

IN THE MATTER OF
**RALPH DEWBERRY, DOING BUSINESS AS DEWBERRY
ENGRAVING COMPANY AND THE NATIONAL ENGRAV-
ING COMPANY**

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

Docket 3135. Complaint, May 22, 1937—Decision, Oct. 9, 1939

Where an individual engaged in engraving stationery, letterheads, business and social cards, envelopes, and allied products, through pantograph method employed by some 90 percent of those engaged in business in question, and also through much cheaper method or process employed by him involving use of printing type in which proofs are pulled on transparent paper and in which said step is followed by various other steps, and in sale and distribution of his products, produced as aforesaid, in substantial competition with others engaged in engraving stationery and allied products and in selling same in commerce among the various States and in the District of Columbia, and including many who produce such products and distribute and sell same, and in no wise misrepresent quality or character thereof and do not disparage products of their respective competitors—

Represented that engraving produced from plates incised by hand, or by pantograph method, or method other than that used by said individual, was old style, out of date, antiquated, and inferior, through statement, in some 160,000 letters which he circulated and distributed to prospective customers throughout the United States, to the effect that the reader thereof would be disappointed in the price he had been "soaked" for engraving in the past, but for which reader's engraver, with his "old-style, out-of-date equipment," had "to get a high price" and make such charges, and further statement that his prices were "the lowest in the United States because we have the most modern plant in the country," etc., facts being pantograph method employed by large part of industry, as above set forth, is not accomplished with old style, out of date, or obsolete equipment;

With tendency and capacity, through such statements unlawfully disparaging competitors, and particularly those employing pantograph method, to mislead and deceive substantial portion of purchasing public into erroneous belief that such representations were true and that engraving equipment of competitors was inferior, antiquated and out of date, and with result, as direct consequence of mistaken and erroneous belief induced by said acts and misrepresentations, that substantial number of consuming public purchased substantial volume of his said engraved stationery and allied products and trade was diverted unfairly to him from competitors likewise engaged in producing, distributing, and selling such products, and who truthfully advertise the same; to the injury of substantial competition in commerce:

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

Before *Mr. Edward J. Hornibrook*, trial examiner.

Mr. Morton Nesmith for the Commission.

Mr. Mark L. Taliaferro of Stokely, Scrivner, Dominick & Smith, of Birmingham, Ala., for respondent.

COMPLAINT

Pursuant to the provisions of an act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission, having reason to believe that Ralph Dewberry, trading and doing business as Dewberry Engraving Co. and The National Engraving Co., hereinafter referred to as respondent, has been and is using unfair methods of competition in commerce, as "commerce" is defined in said act of Congress, 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, Ralph Dewberry, is an individual trading and doing business under the names of Dewberry Engraving Co. and The National Engraving Co. with his principal office and place of business located in the city of Birmingham, State of Alabama. The respondent is now and has been for some years, engaged in the business of engraving stationery, letterheads, business and social cards, envelopes, and allied products, and in the distribution and sale thereof in commerce as hereinafter set out.

PAR. 2. Said respondent, in the course and conduct of his business as aforesaid, causes his said products, when sold, to be transported from his principal place of business in the State of Alabama, to purchasers thereof located at various points in other States of the United States and in the District of Columbia. Respondent now maintains, and has maintained at all times, a constant current of trade and commerce in said engraved stationery and allied products so distributed and sold by him, among and between the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of his said business respondent is now, and has been, in substantial competition with other individuals, firms, and corporations likewise engaged in the business of producing, distributing and selling engraved stationery and allied products in commerce between and among the various States of the United States, and in the District of Columbia.

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PAR. 4. All engraving is accomplished by means of intaglio plates or pieces of metal upon which letters, words, or designs have been incised or cut. There are a number of processes of producing intaglio engraved plates. One of such methods is the cutting or incision by hand. Others are the pantograph method and photoengraving process. The respondent uses or employs the photoengraving process of producing intaglio plates and the pantograph method is employed by the majority of those in the engraving trade in the United States.

PAR. 5. In the course and operation of said business, and for the purpose of inducing the purchase of his said products, the respondent under the name Dewberry Engraving Co. has solicited and conducted a large mail-order business and has caused to be sent out through the United States mails many letters of solicitation to prospective purchasers with samples of his engraving enclosed. The respondent, under his trade name The National Engraving Co., has approximately 500 agents throughout the United States about 200 of whom are active in the solicitation and sale of respondent's products. During the past 3 years the respondent has distributed by mail approximately 160,000 circular letters to prospective purchasers, both within and without the State of Alabama, the following being a true copy thereof:

You'll be disappointed if you read this letter—

* * * Disappointed in the price you have been "soaked" for engraving in the past. Not that your engraver could really help charging you so much; with old-style, out-of-date equipment, he HAD to get a high price.

Our prices are the LOWEST in the United States because we have the most modern plant in the country and specialize on engraved stationery.

GENUINE ENGRAVED LETTERHEADS

\$7.00 per 1,000

New die engraved FREE

We use Engraver's Parchment which is one of the finest bonds made. Compare this sheet of paper with that you are now using and you will notice the difference immediately.

Without cost or obligation let us submit a proof of your letterhead in one of the modern styles on the enclosed style sheet.

You can use finer stationery and save money.

TRY US

DEWBERRY ENGRAVING COMPANY

The statement and representation made by the respondent "You'll be disappointed if you read this letter— * * * Disappointed in the price you have been 'soaked' for engraving in the past. Not that your engraver could really help charging you so much; with old-style, out-of-date equipment, he HAD to get a high price" serves to, directly and by inference, unlawfully disparage the competitors of the

respondent, and more specifically those competitors who use the pantograph method of cutting plates. Respondent's competitors who use and employ said pantograph method constitute approximately 90 percent of all the engraving trade in the United States and the pantograph method of engraving is not out-of-date equipment. The respondent's statement and representation "We use Engraver's Parchment which is one of the finest bonds made" is grossly false, misleading, and untrue. In truth and in fact the paper used by the said respondent in filling orders for engraved stationery and allied products is not properly nor correctly represented, designated, or referred to as parchment nor is it one of the finest bonds made, but to the contrary, is an inferior and low-grade type of bond paper. Further, the use of the phrase "Engraver's Parchment" is misleading in that its natural implication is that there is a recognized grade or type of paper of that superior quality connoted by the word parchment, especially adapted to engraved printing, and known to the trade as engraver's parchment, when such is not the fact.

PAR. 6. There are among the respondent's competitors many who produce engraved stationery and allied products and distribute and sell the same in commerce as hereinbefore described who in no way misrepresent the quality or character of their respective products and who do not falsely disparage the products of their respective competitors.

PAR. 7. The aforesaid false and misleading statements and representations made by the respondent in designating and describing his products and in disparagement of his competitors, have, and have had, the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that all of said representations are true, and into the further erroneous belief that the engraving equipment of respondent's competitors are inferior, antiquated, and out of date. Further, as a direct consequence of the mistaken and erroneous beliefs, induced by the acts and misrepresentations of the respondent as aforesaid, a substantial number of the consuming public has purchased a substantial volume of respondent's engraved stationery and allied products with the result that trade has been unfairly diverted to the respondent from competitors likewise engaged in the business of producing, distributing, and selling engraved stationery and allied products who truthfully advertise their products. As a result thereof, injury has been, and is now being done by respondent to substantial competition in commerce among and between the various States of the United States and the District of Columbia.

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PAR. 8. The above and foregoing acts, practices, and representations of the respondent have been, and are, all to the prejudice of the public and respondent's competitors as aforesaid, and have been, and are, unfair methods of competition within the meaning and intent of section 5 of an act of Congress approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes."

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on May 22, 1937, issued and thereafter served its complaint in this proceeding upon respondent Ralph Dewberry, charging him 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 respondent's answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by Morton Nesmith, attorney for the Commission, and in opposition to the allegations of the complaint by Mark L. Taliaferro, attorney for the respondent, before Edward J. Hornibrook, an examiner of the Commission theretofore 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 before the Commission on said complaint, and on the answer thereto, testimony and other evidence, brief in support of the complaint (respondent not having filed a brief, and oral argument not having been requested); and the Commission having duly considered the matter, 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, Ralph Dewberry, is an individual doing business under the trade name of Dewberry Engraving Co. and National Engraving Co., with his office and principal place of business located at Birmingham, Ala., and he has been for sometime last past, and is now, engaged in the business of engraving stationery, letterheads, business and social cards, envelopes, and allied products, and in the sale and distribution thereof. Respondent has caused and now causes said engraved products, when sold, to be transported from his principal place of business in the city of Birmingham, State of Alabama, to the purchasers thereof located in various States of the United States other than the State of Ala-

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bama. There is now, and has been for several years last past a course of trade and commerce in said engraved products by respondent between and among the several States of the United States and in the District of Columbia. Respondent is now, and has been, during the past several years, in substantial competition with other firms, individuals, and corporations also engaged in the business of engraving stationery, and allied products, and in the sale thereof, similar to those of respondent, in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. In the course and conduct of his business, and in the solicitation of sales of his products, respondent Ralph Dewberry, trading as the Dewberry Engraving Co., circulated and distributed by mail approximately 160,000 letters to prospective customers throughout the United States, a copy of which is as follows:

DEWBERRY ENGRAVING COMPANY
Designers and producers of Engraved Stationery
2024 FOURTH AVENUE
BIRMINGHAM, ALABAMA

You will be disappointed if you read this letter—

* * * Disappointed in the price you have been "soaked" for engraving in the past. Not that your engraver could really help charging you so much; with old-style, out-of-date equipment, he had to get a high price.

Our prices are the LOWEST in the United States because we have the most modern plant in the country and specialize on engraved stationery.

(The letter includes other matter not necessary to quote here.)

PAR. 3. All engraving is accomplished by means of intaglio plates or pieces of metal on which letters, words, or designs have been incised or cut; there are a number of processes of producing intaglio engraved plates, and one such method is the cutting or incision by hand. Others are the pantograph method and the photoengraving process. The pantograph method is employed by a large majority of those engaged in the engraving trade in the United States, and respondent produces intaglio plates both by the pantograph method and by a method produced by the use of printing type in which proofs are pulled on a transparent paper which is then dusted with lamp black or other opaque material. This is then placed in a vacuum printing frame against a sensitized metal plate and exposed to a strong light, which hardens the sensitized surface of the plate where the light strikes. The plate is then washed under a stream of water, dried and burned, causing the sensitized topping to become acid resisting. The plate is then etched to the required depth. Afterward, the sensitized cutting is removed and the plate chromium faced. The plate is then run on a power press with the use of

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special plate holders. The plate is composed of either copper, brass, or steel. The pantograph method of producing intaglio plates is much more expensive than respondent's method just described. The production of intaglio plates by cutting or hand incision or tooling is much more expensive than either the pantograph or respondent's method.

PAR. 4. The pantograph method of engraving which is used by approximately 90 percent of those engaged in the business is not accomplished with "old-style," "out-of-date," or obsolete equipment; and the statements in respondent's letter serve directly and by inference unlawfully to disparage the competitors of respondent, and more specifically those competitors who employ the pantograph method of cutting plates.

PAR. 5. There are among respondent's competitors many who produce engraved stationery and allied products, and distribute and sell same in commerce who in no way misrepresent the quality or character of their respective products and who do not falsely disparage the products of their respective competitors.

PAR. 6. The aforesaid acts and practices, and false statements made by respondent in disparagement of his competitors, have had, and have the tendency and capacity to mislead and deceive a substantial portion of the purchasing public into the erroneous belief that said representations are true, and into the further erroneous belief that the engraving equipment of respondent's competitors is inferior, antiquated, and out of date. Further, as a direct consequence of a mistaken and erroneous belief induced by the acts and misrepresentations of respondent, as aforesaid, a substantial number of the consuming public has purchased a substantial volume of respondent's engraved stationery, and allied products, with the result that trade has been unfairly diverted to the respondent from competitors likewise engaged in the business of producing, distributing, and selling engraved stationery, and allied products, and who truthfully advertise their products. As a result thereof injury has been, and is now being done by respondent to substantial competition in commerce among and between the various States of the United States and the District of Columbia.

CONCLUSION

The aforesaid acts and practices of respondent Ralph Dewberry as herein found, are all to the prejudice and injury 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 the respondent, testimony, and other evidence taken before Edward J. Hornibrook, an examiner of the Commission theretofore duly designated by it in support of the allegations of said complaint and in opposition thereto, brief in support of the complaint by Morton Nesmith, counsel for the Commission (respondent not having filed brief and oral argument not having been requested), and the Commission having made its findings as to the facts and its conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That respondent, Ralph Dewberry, individually and trading as Dewberry Engraving Co. or under any other name or names, his agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale, and distribution of his engraved stationery, letterheads, business and social cards, envelopes, and allied products in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing that engraving produced from plates incised by hand or by the pantograph method or by any method other than that used by respondent is old style, out of date, antiquated, or inferior.

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

IN THE MATTER OF
NATIONAL TRAINING INSTITUTE, INC., AND JOHN C.
FELBER, ARTHUR W. GROTH, AND LOUISE D. FELBER

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

Docket 3304. Complaint, Jan. 17, 1938—Decision, Oct. 9, 1939

Where a corporation and three individuals, who constituted its only officers and directors and holders of its stock, and were in active management and control thereof, engaged in selling, by correspondence, courses of home study instruction intended for persons expecting to take examinations to be conducted by the United States Civil Service Commission, and in sending their lesson material to respective purchasers in various other States, in active competition with numerous others also engaged in sale of courses of instruction of same general nature, and, as thus engaged, in advertising (in which their business as aforesaid was not disclosed) in newspapers and periodicals of general circulation, that free particulars would be given concerning jobs with the United States starting at \$1,200 to \$2,000 a year, and in circulars sent to prospects whose names they had obtained and to unnamed box holders on rural free delivery routes, that they would show addressees how they could get on the civil service pay roll and that the Government needed 50,000 to 80,000 new employees yearly with opening salaries as aforesaid—

- (a) Represented, through salesmen or solicitors employed directly by them or by sales organization of said corporation, to prospective students whom it contacted as above set forth, that they represented the United States Civil Service Commission, and that said corporation was authorized to enroll students and train them for Government positions, and represented, through inclusion or use of word "National" in corporate name employed, that they were connected with the United States Government;
- (b) Represented to prospective students thus contacted that when the course of instruction sold by said corporation was completed by student he would be given an examination and, if he passed such examination, he would then be placed at once in the Government service, and that such corporation would have inside information concerning Government examinations and positions and would know in advance what the questions would be in the examinations to be held by commission in question; and
- (c) Represented that only a limited number of students would be selected by corporation in question in any particular community, and that said commission favored students of the school conducted by such corporation;

Facts being they had no jobs at their disposal and could not in any way influence or control appointments to positions in the classified civil service of the United States, nor be of assistance to prospective appointees to such positions, other than instructing them so that they might be better prepared to take examinations to have their names placed upon eligibility rolls, and school in question, like similar ones, had no information regarding civil service examinations or appointments to positions in the classified civil service, except such as is given to public at large;