

IN THE MATTER OF
NATIONAL SALESMEN'S TRAINING ASSOCIATION

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

Docket 2528. Complaint, Aug. 22, 1935—Decision, Sept. 4, 1936

Where a corporation engaged in sale and distribution of correspondence courses in salesmanship and sales management, and in sale and distribution of books and other printed matter in connection therewith—

- (a) Represented, in magazine advertising and through salesmen, that earning capacity of those who studied or completed its courses was greatly in excess of their earning capacity under normal conditions, through such exaggerated statements as "Salesmanship is the highest paid profession in the world," and "More salesmen make 'huge sums' than do men in other professions";
- (b) Made similar representations through testimonials in a booklet sent in response to inquiries and purporting to show increased earnings of purchasers who had completed said courses, in such manner as to indicate that such increased earnings of those who had studied said courses were usual, and what prospective purchasers would receive upon completing the same, facts being they were extraordinary and resulted from special conditions;
- (c) Falsely represented that demands from employers of salesmen for students of said courses exceeded the supply and that it was unable to supply such demand therefor, and that there would be no delay in placing prospective purchasers in positions as soon as they had completed a sufficient portion of their courses to qualify, and that upon completion of its courses, it would secure the prospective purchasers positions at salaries greatly in excess of those earned on beginning the same, facts being it did not secure employment for purchasers when a portion of its courses had been completed, nor did it secure them positions upon completion of their studies at greatly increased salaries;
- (d) Represented that it would refund money paid for said courses to purchasers dissatisfied with training received, facts being that money-back agreement actually executed by it on sale of its courses specified that refund was conditioned upon written application by student within thirty days after receipt of diploma, and his failure to be entirely satisfied with service and instruction given, etc., and it was its practice, in many instances, to refuse diploma until after receiving purchaser's expression in writing of complete satisfaction, so as to rebut any possible claim within aforesaid period, and it did not return money paid to dissatisfied purchaser;
- (e) Represented that it had an advisory board of outstanding successful business men from nationally known firms who had assisted in preparing its courses and who would assist purchasers in their training and in securing employment, facts being many of such purported board members had no connection with it and none of them actively cooperated with purchasers as aforesaid, and their only service was in expressing approval of or preparing some particular portion of such courses;
- (f) Represented that it maintained a nation-wide employment service through which it was able to secure purchasers desirable positions at greatly

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increased salaries, facts being it did not maintain any employment service at all, other than contacting from time to time employers and endeavoring to place its purchasers with them; and

- (g) Made use of corporate name containing word "Association" and thus referred to itself, and to students and ex-students as "members", facts being it was not, as thereby understood, an association or union of persons for promotion of some common enterprise of mutual benefit, but a private corporation organized and conducted for profit and for the benefit of its stockholders, and purchasers of said courses, etc., did not become members of an association as thus understood;

With effect of misleading and deceiving prospective purchasers into believing that it was a union of persons for the promotion of some common enterprise of mutual benefit, and a substantial number thereof in respect to earnings, demand, refunds or guarantee, advisory board and employment service, and the nature of its business, and with result that many prospective purchasers bought its said courses of study, books, etc., in preference to those of competitors who do not use similar methods in securing purchasers, and of thereby diverting trade to it from its competitors, to their injury and that of the public:

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

Before *Mr. W. W. Sheppard*, trial examiner.

Mr. Edw. W. Thomerson for the Commission.

Hurford & Feigenholtz, of Chicago, Ill., 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 the National Salesmen's Training Association, a corporation, hereinafter referred to as 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, it hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, National Salesmen's Training Association, is a corporation existing under and by virtue of the laws of the State of Illinois, with its principal office and place of business in the city of Chicago, State of Illinois. Respondent is now, and has been for the several years last past, engaged in the sale and distribution of books, pamphlets, and other printed and written matter in connection with its courses in salesmanship and sales management which are conducted by correspondence, and causes said books, pamphlets, and other printed and written matter, when sales are made, to be shipped

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from its principal place of business in the city of Chicago, State of Illinois, into and across the several States of the United States, other than the State of Illinois, to the purchasers thereof located at various points in the said several States. In the course and conduct of its business, the respondent is and has been in substantial competition with other corporations and with individuals, partnerships, and associations engaged in the sale and distribution in said commerce of books, pamphlets, and other printed matter, in connection with courses by correspondence in salesmanship and sales management. The respondent and said other corporations and said individuals, partnerships, and associations are commonly known to the general public as correspondence schools.

PAR. 2. Respondent, in the course and conduct of its business as aforesaid, employs salesmen to solicit purchasers of its courses in salesmanship and sales management and the books, pamphlets, and other printed and written matter used in connection therewith, and advertises in numerous magazines its said courses in salesmanship and sales management and the books, pamphlets, and other printed and written matter used in connection therewith, and it sends to prospective purchasers booklets, pamphlets, circulars, and other printed and written matter containing statements concerning its said courses in salesmanship and sales management for the purpose and with the intent of inducing said prospective purchasers to purchase its said courses in salesmanship and sales management and the books, pamphlets, and other printed and written matter used in connection therewith.

PAR. 3. Respondent, in the course and conduct of its business and by the means and in the manner aforesaid, and by the use of the word in its corporate name, represents to prospective purchasers that it is an association, and that purchasers of its said courses in salesmanship and sales management and the books, pamphlets, and other printed matter used in connection therewith are members of the association. Prospective purchasers of courses by correspondence in salesmanship and sales management and of the books, pamphlets and other printed and written matter used in connection therewith understand the word "association" to mean a union of persons for the promotion of some common enterprise of mutual benefit to such persons, and understand the word "member" to mean a person who has joined a union for the promotion of some common enterprise which is for the mutual benefit of all the members. The use of the word "Association" and the word "member" or "members" by the respondent in the solicitation of prospective purchasers of salesmanship and sales management correspondence courses and the books, pamphlets, and other printed and

written matter used in connection therewith, leads said prospective purchasers erroneously to believe that the respondent is an "association", as that word is understood by such prospective purchasers, and that by the paying of the purchase price demanded by the respondent for said courses and the books, pamphlets and other printed and written matter used in connection therewith, that they will be and become members of an "association", as that term is understood by such prospective purchasers, and causes many prospective purchasers to purchase the respondent's said courses in salesmanship and sales management and the books, pamphlets, and other printed and written matter used in connection therewith because of such erroneous belief, when in truth and in fact the respondent is not an "association" as that word is understood by such prospective purchasers, but is a private corporation organized and conducted for profit and for the benefit of the stockholders therein, and is not a union of persons for the promotion of some common enterprise of mutual benefit to all of the members, and the purchasers of said courses in salesmanship and sales management and the books, pamphlets and other printed and written matter used in connection therewith do not become "members of an association", as that term is understood by such purchasers.

PAR. 4. Respondent, in the course and conduct of its business and by the means and in the manner aforesaid, falsely and fraudulently represents that the earning capacity of and the demand for said "members" is greatly in excess of the usual and ordinary earning capacity of and the usual and ordinary demand for said "members". In this connection, the advertisements in magazines and the booklets, pamphlets, circulars, and other printed and written matter used by the respondent in soliciting purchasers contain numerous statements to the effect that salesmanship is "the highest-paid profession in the world"; that more salesmen make "huge sums" than do men in other professions; that every year it "receives calls for many thousands of salesmen from manufacturers, wholesalers, jobbers, and sales organizations of every kind and description"; that "more salesmen are needed now than ever before"; that "the demand for salesmen is making manufacturers, wholesalers, etc., pay top salaries for salesmen who really know how to get profitable business economically"; and that "employers are willing to pay almost any reasonable salary to get a trained man". The said advertisements in magazines and in the booklets, pamphlets, circulars, and other printed and written matter contain many other false and misleading and exaggerated statements of similar import.

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In support of the false and fraudulent representations made by the respondent as to the earning capacity of and the demand for said "members" it circulates in said magazine advertisements and in said booklets, pamphlets, circulars, and other written and printed matter purported testimonials from "members" reciting the success achieved by each of said "members" as the result of his membership in and the training received from the so-called "association". One of the testimonials used extensively by the respondent was written by one L. Van Houten and is in part as follows:

Before I enrolled I thought \$50.00 per week was big money, but since I have enjoyed an income of better than \$900 per month.

Many other similar testimonials are used by the respondent, and in practically all instances the "members" purport to compare the huge sums earned after "enrolling as members" with the small sums received prior to that time. These testimonials are used by the respondent in such connection with the false and misleading representations made by the respondent, as above alleged, as to the earning capacity of and the demand for said "members" in such a manner as to mislead and deceive prospective purchasers of correspondence courses in salesmanship and sales management and the books, pamphlets, circulars, and other printed and written matter used in connection therewith, erroneously to believe that the statements made by the respondent as to the sums earned by said "members" and the testimonials of the "members" are true and that the sums mentioned as earnings are the usual and ordinary sums earned by said "members"; when in truth and in fact said sums so stated as being the earnings of said "members" are not the usual and ordinary earnings of "members" but are unusual and extraordinary and are earned by only a few.

The earnings as represented by the respondent and in said testimonials are not earnings which commonly result from becoming a "member" of the "association" but are the earnings resulting from special conditions which will not surround all of the "members".

PAR. 5. Respondent, in the course and conduct of its business and by the means and in the manner aforesaid, falsely and misleadingly represent to prospective purchasers of its courses and the books, pamphlets and other printed and written matter used in connection therewith, that it will refund to any "member" who is not satisfied the entire sum paid for tuition. In this connection, in its advertising in magazines and in the booklets, pamphlets, circulars, and other printed and written matter used by the respondent in soliciting purchasers, it makes the following statements and many others of similar import:

YOUR MONEY BACK IF YOU'RE NOT SATISFIED!

You must be entirely satisfied or your money cheerfully refunded. This is the broad ironclad Money Back Agreement the N. S. T. A. makes to every member who enrolls. And this legally binding guarantee is backed by the resources of this great million dollar corporation.

We must deliver exactly all we have promised or the training and service will not cost you a cent.

Results are the only thing that count! And if you are not entirely convinced that N. S. T. A. Training and Employment Service has been one of the most profitable investments of the time and money you have ever made, all you need do is to ask for your money back as provided in the Money Back Agreement—and **YOU'LL GET IT**—every penny of tuition paid. You see you are protected from start to finish. No chance to lose. No risk on your part in any way.

That's a remarkable guarantee—we know it! But, if the amazing successes of thousands of our other members are anything to go by, we feel that you too can enjoy this same big success, prosperity and independence and we do not hesitate to let you be the sole judge as to the worth and value of the training and service received.

Therefore, please bear this in mind: **"YOUR MONEY BACK IF YOU'RE NOT SATISFIED!"**—An important, additional reason for taking N. S. T. A. Training and Employment Service.

The representations above alleged lead many prospective purchasers erroneously to believe that the money paid by them to the respondent will be returned if they are not satisfied with the training received and the services rendered; for in truth and in fact respondent does not return to the so-called "members" the money paid for tuition if they are not satisfied, and the money-back guarantee referred to in said advertising matter contains many restrictions in regard to the securing of the return of the money paid, all of which are used by the respondent to defeat the efforts of a dissatisfied "member" in securing the return of the money he has paid the respondent. This money-back agreement is as follows:

The National Salesmen's Training Association will cheerfully refund the full amount of tuition paid if, upon fulfillment of terms of enrollment and sending written application to the National Salesmen's Training Association within thirty days after receiving his diploma, the member is not entirely satisfied with the service and instruction as given in his membership application, and if after availing himself of all training and service privileges he is not thoroughly convinced that the full value has been received.

and does not provide for the payment of "your money back if you're not satisfied".

PAR. 6. Respondent, in the course and conduct of its business and in the manner and by the means aforesaid, falsely and fraudulently represents to prospective purchasers of its said courses and the books, pamphlets, and other printed and written matter used in connection

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therewith that it has an "Advisory Board", consisting of outstanding successful business men connected with nationally known firms who have helped to make its courses practical and thorough and who have contributed valuable information, suggestions, and material with particular reference to the opportunities, problems, and practices in their own lines, and who have active interest in and cooperate with the "association", which guarantees the "members" a breadth of viewpoint in the application of selling principles and the support of thousands of big business firms. In connection with these representations, the respondent circulates, in its booklets, pamphlets, circulars, and other printed and written matter used in soliciting purchasers, an imposing list of some forty or fifty names of persons said to be holders of positions of importance with large, nationally-known, successful businesses, who are represented as being members of the advisory board.

The representations aforesaid and this list of names leads many purchasers erroneously to believe that the persons listed have actually assisted and advised respondent in the preparation of its courses in salesmanship and sales management and that they actually assist "members" by reason of their connection with the respondent, when in truth and in fact said persons have not assisted and advised respondent in the preparation of its courses and do not assist so-called "members" in any way by reason of their connection with the respondent.

PAR. 7. Respondent, in the course and conduct of its business and by the means and in the manner aforesaid, falsely and fraudulently represents to prospective purchasers that it maintains a nationwide employment service for the benefit of its "members". In some instances respondent's salesmen guarantee to prospective purchasers that respondent will secure employment for them at a salary in keeping with the representations made as to earnings as hereinabove alleged.

These representations lead many purchasers erroneously to believe that "membership" in the "association" assures them of a position with an unusually large salary as a result of respondent's nationwide employment service, when in truth and in fact respondent has no nationwide employment service nor does it secure all so-called "members" positions with unusually large salaries.

PAR. 8. Respondent's advertisements in their entirety contain many false and fraudulent representations not herein specifically alleged, but all of which mislead and deceive prospective purchasers in one or more of the respects hereinabove mentioned.

PAR. 9. The acts and practices of the respondent as hereinabove alleged have the tendency and capacity to and do mislead and deceive prospective purchasers and cause them to purchase respondent's

said books, pamphlets, and other printed and written matter sold and used in connection with its said courses in salesmanship and sales management in lieu and instead of the books, pamphlets and other printed and written matter used in connection with courses in salesmanship and sales management sold by its competitors, thereby diverting trade from its competitors to the respondent, to their injury and to the injury of the public.

PAR. 10. The above acts and practices of respondent are all to the prejudice of the public and of respondent's said competitors, and constitute unfair methods of competition in 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

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 August 22, 1935, issued and served its complaint in this proceeding upon the respondent, National Salesmen's Training Association, charging it with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint, and the filing of respondent's answer thereto, testimony and evidence in support of the allegations of said complaint were introduced by Edward W. Thomerson, attorney for the Commission, before W. W. Sheppard, an examiner for the Commission theretofore duly designated by it; thereafter the respondent, through its attorneys, Hurford & Feigenholtz, duly executed a stipulation as to the facts, which was subsequently approved by the Commission, wherein it was agreed that the said statement of facts and the evidence theretofore introduced might be taken as the facts in this proceeding in lieu of further testimony in support of the charges stated in the complaint, or in opposition thereto, and that the Commission might proceed upon said statement of facts, and the testimony theretofore taken, to make its report stating its findings as to the facts, including inferences which it might draw from the said stipulated facts and the testimony theretofore taken, and its conclusion based thereon, and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs; and the Commission, having duly considered the same and being fully advised in the premises, finds that this proceeding is in the interest of

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the public and makes its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, National Salesmen's Training Association, is an Illinois corporation, with its place of business in the city of Chicago, and is now, and has been for the several years last past, engaged in the sale and distribution of courses of study in salesmanship and sales management by correspondence, and in the sale and distribution of books, pamphlets, and other printed matter used in connection with said courses of study. Respondent sells said courses of study to purchasers located at various points in the several States of the United States and ships said courses of study and the books, pamphlets, and other printed matter used in connection therewith from its place of business in Chicago, Ill., to the purchasers thereof located at said various points in the several States of the United States. Respondent has been, and is, in substantial competition with other firms who are engaged in the sale and distribution, in commerce between and among the several States of the United States, of similar courses of study and books, pamphlets, and other printed matter used in connection therewith. Many of said competitors of the respondent do not use the methods used by the respondent, as hereinafter set out, in securing purchasers for their said courses of study and the books, pamphlets, and other printed matter used in connection therewith.

PAR. 2. The respondent contacts prospective purchasers of its said courses of study through salesmen and through advertisements placed in magazines and, when an inquiry is received from a prospective purchaser as a result of personal contact made by its salesmen, or as a result of magazine advertisements, it mails, or has its salesmen deliver, to such prospective purchaser a booklet, copy of which is in the record as Commission's Exhibit No. 1, which contains statements concerning said courses of study intended and calculated to induce prospective purchasers to purchase said courses of study.

PAR. 3. The respondent, through said printed advertising matter and through said salesmen, has represented, and does represent, to prospective purchasers of its said courses of study that the earning capacity of salesmen who have completed said courses of study is greatly in excess of the usual and ordinary earning capacity of such salesmen, and it has represented, and does represent, that the demand from employers of salesmen for salesmen who have completed said courses of study is greatly in excess of the demand for such

salesmen. In this connection, respondent, in its said booklet, Commission's Exhibit No. 1, makes exaggerated statements concerning the earning capacity of, and the demand for, salesmen trained by it, such as "salesmanship is the highest paid profession in the world", that more salesmen make "huge sums" than do men in other professions, that every year it "receives calls for many thousands of salesmen from manufacturers, wholesalers, jobbers, and sales organizations of every kind and description", and that "more salesmen are needed now than ever before". Many other exaggerated statements of similar import are likewise made by the respondent. Respondent also uses, in said booklet, testimonials from purchasers who have completed said courses of study which contain statements purporting to show their increased earnings as a result of having studied said courses of study in such a manner as to lead prospective purchasers to believe that the increased earnings mentioned are the usual and ordinary earnings of those who have studied said courses of study and the usual and ordinary earnings that such prospective purchasers will receive upon completion of said courses of study. In truth and in fact, said earnings mentioned in said statements of purchasers who have completed said courses of study are not the usual and ordinary earnings of salesmen trained by the respondent, but are unusual and extraordinary and represent the earnings of only a few resulting from special conditions which will not surround a majority of persons completing said courses of study.

The representation is made to prospective purchasers by respondent's salesmen that upon completion of a portion of said courses of study they may expect a large increase in their earning capacity, and that, upon completion thereof, the respondent will secure for them positions at salaries greatly in excess of those being earned by such prospective purchasers at the time they begin said courses of study. Respondent's salesmen further represent that it is unable to supply the demand from employers of salesmen for salesmen trained by it and that there will be no delay in placing the prospective purchasers in positions as soon as they have completed a sufficient portion of said courses of study to qualify as salesmen. In truth and in fact, it does not secure employment for purchasers when a portion of said courses of study have been completed, neither does it carry out the promises made by its salesmen to secure positions for purchasers upon completion of said courses of study at salaries greatly in excess of those being received at the time such purchasers began said courses of study, nor are the demands made upon the respondent by employ-

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ers of salesmen for salesmen who have completed said courses of study greater than it can supply.

PAR. 4. The respondent, in said booklet, Commission's Exhibit No. 1, and through its salesmen, represents to prospective purchasers of its said courses of study that it will return to any purchaser who is not satisfied with the training received the money paid for said courses of study. In this connection, the respondent makes the following statements concerning its money-back guarantee:

YOUR MONEY BACK IF YOU'RE NOT SATISFIED!

You must be entirely satisfied or your money cheerfully refunded. This is the broad iron-clad Money Back Agreement the N. S. T. A. makes to every member who enrolls. And this legally binding guarantee is backed by the resources of this great million dollar corporation.

We must deliver exactly all we have promised or the training and service will not cost you a cent.

Results are the only thing that count! And if you are not entirely convinced that N. S. T. A. Training and Employment Service has been one of the most profitable investments of time and money you have ever made, all you need do is to ask for your money back as provided in the Money Back Agreement—and YOU'LL GET IT—every penny of tuition paid. You see you are protected from start to finish. No chance to lose. No risk on your part in any way.

That's a remarkable guarantee—we know it! But, if the amazing successes of thousands of our other members are anything to go by, we feel that you too can enjoy this same big success, prosperity and independence and we do not hesitate to let you be the sole judge as to the worth and value of the training and service received.

Therefore, please bear this in mind: "YOUR MONEY BACK IF YOU'RE NOT SATISFIED!"—An important, additional reason for taking N. S. T. A. Training and Employment Service.

The money-back agreement actually executed by the respondent when said courses of study are sold is as follows:

The National Salesmen's Training Association will cheerfully refund the full amount of tuition paid if, upon fulfillment of terms of enrollment and sending written application to the National Salesmen's Training Association within thirty days after receiving his diploma, the member is not entirely satisfied with the service and instruction as given in his membership application, and if after availing himself of all training and service privileges he is not thoroughly convinced that the full value has not been received.

The respondent, in many instances, has refused, and does refuse to issue its diploma to purchasers of said courses of study until after it has received from such purchasers an expression, in writing, of complete satisfaction with the training received, which is used to rebut any claim, made within thirty days after receipt of a diploma, of a lack of satisfaction with the training received. In truth and in fact, the respondent has not returned, and does not return, to a pur-

chaser of said courses of study who is not satisfied with the training received the money such purchaser paid it for said courses of study.

PAR. 5. The respondent, in its said booklet, Commission's Exhibit No. 1, and through said salesmen, represents that it has an advisory board consisting of outstanding successful businessmen connected with nationally known firms who assist it in making its said courses of study practical and thorough and who have contributed valuable information, suggestions and material to said courses of study, and it represents that these advisors actively cooperate with and assist purchasers of said courses of study in their training and in securing employment upon completion of said courses of study. In truth and in fact, many of the so-called members of said advisory board have no connection with, or interest in, the respondent or purchasers of said courses of study, and none of them actively cooperate with and assist purchasers of said courses of study in their training and in securing employment upon completion of said courses of study, and the only service that any of said advisors has rendered, or does render, is to express approval of, or to prepare, some particular portion of said courses of study of the respondent.

PAR. 6. The respondent, in its said booklet, Commission's Exhibit No. 1, and through its salesmen, represents that it maintains a nationwide employment service for the benefit of purchasers of its said courses of study through which it is able to secure for such purchasers desirable positions at salaries greatly in excess of those earned prior to the time of the purchase of said courses of study. In truth and in fact, respondent does not maintain a nationwide employment service, or any employment service at all, other than it does from time to time contact distributors, manufacturers and firms who employ salesmen either on a commission or a salary basis and does endeavor to place purchasers of said courses of study in contact with such organizations, but it has not secured, and does not secure, desirable positions at greatly increased salaries for purchasers of said courses of study through any employment service.

PAR. 7. Respondent, in its advertising matter, uses its corporate name containing the word "association" and refers to itself as an "Association" and to its students and ex-students as "Members". Many prospective purchasers of respondent's said courses of study in salesmanship and sales management and the books, pamphlets and other printed matter used in connection therewith, understand the word "Association" to mean a union of persons for the promotion of some common enterprise of mutual benefit to such persons and understand the word "Member" to mean a person who has joined a union for the promotion of some common enterprise which is for the

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mutual benefit of all the members. In truth and in fact the respondent is not an association as that word is understood by said prospective purchasers, but it is a private corporation organized and conducted for the profit and for the benefit of the stockholders therein and it is not a union of persons for the promotion of some common enterprise of mutual benefit to all of the members and purchasers of said courses in salesmanship and sales management and the books and other printed matter used in connection therewith do not become members of an association as that term is understood by such purchasers. The use of the word "association" in its corporate name and the words "Association" and "Members" by the respondent in its advertising matter misleads and deceives purchasers of its courses of study in salesmanship and sales management and the book, pamphlets, and other printed matter used in connection therewith, and causes them to believe that it is a union of persons for the promotion of some common enterprise of mutual benefit.

PAR. 8. The aforesaid acts and practices of the respondent have the tendency and capacity to, and do, mislead and deceive a substantial number of prospective purchasers and cause them erroneously to believe that the earning capacity of, and the demand for, persons who have completed its said courses of study are greatly in excess of the earning capacity of, and the demand for, such persons; that the statements in said testimonials from purchasers of said courses of study as to their increased earnings as a result of having studied said courses of study are the usual and ordinary earnings of salesmen trained by the respondent; that purchasers will receive a large increase in earnings upon the completion of a portion of said courses of study and that upon completion of said courses of study the respondent will secure for them positions at salaries greatly in excess of those being earned prior to the time said courses of study were purchased; that the respondent will return to any purchaser who is not satisfied with the training received the money paid for said courses of study; that the respondent has an advisory board consisting of outstanding successful business men from nationally known firms who have assisted the respondent in preparing said courses of study and who will assist purchasers of said courses of study in their training and in securing employment; that the respondent maintains a nationwide employment service for the benefit of the purchasers of said courses of study through which they will secure positions at salaries greatly in excess of those earned prior to the time they purchased said courses of study; and that the respondent is a union of persons for the promotion of some common enterprise of mutual benefit; and many of said prospective purchasers, because of said erroneous beliefs, purchase re-

spondent's said courses of study and the books, pamphlets and other printed matter used in connection therewith in preference to similar courses of study and the books, pamphlets, and other printed matter used in connection therewith sold by its competitors who do not use similar methods in securing purchasers for their said courses of study and the books, pamphlets and other printed matter used in connection therewith, thereby diverting trade from its competitors to the respondent to their injury and to the injury of the public.

CONCLUSION

The aforesaid acts of the respondent under the conditions and circumstances set forth 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 duly heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondent, the stipulation as to the facts, and the testimony in support of the complaint, and the Commission having made its findings as to the facts and its conclusion that the respondent has 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 now ordered, That the respondent, National Salesmen's Training Association, a corporation, its officers, agents, representatives, and employees, in connection with the sale, offering for sale, and distribution in interstate commerce or in the District of Columbia of its courses of study in salesmanship and sales management, and the books, pamphlets, and other printed matter used in connection with such courses of study, cease and desist:

1. From representing expressly or by implication that the earnings of persons studying or who have completed its said courses of study are greater than their usual and ordinary earnings under normal conditions;

2. From representing expressly or by implication that the demand from employers of salesmen for persons studying or who have completed its said courses of study exceeds the demand that actually exists at the time the representation is made;

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3. From using in its printed advertisements or otherwise testimonials from persons who have studied or completed its said courses of study which contain statements as to increased earnings attributed to said courses of study, but which were not in fact earned under normal conditions;

4. From representing expressly or by implication that it will secure for purchasers of its said courses of study positions at greatly increased salaries upon completion of a part or all of its said courses of study;

5. From representing expressly or by implication that it will refund the purchase money paid for its said courses of study to purchasers who are not satisfied with the training received, unless and until it actually does make such refunds without imposing additional conditions;

6. From representing expressly or by implication that it has an advisory board of outstanding, successful business men from nationally known firms who have assisted it in preparing its said courses of study and who will assist purchasers of said courses of study in their training and in securing employment, when it has no such advisory board;

7. From representing expressly or by implication that it has and maintains a nationwide employment service.

8. From representing expressly or by implication, through the use of the word "association" in its corporate name or through the use of the words "association" and/or "members" in its advertising matter, or otherwise, it is an association composed of student members.

It is further ordered, That the respondent, National Salesmen's Training Association, a corporation, shall, within 60 days after service upon it of a copy of this order, file with the Federal Trade 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 hereinabove set forth.

Syllabus

IN THE MATTER OF
BLACKWELL JOURNAL PUBLISHING COMPANY

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

Docket 2456. Complaint, June 24, 1935—Decision, Sept. 5, 1936

Where a corporate newspaper publisher engaged in selling its daily regularly to persons within and without State, pursuant, chiefly, to subscriptions, and in soliciting and securing both local and national advertising and advertisers, and in inserting and carrying the respective advertisements of merchants, manufacturers, and others thus solicited and located in its city and vicinity and that of those who, located in other States, advertise their goods in various parts of the country, and by reasons of, (1) out-of-State advertising contracts thus solicited and secured and resulting out-of-State shipments of cuts, electrotypes, stereotypes, mats, and textual copy for the make-up and publication of advertisements involved, and, (2) shipments of its papers to out-of-State subscribers, source and destination of a course of trade and commerce in and through the various States from and to it, and dependent primarily upon advertising income for support of the enterprise and deriving a substantial, but not greater, proportion of its income from national advertising and advertisers, accustomed to select newspaper preferred by local advertisers as having "local acceptance"—

- (a) With intent to destroy a theretofore long-established, similarly situated and engaged competitor in its said city, and with capacity and tendency so to do and to give it a monopoly in the territory and business involved and in out-of-State sales, subscriptions, and advertisements, regularly quoted and charged advertising rates substantially below cost to it of setting up and publishing such advertisements and below cost at which its said competitor had been and was able to set up and publish its advertisements, with result that during two-year period of its existence involved, loss from publication, financed by ostensible loans, equalled about ninety-five percent of its capital, and said competitor was thereby forced to publish its newspaper and its advertisements at a substantial and continually increasing loss;
- (b) With intent, capacity, and tendency to cause subscribers to fail and refuse to continue to subscribe to said competitor's paper and to prevent others from subscribing, made false and disparaging statements to such competitor's subscribers and prospective subscribers relative to its financial condition and strength and its ability to continue to publish its paper, including statements, in substance, that it was in a failing financial condition and heavily indebted, and that one of several individuals, who financed by such ostensible loans its said losses, and who had no financial or stockholder interest in itself, but were personally and politically hostile to the editor-owner of said competitor, had acquired evidences of its indebtedness and would soon "close out" such competitor, and that it would be out of existence before another subscription period would expire, and that its, i. e., said corporation's, paper was being conducted at a loss for the purpose of "breaking" said competitor and that latter could not "hold out on that kind of competition"; and