

IN THE MATTER OF

G. F. PERGANDE AND M. F. PERGANDE, DOING BUSINESS
AS PERGANDE INSTITUTE, PERGANDE CIVIL SERVICE
INSTITUTE, ETC.COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 26, 1914*Docket 2911. Complaint, Aug. 28, 1936—Decision, July 21, 1938*

Where two individuals engaged as partners, and, later, through instrumentality of a corporation organized and controlled by them, in the sale and distribution, among the various States and in the District of Columbia, of courses of study and instruction to prepare students for examinations for civil service positions under the United States Government, and also of other correspondence courses of study and instruction—

- (a) Falsely represented, through inclusion of term "Civil Service" in various trade names employed by them in the conduct of their aforesaid business, and in connection with and in the promotion of the sale of the aforesaid courses of study for United States Civil Service positions, and depiction, in advertising and printed matter circulated to prospective students, of the United States Capitol, or the dome thereof, together with expressions containing the term "Civil Service," such as "Civil Service Opportunities" and "Civil Service Library," that their said school was connected with, or an agency of, or authorized or approved by the United States Government or the United States Civil Service Commission;
- (b) Represented that the instruction material used in their said courses was approved, authorized, recommended, or endorsed by the aforesaid Commission as a means of preparing applicants for United States Civil Service positions, through the use of general, unqualified, and unrestricted statements of sales of material or books to the United States Government and the statement in advertisements for salesmen for its courses "Sells U. S. Gov't.," notwithstanding fact it sold no correspondence courses to any branch or department of the Federal Government, and such sales as were made to any such branch or department were of books on Civil Service subjects, and it sold neither books nor other material to aforesaid Commission, which never used, endorsed, or approved same, and sales made to any branch of the Government were to divisions thereof wholly disconnected from said Commission, and had no significance in showing approval by it of books and material involved;
- (c) Represented that their said material was endorsed or used by schools, business colleges, or other educational institutions, through statements in their advertising matter circulated to prospective students which imported and implied that large numbers of educational institutions used its material for classroom instruction, that material purchased for such use was in considerable volume for study material, and that such institutions, by reason of such use, endorse and approve the same, facts being that

certain specific schools referred to in aforesaid connection had purchased a small quantity of its material, not for use by students as study material, but either for examination merely, or on approval, or for reference use by instructors, and had given no endorsement or approval of such material, and it made no differentiation between materials sent on approval without order and bona fide orders of material in sufficient quantities to indicate use, and acceptance of such approval, and shipment was not sufficient to indicate or constitute endorsement or approval of material thus received;

- (d) Represented and implied, through general statements pertaining to use of their instruction material by civil service commissions, taken in connection with fact that practically all of its advertising material distributed to prospective students pertains to examinations, conducted by the United States Civil Service Commission, that their said instruction material was used by said Commission, facts being that use referred to only included that by subordinate divisions of the Government and referred to such matters as instances in which small books, sent on approval to civil service commissions of subordinate governmental bodies such as cities, were, as a matter of convenience and routine, paid for rather than returned, and such mere payment did not indicate use of same in framing examination questions, or endorsement of material; and
- (e) Represented that civil service commissions authorized or used the material through reference to such Commissions by name, the facts being such representations were not based on actual endorsements or use, but only referred to cases in which matter had been sent on approval, as above set forth;

With tendency and capacity to confuse, mislead, and deceive members of public into belief that said school was in some way connected with, authorized, or endorsed by the United States Government or the Civil Service Commission thereof, that their material was used for regular classroom instruction by educational institutions named or expressed in numbers, and was endorsed by them, and was purchased and used by the aforesaid Commission in the conduct of examinations for appointments to the classified Civil Service, and was also made use of by civil service commissions of subordinate divisions, named or referred to generally, in conducting examinations, and was endorsed by them, and to induce the purchase of its correspondence course because of the erroneous beliefs thus engendered, and to divert trade to them from competitors engaged in sale in commerce of correspondence courses for preparing students for civil service positions under the United States Government, and also in the sale of correspondence courses of other kinds, and with the effect of diverting business to the aforesaid school from competitors who do not and have not misrepresented their courses of study and instruction, but who truthfully and accurately state the facts in regard thereto; to their substantial injury and prejudice:

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

Before *Mr. John L. Hornor* and *Mr. W. W. Sheppard*, trial examiners.

Mr. Harry D. Michael and *Mr. DeWitt T. Puckett* for the Commission.

Mr. John C. Spear, of Cleveland, Ohio, for respondents.

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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 G. F. Pergande and M. F. Pergande, copartners, doing business under the names and styles of Pergande Institute, Pergande Civil Service Institute, Pergande Publishing Co., Civil Service Institute, and Pergande Civil Service Publishing Co., 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. That said respondents, G. F. Pergande and M. F. Pergande, are copartners and as such are now and have been engaged for more than 2 years last past in the sale and distribution of courses of study and instruction designed and intended for preparing students thereof for examinations for civil service positions under the United States Government, which said courses of study and instruction are pursued by correspondence. Said respondents have been and are also engaged, as aforesaid, in the sale and distribution of books designed and intended for the same purpose. In the conduct of said business, respondents have, at one time or another, used one or more of the trade names, previously set forth herein, with their office and principal place of business in the city of Milwaukee in the State of Wisconsin. Said respondents, in the course and conduct of their said business, during the time aforesaid, have caused and do now cause their said courses of study and instruction and their said books to be transported from their said place of business in Wisconsin to, into and through States of the United States other than Wisconsin to the various purchasers thereof in such other States to whom said courses of study and instruction and said books are or have been sold.

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 of courses of study and instruction designed and intended for the purpose of preparing students thereof for examinations for civil service positions under the United States Government, and also of courses of study and instruction in other lines, all of which are pursued by correspondence. 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 respondents have been, during

the aforesaid time, in competition in interstate commerce in the sale of their said courses of study and instruction and their said books with such other individuals, firms, and corporations.

PAR. 3. That said respondents in the sale of their said correspondence courses and books make use of and have made use of many representations which expressly or impliedly represent that respondents and their said school are connected with or otherwise represent the United States Government or the United States Civil Service Commission. One such method has been by use of the name or names under which respondents have at times conducted their said business; namely, Civil Service Institute, Pergande Civil Service Institute, and Pergande Civil Service Publishing Co. The term "civil service" is one generally used to designate and describe a class of employees of the United States Government. When said term is used in the name of a school or of a business such as that conducted by respondents, it suggests such class of Government employees and also the United States Civil Service Commission, which exercises jurisdiction over the same. The term "civil service" has a tendency and capacity to create the belief among persons solicited to purchase respondents' courses of study and their said books that the respondents and the correspondence school operated by them and the books sold by them are in some manner connected with, or have been approved by the United States Government or the United States Civil Service Commission. Other means of creating the impression as aforesaid have been the use by respondents in its advertising and printed matter of pictures of the United States Capitol or the dome thereof together with expressions such as "Civil Service Opportunities" and "Civil Service Library."

In advertising their said courses of study and instruction respondents make use of advertisements inserted in the classified advertising columns of newspapers circulated among the purchasing public in various States of the United States, many of which advertisements have contained these statements: "We sell United States Government" or "Sells United States Government" or statements of similar import. Such statements have the tendency and capacity to create the belief among prospective students that respondents and their school have a connection with the Government or that respondents' courses are used by the Government in training applicants for civil service examinations and positions. In truth and in fact respondents do not sell correspondence courses to the United States Government and such courses are not used by the United States Government in training applicants for civil service examinations or positions. Said representations of respondents are not applicable to its sale of correspondence courses and are consequently misleading in that respect

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on account of the fact that their only basis in fact is a limited number of sales of books as previously described to subordinate divisions or agencies of the Government having no connection whatever with the civil service or Civil Service Commission.

PAR. 4. That respondents, in their advertising matter make use of statements to the effect that respondents sell their correspondence courses and books to large numbers of colleges and universities and other educational institutions. Among such statements are the following:

1,900 educational institutions in 11 countries use Pergande Civil Service Examination Material.

It is the only material sold internationally to educational institutions.

Sells * * * hundreds of educational institutions.

Such statements are misleading in that they are exaggerated and have the tendency and capacity to create the belief among members of the public that respondents sell their correspondence courses and books not only to large numbers of schools but also for actual educational use in such schools in preparing students for civil service examinations and that such purchases in such large numbers constitute an endorsement of respondents' courses by such institutions. In truth and in fact, the numbers quoted and implied by respondents' statements are greatly exaggerated and do not conform to the facts and the schools referred to do not buy or use respondents' correspondence courses. Any such purchases so made are of respondents' books and not their correspondence courses. The said purchasers of said books do not, in the main, use such books for regular instruction purposes but merely for library or reference use. The purchases, in many such instances, are of material sent on approval and payment therefor is made as a matter of routine, and such purchases do not, as implied, constitute an endorsement of respondents' said correspondence courses.

PAR. 5. That respondents, in their advertising matter, make use of statements to the effect that respondents sell their correspondence courses to civil service commissions. Among such statements are the following:

Used by Civil Service Commissions.

No other civil service school sells examination material to civil service commissions.

Such statements and representations used by respondents are misleading in that they are exaggerated and not accurate and exact statements of the facts. They further have the tendency and capacity to create the belief among members of the public that respondents sell their correspondence courses to civil service commissions, including the United States Civil Service Commission, and

that such commissions make actual use thereof in framing their examinations and that they endorse the same. In truth and in fact, respondents do not sell any correspondence courses, books, or material to the United States Civil Service Commission. They do not sell correspondence courses, as such, to civil service commissions of any kind. Such sales of this kind that respondents have made are of books or printed material, much of which has been paid for as a matter of routine on shipments sent on approval. Generally speaking, such purchases have not indicated any special approval or endorsement of respondents' courses or material nor has the material so sold, generally speaking, been made the basis for examinations held by such Commissions.

PAR. 6. That the representations of respondents, as aforesaid, have had and do have the tendency and capacity to confuse, mislead, and deceive members of the public into the belief that respondents and the correspondence school operated by them are connected with or otherwise represent the United States Government or the United States Civil Service Commission; that their correspondence courses and material are made use of by the United States Government in connection with civil service examinations and appointments under the classified civil service; that respondents sell their correspondence courses and material to schools, colleges, universities, and educational institutions in large numbers and that such sales are based on bona fide orders and that such institutions, in such numbers, use the courses and material purchased for instruction purposes and endorse respondents' courses; and that respondents sell their correspondence courses and material to large numbers of civil service commissions, including the United States Civil Service Commission, that such sales are based on bona fide orders and that such Commissions use the courses and material so furnished in framing examinations and endorse respondents' courses, when in truth and in fact, such are not the facts.

Said representations of respondents have the tendency and capacity to induce members of the public to answer respondents' advertisements, to apply for or seek respondents' instruction, and to contract for and purchase respondents' courses of study and books, because of the erroneous beliefs engendered as above set forth, and to divert trade to respondents from competitors engaged in the sale of correspondence courses in interstate commerce in similar lines to those offered by respondents as well as those so engaged in such sales in other lines.

There are among the competitors of respondents those who do not make the same or similar misleading representations as those made

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by respondents, as herein set out, but who truthfully and accurately state the facts in regard to their businesses in the particulars aforesaid. As a result of respondents' said practices injury has been and is now being done by respondents to competition in commerce between and among the various States of the United States.

PAR. 7. The above acts and things done by respondents are all to the injury and prejudice of the public and the competitors of respondents 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 the Federal Trade Commission Act, the Federal Trade Commission, on August 28, 1936, issued and served its complaint in this proceeding upon respondents G. F. Pergande and M. F. Pergande, copartners, doing business under the names and styles of Pergande Institute, Pergande Civil Service Institute, Pergande Publishing Co., Civil Service Institute, and Pergande Civil Service Publishing Co., 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 answer thereto by G. F. Pergande, one of the respondents herein, and Pergande Institute, Inc., a corporation, testimony and other evidence in support of the allegations of said complaint were introduced by Harry D. Michael and DeWitt T. Puckett, attorneys for the Commission, before John L. Hornor, an examiner of the Commission theretofore duly designated by it, with W. W. Sheppard, an examiner of the Commission, serving as substitute examiner at certain hearings after being duly designated as such, and in opposition to the allegations of the complaint by John C. Spear, attorney for the respondents and said corporation; and said testimony and other evidence were 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 answer thereto, testimony and other evidence, briefs in support of the complaint and in opposition thereto, and the oral arguments of Mr. Michael, attorney for the Commission, and Mr. Spear, attorney for respondents; 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. Respondents, G. F. Pergande and M. F. Pergande, for more than 5 years prior to June, 1936, were copartners engaged in the sale and distribution in commerce between and among the various States of the United States of courses of study and instruction designed and intended for the purpose of preparing students thereof for examinations for civil service positions under the United States Government, which said courses of study and instruction were pursued by correspondence through the medium of the United States mail. Said respondents were also engaged, as aforesaid, during said time, in the publication, sale, and distribution of books designed and intended for the same purpose. Said correspondence courses were sold directly to members of the public who pursued the study of the same under the supervision of respondents. The offices and principal place of business of respondents in the conduct of said business, as aforesaid, was at 3331 North Bartlett Avenue, in the city of Milwaukee, in the State of Wisconsin. Said respondents, in the course and conduct of said business, during the time aforesaid, caused their said courses of study and instruction, as well as their said books, to be transported in commerce from their said place of business in Wisconsin, to, into, and through States of the United States other than Wisconsin, to the various purchasers thereof in such other States, to whom the same had been sold. In the month of June 1936, said business was incorporated under the corporate name Pergande Institute, Inc., under and by virtue of the laws of the State of Wisconsin, since which time said business has been continued by said corporation. Said respondent G. F. Pergande is and has been the president of said corporation, while respondent M. F. Pergande is and has been its vice president and treasurer, and as such officers they are and have been active participants in the control and conduct of the business thereof. Said respondents, during the period of said copartnership, in the conduct of said business as aforesaid, used one or more of the following trade names in some way and at one time or another: Pergande Institute, Pergande Civil Service Institute, Pergande Publishing Co., Civil Service Institute, and Pergande Civil Service Publishing Co.

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 commerce between and among the various States of the United States and in the District of Columbia, of courses of study and instruction designed and intended for the purpose of preparing students thereof for examinations for civil service positions under the United States Government, and also

of courses of study and instruction of other kinds, all of which are pursued by correspondence. 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 in commerce from the respective States of the United States where they are located, to, into and through States other than the State of origin of the shipment thereof to the purchasers of the same at their respective places of location. Among such competitors are International Correspondence School, Scranton, Pa.; Franklin Institute, Rochester, N. Y.; LaSalle Correspondence Schools, Chicago, Ill.; and American School, Chicago, Ill.

PAR. 3. The former use by respondents of the terms "civil service" in several of the names used in designating the business conducted by them, as aforesaid, namely, "Pergande Civil Service Institute," "Civil Service Institute," and "Pergande Civil Service Publishing Co." in connection with and in the promotion of the sale of courses of study and instruction intended and sold for preparing students thereof for examinations for civil service positions under the United States Government had the tendency and capacity to create the belief among persons solicited to purchase the same that the school so designated was in some manner connected with or an agency of or authorized or approved by the United States Government or the United States Civil Service Commission in giving such instruction.

The term "civil service" is one widely used by members of the public to designate and describe a class of employees of the United States Government who, generally speaking, qualify for appointments in such service by taking and passing civil service examinations of the same or similar kind as those for which respondents offered training as aforesaid. When the term "civil service" is used as a part of the name of a school or business such as that conducted by respondents as aforesaid, it suggests such class of Government employees and also the United States Civil Service Commission which conducts such examinations and exercises jurisdiction over appointments to the classified civil service.

Respondents also used in some of their advertising and printed matter circulated to prospective students pictures of the United States Capitol or the dome thereof, together with expressions containing the term "Civil Service" such as "Civil Service Opportunities" and "Civil Service Library," all of which, in the connection used, further suggested Government connection as aforesaid.

Respondents, in advertisements for salesmen for their correspondence courses inserted in newspapers circulated to the general public and in other ways made representations to the effect that they sold

their correspondence courses to the United States Government by phrases such as "Sells U. S. Gov't. * * *" Such representations in advertisements for salesmen constituted authority for salesmen to make similar representations to prospective students. The representation of sales to the United States Government without qualification, in connection with the sale of correspondence courses for civil service examinations, has the tendency and capacity to create the belief that such sales to the Government were of correspondence courses and that the purchases referred to were made by or at the direction or approval of the United States Civil Service Commission and for prescribed or recommended use in connection with examinations conducted by said Commission.

Respondents sold no correspondence courses to any branch or department of the United States Government. Such sales as respondents made to any branch or department of the Government were of books on civil service subjects and not their correspondence courses. Respondents made no sales of books or other material to the United States Civil Service Commission nor has said Commission used, endorsed, or approved the same. Such sales of books as respondents made to any branch of the Government were to divisions thereof wholly disconnected from the said Civil Service Commission and were of no significance in showing approval by said Commission of the books or material involved. Sales were made of books to the Library of Congress, the Public Library of the District of Columbia, and to instructors at Civilian Conservation Corps camps. The United States Civil Service Commission has not endorsed or given approval to respondents' books or courses as means of preparation for civil service examinations.

PAR. 4. Respondents in their advertising matter circulated to prospective students made representations which imported and implied that large numbers of educational institutions used its material for classroom instruction, that material purchased for such use was in considerable volume for study material and that such institutions by reason of such use endorse and approve the same. Among such representations were the following:

1,900 educational institutions in 11 countries use Pergande Civil Service Examination Material.

It is the only material sold internationally to educational institutions. * * * Sells * * * hundreds of higher educational institutions.

Altogether almost 2,000 educational institutions are using our material right now.

247 leading business colleges in 44 states and the District of Columbia KNOW civil service examinations and use Pergande material, because it is "specialized"

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and "exact." Here are four schools in Washington, D. C., acknowledged authorities on text value for civil service examinations:

Boyd School for Secretaries, Washington, D. C.,
Strayer College, Washington, D. C.,
Capital City College, Washington, D. C.,
Mount Pleasant School for Secretaries, Washington, D. C.

In regard to the last quotation above, neither Strayer College nor the Mount Pleasant School for Secretaries ever purchased respondents' material for use by their students as study material. A small quantity of respondents' material was purchased by each of these schools but was secured either merely for examination or on approval or for mere reference use by instructors. Neither school gave any endorsement or approval of respondents' material.

Respondents on occasion sent out small pamphlets or books of material on approval without solicitation or orders from the institutions to which the same were sent. While respondents produced copies of invoices to more than 1,900 educational institutions, yet no differentiation was made between material sent on approval without order and bona fide orders of material in sufficient quantities to indicate use. Acceptance of such approval shipments was not sufficient to indicate or constitute endorsement or approval of the material so received.

PAR. 5. Respondents in their advertising matter circulated to prospective students made statements and representations which imported or implied that the United States Civil Service Commission made use of respondents' material in framing and compiling its examination questions and that said Commission endorses respondents' material. Also, that civil service commissions of subordinate governmental divisions use respondents' material in compiling their examination questions and that they endorse the same. Among such statements and representations were the following:

Used by Civil Service Commissions.

No other civil service school sells examination material to civil service commissions.

There are no better judges of civil service material than civil service commissions! Here are a number of those that purchased examination material from The Pergande Company during June, July, and August, 1934.

Following the statement last above quoted is listed a number of States, cities, and other governmental bodies including "City of Baltimore, Maryland."

In the case of the city of Baltimore, named above, the City Service Commission of Baltimore never ordered any material from respondents. A small book was sent on approval with the privilege of returning the same or paying therefor the sum of 65 cents. It was

paid for as a matter of routine rather than going to the trouble of sending it back. It was merely placed in the files and no use thereof was ever made by said commission. Respondents, on occasion, sent out the same or similar books on approval to the civil service commissions of subordinate governmental bodies without previous requests or orders therefor. In such cases, the mere payment for the same did not in itself indicate use of the same in framing examination questions or endorsement of the material.

Practically all of respondent's advertising material distributed to prospective students is in reference to preparation for examinations conducted by the United States Civil Service Commission. Only incidental reference is made therein to examinations conducted by subordinate governmental divisions. The use by respondents of general statements such as "Used by Civil Service Commissions" and those of similar import in connection with descriptive matter in regard to examinations conducted by the United States Civil Service Commission and without qualification or terms of negation to indicate that the United States Civil Service Commission is not included therein has the tendency and capacity to import and imply that the United States Civil Service Commission uses respondents' material and endorses the same.

PAR. 6. The representations of respondents as aforesaid had the tendency and capacity to confuse, mislead, and deceive members of the public into the belief that the school operated by them was in some way connected with or authorized or endorsed by the United States Government or the United States Civil Service Commission; that their material is used for regular classroom instruction by educational institutions named or expressed in numbers and that it is endorsed by them; that their material is purchased and used by the United States Civil Service Commission in the conduct of examinations for appointments to the classified civil service; and that their material is made use of by civil service commissions of subordinate governmental divisions named in such representations, or referred to generally, in conducting examinations and that it is endorsed by them, when such are not the facts, and to induce them to buy the correspondence courses offered by respondents because of the erroneous beliefs engendered as above set forth and to divert trade to respondents from competitors engaged in the sale in commerce between and among the various States of the United States of correspondence courses intended for preparing students thereof for examinations for civil service positions under the United States Government, as well as from those so engaged in such sale of correspondence courses of other kinds.

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There were and are among the competitors of respondents, those who do not misrepresent and have not misrepresented the courses of study and instruction sold by them but who truthfully and accurately state the facts in regard thereto. Respondents' said acts and practices tended to and did in fact divert business to the school conducted by them from their competitors to the substantial injury and prejudice of such competitors.

CONCLUSION

The aforesaid acts and practices of the respondents, G. F. Pergande and M. F. Pergande, 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 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 answer of G. F. Pergande, one of the respondents herein, and Pergande Institute, Inc., a corporation, testimony and other evidence taken in part before John L. Hornor, an examiner of the Commission theretofore duly designated by it, and in part before W. W. Sheppard, an examiner of the Commission, duly designated as substitute examiner therein, in support of the allegations of said complaint and in opposition thereto, briefs filed herein, and oral arguments by Harry D. Michael, counsel for the Commission, and by John C. Spear, counsel for respondents, and the Commission having made its findings as to the facts and its conclusion that said respondents have violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondents, doing business as a copartnership under their own names or under any trade name, or trading individually or through or by means of a corporate or other legal entity or otherwise, their representatives, agents, and employees, in connection with the offering for sale, sale, and distribution of courses of study and instruction intended for preparing students thereof for examinations for civil service positions under the United States Government or under other governmental subdivisions in interstate commerce or in the District of Columbia, do forthwith cease and desist from:

1. Representing by use of the term "civil service" in the name under which said business is conducted or by use of a picture or pictures of the United States Capitol or the dome thereof, or other-

wise, directly or indirectly, or by implication. that the school conducted by them, or either of them, as aforesaid, is connected with or is an agency of, or is authorized or approved by, the United States Government or the United States Civil Service Commission.

2. Representing that the instruction material used in such courses is approved, authorized, recommended, or endorsed by the United States Civil Service Commission as means of preparing applicants for examinations for classified civil service positions under the United States Government by the use of general, unqualified, and unrestricted statements of sales of material or books to the United States Government, or otherwise.

3. Representing endorsement or use of their instruction material by schools, business colleges, or other educational institutions unless such institutions named or included by number in such representation have in fact endorsed the same or made use of the same for classroom instruction purposes.

4. Representing endorsement or use of their instruction material by schools, business colleges, or other educational institutions by means of general statements giving the names or numbers of such institutions that may have paid for material sent on approval with privilege of return or that may have ordered small quantities of material, in cases where there is no other basis for the representation of endorsement or use.

5. Representing by general statements of use of their instruction material by civil service commissions, that it is used by the United States Civil Service Commission when such use referred to only includes use by subordinate divisions of Government or unless such statement is directly accompanied by a statement in equally conspicuous letters that the material is not used by the United States Civil Service Commission.

6. Representing that civil service commissions endorse or use their material unless such representations are based on actual endorsements or actual use in the preparation of examination questions.

7. Representing endorsement or use of their material by civil service commissions by giving any such Commissions by name or number when such representations are based only on material sent on approval without previous order and later paid for or on other purchases of material in cases where respondents have no other indication or knowledge of endorsement or use.

It is further ordered, That 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
**BENJAMIN TUCKER, TRADING AS BEN TUCKER'S AND
AS HUDSON BAY FUR CO.**

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

Docket 3036. Complaint, Jan. 15, 1937—Decision, July 21, 1938

Where an individual engaged in conducting a retail fur store establishment, and doing a substantial business in the sale of fur garments at retail, and selling a portion of his said garments to customers located in other States, and dealing in garments made, as the case might be, from (1) processed lambskins sheared so as to give appearance and effect of true Broadtail, from baby Persian lamb of Karakul breed of sheep, or from lambskins processed, dressed, and dyed to resemble garments made from baby Persian lambs, but inferior to genuine Broadtail in pliability, durability, wearing quality, and luster; (2) rabbit and coney skins, so processed, dressed, and dyed as to resemble and simulate in appearance garments made from skins and furs of seal and beaver, to which they were inferior in pliability and durability of leather and in wearing quality and luster; (3) marmot skins, so processed, dressed, and dyed as to resemble and simulate in appearance garments made from skins and furs of mink, to which they were inferior in pliability and durability, and in wearing quality and luster; (4) lambskins, so dressed and dyed as to resemble garments known to trade and purchasing public as "Grey Krimmer," made from species of lamb related to Persian lamb group, but inferior thereto in pliability and durability of leather and in wearing quality and luster; (5) muskrat skins, so processed, dressed, and dyed as to resemble and simulate garments made from skins and furs of seal, but inferior thereto in pliability and durability and in wearing quality and luster; and in competition, as thus engaged, with manufacturers, sellers, and distributors of like and similar products, who truthfully advertise and represent the nature, merit, quality, and value of their respective products and the furs from which said products are made, and who do not advertise and otherwise represent that their products have merits, qualities, or values which they do not possess—

Caused certain of his fur garments, in advertisements thereof, to be variously represented or designated as "American Broadtail," "Beaver," "Beaverette," "Black Seal," "Grey Krimmer," "Hudson Seal," "Mink Marmot," "a Persian Swagger," and "Seal," without further qualifications in some of said advertisements, and with words in others "Dyed Coney," "Dyed Muskrat," or "Processed Lamb," notwithstanding fact said garments were not made from furs and skins of seal, beaver, mink, etc., as above represented and implied, and said qualifications, when made, were as footnotes, at a distance from matter to which they referred, and in such small type as to be practically unreadable, and not sufficiently informative to place purchasers and prospective purchasers on notice as to true composition or nature of garments in question, described as aforesaid, as in fact made