

IN THE MATTER OF

CLAYTON R. HASTINGS, DOING BUSINESS UNDER THE
NAME AND STYLE OF NATIONAL CIVIL SERVICE
INSTITUTECOMPLAINT AND ORDER IN REGARD TO THE ALLEGED VIOLATION OF SEC. 5
OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2286. Complaint, Jan. 26, 1935—Order, Mar. 4, 1935*

Consent order requiring respondent individual and respondent corporation, successor to the business theretofore conducted by him, its officers, etc., in connection with the sale, offer or distribution of courses of study and instruction preparatory to Civil Service examinations for the Federal Government, to cease and desist from—

- (a) Using term "Civil Service" in the name under which the business is conducted, in connection with the word "National", or in any other way implying or suggesting a connection with the United States Civil Service Commission or the United States Government, or using any other words in the name under which the business is conducted, or otherwise, from which such connection might be implied or suggested;
- (b) Falsely representing in any way that Civil Service positions under the Government are open and available or that examinations are to be held in the near future or at a specified time, or that said individual or corporation can secure Government positions for those who take said courses or that they, or either of them, can assist in that regard other than by assisting students in preparing for such examinations;
- (c) Designating any course offered by any term other than by such a term as may correspond to some classification used by said commission at the time such course is offered and for which examinations are held by such commission;
- (d) Misrepresenting the number of civil service employees, or of appointments thereto made, or to be made, or period or duration of civil service positions, or making any other false representation in regard to such jobs or examinations; or
- (e) Using a refund agreement based upon a contingency of a student failing to pass an examination, when there is little likelihood of any examination being held which such student could take and is solicited to contract to prepare for.

Mr. Harry D. Michael for the Commission.

Robinson, Symmes & Melson, of Indianapolis, Ind., for respondent.

COMPLAINT

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, having reason to believe that Clayton R.

Hastings, doing business under the name and style of National Civil Service Institute, has been and is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. That said respondent, Clayton R. Hastings, doing business under the name and style of National Civil Service Institute, is now and has been engaged for more than one year last past in the sale and distribution of courses of study and instruction designed and intended for preparing students thereof for examinations for various Civil Service positions under the United States Government, which said courses of study and instruction are pursued by correspondence. That said respondent, in conducting his said business, has his office and principal place of business in the city of Muncie, in the State of Indiana. That respondent, in the course and conduct of his said business, causes his said courses of study and instruction, consisting of pamphlets, study and question sheets, and other printed or mimeographed matter to be transported in interstate commerce from his said place of business in Indiana to, into and through States of the United States, other than Indiana, to various and numerous persons to whom said courses of study and instructions are or have been sold.

PAR. 2. That, during the time above-mentioned, other individuals, firms and corporations in various States of the United States, are and have been engaged in the sale and distribution in interstate commerce of courses of study and instruction designed and intended for the purpose of preparing students thereof for examinations for various Civil Service positions under the United States Government, and also engaged in the sale and distribution as aforesaid of other courses of study and instruction in other lines, all of which are pursued by correspondence, and such other individuals, firms, and corporations have caused, and do now cause their said courses of study and instruction, when sold by them, to be transported from various States of the United States to, into and through States other than the State of origin of the shipment thereof. Said respondent has been, during the aforesaid time, in competition in interstate commerce in the sale of his said courses of study and instruction with such other individuals, firms, and corporations.

PAR. 3. That the name, National Civil Service Institute, used by the respondent in conducting his said business, implies and has the tendency and capacity to create the belief among persons solicited to pursue respondent's courses of study that said National Civil Service

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Institute is a part of, or is connected with, or is an agency of the Government of the United States. That the word "National" is a term frequently used in referring to the United States Government or its agencies, or to institutions under its direction or supervision. That the term "Civil Service" is used to designate a class of employees of the United States Government. That the name of respondent's school suggests the Government agency known as the Civil Service Commission and causes confusion on that account. That the impression of Government connection is further increased by the use by respondent of the terms "supervisor", "registrar", and "advisor" to designate persons representing or connected with said school. That respondent and his representatives make statements to prospective students which represent or imply that he or they or said school is connected with or represents the Government of the United States. That, in fact, neither respondent nor his school, nor any one connected therewith has any connection whatever with the United States Government or represents the same.

PAR. 4. That respondent and his agents, in talking to prospective students, make statements which represent or imply that Civil Service positions under the United States Government are open and available; that examinations for such positions will be held in the near future; and that respondent can place those who take his courses in Government positions, when such were not and are not the facts. That, in fact, vacancies in the positions for which respondent offers training have been comparatively few within the last few years, and usually when vacancies occur in such positions, long lists of eligibles have been and are available for filling the same. That very few, if any, examinations have been held within recent years for many of the positions for which respondent offers training. That respondent has no way of placing his students in Government positions.

PAR. 5. That respondent in its advertising literature distributed to prospective students, represents that United States Government positions are available as internal revenue clerk, general department clerk, clerks for Washington, D. C. and as clerks in various governmental agencies, when in fact the United States Civil Service Commission has not, in recent years, maintained any such general classifications and has not held examinations for such. Respondent further represents in his advertising literature that "Uncle Sam employs from 30,000 to 50,000 additional men and women each year; * * *" when, in fact, such is not the case, or the statement is misleading in that it implies that such number of positions are available and open to those who take the training for which respondent gives

instruction for Civil Service examinations. Respondent further represents that "Beginning salaries range from \$1,440 to \$1,900 a year"; that successful applicants will receive in salary twice a month "a check ranging from \$70 to \$92"; that Government employees have no lay-offs, and that they are pensioned when they become too old to work, when in fact, such are not the facts, or such statements are misleading and wholly inaccurate.

PAR. 6. That the contract form used by respondent and which is signed by students who enroll for his training contains a so-called "money back agreement" which provides in substance that the money paid will be refunded on certain conditions, among which are the following:

(c) I am to try the first examination covered by this training.

(d) If I fail to pass on that examination, or I have passed and am not offered an appointment within one year from the time my name was placed on the eligible list and I have lost my eligibility, I am to be refunded as set forth in article (e).

That, in fact, said agreement in meaningless and noneffective in that, as heretofore shown, few, if any examinations have been held within recent years or are in immediate prospect in the lines for which respondent offers training, so that those who complete the same have little if any opportunity to take an examination, and therefore cannot comply with the terms set out above for a refund.

PAR. 7. That the representations of respondent as aforesaid have had and do have the tendency and capacity to confuse, mislead, and deceive members of the public into the belief that respondent is a representative of or is connected with the Government of the United States; that Civil Service examinations are being held at frequent intervals in the classifications for which respondent offers training; that Government positions in the classifications named by him as aforesaid are available, and that corresponding examinations will be held for the same; that vacancies exist in Government service that are to be filled; and that students who enroll for respondent's courses will receive their money back upon conditions reasonably possible of fulfillment, when, in truth and in fact, such are not the facts. That said representations of respondent have had and do have the tendency and capacity to induce members of the public to answer respondent's advertisements, to sign his said contracts, to pay money to respondent and his agents, and to pursue said courses of instruction as herein described because of the erroneous beliefs engendered, as above set forth, and to divert trade to respondent from competitors engaged in the sale of correspondence courses in interstate commerce in similar lines to those offered by respondent, as well as those so engaged in such sale in other lines of study.

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PAR. 8. The above acts and things done by respondent are all to the injury and prejudice of the public and the competitors of respondent in interstate commerce within the intent and meaning of Section 5 of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", approved September 26, 1914.

ORDER TO CEASE AND DESIST

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes", the Federal Trade Commission on the 26th day of January 1935 issued its complaint against Clayton R. Hastings, doing business under the name and style of National Civil Service Institute, respondent herein, and caused the same to be served upon him as required by law, in which complaint it is charged that respondent has been and is using unfair methods of competition in interstate commerce in violation of the provisions of Section 5 of said Act.

On February 11, 1935, said respondent filed herein an answer in writing to said complaint. Subsequently, said respondent filed herein a petition to withdraw said answer and asked that a new answer therewith submitted be filed in lieu thereof, which said petition was granted by the Commission and said new answer was accordingly filed. Said new answer was filed on behalf of said respondent individually and also on behalf of The National Institute, Inc., of which said Clayton R. Hastings is president, and which has succeeded to said business formerly conducted by said respondent under the name as given in the title hereof. By said new answer said respondent, Clayton R. Hastings, and said corporation, The National Institute, Inc., by Clayton R. Hastings, its president, elected to refrain from contesting this proceeding and consented to the issuance of an order to cease and desist from the practices set forth in the complaint herein, expressly waiving the amendment of said complaint as to parties and as to allegations to show such corporate succession, or otherwise in that connection.

Thereafter, this proceeding came on regularly for disposition and decision by the Commission under subdivision (b) of rule V of the Rules of Practice adopted by the Commission, and the Commission being fully advised in the premises:

It is ordered, That said Clayton R. Hastings, doing business under the name and style of National Civil Service Institute, or under any other trade name, and The National Institute, Inc., a corporation, its officers, directors, agents, representatives, servants, and employees,

in connection with the sale, offering for sale or distribution in interstate commerce and the District of Columbia of courses of study and instruction intended for preparing students for Civil Service examinations held by the Government of the United States, cease and desist from the following practices, to wit:

1. The use of the term "Civil Service" in the name under which said business is conducted in connection with the word "National" or in any other way or connection which implies or suggests any connection with the United States Civil Service Commission or the United States Government, or the use of any other word or words in the name under which said business is conducted or otherwise from which such connection might be implied or suggested.

2. Representing in any manner or mode that Civil Service positions under the United States Government are open and available; that examinations for such positions will be held in the near future or at a specified time, unless and until such are the facts.

3. Representing that said Clayton R. Hastings or said corporation can secure Government jobs for those who take said courses of instruction or that they, or either of them, can assist in that regard other than by assisting students thereof in preparing for Civil Service examinations.

4. Designating any course offered by any term other than by such a term as may correspond to some classification used by the United States Civil Service Commission at the time such course is offered and for which examinations are held by said Commission.

5. Representing the number of Civil Service employees, the number of appointments made or to be made, the period or duration of Civil Service jobs or making any other representation in regard to such jobs or examinations therefor unless such representations state the facts as they exist at the time such representations are made.

6. Using a refund agreement based upon a contingency of a student failing to pass an examination when there is little likelihood of any examination being held which such student could take and for which he or she is solicited to contract to prepare.

It is further ordered, That said Clayton R. Hastings and said The National Institute, Inc., within 60 days from and after the date of the service upon them of this order shall file with the Commission a report in writing, setting forth in detail the manner and form in which said order to cease and desist hereinabove set forth is being complied with.

IN THE MATTER OF
MAURICE SMOOKE, DOING BUSINESS UNDER THE
TRADE NAME AND STYLE OF STANDARD HANDKER-
CHIEF MANUFACTURING COMPANY

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

Docket 2204. Complaint, June 28, 1934—Decision, Mar. 9, 1935

Where an individual engaged in sale and distribution of handkerchiefs to wholesalers and retailers—

- (a) Included word "manufacturing" in his trade name and set forth on his letterheads the words "Factories, Brooklyn, N. Y., New York, N. Y., Newark, N. J.";
- (b) Made such statements in his advertising as "We were lucky in placing our orders for raw cotton in early April", notwithstanding fact he bought no raw cotton; and
- (c) Advertised "price—always right—low overhead—quality product—large distribution and personal ownership—management assures of the lowest possible price at all times";

Notwithstanding fact he neither owned, operated or controlled any factory or machinery engaged in the manufacture of said articles; and

- (d) Advertised an ordinary handkerchief of domestic manufacture, labeled "London Kerchief":

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

Mr. John W. Hildrop for the Commission.

Mr. Nathaniel Phillips, of New York City, for respondent.

COMPLAINT

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, having reason to believe that Maurice Smooke, doing business under the trade name and style of Standard Handkerchief Manufacturing Company, hereinafter called respondent, has been and is using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, Maurice Smooke, is an individual who is, and for the past four years has been, doing business as hereinafter described, under the trade name and style of Standard Handkerchief