

Syllabus

IN THE MATTER OF
UNIVERSITY FORUM, INC., ET AL.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 3078. Complaint, July 29, 1937¹—Decision, Feb. 3, 1938*

Where a corporation engaged in sale and distribution of 20-volume and 12-volume sets of books, respectively designated as "University Forum Series" and "Effective Speech Series," and represented as respectively adapted for advancement of adult education and for self-advancement in effective speech-making; second organization engaged as National Association of Delta Theta Chi in conducting so-called sorority and in purchase for resale to so-called chapters thereof of aforesaid two series; individual engaged as owner of aforesaid two corporations in sale of said series and in promoting the organization and conduct of said so-called association and pretended sorority; and an individual engaged as self-styled grand secretary of said association and as agent of aforesaid owner individual and of aforesaid corporations in the sale of said series and in the conduct of said association or so-called sorority; in substantial competition, as thus engaged, in sale of their said books to purchasers in other States and in the District of Columbia with others likewise engaged in sale and distribution of encyclopedias, treatises, home study, and correspondence school courses adapted to and used for self-advancement through adult education in commerce among the various States and in the aforesaid District; in promoting the sale of aforesaid sets through their practice, directly and through their agents and representatives, of making contact in different cities for the establishment of a chapter of said association and securing the agreement of the prospective members, whom they entertained, to pay \$45.00 initiation or membership fee and other annual dues—

Represented, in aforesaid connection, that said association was a legitimate professional or business women's sorority, and that while prime purpose thereof was social, it had certain cultural aspects, and that to further said cultural aspects local chapter would be given two sets each of aforesaid two series, of which one of each was to remain at local chapter rooms or headquarters and one was to be placed in possession of local chapter's educational director, and that members of said national association or pretended sorority would receive instruction under direction of a university or college professor, facts being said so-called National Association of Delta Theta Chi was not a legitimate professional or business women's sorority, or sorority in any sense of the word, as generally understood, but outlet only for aforesaid publications, and no member thereof, as a result of such membership, ever received from college or university professor any form of instruction whatsoever, and representations in said respects were untrue; With result that members and prospective members of said National Association of Delta Theta Chi were led into erroneous and mistaken beliefs that they were joining legitimate sorority within general meaning of term, and would secure other benefits represented, and aforesaid corporations and individuals

¹ Amended.

Complaint

26 F. T. C.

sold memberships therein and aforesaid series to various members of consuming public in the United States joining purported sorority and purchasing said books as a result of such statements, misrepresentations and inducements, and trade was unfairly diverted to said corporations and individuals from legitimate competitors engaged in sale of encyclopedias, treatises, home study, and correspondence school courses and who do not misrepresent their products or business status; 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. S. Brogdyne Teu, II for the Commission.

Mr. Harvey B. Cox and *Mr. William E. Richardson*, of Washington, D. C., for respondents.

AMENDED 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 University Forum, Inc. and The National Association of Delta Theta Chi (corporations), and P. E. Guillot and Helen K. Blackstone, individuals, all herein-after designated as respondents, are now and have been 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 amended complaint, stating its charges in that respect as follows:

PARAGRAPH 1. University Forum, Inc. is an Illinois corporation, and is now and has been at all times mentioned herein, doing business at 1811 Prairie Avenue in the city of Chicago, State of Illinois, and Casa Nova Hotel, 354 O'Farrell Street in the city of San Francisco, State of California. It is now and has been for more than 1 year last past, distributing certain series of books under the trade name of "University Forum" and "Effective Speech" series, to individuals and organizations for their respective uses in commerce as herein set out.

PAR. 2. The National Association of Delta Theta Chi is a Delaware corporation, and is now and has been at all times mentioned herein doing business at 1811 Prairie Avenue in the city of Chicago, State of Illinois, and Casa Nova Hotel, 354 O'Farrell Street in the city of San Francisco, State of California. The respondent, The National Association of Delta Theta Chi, is used solely as an outlet for the "University Forum" and "Effective Speech" series of books herein-before referred to, published, sold, and distributed by the University Forum, Inc., respondent herein. Respondent, The National Asso-

ciation of Delta Theta Chi, is now and has been at all times mentioned herein, engaged in the sale and distribution of the aforementioned series of books published and distributed by the respondent, University Forum, Inc., in commerce as herein set out.

PAR. 3. P. E. Guillot is an individual and the sole owner of the corporate respondents, University Forum, Inc. and The National Association of Delta Theta Chi, is now and has been at all times mentioned herein doing business at 1811 Prairie Avenue in the city of Chicago, State of Illinois, and Casa Nova Hotel, 354 O'Farrell Street in the city of San Francisco, State of California. He is now and has been for more than 1 year last past engaged in selling "University Forum" and "Effective Speech" series of books to individuals and organizations in commerce as herein set out. He directs and controls the sales, policies, and general business operations of the corporate respondents.

PAR. 4. Helen K. Blackstone is an individual representing herself as the grand secretary of The National Association of Delta Theta Chi, and is an agent for P. E. Guillot, University Forum, Inc., and The National Association of Delta Theta Chi, and is now and has been at all times herein mentioned doing business at 1811 Prairie Avenue in the city of Chicago, State of Illinois, and at the Allerton Hotel in the city of Chicago, State of Illinois, and at 354 O'Farrell Street in the city of San Francisco, State of California. Said respondent is now and has been for more than 1 year last past engaged in the business of selling "University Forum" and "Effective Speech" series of books to individuals and organizations in commerce as herein set out.

PAR. 5. Said respondents, being engaged in business as aforesaid, cause said books "University Forum Series" and "Effective Speech Series" to be transported from their principal offices and places of business in the State of Illinois and in the State of California, to purchasers thereof located in other States of the United States and in the District of Columbia. There is now and has been for more than 1 year last past, a constant current of trade in said books so sold and distributed by the respondents in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 6. In the course and conduct of their said business respondents are now and have been in substantial competition with other individuals, firms, and corporations likewise engaged in the business of selling and distributing encyclopedias, treatises, home-study, and correspondence school courses adapted to and used for the self-ad-

vancement of adult education in commerce between and among various States of the United States and in the District of Columbia.

PAR. 7. Respondents, in the course and conduct of their business as detailed in paragraphs 1 and 6 hereof, have made oral and printed representations to their customers and prospective customers in the various States of the United States regarding the products offered for sale by them. These representations made and circulated purport to be descriptive of the commodities offered for sale and sold by respondents, as follows:

The respondents herein, and their agents, are engaged in the offering for sale and in the selling of the above described "University Forum" and "Effective Speech" series of books. The "University Forum" series of books is purported to be a 20-volume set of books adapted for the advancement of adult education. The "Effective Speech" series of books is a 12-volume set of books purported to be adapted for self advancement in effective speech making. The said respondents merchandise the above referred to and described series of books in the following manner:

Respondents, or their agents and representatives, establish contacts in a city where it is their intention to establish an alleged chapter of The National Association of Delta Theta Chi. The said respondents, directly and through their agents or representatives, represent to the prospective members of The National Association of Delta Theta Chi that it is a legitimate professional or business woman's sorority; that while the prime purpose of the sorority is social, yet it has certain cultural aspects. The prospective members of the proposed chapter of The National Association of Delta Theta Chi are entertained at a dinner given at one of the leading hotels of that particular city. The respondents pay the expenses of the dinner. The prospective members agree to pay a \$45 initiation or membership fee, and other annual dues.

In connection with the establishment of an alleged local chapter of The National Association of Delta Theta Chi, prospective members are informed that to further the cultural aspect of the sorority hereinbefore referred to, the local chapter will be given two sets of the "University Forum" series and two sets of the "Effective Speech" series. One set each are to remain at the local chapter rooms or headquarters for the use of the members of the sorority, the other or second set are to be placed in the possession of the educational director of the local chapter.

The respondents herein, directly and through their agents, represent to prospective members of The National Association of Delta Theta Chi that they will be given instructions under the supervision of a college or university professor.

In truth and in fact the above set out representations by respondents, that The National Association of Delta Theta Chi is a legitimate professional or business woman's sorority, are not true. The National Association of Delta Theta Chi is only a sham and an outlet for the publications described as "University Forum" and "Effective Speech" series of books. The National Association of Delta Theta Chi is not a sorority in any sense of the word whatsoever or within the meaning of the term, "sorority," as it is generally understood.

Further, the representations made by respondents that members of The National Association of Delta Theta Chi will receive supervised instruction under a college or university professor are untrue. No member of The National Association of Delta Theta Chi has ever received in any form whatsoever instructions from a college or university professor because of their membership in said sorority.

PAR. 8. By reason of the foregoing acts, exaggerations and misrepresentations, statements, and inducements as herein set forth, members and prospective members of The National Association of Delta Theta Chi have been led into the erroneous and mistaken belief that they are joining a legitimate sorority, a sorority within the general meaning of the term "sorority."

Further, as a result of the aforesaid acts, exaggerations and misrepresentations, statements, and inducements, the respondents have sold and are now selling memberships in The National Association of Delta Theta Chi, and have sold and are now selling the "University Forum" and "Effective Speech" series of books to various members and prospective members of the consuming public in the United States who have a right to and do rely on the acts, statements, representations, and inducements of the respondents, and who, as a result of the acts, statements, representations, and inducements, have joined and are joining the purported sorority and purchase the above referred to series of books.

PAR. 9. As a result of the foregoing false and misleading statements and representations on the part of the respondents, trade has been unfairly diverted from legitimate competitors engaged in the sale of encyclopedias, treatises, home-study, and correspondence school courses. As a consequence thereof, substantial injury has been and is being done by respondents to competition in commerce between and among the various States of the United States.

PAR. 10. The aforementioned methods, acts, and practices of the respondents are all to the prejudice of the public and of respondents' competitors as hereinabove alleged. Said methods, acts, and practices 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 March 15, 1937, served its complaint in this proceeding upon respondents, University Forum, Inc., a corporation, The National Association of Delta Theta Chi, a corporation, and P. E. Guillot and Helen K. Blackstone, individually and as officers and agents of University Forum, Inc., and The National Association of Delta Theta Chi, charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act.

On July 30, 1937, the Commission served upon respondents, its amended complaint. Thereafter the respondents, University Forum, Inc., and Helen K. Blackstone and P. E. Guillot, filed their answers to the Commission's amended complaint in which answers they admitted all the material allegations of the complaint to be true and stated that they waived hearing on the charges set forth in the said amended complaint and that without further evidence or intervening procedure, the Commission may issue and serve upon them findings as to the facts and conclusion, and an order to cease and desist from the violations of law charged in the complaint.

Subsequent to the filing of said answers to the amended complaint the Commission, by order granted the motion of respondent, The National Association of Delta Theta Chi, to be allowed to withdraw its answer previously filed and to file in lieu thereof a substitute answer identical to that filed by the other respondents herein, which substitute answer was thereafter filed.

Thereafter the proceeding regularly came on for final hearing before the Commission on the said amended complaint and the answers 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 conclusion drawn therefrom.

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The University Forum, Inc., is an Illinois corporation organized and doing business under the laws of the State of Illinois and having its principal office and place of business at 1811

Prairie Avenue in the city of Chicago, State of Illinois. It has been for more than 2 years last past engaged in the sale and distribution of two sets of books known respectively as "University Forum Series" and "Effective Speech Series."

PAR. 2. The National Association of Delta Theta Chi is a Delaware corporation organized and doing business under the laws of the State of Delaware and having its principal office and place of business at 1811 Prairie Avenue in the city of Chicago, in the State of Illinois. It has been for more than 1 year last past engaged in the business of conducting a so-called sorority and in the purchase for resale to so-called chapters of said organization from University Forum, Inc., a certain series of books designated "University Forum Series" and "Effective Speech Series."

PAR. 3. P. E. Guillot is an individual and owner of the corporate respondents University Forum, Inc., and The National Association of Delta Theta Chi Sorority. He is and has been at all times mentioned herein engaged in the business of selling the "University Forum Series" and "Effective Speech Series" of books and promoting the organization and conducting of respondent, the National Association of Delta Theta Chi at 1811 Prairie Avenue, in the city of Chicago, State of Illinois and Casanova Hotel, 354 O'Farrell Street, in the city of San Francisco, State of California.

Helen K. Blackstone is an individual representing herself as the Grand Secretary of The National Association of Delta Theta Chi and is an agent for P. E. Guillot, University Forum, Inc., and The National Association of Delta Theta Chi. She is now and has been for more than 2 years last past doing business at 1811 Prairie Avenue, in the city of Chicago, State of Illinois, and at the Allerton Hotel in the city of Chicago, State of Illinois, and at 354 O'Farrell Street, in the city of San Francisco, State of California. She has been for more than 2 years last past engaged in the business of selling the "University Forum Series" and "Effective Speech Series" of books and in organizing and conducting the respondent, The National Association of Delta Theta Chi.

PAR. 4. The respondents have been engaged in business as aforesaid and cause the books, "University Forum Series" and "Effective Speech Series" when sold, to be transported from their principal offices and places of business in the States of Illinois and California to purchasers thereof located in other States of the United States and in the District of Columbia. There is now, and has been for more than 1 year last past, a course of trade in said books so sold and distributed by the respondents in commerce between and among

the various States of the United States and in the District of Columbia.

PAR. 5. In the course and conduct of their business, respondents are now and have been in substantial competition with other individuals, firms, and corporations likewise engaged in the business of selling and distributing encyclopedias, treatises, home study, and correspondence school courses adapted to and used for self-advancement through adult education in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 6. Respondents have made representations to their customers and prospective customers in the various States of the United States regarding the products offered for sale by them. These representations made and circulated purport to be descriptive of the commodities offered for sale and sold by respondents. These representations were, and are, made in the following manner:

The respondents and their agents are engaged in the offering for sale and in the sale of "University Forum Series" and "Effective Speech Series" of books. University Forum Series of books is represented to be a 20-volume set of books adapted for the advancement of adult education. The Effective Speech Series of books is a 12-volume set of books represented to be adapted for self-advancement in effective speech-making.

The respondents, directly and through their agents and representatives, establish contact in the city where it is their intention to establish a chapter of The National Association of Delta Theta Chi. The respondents, directly and through their agents or representatives, represent to the prospective members of The National Association of Delta Theta Chi that it is a legitimate professional or business women's sorority; that while the prime purpose of the sorority is social, yet it has certain cultural aspects. The prospective members of the proposed chapter of The National Association of Delta Theta Chi are entertained at a dinner. The respondents pay the expenses of dinner, the prospective members agree to pay a \$45.00 initiation or membership fee, and other annual dues.

In connection with the establishment of a local chapter of The National Association of Delta Theta Chi, prospective members are informed that to further the cultural aspects of the sorority, the local chapter will be given two sets of the University Forum Series and two sets of the Effective Speech Series of books. One set each are to remain at the local chapter rooms or headquarters for the use of the members of the sorority, while the other or second set are to be placed in the possession of the educational director of the local chapter.

The respondents, directly and through their agents, represent to prospective members of The National Association of Delta Theta Chi that they will be given instructions under the supervision of a college or university professor.

All of the above set out representations by respondents to the effect that The National Association of Delta Theta Chi is a legitimate professional or business women's sorority are not true. The National Association of Delta Theta Chi is only an outlet for the publications described as University Forum Series and Effective Speech Series of books. The National Association of Delta Theta Chi is not a sorority in any sense of the word whatsoever or within the meaning of the term "sorority" as it is generally understood.

The representations made by respondents that members of The National Association of Delta Theta Chi will receive supervised instruction under a college or university professor are not true. No member of The National Association of Delta Theta Chi has ever received from a college or university professor any form of instruction whatsoever, as a result of their membership in the so-called sorority.

PAR. 7. By the use of the foregoing misrepresentations, statements and inducements as set forth herein, members and prospective members of The National Association of Delta Theta Chi have been led into the erroneous and mistaken beliefs that they are joining a legitimate sorority, within the general meaning of the term "sorority," and will secure the other benefits represented.

The respondents have sold, and are now selling, memberships in The National Association of Delta Theta Chi, and have sold and are now selling the University Forum Series and the Effective Speech Series of books to various members of the consuming public in the United States, who, as a result of the statements, misrepresentations, and inducements aforesaid, made by respondents, have joined and are joining the purported sorority and are purchasing the books herein described.

PAR. 8. As a result of the false and misleading statements and representations herein set out on the part of the respondents, trade has been unfairly diverted to respondents from legitimate competitors engaged in the sale of encyclopedias, treatises, home study, and correspondence school courses who do not misrepresent their product or business status. As a consequence thereof, substantial injury has been and is being done by respondents to competition in commerce between and among the various States of the United States and in the District of Columbia.

Order

26 F. T. C.

CONCLUSION

The aforesaid acts and practices of the respondents, University Forum, Inc., a corporation, The National Association of Delta Theta Chi, a corporation, and P. E. Guillot and Helen K. Blackstone, individually and as officers and agents of University Forum, Inc., and The National Association of Delta Theta Chi, are to the prejudice and injury of the public and of respondents' 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 amended complaint of the Commission and the answers thereto, in which answers respondents admit all the material allegations of the complaint to be true, and state that they waive hearing on the charges set forth in said complaint and consent that, without further evidence or other intervening procedure, the Commission may issue and serve upon them findings as to the facts and conclusion and an order to cease and desist from the violations of law charged in the amended complaint, and the Commission having made its findings as to the facts and conclusion, that said respondents have violated the provisions of an Act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

It is ordered, That the respondents, University Forum, Inc., a corporation, and The National Association of Delta Theta Chi, a corporation, their respective officers, representatives, agents, and employees, and P. E. Guillot, and Helen K. Blackstone, individually, and as officers and agents of University Forum, Inc., and The National Association of Delta Theta Chi, in connection with the offering for sale and distribution of books in interstate commerce or in the District of Columbia, do forthwith cease and desist from directly or in any other manner:

1. Representing that The National Association of Delta Theta Chi is a business woman's sorority or is a sorority within the generally understood meaning of the term "sorority."

2. Representing that the books sold and distributed by University Forum, Inc., are essential and necessary for the conduct of the said so-called sorority.

635

Order

3. Representing that members of The National Association of Delta Theta Chi will receive instruction under the direction of a university or college professor.

4. Representing that The National Association of Delta Theta Chi and University Forum, Inc., are other than book selling and distributing organizations.

5. Representing that any number of sets of the books sold by University Forum, Inc., will be given free or without additional cost to each chapter of The National Association of Delta Theta Chi.

6. Representing that the "University Forum" and "Effective Speech" series of books are adapted to self help adult education.

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

IN THE MATTER OF
ROYAL LOTUS CORPORATION

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

Docket 3254. Complaint, Oct. 25, 1937—Decision, Feb. 5, 1938

Where a corporation engaged in manufacture, sale, and distribution of its "Royal Lotus" hair preparation, and of its "Creme Royale" and "Creme Helies" line of cosmetics to purchasers at various points in other States and in the District of Columbia, in substantial competition with those likewise engaged in distribution and sale of similar preparations for treatment of the hair and skin, in commerce among the various States and in said District; in advertising its said products in newspapers of general circulation throughout the United States, and through advertising folders and literature similarly circulated to customers and prospective customers—

- (a) Represented that said "Royal Lotus" preparation was "in no sense a hair dye" and restored "true, natural color" and was "absolutely harmless," and prevented hair diseases and stopped and overcame falling hair, and was a corrective or cure for dandruff, itching scalp, dry hair, and alopecia, and preserved and grew hair, facts being it was a dye, imparted artificial color to hair, would not restore faded, streaked, or gray hair to its natural color or bring back natural color of hair of whatever type, shade, or color, and it did not stop or overcome falling hair, was not positive corrective for dandruff and itching scalp, or absolutely harmless, and did not accomplish other results as above claimed or correct "dry hair"; and
- (b) Represented, as aforesaid, that its said "Creme Royale" and "Creme Helies" preparations would penetrate the outer epidermis of the skin so as to reach and benefit the lower fleshy layers thereof and have beneficial effect in renovating the skin, counteracting and overcoming blemishes, lines, wrinkles, blackheads, sunburn, enlarged pores, and impurities, through such statements as " * * * because of its very nature * * * penetrates the outer layers of the skin and reaches within," and " * * * it is behind the skin that Creme Royale does its best work," and " * * * aids the growing tissues and encourages the living cells," and " * * * clears and rejuvenates the skin. Removes wrinkles, transforms the complexion. Keeps skin fresh, soft, and velvety," etc., facts being said preparations did not renovate skin nor penetrate to lower fleshy layers thereof or benefit skin and assist nature counteract causes of blemished skin, did not prevent lines and wrinkles, etc., as above claimed and indicated, and representations made with respect to beneficial value of its aforesaid preparations were misleading;

With tendency and capacity to mislead a substantial portion of purchasing public into erroneous belief that all such representations were true, and with result that a number of the consuming public, as direct consequence of mistaken and erroneous beliefs induced by its advertisements and misrepresentations, purchased substantial volume of its said products, and trade was unfairly diverted to it from those likewise engaged in preparation and sale of hair preparations and cosmetics and who truthfully advertise the same; to the substantial injury of competition in commerce: