained in respondent's "enrollment blank" (Exhibits 42 and 43¹ to the agreed statement of facts) and thereby contract with respondent for its course of instruction and instruction service, and, pursuant to the terms of said contract, respondent sends by mail from its place of business in the City of Washington, in the District of Columbia, to said students at their respective places of residence in the District of Columbia and in the various States of the United States, and certain foreign countries, for use by said students in and about the pursuit and study of its course of instruction, printed lesson texts or instruction books, which contain, in addition to the text proper, and as supplementary and explanatory thereof, numerous drawings, photographs, cuts, sketches, and diagrams. At the present time, respondent publishes

¹ Exhibits not published.

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and distributes to its students as aforesaid 36 separate and distinct printed lesson texts or instruction books, each of which covers a different subject in its course of instruction. One of such instruction books appears as Exhibit 64 to the agreed statement of facts. Ordinarily, said printed lesson texts or instruction books are the only lesson texts sent by mail by respondent to its students. In special cases where students require or desire special and/or additional instruction, such special and/or additional instruction or questions, usually in typewritten form, are sent by mail to such students by respondent without additional or extra charge as a regular part of the respondent's course of instruction. In connection with its course of instruction, respondent, in addition to printed lesson texts or instruction books and/or special and/or additional instructions or questions in typewritten form, sends by mail to its students for the convenience of the respondent sets of notebook covers, examination paper upon which to return answers to the printed or typewritten lessons, and return envelopes for inclosing said answers. (Agreed statement of facts, par. 1 (d).)

In consideration for respondent's said course of instruction and instruction service, as offered and set forth in its said enrollment blank and all other literature and letters, as hereinbefore set forth—respondent's said students pay and remit to respondent certain agreed sums of money, upon the terms as set forth in respondent's said enrollment blank. (Agreed statement of facts, par. 1 (d).)

Upon properly completing respondent's full course of instruction, students are entitled to and supplied by respondent with a graduation certificate suitable for framing and a student's certificate bearing the student's photograph in a pocket case. (Exhibits 65 and 66 to the agreed statement of facts.) (Agreed statement of facts, par. 1 (d).)

(e) In the course and conduct of its business, as hereinbefore set forth, respondent is and has been in competition with individuals, partnerships, and other corporations also engaged in the business of selling courses of instruction in the art of aviation by correspondence to students located in the District of Columbia and in various States of the United States. (Agreed statement of facts, par. 1 (e).)

PAR. 2. In the course and conduct of its business, as set forth in paragraph 1 hereof, respondent has described and describes itself, and has employed and employs as a trade name or designation the words "Aviation Institute of U. S. A." as follows:

(1) On its printed lesson texts or instruction books. There are 36 of such books, and the designation referred to is used in 5 and sometimes 6 places in each. A sample of these textbooks appears in the record as Exhibit 64 to the agreed statement of facts.

(2) On many of its advertisements: (a) In advertisements in magazines and periodicals covering the years 1927 to 1930 (Exhibits 1 to 22, both inclusive, to the agreed statement of facts); (b) In circulars used from 1927 to 1930, of which, according to figures furnished by respondent and appearing in the agreed statement of facts, approximately 1,002,968 copies have been issued (Exhibits 26, 28, 31, 33, 35, 36, 38, 54 and 55, to the agreed statement of facts);

(3) On one of its catalogues, entitled "Wings of Opportunity," now in use, of which approximately 88,000 copies have been issued (Exhibit 60 to the agreed statement of facts);

(4) On one of its letterheads, of which approximately 112,874 have been distributed (Exhibit 23 to the agreed statement of facts);

(5) On its reply and other envelopes: (a) On its business reply envelope, still in use, and of which approximately 800,000 have been issued (Exhibit 24 to the agreed statement of facts);

(b) On an envelope used in sending the student his first working papers, in present use, and of which approximately 9,950 have been issued (Exhibit 59 to the agreed statement of facts);

(6) On money-order blanks, still in use, and of which approximately 645,000 have been issued (Exhibit 25 to the agreed statement of facts);

(7) Registration certificate, in present use, in 3 places, and of which approximately 5,000 have been issued (Exhibit 62 to the agreed statement of facts);

(8) Graduation certificate, in present use, in 3 places (Exhibit 65 to the agreed statement of facts);

(9) Blank used to obtain employment qualification information from nonstudents, and of which approximately 2,000 have been issued (Exhibit 56 to the agreed statement of facts);

(10) On page 1 of an old catalogue "Rich Rewards in Aviation," of which approximately 21,700 copies have been issued (Exhibit 58 to the agreed statement of facts);

It has described and describes itself by its full corporate name, viz: Aviation Institute of U. S. A. Incorporated or Aviation Institute of U. S. A. Inc. as follows:

(1) On all but one of its letterheads, in use from 1928 to the present time, of which approximately 1,139,500 have been issued (Exhibits 26a, 27, 29, 32, 34, 37, 40, 44 to 52, inclusive, to the agreed statement of facts);

(2) Some of its advertisements: (a) Flying-school circular, of which approximately 114,000 have been issued (Exhibit 39 to the agreed statement of facts); (b) Circular, of which approximately

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44,000 have been issued (Exhibit 53 to the agreed statement of facts);

(3) Some of its catalogues: (a) Page 32 of an old catalogue "Rich Rewards in Aviation," of which approximately 21,700 copies have been issued (Exhibit 58 to the agreed statement of facts);

(4) On a money-back agreement, now in use, of which approximately 75,000 copies have been issued (Exhibit 30 to the agreed statement of facts);

(5) On a postal card, now in use, of which approximately 13,000 copies have been issued (Exhibit 41 to the agreed statement of facts);

(6) On a students' qualification record, of which approximately 8,000 copies have been issued (Exhibit 57 to the agreed statement of facts);

and in a few instances has described and describes itself under both the trade name or designation Aviation Institute of U. S. A. and its full corporate name, as hereinbefore set forth:

(1) On its enrollment blanks, old and new forms, of which approximately 65,600 copies have been issued (Exhibits 42 and 43 to the agreed statement of facts);

(2) On a sticker used for addressing large envelopes, of which approximately 52,000 have been issued (Exhibit 61 to the agreed statement of facts);

(3) Flying-school credit check, of which approximately 1,000 have been issued (Exhibit 63 to the agreed statement of facts);

(4) On a student's certificate, suitable for a pocket case (Exhibit 66 to the agreed statement of facts);

all of said printed or written matter being circulated through the United States mails as aforesaid in the District of Columbia and in commerce between the District of Columbia and various States of the United States. (Agreed statement of facts, par. 2.)

On, to wit, May 17, 1930, respondent issued written orders to its employees, advertising agency, printers and publishers with which it does business, directing that in all cases where its name is used, in printed literature or correspondence, it be used in its full and complete form, viz: Aviation Institute of U. S. A., Inc. or Aviation Institute of U. S. A., Incorporated. (Agreed statement of facts, par. 2.)

The Commission finds, after a careful consideration of all of the above evidence, that respondent's full corporate name is Aviation Institute of U. S. A. Inc.; that respondent has made extensive use of the trade name or designation Aviation Institute of U. S. A. in describing itself; that to a considerably lesser extent it has used its full corporate name Aviation Institute of U. S. A. Incorporated or Avia-

tion Institute of U. S. A. Inc.; and that in a comparatively few cases it has used both the trade name Aviation Institute of U. S. A. and its full corporate name as aforesaid; that the letters U. S. A., as used in said trade and corporate names as aforesaid, occupy a prominent position in said names, appearing always in capitals, and usually on the same line as the remainder of the names; and that the address of the respondent, viz: Washington, D. C., with few exceptions, is used by respondent in connection with its trade and corporate names.

PAR. 3. In the course and conduct of its business, as described in paragraph 1 hereof, respondent, in addition to the use of the trade name or designation Aviation Institute of U. S. A. has used and displayed and uses and displays in catalogues, advertisements, enrollment blanks, text books, registration and graduation certificates, and other printed matter circulated in the District of Columbia and in commerce between the District of Columbia and various States of the United States—an insignia or trade-mark, consisting of an angular shield, the outline of which is composed of straight lines, joining each other at obtuse and acute angles, said shield having across its surface or face a wide bar set at an angle with the horizontal, higher on the right side than on the left, said shield being located between two slim conventionalized bird's wings, the top boundary of which is a straight horizontal line; and said shield bearing the respondent's trade name Aviation Institute of U. S. A., without the suffix Inc. or the word Incorporated.

As an illustration of respondent's use of its said insignia or trade-mark, attention is called to the printed reproduction appearing on the front cover of Exhibit 64 to the agreed statement of facts. (Agreed statement of facts, par. 3.)

The Air Corps of the United States Army uses an insignia, consisting of two spread, curved, birdlike wings, separated as follows: (a) in the case of an airplane pilot, by a depiction of a shield, which in this case is the type of shield generally used on all of the United States Government insignia, having curved outlines and on its surface the usual vertical stripes to simulate the United States flag; (b) in the case of an airship pilot, by a depiction of an airship; (c) in the case of a balloon observer, by a depiction of a balloon; and (d) in the case of an airplane observer, by a depiction of a ring or "O." Reproductions of said Army insignia appear as Exhibit 68 to the agreed statement of facts. (Agreed statement of facts, par. 3.)

The naval aviation insignia consists of two spread wings, separated by a depiction of a shield and fouled anchor. A reproduction

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thereof appears as Exhibit 69 to the agreed statement of facts. (Agreed statement of facts, par. 3.)

A careful side-by-side comparison of respondent's said insignia or trade-mark with the various insignia employed and used by the Air Corps of the United States Army, and with that employed by the flying service of the United States Navy, as hereinbefore set forth, would enable one to distinguish between respondent's said insignia and those employed and used by the Air Corps of the United States Army and that employed by the flying service of the United States Navy. (Agreed statement of facts, par. 3.)

Most aircraft manufacturers, aeronautical schools, associations, clubs and organizations have used or are using some insignia of this same general type, which as a rule is a shield of some sort between two spread wings. (Agreed statement of facts, par. 3.)

PAR. 4. In the course and conduct of its business as described in paragraph 1 hereof, respondent refers to its president as Lieutenant, and uses and has made general use of said title Lieutenant in catalogues, enrollment blanks, advertisements, and other printed matter bearing the trade name of the respondent, viz: Aviation Institute of U. S. A., or its corporate name, viz: Aviation Institute of U. S. A. Inc., and circulated, as aforesaid, in the District of Columbia and in commerce between the District of Columbia and various States of the United States. (Agreed statement of facts, par. 4.)

In respondent's Enrollment Blank, which is the form used for contracting with its students and which consists of one sheet of paper $8\frac{1}{2} \times 11$ inches, printed on one side, the title "Lieutenant" in its abbreviated form "Lieut." appears nine times in Exhibit 42 and eight times in Exhibit 43 to the agreed statement of facts. Respondent stipulates that approximately 12,000 copies of Exhibit 42 and 53,600 copies of Exhibit 43 have been issued.

In respondent's catalogue "Rich Rewards in Aviation," in use from October, 1927, to February, 1929 (Exhibit 58 to the agreed statement of facts), the title "Lieutenant" appears 23 times in its abbreviated forms "Lieut." and "Lt." Respondent stipulates that approximately 21,700 copies of this catalogue have been issued.

A coupon attached to respondent's advertisement in the Popular Science magazine for April, 1928 (Exhibit 2 to the agreed statement of facts), and intended for use by prospective students in sending for respondent's catalogue "Rich Rewards in Aviation," and also a coupon attached to respondent's advertisement in the Motion Picture Magazine for April, 1929 (Exhibit 8 to the agreed statement of

facts), and used by a prospective student in sending for respondent's catalogue "Wings of Opportunity," both bear the following superscription:

Lieut. Walter Hinton,
Aviation Institute of U. S. A.
1115 Connecticut Avenue, Washington, D. C.

Exhibit 41 to the agreed statement of facts, which is a postal card used by the respondent as an enclosure with mailing-list letters to facilitate requests for catalogues, is addressed as follows:

Lieut. Walter Hinton, Pres.,
Aviation Institute of U. S. A., Inc.,
1115 Connecticut Ave., Washington, D. C.

and on the reverse side begins with the salutation:

Lieut. Hinton

In Exhibit 1 to the agreed statement of facts, which is an advertisement by respondent in The Saturday Evening Post for October 15, 1927, appears the following:

Send for our free book. It tells how you can learn the principles of the Aviation business at home, in your spare time, guided by *Lieut. Hinton and his staff*. (Italics supplied.)

Walter Hinton, president of the respondent, was lieutenant, junior grade, in the flying service of the United States Navy, from September 21, 1918, to December 31, 1921. Prior to the organization of respondent, said Hinton had severed his connection with the United States Navy, and at and since the organization of respondent has held no commission as lieutenant or other officer of, nor does he have any official connection with, said United States Navy. Said Hinton does not now and never has held a commission as Lieutenant or other officer in the Air Corps of the United States Army, or any other branch of said United States Army; nor does said Hinton hold any office in any department or branch of the Federal Government. During Hinton's said service with the United States Navy, as aforesaid, and particularly by reason of his achievement in piloting the Navy-Curtiss seaplane NC-4 across the Atlantic Ocean in 1919, and other and subsequent exploits, he became identified in the public press with the title "Lieutenant Hinton," being referred to under that designation for the past twelve years in thousands of news items and articles in prominent newspapers, magazines, and periodicals, as well as in correspondence with many Government officials and personal salutation. (Agreed statement of facts, par. 4.)

On May 24, 1929, in connection with official information concerning the scope, activities and personnel of the National Exchange Clubs, for the use of President Hoover, an inquiry was addressed over the signature of his secretary, and upon the stationery of the White House, to the president of the respondent as Lieutenant Walter Hinton. (Agreed statement of facts, par. 4.)

In April, 1929, during the course of a hearing before a joint committee of the Senate and House of Representatives upon H. R. 8300 (the matter under investigation being the establishment of an airport for the city of Washington, D. C.), at which the president of the respondent had been summoned as a witness, he was invariably addressed by members of the Committee as Lieutenant Hinton. (Agreed statement of facts, par. 4.)

The title "Lieutenant" is not peculiar to the United States Army alone; said title is used by the U. S. Navy, the U. S. Coast Guard, the various National Guards, fire departments, police departments, cadet and fraternal organizations, the Salvation Army and many others. Said title has many uses in civil life, one of those being the honorary use, and said title "Lieutenant" does not itself indicate or infer any connection with the military forces of the United States unless said title is used in connection with a particular military designation, such as Captain John Doe, United States Army, or Major John Doe, United States Marine Corps; and for official non-military uses the same system of designation used, as Lieutenant John Doe, Salvation Army, or Lieutenant John Doe, American Red Cross. (Agreed statement of facts, par. 4.)

PAR. 5. In the course and conduct of its business as described in paragraph 1 hereof, respondent, in advertising its course of instruction and in soliciting students therefor, uses and has made use, among others, of the following pictorial representations and expressions:

(a) On a letterhead in use from September 1, 1927, to March 5, 1929, respondent used pictorial representations of what might be said to be the dome of the National Capitol Building and of the Washington Monument, without specific designations or labels, as such. This letterhead has not been generally used by respondent since March 5, 1929. (Exhibit 23 to the agreed statement of facts; agreed statement, par. 5a.)

(b) In a form letter printed on the letterhead referred to in subparagraph (a) of paragraph 5 hereof, Exhibit 23, appeared the following:

The Aeronautics Bureau of the U. S. Department of Commerce is just a few blocks away. The Patent Office files, full of information about the latest

improvements in aviation, is close by. So are the high officials in the Army and Navy Air Services and the Bureau of Standards, where the newest instruments are developed and tested.

The form letter in which the above statement appeared has not been generally used by respondent since March 5, 1929. (Agreed statement of facts, par. 5b.)

(c) In a catalogue, entitled "Rich Rewards in Aviation," published for and used by respondent from October, 1927, to February, 1929, and under the subtitle "Why this course trains you best for a successful career in aviation," appeared the following:

The general offices of the Aviation Institute of U. S. A. are located in Washington, D. C., the very center of aviation development. Here the Department of Commerce is actively promoting commercial aviation, controls airways and issues licenses to pilots. The aeronautical branches of the Army and Navy are striving to improve aircraft and develop new equipment. The Post Office Department supervises all air mail.

The catalogue in which the above statement appeared has not been in use by respondent since February, 1929. (Exhibit 58, p. 7, to the agreed statement of facts; agreed statement par 5c.)

(d) In a catalogue, entitled "Wings of Opportunity," published for and used by respondent from February, 1929, and now in use, under the caption "The Nation's Headquarters is also Aviation's Headquarters," appeared and appears the following:

There are definite reasons why our Washington location helps us give you better training and better service. Washington is the official center of American aviation. Being near by the Government bureaus and departments that handle all aviation work, we are ideally located to get new aviation information immediately. The Department of Commerce, just five blocks from the Institute, is where Uncle Sam has his well-organized Bureau of Aeronautics. Here authentic information and data is worked out on every branch of aviation. Here, too, are issued all Government licenses for planes, pilots, and mechanics. The U. S. Bureau of Standards here is constantly experimenting with all the materials that go into aircraft and airport construction. It tests out new designs of planes and motors in its extensive laboratories and special "wind tunnel." It is helping to build a solid foundation upon which the mass production of planes and equipment can forge ahead. *Factors like these help make Aviation Institute training the complete service that it is.* (Italics supplied.) (Exhibit 60, p. 19, to the agreed statement of facts; agreed statement, par. 5d.)

(e) In catalogue, entitled "Rich Rewards in Aviation," published for and used by respondent from October, 1927, to February, 1929 (Exhibit 58), and under the caption "How This Course Was Developed," appeared the following statement:

It has been indorsed by Army and Navy officials, leading manufacturers and engineers—the very backbone of the industry (p. 6).

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Appearing (p. 5) in said catalogue, "Rich Rewards in Aviation," is a reproduction of a letter of indorsement addressed to the president of respondent, dated January 14, 1927, signed by F. Trubee Davison, Assistant Secretary of War, on the official letterhead of the War Department. This said catalogue containing this said reproduction of said letter has not been used by respondent since February, 1929.

Said F. Trubee Davison, in a letter, dated March 30, 1929, addressed to the president of respondent, requested the discontinuance by respondent of the use of said letter of January 14, 1927. (Agreed statement, par. 5e.)

PAR. 6. The abbreviation U. S. A. is recognized by some standard authorities to mean both United States Army and United States of America—Funk & Wagnall's New Standard Dictionary, Webster's New International Dictionary, Official Army Register, The World Almanac and Book of Facts. (Agreed statement of facts, par. 6a to 6e, incl.)

(a) In Funk & Wagnall's New Standard Dictionary (1921), page 7, under the caption "A list of Abbreviations," appears the following:

U. S. A.—United States Army,
United States of America.

In Webster's New International Dictionary (1928), page lxxx, under the caption "Abbreviations Used in This Work," appears the following:

U. S. A.—United States of America,
United States Army.

(b) In the Official Army Register—January 1, 1930—Published by order of the Secretary of War in compliance with law, for the use of the military and governmental organizations of the United States there appears, on page v and vi, a list of abbreviations. On page vi of this list, appears the following:

U. S. A.—United States Army.

(c) In The World Almanac and Book of Facts for 1930, there appears, on pages 796 and 797, a list of "Abbreviations in Common Use." On page 797 is listed the following:

U. S. A.—United States of America;
Union of South Africa;
United States Army.

(d) On page 29 of the Style Manual of the Government Printing Office (revised edition, Oct., 1928), prepared under the direction

of the Public Printer in compliance with law, under the caption "Abbreviations," appears the following:

U. S. A. for United States of America.

U. S. Army for United States Army.

The said Style Manual was approved January 11, 1922, by the Permanent Conference on Printing, composed of representatives of the various executive departments and independent establishments of the Government, as organized with the approval of the President and the Director of the Bureau of the Budget; it was also approved by the Joint Congressional Committee on Printing on February 4, 1922.

(e) There is in the United States Army a long established custom, dating back to Revolutionary times, by which officers sign their names, followed by their titles and U. S. A., the letters U. S. A. meaning, in such instances, United States Army.

PAR. 7. The United States Army and Navy both maintain aviation schools, where courses in military and naval aviation, respectively, are given students wishing to qualify for commissions in these branches; the Aeronautics Branch of the Department of Commerce is engaged in the promotion and regulation of civil aeronautics; and the Air Mail Service of the Post Office Department has general supervision of the transportation of mail by air. (Agreed statement of facts, par. 7.)

PAR. 8. Respondent has not, since the date of its incorporation, and does not now have any official connection with the United States Army or Navy, or with any other department or branch of the Federal Government; nor has its course of instruction since the date of its incorporation, been conducted in accordance with the requirements or under the supervision or direction of the United States Army or Navy, or any other department or branch of the Federal Government, or any officer or employee thereof. (Agreed statement of facts, par. 8.)

PAR. 9. Respondent's use of the letters U. S. A., both in its trade and corporate names, in and of itself, and in connection with the other circumstances of this case, as hereinbefore set forth, namely, respondent's extensive use of a Washington, D. C., address; its general use of the title "Lieutenant" in referring to its president; its general use of an insignia or trade-mark consisting of wings separated by a shield; and its use in advertising matter of pictorial representations and statements, as found by the Commission in paragraph 5 hereof—in advertising its course of instruction in the art of aviation and in soliciting students therefor—is calculated to and has had and has the capacity and tendency to mislead and deceive the

Order

15 F. T. C.

public, and to cause the public to enroll as students with said respondent and to contract therewith for its said course of instruction, under the erroneous belief: That said respondent is officially connected or closely affiliated with the United States Army or Navy, or with some department or branch of the Government of the United States; or that its course of instruction is conducted in accordance with the requirements or under the supervision or direction of the United States Army or Navy, or some department or branch of the Government of the United States, or some officer or employee thereof; and that, because of such supposed official connection or affiliation, said respondent is in a better position to give information and instruction than competing institutions teaching the art of aviation by correspondence.

PAR. 10. The above alleged misleading and deceptive acts and practices of respondent, under the circumstances and conditions hereinbefore set forth, constitute practices or methods of competition which had and have the capacity and tendency: To prejudice and injure the public; unfairly to divert trade from and otherwise prejudice and injure the business of respondent's competitors; and to operate as a restraint upon and a detriment to the freedom of fair and legitimate competition in the business of selling, in interstate commerce, courses of instruction in the art of aviation by correspondence through the United States mails.

CONCLUSION

The practices of the said respondent, under the conditions and circumstances described in the foregoing findings, are to the prejudice of the public and of respondent's competitors, and are unfair methods of competition in commerce, and constitute a violation of 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."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, the statement of facts agreed upon by respondent and counsel for the Commission, and briefs and oral argument of counsel, and the Commission having made its findings as to the facts and its conclusion that the respondent has violated the provisions of 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 respondent, Aviation Institute of U. S. A., Inc., its officers, directors, agents, servants, and employees, in the course and conduct of its business of offering for sale and selling a correspondence course of instruction in the art of aviation in commerce between and among the several States of the United States and the District of Columbia—cease and desist from using, as a part of its trade or corporate names, the letters U. S. A., or any letter or letters, word or words, symbol, device, or insignia denoting or indicating that said respondent is officially connected or affiliated with the United States Army or Navy, or with some department or branch of the Government of the United States; or that its course of instruction is conducted in accordance with the requirements or under the supervision or direction of the United States Army or Navy, or some department or branch of the Government of the United States, or some officer or employee thereof,

It is further ordered, That respondent, Aviation Institute of U. S. A., Inc., shall, within 60 days after the service upon it of a copy of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with the order to cease and desist hereinbefore set forth.

IN THE MATTER OF
ALBERT L. PELTON, TRADING AS RALSTON
UNIVERSITY PRESS

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

Docket 1615. Complaint, May 2, 1929—Decision, Sept. 28, 1931

Where an individual (1) engaged in selling by mail certain books or publications, including "Instantaneous Personal Magnetism" and "Complete Life Building," through study of which, it was advertised, every curable disease could be cured and every incurable disease prevented, and for which most extravagant claims were made, and which were sold under agreement with the author thereof, who had long prior thereto carried on in or from Washington the movement associated with the Ralston Health Clubs and had published and circulated through said clubs under a nom de plume publications in which he outlined his views regarding diet, nutrition, etc., and plans for the development of mentality and personality and acquirement of powers and facilities to insure success in life; and (2) not a graduate of any university or college or school of higher learning, nor (3) possessed of a certificate of efficiency indicating that he had ever taken, as in fact he had never taken, courses of instruction in the different subjects embraced by or relating to the various branches of science or learning discussed in the publications offered and sold by him, nor (4) doing any work, research or otherwise, directly or remotely resembling that done many years ago by or through the aforesaid so-called Ralston Health Clubs,

Adopted and employed the words "Ralston University Press" in the conduct of his said business and represented such supposed institution in advertising circulars as enjoying its "Golden Anniversary" and as continuing the Ralston educational movement and "Research Work," which he elaborated upon and extolled, and set forth as having started in Washington 50 years ago and as having enjoyed the indorsement and patronage of people of the highest prominence in different walks of life, and, under the caption "Change of Location," as now removed, after 40 years, to New England with its rich college and university "traditions and seats of learning," and located near such famous New England colleges as Yale, Trinity, Wesleyan, Harvard, and others, and as now offering "all that was formerly taught for huge fees—and a vast amount of newer discoveries. * * * arranged in our books, and taught much more satisfactorily than by high priced personnel," and thereby furnished prestige, authority, and weight to the inducements offered for the purchase of his said books;

Notwithstanding the fact that the so-called Ralston University or Ralston University of Expression for which the aforesaid author and controlling factor in said Ralston Health Club movement had once caused articles of incorporation to be filed, had ceased to function for more than 25 years, and never maintained any such agency as the Ralston University Press, and such individual had no knowledge or information qualifying or tending to qualify him to prescribe or suggest a course of life or study of either physical or mental application or development, and had no executives or teachers associated with him in his aforesaid book selling business;