

IN THE MATTER OF
AMERICAN TELEVISION INSTITUTE, 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 \$060. Complaint, Feb. 16, 1937—Decision, Apr. 20, 1938

Where a corporation and certain individuals, theretofore partners, and officers thereof and in control of its sales policy and business practices; engaged in sale and distribution of correspondence courses of study in radio and television and in sale and distribution of equipment for radio and television to members of the public in various States and in the District of Columbia, in substantial competition with others engaged in sale and distribution of such courses of study in same and allied fields or in other subjects, and in sale and distribution of similar equipment as aforesaid—

- (a) Commonly placed the advertising of their said courses under the "Help Wanted" heading in the classified section of newspapers of general interstate circulation, with request that the person replying write newspaper in which advertisement appeared, and thereby contacted, through their agents, persons seeking employment in particular field dealt in, and told those replying that they were selling courses of study and equipment and informed them that they would secure jobs or positions upon completion of course of instruction offered;
- (b) Represented through their aforesaid advertising media, that there existed a shortage of radio television operators and that several young men were to be selected and trained for positions in radio television at expense of those offering the course until actually employed, and that payment of \$100 of total cost of course was deferred until enrollee should have finished same and secured a television job paying a salary of \$125 a month or better, facts being there was no such shortage, they did not select or restrict number of their students, none of the students were trained at their expense, but students paid for course at rate of \$10 a month, and statement as to deferring \$100 of total cost, as above set forth, had capacity and tendency to mislead student into belief that jobs were available in field in question;
- (c) Represented that they operated wide-spread employment agency, through which students were placed in paying positions upon graduation, and that they owned or operated a huge laboratory in which radio and television equipment was made in great quantities, and operated radio television broadcasting stations wherein their pupils were given opportunity for graduate residence study, and that aforesaid individual officers were engineers of certain television broadcasting stations, facts being they did not operate such an agency through which students were placed as aforesaid, nor such a laboratory, very few positions are available in field in question, in which there are currently practically no commercial positions available, and they did not operate broadcasting stations affording their pupils opportunity for graduate residence training; and
- (d) Depicted on letterheads used by them and in other advertising literature, picture of a large building in Chicago, of which at one time they occupied two floors, and represented on said letterheads that they were engineers of certain television broadcasting stations, facts being that, while one of their

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number was designer and erecting engineer of said stations, they were not engineers thereof, as aforesaid;

With capacity and tendency to mislead a substantial portion of student public into erroneous belief that such representations were true and to cause them to enroll as students on account thereof, and with result that trade was unfairly diverted to them from competitors engaged as hereinbefore set forth, and who do not misrepresent or otherwise publish untrue claims concerning their courses in advertising, selling and distributing same in commerce; to the substantial injury of such competition in commerce:

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

Mr. Karl Stecher for the Commission.

Mr. S. R. Rabinoff, of Chicago, Ill., for respondents.

COMPLAINT

Pursuant to the provisions of an Act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, having reason to believe that American Television Institute, Inc., a corporation, U. A. Sanabria, R. B. Fullerton, and A. H. Zamotany, as individuals and officers of the American Television Institute, Inc., a corporation, and as copartners, trading as American Television Institute and as Sanabria Television Laboratories, hereinafter referred to as respondents, have been and are using unfair methods of competition in commerce, as "commerce" is defined in said act, and it appearing to said Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues its complaint stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, American Television Institute, Inc., is a corporation, organized in 1936, doing business under the laws of the State of Illinois. Respondents U. A. Sanabria, R. B. Fullerton, and A. H. Zamotany, are copartners, trading as American Television Institute, and as Sanabria Television Laboratories. Said individuals are also president, vice president, and treasurer, respectively, of the above-named corporation, and manage and direct its sales policies and business practices. The principal office and place of business of all respondents is at 433 East Erie Street, Chicago, Ill.

Respondents are now, and have been for several months last past, engaged in the sale and distribution of correspondence courses of study in radio and television to members of the public located in various States of the United States and in the District of Columbia. Respondents now cause, and during the time herein mentioned have caused, their correspondence courses, when sold, to be shipped from their place of business in Chicago, Ill., to the purchasers thereof

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located in the various States of the United States other than the State of Illinois and in the District of Columbia. There is now, and has been, at all times mentioned herein, a constant current of trade and commerce, by the respondents, in said correspondence courses, between and among the various States of the United States, and in the District of Columbia.

Respondents are now, and at all times herein mentioned have been, in substantial competition with other corporations, firms, copartnerships, and individuals, engaged in the sale and distribution of correspondence courses of study in the same and allied fields, or in other subjects, in commerce among the various States of the United States and in the District of Columbia.

PAR. 2. The respondents, in soliciting the sale of and selling their correspondence courses, now circulate in and among the various States of the United States and during all the time herein mentioned have circulated certain statements and representations purporting to describe the nature and extent of respondents' business and of their courses, and the advantages to be realized by students of their courses of instruction, in newspapers, periodicals, booklets, circulars, and general business correspondence, and through agents to pupils and prospective pupils. Such statements and representations serve as representations on the part of respondent that several young men are to be selected and trained for positions in radio television at respondents' expense until actually employed; that a 70-lesson course is offered, collection of the tuition fee being deferred until a job is secured for the student at \$125 per month, or better; that respondents operate a wide-spread employment agency through which students are placed in paying positions upon graduation; that there is a shortage of radio television operators; that respondents own or operate a huge laboratory in which radio and television equipment is manufactured in great quantities; that respondents operate radio television broadcasting stations wherein respondents' pupils are given the opportunity for graduate residence study, and that the individual respondents are engineers of certain radio stations.

Respondents make many other similar statements and representations with respect to the size and importance of respondents' place of business and the position occupied in the radio television world of the officers of the American Television Institute, Inc.

The aforesaid representations are grossly exaggerated, misleading and untrue. In truth and in fact the respondents do not select, or restrict the number of their pupils, and said pupils are not trained at respondents' expense. A 70-lesson course is not offered and the tuition fee is not deferred until a job is secured for the pupil at \$125

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per month or more. Respondents do not operate an employment agency through which their students are placed in employment upon graduation. There is no shortage of radio television operators. Respondents do not manufacture radio television equipment in great quantities, and they do not own or operate any radio or television broadcasting stations. The individual respondents are not engineers of any radio broadcasting station. The statements made in their advertising with respect to the size of their business and the positions occupied in the radio television world of the present officers of the American Television Institute, Inc., are untrue.

PAR. 3. The use by respondents of the representations set forth herein has had, and now has, the capacity and tendency to mislead and deceive and has and does mislead a substantial portion of the student public into the erroneous belief that such representations are true and to cause them to enroll as students of respondents on account of such erroneous beliefs. There are among the competitors of respondents, as mentioned in paragraph 1 hereof, individuals, partnerships, firms, and corporations, engaged in the sale of correspondence courses in radio television, and allied fields, who do not misrepresent the size and nature of their business in any way or otherwise publish claims for their courses which are untrue, who likewise advertise, sell and distribute their correspondence courses among the various States of the United States and in the District of Columbia. By the representations aforesaid, trade is unfairly diverted to respondents from such competitors, thereby substantial injury is being and has been done by respondents to competition in commerce, as herein set out.

PAR. 4. The above-alleged acts and practices of respondent are all to the injury and prejudice of the public and respondents' competitors and constitute unfair methods of competition in commerce within the intent and meaning of Section 5 of an Act of Congress, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act and by virtue of the authority vested in it by said act, the Federal Trade Commission on February 16, 1937, issued and subsequently served its complaint in this proceeding upon respondents American Television Institute, Inc., a corporation, U. A. Sanabria, R. B. Fullerton, and A. H. Zamotany, as individuals and officers of American Television Institute, Inc., a corporation, and as copartners trading as American Television Institute, and Sanabria Television Laboratories,

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charging them with the use of unfair methods of competition in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of respondents' answers thereto, W. T. Kelley, chief counsel for the Federal Trade Commission, and S. R. Rabinoff, counsel for respondents, executed a stipulation as to the facts, wherein it was agreed that the statement of facts therein recited might be taken as the facts in this proceeding and in lieu of testimony in support of the charges stated in the complaint or in opposition thereto, and that the Commission might proceed upon such statement of facts to make its report, stating its findings as to the facts (including inferences which it might draw from the said stipulated facts) and its conclusion based thereon, and enter its order disposing of the proceeding without the presentation of argument or the filing of briefs. Said stipulation as to the facts was subsequently approved by the Commission and was duly recorded and filed in the office of the Commission. Thereafter, the proceeding regularly came on for final hearing before the Commission on said complaint, the answers thereto and said stipulation as to the facts, 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. Respondent, American Television Institute, Inc., is a corporation organized in 1936 and doing business under and by virtue of the laws of the State of Illinois. Respondents, U. A. Sanabria, R. B. Fullerton, and A. H. Zamotany, were copartners trading as American Television Institute and as Sanabria Television Laboratories from prior to February 1935, until the year 1936 when the respondent corporation was formed and succeeded to the business of the partnerships. Said individuals are also president, vice-president, and treasurer, respectively, of the above-named corporation, and manage, direct and control its sales policies and business practices. The principal office and place of business of all respondents is at 433 East Erie Street, Chicago, Ill.

Respondents are, and were, engaged in the sale and distribution of correspondence courses of study in radio and television and in the sale and distribution of equipment for radio and television to members of the public located in various States of the United States and in the District of Columbia. Respondents now cause, and during the times herein mentioned have caused, their correspondence courses and equipment, when sold, to be shipped from their place of business in

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Chicago, Ill., to the purchasers thereof located in the various States of the United States, other than the State of Illinois, and in the District of Columbia. There is now, and has been at all times mentioned herein a constant current of trade and commerce by the respondents in said correspondence courses and equipment between and among the various States of the United States and in the District of Columbia.

Respondents are now, and at all times herein mentioned have been, in substantial competition with other corporations, firms, copartnerships and individuals engaged in the sale and distribution of correspondence courses of study in the same and allied fields, or in other subjects, and in the sale and distribution of similar equipment, in commerce among the various States of the United States, and in the District of Columbia.

PAR. 2. The respondents, their agents and representatives, have advertised the said correspondence courses in newspapers having a general interstate circulation. The newspaper advertising was commonly placed in the classified section under the "Help Wanted" heading. Such advertisements contained a request that persons answering them write the newspaper in which the advertisement appeared. Persons who sought employment in the particular fields with which said advertisements dealt, replied to them as directed and said replies were collected by agents or representatives of the respondents who thereafter contacted the said persons and fixed the time and place for an interview. At these interviews the persons who had answered said advertisements were told that the respondents were selling courses of study and equipment. The persons so contacted were, however, informed that they would secure jobs or positions upon completion of the course of instruction offered by respondents.

Respondents further represented, in substance, through their advertising media above described, that several young men were to be selected and trained for positions in radio television at respondents' expense until actually employed; that a 70-lesson course was being offered for the price of \$287, payable \$10 at the time of enrollment, and the balance in monthly instalments of \$10 each except that payment of \$100 of said amount was deferred until the enrollee should have finished respondents' course and secured a television job paying a salary of \$125 per month or better; that respondents operated a widespread employment agency through which students were placed in paying positions upon graduation; that there existed a shortage of radio television operators; that respondents owned or operated a huge laboratory in which radio and television equipment was manufactured in great quantities; that respondents operated radio tele-

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vision broadcasting stations wherein respondents' pupils were given the opportunity for graduate residence study, and that the individual respondents were engineers of certain television stations.

In fact, respondents did not select or restrict the number of their students. None of said students were trained at respondents' expense but paid for the courses at the rate of \$10 per month. The statement that the collection of a portion of the tuition fee was deferred until a television job was secured by the student at \$125 per month had the capacity and tendency to mislead the student into believing that jobs were available in the field of television. Respondents did not operate a widespread employment agency through which students were placed in paying position upon graduation. In fact, very few positions are available in the field of television. Up to now there has been no shortage of radio television operators. There are now practically no commercial positions available in the field of television. The respondents' representation that they operated radio television broadcasting stations wherein their pupils were given the opportunity for graduate residence training was not true, although there are now in respondents' laboratory a large number of television receiving and transmitting sets which are being used by respondents in the graduate residence training of their students.

PAR. 3. On letterheads used by respondents and in other advertising literature appeared a picture of a large building in Chicago, Ill., known as the American Furniture Mart. The respondents at one time occupied two floors of that building, although no mention was made of that fact on the advertising matter and letterheads. Respondents' place of business is no longer located in said building, but at 433 Erie Street in Chicago, Ill. Such letterheads also bore representations that individual respondents were engineers of certain television broadcasting stations when, as a matter of fact, they were not. However, respondent U. A. Sanabria was the designer and erecting engineer of the said stations. Since respondents have moved their place of business from the American Furniture Mart building they have not used such stationery.

PAR. 4. The use by respondents of the representations hereinabove set forth has had the capacity and tendency to mislead a substantial portion of the student public into the erroneous belief that such representations were true and to cause them to enroll as students of respondents on account of such erroneous belief. There are among the competitors of respondents mentioned in paragraph 1 hereof individuals, partnerships, firms, and corporations engaged in the sale of correspondence courses of radio television and allied fields and other fields who do not misrepresent or otherwise publish claims con-

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cerning their courses which are untrue, and who advertise, sell and distribute their correspondence courses in commerce among and between the various States of the United States. By the representations aforesaid, trade is unfairly diverted to respondents from such competitors; thereby substantial injury is done to competition in commerce as herein set out.

PAR. 5. Respondents for more than 1 year last past have not made any of the statements or representations above referred to. Since May 1, 1937, they have been selling the same course and equipment for the original sum of \$287 without any deferred charges. While in the early stages of development of respondents' business, respondents did have a small laboratory wherein they manufactured a nominal quantity of television equipment, today, respondents have a large television laboratory wherein they manufacture a large quantity of television equipment for sale throughout the country.

CONCLUSION

The aforesaid acts and practices of respondents, American Television Institute, Inc., a corporation, U. A. Sanabria, R. B. Fullerton, and A. H. Zamotany, as individuals and officers of The American Television Institute, Inc., a corporation, and as copartners trading as American Television Institute and Sanabria Television Laboratories, as herein alleged, 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 the Federal Trade Commission Act.

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answers of the respondents and a stipulation as to the facts executed by W. T. Kelley, chief counsel for the Federal Trade Commission, and S. R. Rabinoff, counsel for respondents, the filing of briefs having been waived, and the Commission having made its findings as to the facts and conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondents, American Television Institute, Inc., a corporation, and its officers, U. A. Sanabria, R. B. Fullerton, and A. H. Zamotany, individually and as copartners trading as American Television Institute and Sanabria Television Laboratories, their respective representatives, agents and employees, in connection with the offering for sale, sale and distribution of their correspondence courses of study and instruction in radio and television

and in the sale and distribution of equipment for radio and television in interstate commerce or in the District of Columbia do forthwith cease and desist from—

1. Representing in any manner that a limited number of persons are to be selected and trained for positions in radio television;

2. Representing in any manner that students are trained at respondents' expense;

3. Representing in any manner that anyone other than the student himself pays for his course of training;

4. Representing through advertisements in classified advertising pages of newspapers, magazines, advertising literature or in any other manner under such headings as "Help Wanted" or "Men Wanted" or in any other manner that respondents are offering employment or that employment will be offered to persons who answer said advertisements;

5. Representing that all or any part of the tuition fee for the course of instruction is deferred until a television job is secured;

6. Representing that respondents operate a widespread employment agency or that students are placed in paying positions upon graduation;

7. Representing that there is a shortage of radio television operators;

8. Representing that they operate radio television broadcasting stations;

9. Representing in any manner that their place of business is larger or that they have greater business facilities than actually is the case;

10. Representing that any of said respondents or their agents, servants or employees are engineers of television broadcasting stations;

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

JUSTIN HAYNES & 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 2743. Complaint, Mar. 13, 1936—Decision, Apr. 21, 1938

Where a corporation engaged in sale and distribution of a medicated ointment for relief of pain and discomfort of colds, muscular aches, etc.—

- (a) Sold said preparation under name "Aspirub," and in representations on containers and cartons thereof, and in newspaper advertisements, leaflets and broadsides, and by radio broadcasts, as case might be, stressed aspirin content thereof through such statements as "The First Rub containing aspirin for direct external use," "NEW CONVENIENT WAY TO USE ASPIRIN," "I hated to dose myself with aspirin. Now I get relief more conveniently with ASPIRUB," and "You don't swallow ASPIRUB, there is no internal dosing, no upsetting your stomach," etc., and "contains aspirin because it has been proven that aspirin is one of the few medicines that can be absorbed through the skin; it is a scientific new way to use aspirin by applying it to the spot where the pain is; faster than ever;" facts being aspirin is not absorbable through the skin into the body in sufficient quantities to be of any therapeutic value;
- (b) Represented, as aforesaid, that said "medicated ointment provides symptomatic relief for such common ills where home medication is indicated," and that it was "Soothing to muscular aches, pains, and soreness as caused by colds, sprains, and exposure. * * * Calming to coughs due to colds and minor throat irritations," "New, better cold treatment that combines 7 of the finest cold medicines with aspirin, acts lightning-quick in relieving the pain and discomfort of chest colds, head colds, sore throats," etc., "* * * the new quicker relief from this constant danger (the common cold). ASPIRUB is fortified with penetrating aspirin," etc., "* * * derived from two ingredients, Aspirin and Pine Oil;" facts being that said last-named ingredient is obsolete in treatment of colds and no longer generally prescribed, certain other ingredients were of no benefit whatever, but merely added to give a pleasant odor, preparation in question provided little, if any, symptomatic relief, was of little value in treatment of neuralgic symptoms, etc., does not kill colds quickly, contain seven of the finest cold medicines, had no effect whatever on causative factors of colds and similar ailments, etc., and aforesaid statements were false; and
- (c) Represented that said preparation accomplished beneficial results attributed thereto through being absorbable, through such statements as "you RUB it on. And ASPIRUB is not SUPERFICIAL. ASPIRUB penetrates into that sore spot, as the skin absorbs its medication," etc., and that it contained aspirin, as above set forth, because it had been proven that it was one of the few medicines that could be "absorbed through the skin," and was a "scientific new way to use aspirin by applying it to the spot where the pain is," and "Rub this powerful yet harmless Aspirub on throat and chest and in a few minutes its mighty penetrating powers start to allay the inflammation," etc., and "penetrates the skin and reaches the nerve endings where it re-