

IN THE MATTER OF
CLEMENT A. DeGRACE, TRADING AS SOCIAL SECURITY
COUNSELORS

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

Docket 3168. Complaint, July 3, 1937—Decision, Aug. 20, 1937

Where an individual engaged in sale and distribution of a correspondence course of study and instruction designed and intended for the education of students for positions in the United States Government, in competition with those engaged in sale and distribution of courses of study and instruction designed and intended to prepare students for examinations for various Government positions—

- (a) Made use of trade name "Social Security Counselors," and represented, implied, and created belief, through newspaper advertisements in classified section and usually in "Help Wanted" section, that such advertisements were those of Government agencies or representative thereof, and that three thousand Government positions were open and available, with men and women wanted to fill same, and with examinations being held therefor, and that he could and would obtain such positions for those who completed his said courses of study and instruction, facts being he had had no connection whatever with the Social Security Board or with the United States Government, and representations aforesaid were false and misleading;
- (b) Falsely and misleadingly represented, through salesmen whom he had appointed and designated, and who traveled throughout the United States soliciting students for said courses, and through other means, to prospective purchasers and students, that he and said salesmen were connected with or otherwise represented the Government, and that there were thousands of positions available in the newly formed Social Security Board, and that examinations would be held therefor in the near future, or at different times stated, and that prospective students could and would be placed in Government positions if they pursued said courses of study; and
- (c) Represented, as aforesaid, that a Government position was guaranteed or assured, and that money paid for said courses would be refunded if no position was obtained by student solicited, and that only a limited number would be selected for training in a particular locality, facts being said representations were false and misleading, and money-back agreement made use of by said individual was conditioned, among other things, upon written application within thirty days after completing the regular work and studies, and the taking of two Government examinations, and, due to holding of few, if any, examinations and fact that few, if any, students had or would have opportunity to take two such examinations so as to determine whether or not student would or could be placed upon eligible list, and, in event of failure, become entitled to refunds under such agreement, was inoperative and misleading;

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With tendency and capacity to confuse, mislead, and deceive members of the public into believing that he was a representative of, or connected with, the Government, and had positions to offer to applicants or those qualifying, and that examinations were being held at frequent intervals with positions available and assured, etc., and that the facts were as hereinabove indicated, and to induce members of the public to answer his advertisements, sign his contracts, pay money down and promise additional sums, and purchase his said courses because of erroneous belief engendered as above set forth, and unfairly divert trade to him from competitors engaged in sale of correspondence courses in similar lines to those offered by him, as well as those in other lines of study; to their substantial injury and to the injury of the public:

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

Mr. Allen C. Phelps 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 Clement A. DeGrace, trading under the name and style of Social Security Counselors, 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, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. That said respondent, Clement A. DeGrace, is an individual doing business under the name and style of Social Security Counselors with his office and principal place of business in the Davis Building, Portland, Oreg. Said respondent is now and has been, for more than one year last past, engaged in the sale and distribution of a course of study and instruction designed and intended for preparing students thereof for positions in the United States Government, which said courses of study and instruction are pursued by correspondence through the medium of the United States mails; that said respondent, in the course and conduct of his said business, during the time aforesaid, causes and has caused his said courses of study and instruction, consisting of pamphlets, forms, study, and question sheets and other printed or mimeographed matter to be transported from his said place of business in the State of Oregon to, into, and through the several States of the United States, other than the State of Oregon, to various and numerous persons 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 located in the several States of the United States are and have been engaged in the sale and distribution of courses of study and instruction designed and intended for the purpose of preparing students thereof for examination for various positions under the United States Government, which said courses of study and instruction are pursued by correspondence. Such other individuals, firms, and corporations have caused and now cause their said course of study and instruction when sold by them to be transported from various States in the United States to, into, and through States other than the State of origin 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 Social Security Board is an agency of the United States Government, engaged in the enforcement of the "Social Security Act" which became a law in August 1935; that since January 1936, said Social Security Board has issued public announcements of its activities including the setting up of training centers in cooperation with the several States in training personnel; that the use by said respondent of the trade name "Social Security Counselors" has the capacity and tendency to create the belief among persons solicited to pursue respondent's said course of study and instruction that it is a part of or is connected with said Social Security Board; that, in fact, the said respondent has never had any connection whatsoever with the said Social Security Board or with the United States Government.

PAR. 4. That respondent, in advertising its said course of study and instruction, makes use of and has made use of advertisements which he has caused to be inserted in the classified sections, usually in the "Help Wanted" part thereof, of newspapers circulated in and among various States of the United States. That said advertisements by the wording thereof, as well as by the place of their insertion represent, imply, and create the belief among readers thereof, that such advertisements are those of a Governmental agency or a representative thereof; that 300,000 Government positions are open and available and men and women are wanted to fill them; that examinations are being held for such positions and that respondent can and will obtain Government positions for those persons who complete his said course of study and instruction. That such representations were and are not true, but were and are false or misleading.

PAR. 5. That respondent, in the course and conduct of his said business, sells and has sold his said course of study and instruction

to the public by salesmen designated and appointed by respondent to travel throughout several States of the United States, soliciting students for said course of study and instruction. That respondent, through such salesmen and through and by other means, represents and has represented to prospective students and purchasers that respondent and such salesmen are connected with or otherwise represent the United States Government; that there are thousands of positions available in the newly formed Social Security Board; that examinations for such positions will be held in the near future or at definite times stated; that such prospective students can and will be placed in Government positions, if they pursue respondent's course of study; that a Government job is guaranteed or assured; that money paid for said course of study and instruction will be refunded if no job is obtained by the student solicited; that only a limited number of students will be selected for training in a particular locality. That such representations are not true but are false or misleading. That respondent has profited by such misrepresentations and continues to profit thereby and has accepted and continues to accept money on contracts induced by said misrepresentations.

PAR. 6. That respondent, in the sale of its said course of study and instruction, has made use of a contract form containing a so-called "money-back agreement" which reads as follows:

Upon fulfillment of the terms and conditions of this registration and upon sending written application to the SOCIAL SECURITY COUNSELORS within thirty days after completing the regular work and studies of the course, which includes taking two Government examinations, if I am not satisfied with the high grade and practical character of the service and the instructions as given under the terms and provisions of this registration, and am not thoroughly convinced I have more than received full value, the SOCIAL SECURITY COUNSELORS will refund me the full amount paid.

That the said "money-back agreement" is inoperative on account of the fact that few, if any, examinations for which said respondent has given training and service have been or will be held and few, if any, students taking said course of study and instruction have had or will have an opportunity to take "two Government examinations" whereby it could be determined whether they could or would be placed upon an eligible list and thereby, in the event of failure, become entitled to refunds under such agreement.

PAR. 7. That the representations of the respondent as aforesaid have had and have the tendency and capacity to confuse, mislead, and deceive members of the public into the belief that respondent is a representative of or connected with the Government of the United States and has positions to offer to applicants or those who qualify; that examinations are being held at frequent intervals and

that positions are available and assured to those who qualify through taking the said course of study and instruction offered by respondent; that vacancies now exist in the Government service that are to be filled in the types of positions for which respondent offers training; that large numbers of appointments are being made in Government service; and that students who enroll for respondent's said course of study and instruction will receive their money back on conditions reasonably possible of fulfillment; when in truth and in fact such are not the facts and said representations of respondent have the capacity and tendency to induce members of the public to answer respondent's advertisements, to sign its said contracts, to pay money down and to promise to pay additional sums, and to purchase said course of study and instruction as hereinbefore described because of the erroneous beliefs engendered, as above set forth, and to divert trade to respondent from competitors engaged in the sale of correspondence courses in interstate commerce in similar lines to those offered by respondent, as well as those in other lines of study.

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

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 July 3, 1937, issued, and on July 7, 1937, served, its complaint in this proceeding upon respondent, Clement A. DeGrace, doing business under the name and style of Social Security Counselors, charging him with the use of unfair methods of competition in commerce in violation of the provisions of said act. On August 11, 1937, the respondent submitted an answer, in which answer he admitted all the material allegations of the complaint to be true and waived the taking of further evidence and all other intervening procedure, and said answer was duly filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on the said complaint and the answer thereto, 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 respondent Clement A. DeGrace is an individual doing business under the trade name of Social Security Counselors, with his office and principal place of business located in the Davis Building, in Portland, Oreg. For several years last past the respondent has been engaged in the sale and distribution of a course of study and instruction designed and intended for the education of students for positions in the United States Government. The said courses of study and instruction are pursued by correspondence through the medium of the United States mails. In the course and conduct of the aforesaid business, the respondent causes his said courses of study and instruction, consisting of pamphlets, forms, study and question sheets, and other printed and mimeographed matter to be transported from his place of business in the State of Oregon, to, into and through the several States of the United States, to various and numerous persons to whom said courses of study and instruction are sold.

PAR. 2. There are other individuals, firms and corporations located in the several States of the United States, engaged in the sale and distribution of courses of study and instruction designed and intended for the purpose of preparing students thereof for examination for various positions under the United States Government, which said courses of study and instruction are pursued by correspondence. Such other individuals, firms and corporations cause their courses of study and instruction when sold by them to be transported to purchasers thereof located in the various States of the United States other than the State of origin thereof. During the aforesaid time the respondent has been in competition in interstate commerce in the sale of his said courses of study and instruction with such other individuals, firms, and corporations.

PAR. 3. The Social Security Board is an agency of the United States Government engaged in the enforcement of the "Social Security Act," which became a law in August 1935. Since January 1936, the said Social Security Board has issued public announcements of its activities, including the setting up of training centers in cooperation with the several States in training personnel. The use by the respondent of the trade name "Social Security Counselors" has the capacity and tendency to create the belief among persons solicited to pursue respondent's courses of study and instruction that it is a part of, or is connected with said Social Security Board. The respondent has never had any connection whatsoever with the said Social Security Board, nor with the United States Government.

Findings

25 F. T. C.

PAR. 4. The respondent in advertising its courses of study and instruction makes use of advertisements which he causes to be inserted in the Classified Section, usually in the "Help Wanted" section thereof, of newspapers circulated in and among the various States of the United States. The said advertisements by the wording thereof as well as by the place of their insertion, represent, imply, and create the belief among readers thereof, that such advertisements are those of governmental agencies or a representative thereof; that 3,000 Government positions are open and available, and men and women are wanted to fill them; that examinations are being held for such positions and that respondent can and will obtain Government positions for those persons who complete the said courses of study and instruction. The aforesaid representations are not true but are false and misleading.

PAR. 5. In the course and conduct of the aforesaid business the respondent has appointed and designated salesmen who travel throughout the several States of the United States soliciting students for said courses of study and instruction. Through such salesmen, and through and by other means, the respondent represents to prospective students and purchasers that respondent and such salesmen are connected with or otherwise represent, the United States Government; that there are thousands of positions available in the newly formed Social Security Board; that examinations for such positions will be held in the near future or at different times stated; that such prospective students can and will be placed in Government positions if they pursue respondent's courses of study; that a Government position is guaranteed or assured; that money paid for said courses of study or instruction will be refunded if no position is obtained by the student solicited; that only a limited number of students will be selected for training in a particular locality. The aforesaid representations are not true but are false and misleading. Respondent has profited by such misrepresentations and continues to profit thereby, and has accepted and continues to accept money on contracts induced by said misrepresentations.

PAR. 6. In connection with the sale of the said courses of study and instruction the respondent has made use of a contract form containing a so-called "Money Back Agreement" which reads as follows:

Upon fulfillment of the terms and conditions of this registration and upon sending written application to the SOCIAL SECURITY COUNSELORS within thirty days after completing the regular work and studies of the course, which includes taking two Government examinations, if I am not satisfied with the high grade and practical character of the service and the instructions as given

under the terms and provisions of this registration, and am not thoroughly convinced I have more than received full value, the SOCIAL SECURITY COUNSELORS will refund me the full amount paid.

The aforesaid "Money Back Agreement" is misleading in that it is inoperative because few, if any, examinations for which said respondent has given training and service have been or will be held, and few, if any, students taking said courses of study and instruction have had or will have an opportunity to take "two Government examinations" whereby it could be determined whether they would or could be placed upon an eligible list and thereby in the event of failure entitled to refunds under such agreement.

PAR. 7. The trade name, "Social Security Counselors," and all of the aforesaid representations have the tendency and capacity to confuse, mislead and deceive members of the public into the belief that respondent is a representative of or connected with the Government of the United States, and has positions to offer to applicants, or those who qualify; that examinations are being held at frequent intervals and that positions are available and assured to those who qualify through taking the said courses of study and instruction offered by respondent; that vacancies now exist in the Government Service that are to be filled in the types of positions for which respondent offers training; that large numbers of appointments are being made in the Government Service; and that students who enroll for respondent's courses of study and instruction will receive their money back on conditions reasonably possible of fulfillment; and said representations of respondent have the capacity and tendency to induce members of the public to answer respondent's advertisements, to sign its said contracts, to pay money down and to promise to pay additional sums and to purchase said courses of study and instruction as hereinbefore described because of the erroneous belief engendered as above set forth; and unfairly divert trade in said commerce to respondent from competitors engaged in the sale of correspondence courses in similar lines to those offered by respondent, as well as those in other lines of study, to the substantial injury of said competitors and to the injury of the public.

CONCLUSION

The aforesaid acts and practices of the respondent, Clement A. DeGrace, doing business under the name and style of Social Security Counselors, 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

Order

25 F. T. C.

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 and the answer of respondent admitting all the material allegations of the complaint to be true, and waiving the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and 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, Clement A. DeGrace, doing business under the trade name Social Security Counselors, his agents and employees, in connection with the offering for sale, sale, and distribution of courses of study and instruction by correspondence, in interstate commerce or in the District of Columbia, do forthwith cease and desist from representing, directly or by implication:

1. Through the use of the words Social Security Counselors or otherwise, that he is connected with the United States Social Security Board or the United States Government;

2. That positions with the United States Government or some agency thereof are open and available, or that examinations are being held to fill such positions, unless such positions are open and available and examinations being held;

3. That a knowledge of said courses of study and instruction will qualify one to obtain positions with the United States Government or some agency thereof;

4. That he will obtain positions with the United States Government or some agency thereof for students completing said courses of study and instruction, or that the money paid as tuition will be refunded if a position is not secured from the United States Government or some agency thereof.

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.

Complaint

IN THE MATTER OF
OPPENHEIM, COLLINS AND COMPANY, INC.

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

Docket 3160. Complaint, June 23, 1937—Decision, Aug. 21, 1937

Where a corporation engaged in the operation of large department stores and in the sale therefrom, among other things, of women's wearing apparel, and in shipping its articles of merchandise, when sold, from its places of business to purchasers in the various other States; in advertising in newspapers of interstate circulation soliciting sale of its said apparel—Represented evening wraps for women as "silk crepe," and other items of women's wearing apparel as "Made of quality silks," "taffeta," "crepe," "luxurious silks," "silk lingerie," and "dark satins sprinkled with white dots," and thereby represented as silk products such items of wearing apparel to members of purchasing public, notwithstanding fact products in question were not composed of silk, product of the cocoon of the silk worm, as long definitely understood in mind of consuming public, and were not silk products, long held in great public esteem and confidence for their preeminent qualities, and associated in the public mind with such terms as "silk crepe," "Made of quality silks," "taffeta," "crepe," "luxurious silks," "silk lingerie," "satins," and "dark satins," as used to designate, describe and refer to dress goods and other items of women's wearing apparel; With capacity and tendency to mislead and deceive substantial portion of purchasing public into the erroneous beliefs that such representations were true, and to cause them to buy such items of apparel as a result of such erroneous beliefs, engendered as above set forth, and with result that trade was unfairly diverted thereby to it from competitors engaged in sale of women's wearing apparel who do not misrepresent the kind of apparel offered for sale by them; 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.

Mr. Astor Hogg for the Commission.

Chadbourne, Wallace, Parke & Whiteside, of New York City, for respondent.

COMPLAINT

Pursuant to the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission having reason to believe that Oppenheim, Collins and Company, Inc., a corporation, hereinafter referred to as respondent, has been and now is using unfair methods of competition in commerce as "commerce" is defined in said act, and it appearing