

Syllabus

IN THE MATTER OF
INTERNATIONAL UNIVERSITY OF COMMERCE, AND
PAUL V. MANNING

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 28, 1914

Docket 3543. Complaint, Aug. 17, 1938—Decision, Sept. 29, 1939

Where a corporation and an individual, who was president and principal stockholder thereof and general manager of the business which it conducted, engaged in sale and distribution of correspondence courses in bookkeeping, accountancy, auditing, commercial law, and business administration, to pupils in various States, in active competition with others engaged in sale and distribution of like and similar courses of instruction as aforesaid, and including many who do not misrepresent the courses which they offer and sell; in soliciting sale of their courses of instruction—

- (a) Displayed and featured on all their stationery and advertising material, name of said corporation, in which was included word "University," notwithstanding fact school in question did not maintain a faculty or have a staff of instructors and was not an educational institution organized for teaching and study in the higher branches of learning, imparting education embracing many branches, and empowered to confer degrees, etc., as understood by public, but instruction furnished was given solely by one certified public accountant with title of Educational Director, and with aid of assistant who was senior, but not certified, public accountant, and who directed school's educational work and examined and corrected papers, etc., and devoted only portion of his time to school in question;
- (b) Represented that opportunities in the field of accounting open to students finishing their course were unlimited, and that course sold by them was superior to similar courses of competitors, and that their school was largest of its kind in the United States; and
- (c) Represented that they were connected with a large firm of accountants and had trained thousands of accountants, majority of whom were holding responsible positions with some of the largest industrial units in the country, and that, in event students who had completed the course should not be able to obtain employment elsewhere, they would be placed with Chicago firm with which school was closely connected, and for which it, as asserted, was in reality engaged in training personnel so that such firm might have sufficient number of trained accountants on hand from which to replenish its force, as depleted through continual resignations of members to accept higher paid positions with industrial firms, and in response to nation-wide demands for trained accountants; and
- (d) Represented that the presidents of General Motors and Chrysler Corporations had urged all clerical employees of their respective companies to take advantage of their said course;

Facts being opportunities in field in question for students finishing such course were not unlimited, course was not superior to competitors' nor was school largest of its kind as aforesaid, they were in no way connected with large

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firm of accountants, none of the executives of said companies or corporations had made such a recommendation, and their said course was not offered only to a select group;

With capacity and tendency to confuse, mislead, and deceive members of public through such representations, and to induce them to subscribe to course of instruction in erroneous belief that school in question was in fact a university, and that said representations were true, and with result that, as direct consequence, patronage was diverted unfairly to them from schools of competitors:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of public and competitors and constituted unfair and deceptive acts and practices in commerce.

Before *Mr. William C. Reeves*, trial examiner.

Mr. C. S. Cox and *Mr. Merle P. Lyon* for the Commission.

Mr. Raymond B. Morris, of Chicago, Ill., for respondents.

COMPLAINT

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, having reason to believe that International University of Commerce, a corporation, and Paul V. Manning, individually and as president of International University of Commerce, hereinafter referred to as respondents, have violated the provisions of the said act, and it appearing to the 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, International University of Commerce, is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its principal office and place of business at 612 North Michigan Avenue, Chicago, Ill. Respondent Paul V. Manning is the principal stockholder of the respondent corporation, and as such, dominates and controls the sales policies and business activities of the corporate respondent.

PAR. 2. Respondents are now, and for more than 7 years last past have been, engaged in the business of conducting a correspondence school and in the sale and distribution of a correspondence course consisting of instructions in bookkeeping, accountancy, auditing, commercial law, and business organization, in commerce, between and among the various States of the United States and in the District of Columbia. Respondents cause their said correspondence course, when sold, to be transported from their office and place of business in the State of Illinois to purchasers of said course in States of the United States other than the State of Illinois, and in the District of Columbia.

PAR. 3. Respondents maintain, and at all times mentioned herein have maintained, a course of trade in said correspondence course sold and distributed by them in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of their business respondents are in active and substantial competition with other corporations and individuals, and with firms and partnerships engaged in the sale and distribution of correspondence courses in commerce between and among various States of the United States and in the District of Columbia.

PAR. 5. A "University" is understood by the public to be an educational institution organized for teaching and study in the higher branches of learning and in which the education imparted is universal, embracing many branches such as arts, sciences, and all manner of learning and which is empowered to confer degrees, with a faculty of learned persons acting as instructors and offering one or more special branches of learning such as theology, law, and medicine.

PAR. 6. Said respondents, in soliciting the sale of and in selling their said course of study and instruction, and for the purpose of inducing the purchase of said course of instruction in commerce as aforesaid, have caused the name of corporate respondent, International University of Commerce, to appear in a prominent and conspicuous manner on all of their stationery and advertising material and have made many representations to prospective students, both directly and through their representatives, among which representations are the following:

1. That respondents' school has "instructors," a "faculty," and a staff of certified public accountants.
2. That the opportunities in the field of accountancy open to students finishing respondents' course of instruction, are unlimited.
3. That the course of instruction offered by respondents is superior to those of their competitors.
4. That the respondents' school is the largest of its kind in the United States.
5. That the respondents have trained thousands, the majority of whom are holding responsible positions with some of the largest industrial units in the country.
6. That students completing the course of instruction offered by respondents will be given positions or jobs.
7. That the respondents' course is endorsed and recommended by Henry Ford, Alfred P. Sloan, Jr., and Walter P. Chrysler.
8. That the respondents' course is only offered to a select group.

9. That the respondents are connected with a large firm of accountants.

And statements and representations of similar import.

PAR. 7. In truth and in fact, respondents' school is not a university. It does not have a faculty, nor a staff of instructors, and does not have a staff of certified public accountants. The opportunities in the field of accountancy for students finishing the course of instruction offered by respondents are not unlimited, nor is respondents' course superior to those of their competitors. Respondents' school is not the largest of its kind in the United States. The majority of those trained by respondent are not holding responsible positions with some of the largest industrial units in the country. Persons completing the course of instruction offered by respondents are not given positions or jobs. Respondents' course is not endorsed or recommended by Henry Ford, Alfred P. Sloan, Jr., or Walter P. Chrysler, nor is respondents' course offered only to a select group, but the true facts are that respondents will sell their course to any person who will pay for same. Respondents are not connected with a large firm of accountants.

PAR. 8. There are among the competitors of respondents many who do not misrepresent their respective courses of study and instruction.

PAR. 9. The foregoing representations made by respondents through the use of corporate respondent's corporate name and through other means in offering for sale and selling their course of study and instruction, have had and now have the tendency and capacity to, and do in fact, mislead purchasers and prospective purchasers thereof into the erroneous and mistaken belief that such representations are true. As a direct result of this erroneous and mistaken belief a number of the purchasing public have purchased a substantial volume of respondents' course, with the result that trade has been diverted unfairly to respondents from competitors engaged in the sale of similar or other courses of instruction who do not misrepresent their said courses. As a consequence thereof injury has been, and is now being done by respondents to competition in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 10. The aforesaid acts and practices of the respondents, as herein alleged, are all to the prejudice of the public and of respondents' competitors, and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on August 17, 1938, issued and served its complaint in this proceeding upon respondent International University of Commerce, a corporation, and Paul V. Manning, individually and as president of International University of Commerce, charging them with the use of unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of the respondents' answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by Merle P. Lyon, attorney for the Commission and in opposition to the allegations of the complaint by Raymond B. Morris, attorney for the respondents, before W. C. Reeves, an examiner of the Commission theretofore duly designated by it 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, brief in support of the complaint (respondents not having filed brief), oral argument not having been requested; and the Commission having duly considered the matter and being now fully advised in the premises, finds that the proceeding is in the interest of the public and makes this its findings as to the facts and its conclusion drawn therefrom:

FINDINGS AS TO THE FACTS

PARAGRAPH 1. The respondent, International University of Commerce, is a corporation organized in June 1931, under the laws of the State of Illinois with principal place of business in Chicago, in said State. On August 1, 1938, its corporate name was changed to International School of Commerce. Since its organization, it has been engaged in the business of conducting a school which has sold and distributed courses of instruction in bookkeeping, accountancy, auditing, commercial law, and business administration, which courses have been given by correspondence to pupils in various States of the United States. It has caused the lesson material included in such courses, when sold, to be transmitted by the United States mail from its place of business in Chicago, Ill., through and into various other States of the United States to the respective purchasers thereof, and in the course and conduct of its said business said respondent has been and is now in active competition with various persons and partnerships and other corporations also engaged in the sale and distribu-

tion of like or similar courses of instruction by correspondence, in commerce between and among various States of the United States. The respondent, Paul V. Manning, is the principal stockholder of the respondent, International School of Commerce and its president and the general manager of the business conducted by it.

PAR. 2. The name of the corporate respondent prior to August 1, 1938, included the word "University." As understood by the public a university is an educational institution organized for teaching and study in the higher branches of learning, in which the education imparted is universal, embracing many branches, such as arts, sciences, and all manner of learning, and which is empowered to confer degrees, with a faculty of learned persons acting as instructors and offering instruction in one or more branches of learning such as theology, law, and medicine. The school conducted by respondent is not a university. It does not have a staff of instructors and the instruction received by persons who purchase the course of instruction offered for sale by respondents is given solely by one certified public accountant, who has the title of educational director for such school, and with the aid of one assistant who is a senior accountant but not a certified public accountant, directs all the educational work of such school and examines and corrects the papers sent in by students and handles all letters of inquiry from students which pertain to accounting problems which arise in the study of the course by the several students. He does not devote his whole time to such school but has outside employment to which he devotes a portion of his time.

PAR. 3. The respondents, in soliciting the sale of the course of instruction given by them, and in the sale of same, as set out in Paragraph 1 hereof, and for the purpose of inducing members of the public to purchase such course, prior to August 1, 1938, caused the name of the corporate respondent, "International University of Commerce" to be printed in a prominent and conspicuous manner on all their stationery and advertising material, and both prior to and since August 1, 1938, have made numerous representations to prospective students concerning the course of instruction sold by them, both directly and through their representatives, among which were representations to the effect that the opportunities in the field of accounting open to students finishing said course were unlimited; that such course was superior to the courses sold by competitors; that the school conducted by respondents was the largest of its kind in the United States; that respondents were connected with a large firm of accountants; that such school had trained thousands of accountants, the majority of whom were now holding responsible positions with

some of the largest industrial units in the country; that in the event students who had completed the course should not be able to obtain employment elsewhere they would be placed with a firm of accountants in Chicago with which the school conducted by respondents was closely connected; that such school in reality was engaged in training personnel for such accounting firm; that there was a nation-wide demand for trained accountants and on that account members of the staff of the accounting firm were continually resigning and accepting higher paying positions with industrial firms and that it therefore became necessary for the firm to maintain the school in order to have a sufficient number of trained accountants on hand from which to replenish its force; that Alfred P. Sloan, Jr., president of General Motors, and Walter P. Chrysler, president of the Chrysler Company, had urged all clerical employees of their respective companies to take advantage of the course offered by respondents. These representations were false, misleading, and deceptive in that the school conducted by respondents is not a university and the opportunities in the field of accountancy for students finishing the course of instruction sold by respondents were not unlimited, nor is such course of instruction superior to those sold by competitors of respondents; the school conducted by respondents is not the largest of its kind in the United States, and respondents are in no way connected with a large firm of accountants; none of the executives of the General Motors or Chrysler Corporation had recommended that any of the employees of their respective companies should take advantage of the course of instruction sold by respondents; and respondents' course is not offered only to a select group.

PAR. 4. There are among the competitors of respondents many who do not misrepresent the respective courses of instruction offered for sale and sold by them and the use by respondents of stationery and advertising material on which was printed the former name of the corporate respondent, as set out in paragraph 3 hereof, and the use by respondents of the representations concerning the school conducted by respondents and the course of instruction offered for sale and sold by them, as set out in paragraph 3, have had the capacity and tendency to confuse, mislead, and deceive members of the public and to induce them to subscribe to said course of instruction in the erroneous belief that the school conducted by respondents was in fact, a university and that said representations were true, and as a result patronage has been diverted unfairly to respondents from schools conducted by competitors of respondents.

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CONCLUSION

The aforesaid acts and practices of respondents, as herein found, are all to the prejudice and injury of the public and of respondents' competitors and constitute unfair and deceptive acts and practices 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 Commission upon the complaint of the Commission, the answer of respondents, testimony and other evidence taken before William C. Reeves, an examiner of the Commission theretofore duly designated by it, in support of the allegations of the complaint and in opposition thereto, brief filed by attorney for the Commission (respondents not having filed brief) and oral argument not having been requested, 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 respondent International University of Commerce, whose name has been changed to International School of Commerce, its officers, representatives, agents, and employees, and Paul V. Manning, individually and as president of said corporate respondent, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of courses of instruction by correspondence in commerce as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or indirectly;

(a) Through the use of the word "University," or any other word or words of similar import or meaning, in the name of the corporate respondent, or through any other means or device or in any manner, that said respondents conduct a university or institution of higher learning.

(b) That the respondents maintain a faculty or have a staff of instructors or a staff of certified public accountants.

(c) That the opportunities in the field of accountancy for students finishing the course of instruction offered by respondents are unlimited.

(d) That respondents' course is superior to those of competitors.

(e) That respondents' school is the largest of its kind in the United States.

(f) That the majority of those trained by respondents are holding responsible positions with some of the largest industrial units in the country.

(g) That respondents will procure employment for persons completing their course of instruction.

(h) That respondent's course of instruction is endorsed by Alfred P. Sloan, Jr., Walter P. Chrysler, or any other person, or that such employers have urged clerical employees to take advantage of respondents' course of instruction unless and until such are the true facts.

(i) That respondents' course is offered only to a select group.

(j) That respondents are connected with a firm of accountants.

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

IRVING SOFRONSKI, TRADING AS DR. RON-AL MEDICINE COMPANY, DR. PENN'S PRODUCTS COMPANY, AND PENN PRODUCTS

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

Docket 3848. Complaint, July 13, 1939—Decision, Oct. 3, 1939

Where an individual engaged, as "Dr. Ron-Al Medicine Company," in sale and distribution of his "Dr. Ron-Al's Relief Compound" to purchasers in other States and in the District of Columbia; in advertisements which he disseminated through the United States mails, newspapers, and periodicals of general circulation, and through circulars and other printed or written matter distributed in commerce among the various States, and otherwise, and which were intended and likely to induce purchase of his said medicinal preparation—

- (a) Represented that his said "Dr. Ron-Al's Relief Compound" was a competent and effective remedy for delayed menstruation, and that it was absolutely harmless and would accomplish results without pain or delay, facts being said preparation was composed of ergotin, aloes, oil savin, extract cotton wood bark, extract black hellebore, and iron sulphate, dried, and was not a competent, safe, or scientific treatment for delayed menstruation, and would not accomplish results without pain or delay, and use thereof, under conditions prescribed in advertisements in question, or under such conditions as are customary and usual, might result in gastrointestinal disturbances such as catharsis, nausea, and vomiting with pelvic congestion, inflammation and congestion of the uterus and adnexa leading to excessive uterine hemorrhage, and, where used to interfere with the normal course of pregnancy, might also result in uterine infection with extension to other pelvic and abdominal structures and also to the blood stream, causing septicemia or blood poisoning, and use thereof constituted a menace to the health and life of pregnant women; and
- (b) Failed to reveal, in advertisements disseminated as aforesaid, that use of said preparation, under the conditions prescribed in said advertisements or under such conditions as are customary or usual, might result in serious and irreparable injury to health;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such statements and representations were true, and of inducing portion of said public, because of such belief, to purchase his said preparation with injurious drugs therein contained:

Held, That such acts and practices, under the circumstances set forth, were all to the prejudice and injury of the public and constituted unfair and deceptive acts and practices in commerce.

Mr. R. P. Bellinger for the Commission.

Mr. A. Lincoln Meyers, of Philadelphia, Pa., for respondent.