

Syllabus

IN THE MATTER OF

WILLIAM W. BABCOCK, TRADING AS NATIONAL CIVIL
SERVICE TRAINING BUREAU

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

Docket 2672. Complaint, Dec. 27, 1935—Decision, Nov. 19, 1936

Where an individual engaged in sale and distribution of correspondence course of study and instruction designed and intended to prepare students for civil service positions with the United States Government; in describing his said business and course and in soliciting sale of latter through advertising matter, application and contract blanks, and through agents and representatives who solicited prospective students, and otherwise—

- (a) Included in trade name employed by him in his aforesaid business the words "Civil Service" and "Bureau," and represented that he or his said business was connected with the United States Government, and that it made "Civil Service Tests," and tests for which students contracted were the regular civil service examinations, and it had been authorized by the Government to select a certain number of students to prepare for civil service positions, and that under the "New Deal" the Government was hand-picking employees and it, i. e., the school, was engaged in such selection, and that payments made by students went to the Government, and school was operating "in strict compliance" with the laws and regulations of the Federal Trade Commission;
- (b) Represented that civil service positions under the Government were open and available and that its students and prospective students could and would be placed in Government positions if they pursued its course of study, that many of its former students had received appointments to such positions, and students enrolling with it would be given positions in Washington as soon as they completed its training;
- (c) Represented that it prepared its students for "General Clerks" and "Internal Revenue Clerks," and that its course of study and instruction afforded adequate and complete training for civil service examinations held by the United States Civil Service Commission, and that part of instruction was under personal supervision and would be in accordance with the qualifications required for the positions desired;
- (d) Represented that it was a large institution with headquarters and instruction staffs in various cities, including Chicago, Kansas City, Philadelphia, and Los Angeles, and that only a limited number of students were to be selected for training in a particular place or district and particular prospects were those thus selected, and that a particular student or prospective student had been awarded a scholarship, and price offered prospective student was a special one and regular price was greater than that offered, and that a Government position was guaranteed and assured on completion of the course, and that it would refund to students money paid by them therefor if they were not satisfied therewith;

Complaint

23 F. T. C.

The facts being there was no such connection with the Government, it did not give civil service tests, was not authorized or justified in representing that its school was operated in compliance with laws and regulations of the Federal Trade Commission, no such classifications as "general clerks" and "internal revenue clerks" are used by United States Civil Service Commission in holding its examinations, vacancies in Government positions for which it offers training have been comparatively few within recent years, with, usually, long lists of eligibles available in case of vacancies and with very few, if any, examinations held recently for any of the positions for which he offered training, it has no way of placing its students in Government positions, had only one course of study and same training was given to all, notwithstanding asserted preliminary tests to determine qualifications of applicant and instruction to be given, statements and representations respecting limited selections, special prices, etc., were false, refunds were rarely made and contracts in respect thereto made same practically impossible of fulfillment, its only headquarters was at Los Angeles, and its aforesaid various statements and representations were otherwise false and misleading and, insofar as made by his salesmen over a period of years, were permitted by him to continue, notwithstanding repeated notifications by students, parents, public officials, and others to said individuals, who nevertheless continued to accept and proceed under contracts thus secured, accept money collected thereunder, as probable result of such misrepresentation, took no reasonable or adequate measures to rid himself of dishonest salesmen or prevent students of his course from being victimized thereby, nor made restitution adequately, fully, and generally for losses thus incurred, but employed usually, dilatory tactics so that student became discouraged and finally let matter drop;

With tendency and capacity to confuse, mislead, and deceive members of the public into the erroneous beliefs that such various representations were true and to induce them to sign said individual's contracts, pay money to him and his agents and pursue such course of study and instruction as above described because of the erroneous beliefs thus engendered, and to unfairly divert trade to him from competitors engaged in the sale of similar courses and those engaged in other lines of study, and including those who in no wise make use of the methods used by him, his agents and representatives, as set forth, and who do not make such misrepresentations; to the substantial injury of competition in commerce:

Held, That such acts and practices were to the prejudice of the public and competitors and constituted unfair methods of competition.

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

Mr. John W. Hildrop for the Commission.

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 William W. Babcock, doing business under the name and style of National Civil Service Training Bureau, has been and is using unfair methods of

competition in commerce as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. That said respondent, William W. Babcock, doing business under the name and style of National Civil Service Training Bureau, is now and has been for more than one year last past engaged in the sale and distribution in interstate commerce of a course of study and instruction designed and intended for preparing students thereof for examinations for various civil service positions under the United States Government, which said course of study and instruction is pursued by correspondence. Said respondent, in conducting his said business, has his office and principal place of business in the city of Los Angeles in the State of California, and causes said course of study and instruction, consisting of pamphlets, study and question sheets, and other printed or mimeographed matter to be transported in interstate commerce from his said place of business in California to, into, and through States of the United States other than California to various and numerous persons in such other States to whom said course of study and instruction is or has been sold. Formerly said respondent conducted said business under the name of William Penn Extension University and later under the name of William Penn Institute. Recently respondent has registered for his use the trade name National Training Institute.

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

PAR. 3. That the name, National Civil Service Training Bureau, used by said respondent in conducting his said business, implies and has the tendency and capacity to create the belief among persons

Complaint

23 F. T. C.

solicited to pursue respondent's said course of study, that said National Civil Service Training Bureau is a part of, or is connected with, or is an agency of the Government of the United States. The word "National" is a term widely and generally used in referring to the United States Government or its agencies, or to institutions under its direction or supervision. The term "civil service" is widely and generally used to designate a class of employees of the United States Government and as a part of the name of the governmental agency known as the "Civil Service Commission." The word "Bureau" is widely and generally used in referring to governmental institutions and many of such institutions are officially so designated. Such official connection is further implied by the use by respondent of various statements and terms in his advertising matter and other literature, such as the following appearing on the application signed by respondent's students:

Special Registration Application.

Operated in Strict Compliance with the Laws and Regulations of the Federal Trade Commission.

I desire to secure an appointment under Civil Service and agree to take all examinations I am eligible for. The physical requirements are understood.

It is also understood that I am entitled to all your services until appointed.

Further, each lesson sent out by respondent is captioned:

CIVIL SERVICE TEST

In truth and in fact neither respondent nor his school nor anyone connected therewith has any connection whatever with the United States Government or represents the same or any department or agency thereof nor is respondent or his school authorized or justified in representing that said school is operated in compliance with the laws and regulations of the Federal Trade Commission.

PAR. 4. That respondent, through his agents, represents to prospective students that civil service positions under the United States Government are open and available; that examinations for such positions will be held in the near future or at definite times stated; and that such prospective students can be placed in Government positions if they pursue respondent's course of study when such are not the facts or were not at the time such representations were made. Vacan-

cies in Government positions for which respondent offers training have been comparatively few within the last several years, and, usually, when vacancies occur in such positions, long lists of eligibles have been and are available for filling the same. Very few, if any, examinations have been held within recent years for many of the positions for which respondent offers training. Respondent has no way or means of placing his students in Government positions.

PAR. 5. That respondent, in advertising his course of study and instruction, represents that he prepares his students for examinations for various Government positions including what he terms "General Clerks" and "Internal Revenue Clerks," when in truth and in fact no such classifications are used by the United States Civil Service Commission in holding its examinations nor are such designations used in the Civil Service in designating positions for which civil service examinations are held.

PAR. 6. That respondent, his agents, and representatives, in selling his said course of study and instruction as aforesaid, represent to prospective students that only a certain limited number of students are to be selected for training in a particular place, area or district, and that the prospective students thus approached are the ones so selected. when in truth and in fact, respondent, his agents, and representatives solicit and enroll for his course all who will sign his applications and pay the money charged for his course. No such limitations as to number of students trained are applied or enforced. Such misrepresentations are further used by respondent, his agents, and representatives to further the belief among prospective students that respondent's school is connected with the Government and that such selection of students assures appointment to a Government job. Respondent, in advertising his course of study and instruction, represents that his course affords adequate and complete training for large numbers, if not all, of the civil service examinations that are held by the United States Civil Service Commission, and that certain preliminary test used by him is for the purpose of determining the qualifications of the applicant and the instruction to be given, when in truth and in fact, respondent has only one course of study and instruction for such purpose and the same training is given to all who enroll regardless of what particular Government position they desire to be qualified for.

PAR. 7. That respondent, in his advertising matter, and also through his agents and representatives, makes various and numerous representations as to the desirability of Government positions, salaries, leaves, opportunity for promotion, and number of appointments made which are exaggerated and inaccurate and which give

Complaint

23 F. T. C.

prospective students of his course of study and instruction an erroneous idea of work in the Government service.

PAR. 8. That respondent, in certain of his contracts used, and through his agents and representatives, makes representations that money paid by students will be refunded if they are not satisfied when, in truth and in fact, money paid by students is rarely refunded by respondent. Some of the contract forms used by respondent have provisions therein that such refund will only be made after the student takes two civil service examinations, which said contingency, under conditions prevailing during the last few years, is practically impossible of fulfillment and makes the agreement meaningless. Such situation is not apparent to or known to the student.

PAR. 9. Respondent, in his printed matter, on his letterheads, and through his salesmen, represents that his school is a large institution with headquarters and instruction staffs in various cities including Chicago, Kansas City, Philadelphia, and Los Angeles. In truth and in fact the headquarters of his school is and has been at Los Angeles only and no administrative or instruction staff has been or is maintained by him at any other place. The other places so named are or have been either mere mailing addresses or addresses of offices of his salesmen or sales manager.

PAR. 10. That respondent, in the sale of his said course of study and instruction, makes use of salesmen who solicit prospective students in selling the same. Such salesmen are respondent's agents and representatives. Many of such salesmen have been accustomed to, and did and do, make various false and misleading representations in promoting the sale of respondent's course by means of which they are enabled to and do secure the payment of money from such prospective students and their contracts for the payment of additional sums. Among such false and misleading representations made by such salesmen are the following:

1. That the tests for which students contract are the regular Civil Service examinations.
2. That the student will be given a position in Washington, D. C., as soon as he completes the training offered by respondent.
3. That the salesman represents the United States Government or some agency thereof.
4. That the prospect interviewed has been awarded a scholarship.
5. That the price named is a special price.
6. That the regular price for the instruction is some price named that is much higher than the price charged.
7. That a Government job is guaranteed and assured on completion of the course offered.

8. That many of respondent's former students had received appointments to positions.

9. That respondent's school had been authorized by the Government to select a certain number of students to prepare for civil service positions.

10. That part of the instruction would be under personal supervision.

11. That money paid would be refunded if the student should not be satisfied to continue at any time.

12. That the salesman was working for the Government.

13. That the instruction given would be in accordance with the qualifications required for the position desired.

14. That the school would keep the student informed as to civil service examinations held.

15. That the student would get a set of books with the course.

16. That under the "New Deal" the Government was hand-picking employees and that respondent's school was engaged in such selection.

17. That payments made by the students went to the Government.

In truth and in fact, all of such representations made by respondent's salesmen are false and misleading and not in accordance with the facts. Such representations have been accustomed to be made by many of respondent's salesmen over a period of several years. Respondent has been repeatedly notified and informed of such misrepresentations by his students, their parents, public officials and others. Nevertheless, respondent has continued to accept and proceed under contracts for instruction so secured and accept money paid thereunder after having thus been put upon notice that the contracts so secured were secured and the money collected thereunder was paid as the probable result of such misrepresentations. No reasonable or adequate measures have been or now are taken by respondent to rid himself of dishonest salesmen or to prevent students of his course from being victimized by their misrepresentations. Neither does respondent adequately, fully, and generally make restitution for losses thus incurred. In only rare cases is money refunded in such instances of deception. In nearly all cases dilatory tactics are used by respondent with the result that the student gets discouraged and finally lets the matter drop.

PAR. 11. That the representations of respondent, his agents, and representatives, as aforesaid, have had and do have the tendency and capacity to confuse, mislead, and deceive members of the public in the particulars aforesaid and to induce them to sign his said contracts, to pay money to respondent and his agents, and to pursue said course of study and instruction as herein described, because of the erroneous

Findings

23 F. T. C.

beliefs engendered as above set forth, and to divert trade to respondent from competitors engaged in the sale of correspondence courses in interstate commerce in similar lines to those offered by respondent, as well as those so engaged in such sale in other lines of study. There are, among the competitors of respondent, those who in no wise make use of the methods used by respondent and his agents and representatives, as herein set out, and who do not make the same or similar misrepresentations as made by respondent, his agents, and representatives, as stated herein.

PAR. 12. The above acts and things done by respondent are all to the injury and prejudice of the public and the competitors of respondent in interstate commerce, within the intent and meaning of Section 5 of an Act of Congress entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

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 December 27, 1935, issued and served its complaint in this proceeding upon the respondent, William W. Babcock, trading as National Civil Service Training Bureau, charging him with unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint, the respondent filing no answer thereto, testimony and evidence in support of the allegations of said complaint were introduced by John W. Hildrop, attorney for the Commission, before W. W. Sheppard, an examiner of the Commission theretofore duly designated by it; no attorney appeared for the respondent, he being present in his own proper person at the hearings had in Los Angeles, Calif., and said respondent introduced no testimony or evidence in his behalf except that respondent filed a statement in the record, consisting of five pages, as Respondent's Exhibit No. 1 showing his connection with the business for the last thirty-five years; and said testimony and evidence was duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint, the testimony and evidence, and brief in support of the complaint; and the Commission having duly considered the same, and being now fully advised in the premises, finds that this proceeding is in the interest of the public, and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The said respondent, William W. Babcock, doing business under the name and style of National Civil Service Training Bureau, is now and has been for more than one year last past engaged in the sale and distribution in interstate commerce of a course of study and instruction designed and intended for preparing students thereof for examinations for various civil service positions under the United States Government, which said course of study and instruction is pursued by correspondence. Said respondent, in conducting his said business, has his office and principal place of business in the city of Los Angeles in the State of California, and causes said course of study and instruction, consisting of pamphlets, study and question sheets and other printed or mimeographed matter to be transported in interstate commerce from his said place of business in California to, into, and through States of the United States other than California to various and numerous persons in such other States to whom said course of study and instruction is or has been sold. Formerly said respondent conducted said business under the name of William Penn Extension University and later under the name of William Penn Institute. Recently respondent has registered for his use the trade name National Training Institute.

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

PAR. 3. The name, National Civil Service Training Bureau, used by said respondent in conducting his said business, implies and has the tendency and capacity to create the belief among persons solicited to pursue respondent's said course of study that said National Civil Service Training Bureau is a part of, or is connected with, or

Findings

23 F. T. C.

is an agency of the Government of the United States. The word "National" is a term widely and generally used in referring to the United States Government or its agencies, or to institutions under its direction or supervision. The term "civil service" is widely and generally used to designate a class of employees of the United States Government and as a part of the name of the governmental agency known as the "Civil Service Commission." The word "Bureau" is widely and generally used in referring to governmental institutions and many of such institutions are officially so designated. Such official connection is further implied by the use by respondent of various statements and terms in his advertising matter and other literature, such as the following appearing on the application signed by respondent's students:

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Operated in Strict Compliance with the Laws and Regulations of the Federal Trade Commission.

I desire to secure an appointment under Civil Service and agree to take all examinations I am eligible for. The physical requirements are understood.

It is also understood that I am entitled to all your services until appointed.

Further, each lesson sent out by respondent is captioned:

CIVIL SERVICE TEST

In truth and in fact neither respondent nor his school nor anyone connected therewith has any connection whatever with the United States Government or represents the same or any department or agency thereof nor is respondent or his school authorized or justified in representing that said school is operated in compliance with the laws and regulations of the Federal Trade Commission.

PAR. 4. Respondent, through his agents, represents to prospective students that civil service positions under the United States Government are open and available; that examinations for such positions will be held in the near future or at definite times stated; and that such prospective students can be placed in Government positions if they pursue respondent's course of study when such are not the facts or were not at the time such representations were made. Vacancies in Government positions for which respondent offers training have

been comparatively few within the last several years, and usually, when vacancies occur in such positions, long lists of eligibles have been and are available for filling the same. Very few, if any, examinations have been held within recent years for many of the positions for which respondent offers training. Respondent has no way or means of placing his students in Government positions.

PAR. 5. Respondent, in advertising his course of study and instruction, represents that he prepares his students for examinations for various Government positions including what he terms "General Clerks" and "Internal Revenue Clerks," when in truth and in fact no such classifications are used by the United States Civil Service Commission in holding its examinations nor are such designations used in the civil service in designating positions for which civil service examinations are held.

PAR. 6. Respondent, his agents and representatives, in selling his said course of study and instruction as aforesaid, represent to prospective students that only a certain limited number of students are to be selected for training in a particular place, area or district, and that the prospective students thus approached are the ones so selected, when in truth and in fact, respondent, his agents, and representatives solicit and enroll for his course all who will sign his applications and pay the money charged for his course. No such limitations as to number of students trained are applied or enforced. Such misrepresentations are further used by respondent, his agents and representatives to further the belief among prospective students that respondent's school is connected with the Government and that such selection of students assures appointment to a Government job. Respondent in advertising his course of study and instruction, represents that his course affords adequate and complete training for large numbers, if not all, of the civil service examinations that are held by the United States Civil Service Commission, and that a certain preliminary test used by him is for the purpose of determining the qualifications of the applicant and the instruction to be given, when in truth and in fact, respondent has only one course of study and instruction for such purpose and the same training is given to all who enroll regardless of what particular Government position they desire to be qualified for.

PAR. 7. Respondent, in his advertising matter, and also through his agents and representatives, makes various and numerous representations as to the desirability of Government positions, salaries, leaves, opportunity for promotion and number of appointments made which are exaggerated and inaccurate and which give prospective stu-

Findings

23 F. T. C.

dents of his course of study and instruction an erroneous idea of work in the Government service.

PAR. 8. Respondent, in certain of his contracts used, and through his agents and representatives, makes representations that money paid by students will be refunded if they are not satisfied when, in truth and in fact, money paid by students is rarely refunded by respondent. Some of the contract forms used by respondent have provisions therein that such refund will only be made after the student takes two civil service examinations, which said contingency, under conditions prevailing during the last few years, is practically impossible of fulfillment and makes the agreement meaningless. Such situation is not apparent to or known to the student.

PAR. 9. Respondent, in his printed matter, on his letterheads and through his salesmen, represents that his school is a large institution with headquarters and instruction staffs in various cities including Chicago, Kansas City, Philadelphia, and Los Angeles. In truth and in fact the headquarters of his school is and has been at Los Angeles only and no administrative or instruction staff has been or is maintained by him at any other place. The other places so named are or have been either mere mailing addresses or addresses of offices of his salesmen or sales manager.

PAR. 10. Respondent, in the sale of his said course of study and instruction, makes use of salesmen who solicit prospective students in selling the same. Such salesmen are respondent's agents and representatives. Many of such salesmen have been accustomed to, and did and do, make various false and misleading representations in promoting the sale of respondent's course by means of which they are enabled to and do secure the payment of money from such prospective students and their contracts for the payment of additional sums. Among such false and misleading representations made by such salesmen are the following:

1. That the tests for which students contract are the regular civil service examinations.

2. That the student will be given a position in Washington, D. C., as soon as he completes the training offered by respondent.

3. That the salesman represents the United States Government or some agency thereof.

4. That the prospect interviewed has been awarded a scholarship.

5. That the price named is a special price.

6. That the regular price for the instruction is some price named that is much higher than the price charged.

7. That a Government job is guaranteed and assured on completion of the course offered.

8. That many of respondent's former students had received appointments to positions.

9. That respondent's school had been authorized by the Government to select a certain number of students to prepare for civil service positions.

10. That part of the instruction would be under personal supervision.

11. That money paid would be refunded if the student should not be satisfied to continue at any time.

12. That the salesman was working for the Government.

13. That the instruction given would be in accordance with the qualifications required for the position desired.

14. That the school would keep the student informed as to Civil Service examinations held.

15. That the student would get a set of books with the course.

16. That under the "New Deal" the Government was hand picking employees and that respondent's school was engaged in such selection.

17. That payments made by the students went to the Government.

In truth and in fact, all of such representations made by respondent's salesmen are false and misleading and not in accordance with the facts. Such representations have been accustomed to be made by many of respondent's salesmen over a period of several years. Respondent has been repeatedly notified and informed of such misrepresentations by his students, their parents, public officials, and others. Nevertheless, respondent has continued to accept and proceed under contracts for instruction so secured and accept money paid thereunder after having thus been put upon notice that the contracts so secured were secured and the money collected thereunder was paid as the probable result of such misrepresentations. No reasonable or adequate measures have been or now are taken by respondent to rid himself of dishonest salesmen or to prevent students of his course from being victimized by their misrepresentations. Neither does respondent adequately, fully, and generally make restitution for losses thus incurred. In only rare cases is money refunded in such instances of deception. In nearly all cases dilatory tactics are used by respondent with the result that the student gets discouraged and finally lets the matter drop.

PAR. 11. The representations of respondent, his agents and representatives, as aforesaid, have had and do have the tendency and capacity to confuse, mislead, and deceive members of the public into the erroneous beliefs that the various representations made by the respondent, as hereinabove set forth, are true and to induce them to sign his said contracts, to pay money to respondent and his agents, and to pursue said course of study and instruction as herein described,

Order

23 F. T. C.

because of the erroneous beliefs engendered as above set forth, and to unfairly divert trade to respondent from competitors engaged in the sale of correspondence courses in interstate commerce in similar lines to those offered by respondent, as well as those so engaged in such sale in other lines of study. There are, among the competitors of respondent, those who in no wise make use of the methods used by respondent and his agents and representatives, as herein set out, and who do not make the same or similar misrepresentations as made by respondent, his agents, and representatives, as stated herein. As a result of the acts, practices, and representations hereinabove set out, substantial injury was done by respondent to such competition in commerce among and between the various States of the United States.

CONCLUSION

The aforesaid acts and practices of the respondent, William W. Babcock, doing business under the name and style of National Civil Service Training Bureau, are to the prejudice of the public and of respondent's competitors, and constitute unfair methods of competition in commerce, within the intent and meaning of Section 5 of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, to which no answer was filed by respondent, testimony and evidence taken before W. W. Sheppard, an examiner of the Commission theretofore duly designated by it, in support of the allegations of said complaint, the respondent offering no testimony or evidence, and brief of counsel for Federal Trade Commission filed herein, and the Commission having made its findings as to the facts and its conclusion that said 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 ordered, That the respondent William W. Babcock, doing business under the name and style of National Civil Service Training Bureau, and as doing business under any other name, style, or designation, his representatives, agents, and employees, in connection with the offering for sale, sale and distribution of courses of study and instruction in interstate commerce or in the District of Columbia, do forthwith cease and desist:

(a) From representing, that the respondent, as an individual or doing business under the name and style of National Civil Service Training Bureau, or by any other name or designation, is connected with, in any way, or is an agent or an agency of, the Government of the United States;

(b) From representing that the respondent is operating "in strict compliance," or any other form or degree of compliance, with the laws and regulations of the Federal Trade Commission;

(c) From advertising or representing in any manner or form that respondent makes any "civil service test";

(d) From representing in any manner that civil service positions under the United States Government are open and available unless and until in truth and in fact the Civil Service Commission of the United States has advertised or designated that such civil service positions are open and available and that examinations for such positions will be held in the near future or at definite times stated;

(e) From representing that students and prospective students of respondent can and will be placed in Government positions if they pursue respondent's course of study;

(f) From representing that respondent prepares his students for examinations for "general clerks" and "internal revenue clerks" unless and until in truth and in fact such classifications are used by the United States Civil Service Commission;

(g) From representing that only a limited number of students are to be selected for training in a particular place, area or district and that any particular prospective students are the ones so selected;

(h) From representing that respondent's course of study and instruction affords adequate and complete training for civil-service examinations which are held by the United States Civil Service Commission;

(i) From representing that respondent will refund to students money paid by them for respondent's course of study if such students are not satisfied therewith;

(j) From representing that respondent's school is a large institution with headquarters and instruction staffs in various cities, including Chicago, Kansas City, Philadelphia, and Los Angeles, unless and until respondent does maintain and operate schools in Chicago, Kansas City, Philadelphia, Los Angeles, and elsewhere;

(k) From representing that the tests for which students contract are the regular civil service examinations;

(l) From representing that students enrolling with respondent will be given a position in Washington, D. C., as soon as such students complete the training offered by respondent;

Order

23 F. T. C.

(m) From representing that any student or prospective student has been awarded a scholarship;

(n) From representing that the price for respondent's course of instruction offered any prospective student is a special price or that the regular price charged for respondent's course of instruction is greater than that offered any particular student or prospective student;

(o) From representing that any Government position is guaranteed and assured on completion of the course offered;

(p) From representing that many of respondent's former students have received appointments to positions in the United States Government;

(q) From representing that respondent has been at any time authorized by the United States Government to select a certain number or any number of students to prepare for civil service positions;

(r) From representing that any part of the instruction imparted to students will be under personal supervision;

(s) From representing that the instructions given to students will be in accordance with the qualifications required for the positions desired;

(t) From representing that students will get a set of books with the course of instruction;

(u) From representing that under the "New Deal" the Government is handpicking employees and that respondent's school is engaged in such selection;

(v) From representing that payments made by students, or any part thereof, go to the United States Government; and

(w) From the use of the term "Civil Service" and the word "Bureau," or either of them in the name under which his said business is conducted, or the use of any other word or expression therein which implies or suggests any connection with the Civil Service Commission of the United States Government, or the use of any such similar representation made in any other manner.

It is further ordered, That the respondent shall, within 60 days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Syllabus

IN THE MATTER OF
SUTTON LABORATORIES, INC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2739. Complaint, Mar. 7, 1936—Decision, Nov. 19, 1936*

Where a corporation engaged in the manufacture of a proprietary preparation called "Linoil" for the treatment of skin diseases and in the sale thereof to retail drug stores, jobbing houses, over the counter, and directly through the mails to the purchasing and consuming public in various States—

- (a) Represented in newspaper and radio advertising and through billboards, counter display cards, and circulars distributed by retailers to their customers, generally and without qualification, that said preparation was an effective treatment for various skin conditions known as athlete's foot, ringworm, eczema, and similar infections, the facts being that some of the conditions for which it thus offered its said preparation were fungus infections, the nature of the effective treatment of which varied with the nature of the disease and the progress of the disorder, depending on the cause thereof and whether in an acute, subacute or chronic state, and required, if the disease was the result of metabolic disorder, treatment of the cause as well as the external evidences of the disease, and that diagnosis by a qualified practitioner was necessary to determine cause and proper treatment for each disease, including eczema, which might be result of metabolic disorders or be a purely local disaffection or congestion from use of drugs, and was not a fungus disease and called for a much milder preparation than in the case of the other, and said corporation's aforesaid unqualified representations that said preparation was an effective remedy in all cases of said various ailments or conditions, irrespective of the cause or stage of the disorder and whether acute, subacute or chronic, were untrue; and

- (b) Displayed its corporate name, including words "Laboratories" and "Durham, N. C.," upon counter display cards and labels attached to the jars in which said preparation was packed and sold and in circulars and match folders, notwithstanding fact that it did not own or operate a laboratory in Durham, N. C., but product in question was made elsewhere in the prescription department of the drug store of its president, who personally compounded said preparation in the same place in which prescriptions were filled, and no special equipment was employed in manufacture thereof;

With result of creating in the minds of the public false impression as to the size and nature of its business and of causing such public to believe that it maintained a laboratory in which said preparation was manufactured at aforesaid North Carolina city, and with capacity and tendency to confuse, mislead, and deceive a substantial number of the purchasing public into the erroneous belief that said product was an effective remedy or cure for eczema and efficacious in all cases of ringworm and similar fungus infections, irrespective of the cause or the stage of the disease, and of causing such public, in reliance upon such representation, to purchase substantial quantity of its aforesaid preparation and of unfairly diverting thereby trade to it from competitors who likewise manufacture and sell proprietary