

Syllabus

IN THE MATTER OF

RAY RENNISON AND MARTHA A. RENNISON, TRADING
AS RAYSON SERVICE BUREAU, RAYSON BUREAU AND
RAYSON SERVICECOMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2232. Complaint, Sept. 18, 1934¹—Decision, Oct. 14, 1935*

Where two individuals engaged in the sale of courses of instruction to help purchasers qualify themselves to pass certain examinations for Federal and State civil service places; in advertising their courses in various periodicals, including thirty of national circulation in which their advertisements related chiefly to forestry jobs—

- (a) Stated in the "follow-up" circulars sent to those answering, that they were issuing a course of instruction that would thoroughly qualify the customer "on the required subjects of forestry (forest ranger), postal service, border patrol, game protector, and others", and that "no particular amount of education" was required, and that with their course customer "should have no difficulty in any examination", and their instructions could be browsed over and learned by the customer's "own fireside" in less than two months, the facts being that the position of ranger in the United States Forest Service in recent years, due to constantly increasing demand in the way of qualifications, has been filled from eligibles for superior positions, for which said courses would be of no assistance, since 1931 only one Federal appointment has been made to such position, and since 1930 no examination therefor has been announced or held by the United States Civil Service Commission, and none is contemplated, the forest ranger positions could not be characterized fairly even in those cases in which appointments were made from the lists of such Commission as "easily available", in addressing the general public, untrained in forestry, and the requirements therefor, which included a mental test, representing the "full equipment of a four-year high school education", "at least three years of field experience in forestry, including such activities as lumbering, grazing", etc., as specified in the announcements, and health, medical and ocular tests, and age range between 25 and 35 years, were not such as to warrant use of such statements as "easily available" or "no particular amount of education is required", or general reader, "should have no difficulty in any examination therefor"; with capacity and tendency to induce customers to buy said course in the hope that they might thereby be able to become forest rangers in the Federal service, notwithstanding absence of a present possibility of such an outcome or any reasonable likelihood thereof for an indefinite period as hereinabove set forth;
- (b) Represented in such follow-up literature that their courses would aid customers to secure other positions in the Federal service, such as rural mail carrier, rural postal clerk, immigration patrol inspector, immigration inspec-

¹ As amended Jan. 8, 1935.

tor, and park ranger, without disclosing adequately, if at all, that applicants for position of rural mail carrier must meet requirements as to domicile, actual residence, age limits and physical requirements, and those for other places, requirements, as the case may be, as to weight, physical condition, height, residence, age, personal characteristics, habits, history, experience, moral, personal and physical qualifications, family status, capacity to endure hardships, care for self and horse in remote regions, etc., and pass oral examination; with capacity and tendency to mislead and deceive a substantial proportion into purchasing said individual's courses in the hope of obtaining the Federal positions referred to in said follow-up literature, irrespective of whether they could meet the various requirements thus actually imposed, and without understanding that they might not be eligible to take the examinations after they had purchased and pursued said courses purporting to prepare them therefor, and with the result of thus leading them to purchase such courses, which in numerous cases they would not have done but for the omission to disclose such information;

- (c) Used the word "Bureau" as part of their trade name, notwithstanding the absence of any connection with any branch of the Federal Government or of any State Government, with possible tendency to mislead a substantial minority of persons in mountain and remote sections reached by their advertising and follow-up literature into the belief that they were in some fashion connected with a branch of the Federal service;
- (d) Set forth in their follow-up literature that "with our course we guarantee to an appointment if you take an examination or refund your fee. * * * You may be assured of our very best efforts and a position or your fee will be refunded", and undertook in their "enrollment blank", enclosed therewith, to refund the customer's fee in the course specified, if he failed to pass the examination therein, or to receive appointment before end of his eligibility therefor, the facts being that about one-half of their customers took advantage of their offer of any three courses at a much reduced combination rate, and, contrary to the implication of their aforesaid statements, that each customer was entitled to a refund if he failed in but one examination, it was not their practice to refund combination rate purchase price unless purchaser of the three courses had taken and failed to pass all three examinations, at times there was intermission of several years between examinations for any given Federal position, and there was no promise of refund if the customer found himself debarred therefrom because of educational, physical, personal, residence, experience and other above indicated restrictions as to which they had not informed him; with result that said "guarantee" had a greatly diminished value compared with its aforesaid implications, and with tendency and capacity thereby to mislead and deceive prospective customers who contemplated purchase at said combination rate, into a greater reliance upon said "guarantee" than the facts warranted;
- (e) Made such statements in referring to courses as "the examination is held in every State in the Union and Hawaii, and in dozens of cities in every State", etc., and "enroll at once for this examination and be sure of a passing grade", "better enroll for one of these courses and be sure of a good job", "why not enroll now and be sure of an early appointment", and "there are positions for old and young in almost any type of endeavor", facts being that for years no general examination had been held for position involved and only one intervening, purely local, examination, and years frequently pass between examinations for various civil service positions, which are

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also frequently of local character; with capacity and tendency to mislead prospective customers into the belief that positions in the Federal service were more generally available and examinations therefor more frequent than was actually the case;

- (f) Used such statements in their advertising in periodicals in national circulation as "Field clerical government jobs easily available—\$105 to \$200 a month, steady—Get details immediately. Rayson Service, D-45, Denver, Colorado", calculated, by reason of the character thereof, to promote insertion in the "help wanted" and similarly entitled columns of the periodicals in which placed, and in which columns said advertising frequently appeared notwithstanding their instructions to the contrary; with capacity and tendency to induce prospective customers to believe that said individuals had information of positions available in the Government service, and were engaged in filling them, and particularly so in view of the fact that a substantial portion of their advertising circulated among people who were ill informed with regard to governmental matters;

With capacity and tendency to attract customers who would not have purchased said courses of instruction but for such advertising and follow-up literature as above described, and to induce customers to purchase their said courses in preference to those offered by competing correspondence schools which frequently use the same periodical mediums, and to induce such schools to indulge competitively in similar methods of advertising, and to divert trade from and injure their competitors:

Held, That such methods of competition were to the prejudice of the public and competitors and constituted a violation of Section 5.

Before *Mr. Robert S. Hall*, trial examiner.

Mr. Eugene W. Burr for the Commission.

Brandenburg & Brandenburg, of Denver, Colo., and *Mr. Louis M. Denit*, of Washington, D. C., for respondents.

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 Ray Rennison and Martha A. Rennison, doing business under the name and style of Rayson Service Bureau, and Rayson Institute, have been and are 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 to the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. That said respondents, Ray Rennison and Martha A. Rennison, are now and have been for more than two years last past engaged in the sale and distribution of courses of study and instruction designed and intended to prepare students thereof for examinations

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for various civil service positions under the United States Government, which said courses of study and instruction are given by respondents and pursued by students thereof by means of correspondence. That respondents conduct said business under the name and style of Rayson Service Bureau or simply as Rayson Bureau or Rayson Service. That at one time they conducted the same as Rayson Institute. That respondents, in the conduct of said business, have their office and principal place of business in the city of Denver in the State of Colorado. That respondents in the course and conduct of their said business, cause their said courses of study and instruction consisting of study and instruction sheets and other printed or mimeographed matter and literature to be transported in interstate commerce from their said place of business in Colorado to, into, and through States of the United States other than Colorado to various and numerous persons in such other States to whom said courses of study and instruction 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, and which said courses are given and pursued by means of 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 respondents have been, during the aforesaid time, in competition in interstate commerce in the sale of their said courses of study and instruction with such other individuals, firms, and corporations.

PAR. 3. That respondents, in advertising their said courses of study and instruction, make use of and have made use of advertisements inserted in the classified sections of newspapers circulated in and among various States of the United States to members of the public. Some of such advertisements are inserted in the "help wanted" columns of such newspapers and represent or imply by the wording thereof, together with the place of their insertion, that men are wanted to fill Government positions; that such positions are open and available and that the advertiser, "Rayson Bureau," is the agency through which they are filled and that such "bureau" is acting

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in behalf of the Government of the United States. An example of such advertisements, so used by respondents, is the following:

*Employment**Help Wanted—Male*

Forestry positions, \$165, cabin. Hunt, trap, patrol; want men to qualify. Write today. Rayson Bureau, A-13, Denver, Colo.

That similar advertisements are inserted in newspapers as afore-said in classified columns under the head of "Instruction" which likewise create the impressions as stated above. An example of such advertising is the following:

Instruction

Forestry Work easily available \$175 month. Cabin. Hunt, trap, patrol. Get details immediately. Rayson Service, K-25, Denver, Colo.

That the use of the word "bureau" by respondents in said trade name is misleading in its use in connection with the sale of instruction courses for civil service examinations and especially in advertisements such as the first one quoted above, in that it suggests a Government agency or Government connection on account of the fact that the word "bureau" is often used officially to designate a Government agency and is generally used by members of the public in describing or designating Government agencies or bodies.

That, in truth and in fact, respondents do not represent the Government and they have no positions to offer those who reply to their advertisements. Neither are Government forestry positions available nor were they available, generally speaking, at the time such advertisements were used by respondents. That the opportunities to take an examination or to be appointed to position in the United States Forestry Service are few and such appointments as are or have been made are so restricted on the ground of residence, experience, particular training or otherwise, that there is little, if any, assurance that persons taking the training offered by respondents could qualify for the positions desired even if they were available. That respondents do not inform their prospective students or those who contract for their course of instruction as to the necessity of having the additional prior education, training and experience required or that appointments made are limited by reason of residence or otherwise.

PAR. 4. That, after securing contact with the prospective student, respondents present to him an enrollment blank containing misleading provisions that imply that the opportunity to take an examination is assured, that an appointment is assured if the examination

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is passed and that the student is protected by the contingencies named in a refund agreement. Such provisions read as follows:

If I fail to pass or am not offered an appointment, after taking your complete course and the examination, my fee is to be refunded to me.

That, in truth and in fact, very few examinations have been held or are in prospect in the forestry service, and such examinations are so restricted, as hereinbefore stated, that the likelihood of respondents' students being able to qualify for or to take such examinations is very remote. Moreover, appointments to such service are few and are limited to persons of restricted qualifications, as previously stated, so that, even though a student of respondents' course should pass the examination, there would only be slight prospect of his receiving an appointment. Consequently, said provisions of said contract are virtually meaningless and a refund is improbable.

PAR. 5. That one of the positions in the United States Civil Service is that of forest ranger. That examinations for such position are held only at long intervals and it has been several years since such an examination has been held. Moreover, appointments are made, where practical, only from eligibles residing in the State where the work involved is to be performed. That, under such conditions as detailed above, it is grossly misleading to advertise generally for men to fill such positions, or at a time when no such positions are being filled, or to represent that examinations are in prospect by the solicitation of persons to take instruction for the same. That advertisements such as those of respondents, as quoted above, referring to "forestry positions" or "forestry work," imply that positions as forest ranger are available. That this impression is increased by representations made by respondents in circulars and literature mailed to prospective students in various States of the United States in which work in "forestry" is described in glowing terms without specifying what particular positions are referred to. It is further represented in respondents' said literature that examinations are held generally and that such examinations are in immediate prospect when such were not the facts. Examples of such representations are the following:

Examinations are held in many places in the United States. Prepare now for the examination.

... are you going to enroll and make a high rating in the exam and be among the first appointed?

That the position of "forest ranger" is intended to be included in such representations is evidenced by the following quotation from respondents' enrollment blank:

The combined course will prepare you for Forestry (Ranger), Park Ranger, Mail Service, and Border Patrol examinations.

That respondents, in the said literature, distributed as above stated, similarly represent in regard to other of its courses that examinations are in immediate prospect and that positions are available when in fact, at the time such representations were made, examinations for such positions had not been held for a long period of time and none were in immediate prospect. Moreover, as to some classifications for which respondents offered instruction, long lists of eligibles were available from which to make appointments to such vacancies as might occur.

PAR. 6. That the representations of respondents as aforesaid have had and do have the tendency and capacity to confuse, mislead, and deceive members of the public into the belief that respondents represent the Government of the United States, that they have positions to offer to applicants or to those who qualify, that civil service examinations are in immediate prospect in the lines for which respondents offer instruction, and that positions are available to those who pass the examinations, that positions for which respondents offer instruction are open to the public generally without regard to residence or special qualifications not mentioned by respondents, that examinations and positions are assured, and that those who contract for instruction are protected by a bona fide refund agreement, when, in truth and in fact, such are not the facts. That said representations of respondents have had and do have the tendency and capacity to induce members of the public to answer respondents' advertisements, to sign contracts to pursue their courses of instruction, to pay money down, to promise to pay additional sums, and to pursue said courses of instruction because of the erroneous beliefs engendered, as above set forth, and to divert trade to respondents from competitors engaged in the sale of correspondence courses in interstate commerce in similar lines to those offered by respondents as well as those so engaged in such sale in other lines of study.

PAR. 7. The above acts and things done by respondents are all to the injury and prejudice of the public and the competitors of respondents 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Acting in the public interest pursuant to the provisions of an Act of Congress approved September 26, 1914 (38 Stat. 717), the Federal Trade Commission, on September 18, 1934, issued and caused to be served upon the respondents above named, a complaint charging

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them with the use of unfair methods of competition in interstate commerce, in violation of the provisions of Section 5 of said Act. The respondents appeared and filed an answer on October 9, 1934, and on January 8, 1935, the Commission amended its complaint. Thereafter the proceeding was tried, beginning on January 8 at Washington, District of Columbia, and closing on January 26, 1935, at Denver, Colo. Oral argument was waived and the Commission, having duly considered the pleadings and the oral and documentary evidence taken, and other matters of record and being advised by briefs filed by counsel in support of the complaint and by counsel for respondents, makes this its report, stating its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondents, husband and wife, are engaged, under the trade names "Rayson Service Bureau", "Rayson Bureau", and "Rayson Service", without incorporation, in the sale of courses of instruction designed to aid, and represented as aiding, purchasers thereof to qualify themselves to pass examinations, primarily for the civil service of the United States and also for certain examinations in civil services of certain State Governments. They no longer use the trade name "Rayson Institute" named in the complaint. Respondents have their principal place of business at Denver, in the State of Colorado. Respondent Ray Rennison has been engaged in this line of business since 1927. The aggregate number of customers to whom one or more courses of instruction have been sold since the origin of the business is over 3,500. Among numerous positions in the Federal service, which respondents represent that their courses of study will aid customers to secure, are forest ranger, rural mail carrier, rural postal clerk, immigration patrol inspector, immigration inspector, park ranger.

PAR. 2. Respondents, in the regular course of their business, use as media for advertising, various periodicals which circulate from the States of their respective publication to and into other States in all sections of the country where the subscribers to said publications are located. Among some approximately thirty periodicals of national circulation thus used by respondents are, Arkansas Farmer, True Fiction, Farm and Ranch, Hunter Trader and Trapper, and Clover Leaf Weekly. As the result of this advertising respondents secure the names of certain persons who answer the advertising, to whom they send a series of "follow-up" circulars designed to induce said persons to purchase from respondents one or more of their courses of instruction. This circular matter is sent from the headquarters of respond-

ents in Colorado through and into other States where prospective or potential customers of respondents are located. Thereafter, respondents, in the regular course of their business, send their courses of instruction from the State of Colorado through and into other States of the United States to those who purchase respondents' courses and interchange with them papers of examination and instruction.

PAR. 3. During the time above mentioned, other individuals, firms, and corporations in various States of the United States have been and they now are 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 engaged also in the sale and distribution as aforesaid of other courses of study and instruction in other lines. The said courses are given and pursued by means of 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 respondents have been, during the aforesaid time, in competition in interstate commerce in the sale of their said courses of study and instruction with such other individuals, firms and corporations.

PAR. 4. Respondents' advertisements chiefly relate to "forestry jobs". When answers are received the "follow-up" literature of respondents frequently refers to both National and State forests and positions said to be available therein and declares, among other statements as follows:

We are issuing a course of instructions that will thoroughly coach you on the required subjects of Forestry (Forest Ranger), Postal Service, Border Patrol, Game Protector, and others. No particular amount of education is required and with our course you should have no difficulty in any examination. Our instructions can be browsed over and learned right by your own fireside in less than two months.

Also respondents say:

Our Forestry Course is a great aid to persons interested in taking the Forest Ranger and Junior Ranger examinations either for Federal or State work as well as being invaluable to anyone desiring forest work as their life vocation. Anyone interested in such work should take our course by all means.

About one-half of respondents' customers purchase the course in forestry. While the respondents' courses purport to prepare customers for positions in State forestry services and for positions in private employ respondents' literature is so drawn as to hold out also the hope to prospective customers that by studying respondents'

course they may obtain positions in the United States Forest Service, as rangers.

PAR. 5. Respondents' course in forestry would not be beneficial to persons desiring to qualify themselves for the technical positions in the United States Forest Service including technologist, senior forester, and junior forester. The position as ranger in said service is of lower grade. In recent years, however, employees in the forest service have been required to meet a constantly increasing knowledge of insect enemies of trees, tree diseases, forest development including scientific thinning and selling, grazing of livestock, game management and engineering and landscaping for recreational purposes. The result has been that vacancies in recent years in the position of forest ranger have been filled not with eligibles on the forest ranger list, but from eligibles for positions superior to forest rangers, for obtaining which respondents' course would be of no assistance. Even when appointments were made from lists of the United States Civil Service Commission to the position of ranger, these positions could not be fairly characterized, in addressing the general public untrained in forestry, as "easily available" or the requirements for it such that "no particular amount of education is required" or that the general reader "should have no difficulty in any examination" therefor. The following restrictions were contained in the announcement of the United States Civil Service Commission for the last examination given by the Commission for the position of forest ranger, dated October 13, 1930:

Education and Experience.—The mental test will represent the full equipment of a four-year high-school education. Applicants must show that they have had at least three years of field experience in forestry, including such activities as lumbering, grazing, surveying and forest-fire control, at least six months of which must have been as foreman or in a similar position involving the direction and control of three or more men; provided, that school work in a forest school of recognized standing will be accepted in lieu of experience other than foremanship up to twenty-seven months.

Moreover, the general availability of the position was further restricted by health, medical, and ocular tests and the requirement that applicants be between 25 and 35 years of age unless entitled to military or naval preference. Respondents do not inform prospective purchasers of these restrictions. Respondents still represent to prospective customers that Federal as well as State and private positions as forest ranger are obtainable and that their course would aid in securing them. Since 1931 only one Federal appointment has been made to the position of forest ranger, which was in 1932. No examination for the position has been announced or held by the United States Civil Service Commission since that of October 13, 1930, and

responsible Government officials testified that none is contemplated. From mid-summer of 1931 to the time of trial, respondents sold their forestry course to about 900 customers. As the outcome of an investigation by this Commission, respondent Ray Rennison agreed, on October 26, 1931, in part as follows:

Respondent further stipulates and agrees to discontinue and not resume the advertisement and/or sale of course of instruction for the position of forest ranger.

PAR. 6. The references to National forests, the Federal forest service, and positions in said service in respondents' "follow-up" literature have the capacity and tendency to induce customers to buy respondents' course in forestry in the hope that they may thereby be aided in becoming forest rangers in the Federal service whereas there is no present possibility of such an outcome and no reasonable likelihood thereof for an indefinite period.

PAR. 7. The United States Civil Service Commission imposes restrictions upon applicants for numerous positions, other than that of forest ranger, for obtaining which respondents offer courses of instruction. Among restrictions so imposed for such positions are the following:

(a) Applicants for the position of rural mail carrier must have been domiciled within the territory supplied by the office for which the examination is held and must have been actual residents within the delivery radius of the office for six months next preceding the closing date for the reception of applications. There are numerous physical defects which bar persons from examination. These, however, can be waived, under certain conditions, in favor of disabled soldiers, sailors and marines, and in their favor only. The applicants must be between 18 and 50 years of age, unless entitled to military preference.

(b) Applicants for rural postal clerk must meet certain requirements as to their weight and physical condition and there is a requirement that each applicant shall reside in the State in which he is to serve.

(c) Applicants for immigration patrol inspector must meet certain weight, height and physical condition requirements, as shown by a medical certificate required to be filed. They must be between 23 and 36 years of age, unless entitled to military preference.

(d) Applicants for immigration inspector must be between 21 and 45 years of age, unless entitled to military preference. They must submit a physical certificate and be prepared to take an examination from a Federal physician. Evidence must be given as to personal characteristics and habits, and applicants must give their

history so as to show whether they have been guilty of disrespect of law or of unethical dealings.

(e) Applicants for park ranger must show, as a prerequisite to taking the examination, at least one year's experience in out-door vocations in which they have shown adaptability to the duties required. They must have certain moral, personal and physical qualifications described in the announcement of the Civil Service Commission for examinations for these positions. They must also be between 21 and 45 years of age, unless entitled to military preference. Moreover, such applicants may fail of appointment under certain circumstances if they are married. They must also be capable of enduring hardships and of working under trying conditions, and must show themselves capable of taking care of themselves and their horses in regions remote from settlements and supplies. Provision is made for an oral examination as to fitness.

PAR. 8. Respondents either do not, in their "follow-up" literature, state the restrictions upon eligibility in paragraph 7 above mentioned, or state them inadequately. The omission adequately to disclose such restrictions has the capacity and tendency to mislead and deceive a substantial proportion of those who purchase respondents' courses into the hope that purchasers may obtain the United States Civil Service positions referred to by respondents in their "follow-up" literature, irrespective of whether they can meet the various requirements so actually imposed. Purchasers do not understand that they may not be eligible to take the examination after they have purchased and pursued respondents' courses purporting to prepare them for examination. They are thus led to purchase respondents' courses, whereas in numerous cases they would not do so but for respondents' omission to disclose pertinent information as outlined in said paragraph 7.

PAR. 9. The pleaded issue of respondents' use, as part of their trade name and style, of the word "bureau", as tending to mislead prospective customers into the belief that respondents were in some manner connected with the Federal Government was not tried, since respondents entered into the following stipulation:

* * * while the word "bureau" as part of respondents' trade name is not generally misleading, the respondents' advertising and follow-up literature go to many mountain and other remote sections, the inhabitants of which are not as well informed of governmental affairs as the average persons throughout the country, and to a substantial minority of such persons the word "bureau" as part of respondents' trade name, may have a tendency to mislead into the belief that respondents are in some fashion connected with a branch of the Federal service.

Now, therefore, it is further stipulated and agreed that respondents consent to a clause in the order on the Commission's part requiring them to desist from the use of the word "bureau", unless they shall prominently in each piece of follow-up literature state that they are entirely unconnected with any branch of the Federal Government or with the Government of any State.

PAR. 10. Respondents say in their follow-up literature:

With our course we *guarantee* you an appointment if you take an examination or refund your fee. * * * You may be assured of our very best efforts and a position or your fee will be refunded * * *.

The "enrollment blank" of respondents, included with said literature, which customers are asked to sign, contains this:

I agree to take your (first choice) ——— (second choice) ——— course of instructions and the respective examination. If I fail to pass or am not offered an appointment before the termination of my eligibility, my fee is to be returned to me.

Respondents have made frequent refunds to customers. They offer any three courses at a much reduced combination rate. About one-half of respondents' customers purchase at such combination rate. The implication from respondents' references to their guaranty is that each customer is entitled to a refund if he fails in but one examination and thereby respondents' inducement to prospective customers is substantially enhanced. Respondents do not, however, make a practice of refunding the combination rate purchase price unless the purchaser of three courses has taken all three examinations and has failed to pass them all. Sometimes there is an intermission of several years between examinations for any given Federal position and in practice respondents' "guaranty" so offered has a greatly diminished value as contrasted with the implications from respondents' references to it. Moreover, there is no promise of refund if the customer finds that he is debarred from taking the examination because of the educational, physical, personal, residence, experience and other restrictions, mentioned above, in paragraph 7, as to which respondents have not informed him. The result thereof is a tendency and capacity to mislead and deceive prospective customers who contemplate buying at the said combination rate into a greater reliance upon said "guaranty" than the facts warrant.

PAR. 11. With respect to the availability of positions in the Federal service and to the opportunities to take examinations therefor, respondents in their "follow-up" literature, among other things, say:

The examination is held in every State in the Union and Hawaii, and in dozens of cities in every State. Applicants are appointed in the State in which they take the examination.

Also

Enroll at once for this examination and be sure of a passing grade and appointment.

Both the foregoing relate to respondents' courses for railway mail clerks. The proof shows, however, that after a general examination held on April 9, 1927, no general examination had again been given for this position when the testimony was taken on January 8, 1935. One intervening examination was held in May, 1932, which was local, however, to the States of Connecticut, Nevada, and New Hampshire. Moreover respondents say:

Better enroll for one of these courses and be sure of a good job.

Why not enroll now and be sure of an early appointment?

There are positions for old and young in almost any type of endeavor.

The foregoing and similar representations on respondents' part have the capacity and tendency to mislead prospective customers into the belief that positions in the Federal service are more generally available and examinations earlier and more frequent than is actually the case. The evidence shows that it is frequently several years between examinations for various civil service positions and that these examinations are frequently of a local character.

PAR. 12. Respondents use advertising, in the above described periodicals of national circulation, of the following type:

Field clerical Government jobs easily available. \$105 to \$200 a month, steady. Get details immediately. Rayson Service, D-45 Denver, Colorado.

Although respondents give contrary instructions, advertising of the above character appears frequently under the heading, in the periodical media used, "help wanted". The wording of the advertising and the use of columns thus entitled have the capacity and tendency to induce prospective customers of respondents to believe that the respondents have information of positions available, and are engaged in filling positions, in the Government service. This tendency is increased through the fact that a substantial portion of respondents' advertising goes among people who are exceptionally ill-informed with regard to governmental matters. Moreover this type of advertising tends to promote the insertion thereof in the "help wanted", and similarly entitled, columns of the said periodicals.

PAR. 13. The advertising and "follow-up" literature of respondents in the respects hereinabove set forth, having the capacity and tendency above described, attract to respondents customers who otherwise would not purchase respondents' courses of instruction. Respondents' competitors hereinabove described frequently use the same

periodical media which respondents use and their advertising often appears in the same or nearby advertising columns. The above-described misleading statements of respondents, and their aforesaid failure to disclose pertinent facts, have a direct tendency to induce customers to purchase respondents' courses in preference to the courses offered by competing correspondence schools; moreover they have the tendency to induce other such schools to indulge competitively in similar methods of advertising. Respondents' methods of competition above in these findings described have a tendency to divert trade from and to injure competitors of respondents.

CONCLUSION

The Commission has reached the following conclusion:

(a) Respondents are engaged in interstate commerce and are in competition with others so engaged.

(b) Respondents have used unfair methods of competition by the employment of misleading and deceptive representations as to their courses of instruction. Respondents have also used unfair methods of competition in that they have failed to disclose to prospective customers pertinent and necessary information which was known, or should have been known, to respondents in the ordinary course of their business and which they were under a legal obligation to disclose to prospective customers so that the latter might know, before buying respondents' courses, whether they were eligible to take the examinations to prepare for which respondents' courses were offered for sale.

(c) Periodical media are the agents of respondents with respect to the publication of respondents' advertising and respondents are responsible for the columns in which their advertising appears.

(d) The use by respondents' competitors of advertising of a character similar to the advertising of respondents does not constitute legal justification to respondents.

(e) The methods of competition of respondents, set forth in the findings, are to the prejudice of the public and of respondents' said competitors and constitute unfair methods of competition 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

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ORDER TO CEASE AND DESIST

This proceeding having been considered by the Commission upon the pleadings, the evidence received, the matter having been presented to the Commission through briefs of counsel in support of the complaint and on behalf of respondents, and the Commission being fully advised in the premises and having made its findings as to the facts and its conclusion, among others, that respondents have violated the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes"—

It is ordered, That respondents, Ray Rennison and Martha Rennison, their agents, representatives, and employees, in connection with the advertising, offering for sale and sale, in interstate commerce, of their courses of instruction by correspondence do cease and desist, as follows:

1. From including in their "follow-up" or other advertising matter or correspondence as to their forestry course, any reference to, or statement regarding national forests, the Federal forest service or positions in said service, unless and until either (a) the United States Civil Service Commission shall resume the announcement of examinations for the position of ranger in the United States Forest Service; or (b) respondents shall declare in each such piece of "follow-up" literature, advertising matter or item of correspondence, and in lettering as large and conspicuous as said reference or statement, that respondents' said course is neither adapted nor designed to aid students to obtain positions as ranger in the United States Forest Service.

2. From offering any course of instruction without stating in their "follow-up" literature the educational, physical, personal, residence, experience and other requirements or restrictions imposed upon applicants for respective positions, for which respondents' courses are offered as preparation, either in the announcement made for a pending examination by the United States Civil Service Commission for the position in question, if there be such an announcement, or, if not, in the last previous announcement made.

3. From using the word "bureau", unless respondents shall prominently in each piece of their "follow-up" literature state that they are entirely unconnected with any branch of the Federal or any State government.

Order

4. From continuing their "guaranty" offer without making it clear that the purchaser at respondents' combination rate is not entitled to a refund unless he has failed in each examination in preparation for which he purchased a course from respondents.

5. From implying, in advertising, "follow-up" literature or correspondence with prospective customers, that Government positions are available generally or that examinations therefor are frequent, or soon to be held, unless such is actually the case.

6. From implying in their advertisements that they are seeking employees to fill Government positions or that they can offer Government positions to those who answer said advertisements; and from using advertising space entitled "Help Wanted" or entitled with a word or words having the same or similar meaning.

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

Complaint

21 F. T. C.

IN THE MATTER OF
CHARLES BRONSON, TRADING AS BRONSON
SHOE COMPANY

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

Docket 2298. Complaint, Feb. 14, 1935—Order, Oct. 15, 1935

Consent order requiring respondent individual, his officers, etc., in connection with the advertisement, offer for sale and sale in interstate commerce and in the District of Columbia, of shoes, to cease and desist from—

- (a) Representing through advertisements, circulars, etc., or in any other manner or assisting or participating in advertisements, etc., representing that he owns or operates a shoe factory, and that prices at which he sells his products to the consumer are manufacturers' wholesale prices; or that he sells his products to the consumer under any plan or method of distribution by means of which all costs, profits or other charges of middlemen are eliminated; or that the proceeds of such savings by reason of the elimination of such middlemen, accrue to the purchasers from him, unless and until such representations are true in fact; or
- (b) Representing as aforesaid or assisting or participating in advertisements, circulars, etc., representing or indicating or having a capacity or tendency to indicate from the text in which such representations appear that he owns or controls patents or "new patents" covering so-called "Air Cushion" shoes or other manufacturing processes unless and until the same are owned or controlled by him.

Mr. Marshall Morgan for the Commission.

Webber, George & Owen, of Winona, Minn., for respondent.

COMPLAINT

Acting in the public interest 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 charges that Charles Bronson, trading as Bronson Shoe Company, has been and is using unfair methods of competition in interstate commerce, as "commerce" is defined in said act, in violation of the provisions of Section 5 of said act, and states its charges in that respect as follows:

PARAGRAPHS 1. Respondent, Charles Bronson, trading as Bronson Shoe Company, 710 West Lake Street, Minneapolis, Minn., is, and for more than two years last past has been engaged, as hereinafter described, in the business of selling shoes direct to consumers located in various States of the United States. In consummating such sales and in distributing such merchandise respondent causes the said