

IN THE MATTER OF
CIVILIAN PREPARATORY SERVICE, INC.

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 5 OF AN ACT OF CONGRESS APPROVED SEPT. 20, 1914

Docket 3387. Complaint, Apr. 22, 1938—Decision, Dec. 28, 1939

Where a corporation engaged in sale and distribution of correspondence courses of study and instruction for civil service examinations for certain Government positions to purchasers in various other States, in substantial competition with others similarly engaged in sale and distribution in commerce among the various States and in the District of Columbia of correspondence courses of study and instruction to prepare students for such examinations, and of correspondence courses of study and instruction of other kinds; in soliciting, directly and through its representatives, sale of its said courses—

- (a) Represented that it or its representatives were connected with or under supervision of Government or Civil Service Commission, and that it was cooperating with and working in conjunction with said commission or by authorization thereof in preparing students for such examinations, and that its school had been selected by such commission to select and prepare candidates for civil service examinations and positions, facts being neither it nor its representatives had any connection with Government or Civil Service Commission, did not cooperate with latter or operate by authority thereof, as above set forth, and statements and representations made as above described were otherwise false;
- (b) Represented that it was able to and did secure advance information with respect to civil service examinations, and that such examinations would be held at specified times and places, or within specified time, and that Government positions were open or available to those taking its course and passing Civil Service examination, facts being it had no means of securing advance information with respect to such examinations not open to members of general public, and did not in fact secure such information, in case of the greater percentage of students solicited Government positions were not then open and available, nor were civil service examinations fixed for definite time or place or to be held within specified time in the future, nor within reasonable time thereafter;
- (c) Represented that prospects solicited had been selected for definite Government positions after qualifying by taking its courses and passing the civil service examination, and that it was necessary to take said course in order to take such examination or secure a position under the classified civil service, and that its students were given preferences in such examinations or in appointments to such positions, and that its school had the recognition or approval of the Government or said commission, facts being neither it nor its representatives had any official authority to select prospects for such positions or examinations therefor, representations made by it as above set forth were otherwise false, and it could not assure or guarantee Government position to its students and did not fulfill such representations made by its representatives; and

Complaint

(d) Represented that payment of purchase price of its course of instruction, or balance due after initial payment, might be paid after the student obtained a position with the Government, facts being it did not fulfill promises made by its representatives that payments on the cost of its courses might be thus deferred, but required payment during period of instruction, regardless of employment by Government;

With effect of misleading purchasers and prospective purchasers of its said courses into the erroneous and mistaken belief that such various misrepresentations were true, and to induce such purchasers to buy its said courses of study and instruction by reason thereof, and of thereby unfairly diverting trade to it from competitors engaged in sale of similar and other courses, and including those who, in the sale of their respective courses, do not similarly or in any manner misrepresent the same or matters pertaining thereto; to the substantial injury of competition in commerce among the various States:

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. Robert S. Hall*, trial examiner.

Mr. John R. Phillips, Jr. for the Commission.

Via, Hardwick & Quinlan, of Huntington, W. Va., for respondent.

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 Civilian Preparatory Service, Inc., a corporation, hereinafter referred to as respondent, has 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. Said respondent, Civilian Preparatory Service, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of West Virginia with its office and principal place of business located at Simms-Keller Building, in the city of Huntington in said State.

PAR. 2. Said respondent, Civilian Preparatory Service, Inc., a corporation, is now, and has been for more than 2 years last past, engaged in the sale and distribution in commerce between and among the various States of the United States of courses of study and instruction intended for preparing students thereof for examinations for certain civil service positions under the United States Government, which said courses of study and instruction are pursued by correspondence through the medium of United States mail. Respondent in the course and conduct of said business during the time aforesaid caused and does

now cause its said courses of study and instruction to be transported from its said place of business in West Virginia to, into, and through States of the United States other than West Virginia to the various purchasers thereof in such other States.

PAR. 3. During the time above mentioned other individuals, firms, and corporations in various States of the United States have been and are 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 intended for 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. Said respondent has been, during the time aforesaid, in substantial competition in commerce between and among the various States of the United States in the sale of its said courses of study and instruction with such other individuals, firms, and corporations.

PAR. 4. Said respondent, in soliciting the sale of and in selling its said courses of study and instruction has made many misrepresentations to prospective students both directly and through its representatives, among which misrepresentations are the following:

1. That such representatives represent or are connected with or are under the supervision of the United States Government or the United States Civil Service Commission.

2. That respondent, in conducting said business as aforesaid, is an agency or representative of or connected with the United States Government or the United States Civil Service Commission, or that it is cooperating with or working in conjunction with or by authorization of the United States Civil Service Commission in preparing students for civil service examinations.

3. That a Government job is assured or guaranteed to the student taking the course offered.

4. That respondent has means of securing and does in fact secure advance information concerning examinations to be held by the United States Civil Service Commission.

5. That Government positions are open and available to students taking respondent's course and passing the civil service examination.

6. That civil service examinations will be held at definite times or places or within a specified time.

7. That the prospect solicited has been selected for a definite Government position after qualifying by taking respondent's course and passing the civil service examination.

8. That it is necessary to take respondent's course in order to take a civil service examination or secure a Government position under the classified civil service.

9. That respondent school has been selected by the United States Civil Service Commission to select and prepare candidates for civil service examinations and positions.

10. That the balance due after the initial payment may be paid after the student starts working for the Government.

11. That respondent school is recognized or approved by the Government.

12. That students of the school conducted by respondent are given preferences in civil service examinations or in appointments to Government positions.

PAR. 5. In truth and in fact neither respondent nor its representatives represent or are connected with the United States Government or the United States Civil Service Commission, nor do they cooperate with or operate by authority of said Civil Service Commission in preparing students for civil service examinations. Respondent cannot assure or guarantee a Government job to its students and does not fulfill such representations when made by its representatives. Respondent has no means of securing advance information concerning examinations to be held by the United States Civil Service Commission that is not open to members of the general public, nor does it in fact secure such information. In the greater percentage of cases of solicitation of students by respondent's representatives, Government positions are not open and available at the time and civil service examinations are not fixed for a definite time or place or to be held within a specified time in the future, nor are examinations for such positions held within a reasonable time thereafter. Neither respondent nor its representatives have any official authority to select prospects for Government positions or for examinations therefor. It is not necessary to take respondent's courses in order to take civil service examinations or to secure Government positions under the classified civil service. The school conducted by respondent has not been selected by the United States Civil Service Commission to prepare candidates for civil service examinations and positions. Respondent does not fulfill promises made by its representatives that payments on the cost of its courses may be made after its students start working for the Government, but requires payment therefor during the period of instruction regardless of employment by the Government. The school con-

Findings

30 F. T. C.

ducted by respondent is not recognized or approved by the Government and students thereof are not given preferences in civil service examinations or in appointments to Government positions.

PAR. 6. The foregoing representations used by respondent through its representatives in offering for sale and selling its courses of study and instruction have had and now have the tendency and capacity to do in fact mislead purchasers and prospective purchasers thereof into the erroneous and mistaken belief that such representations as set out in paragraph 4 hereof are true, and to induce them to purchase such courses of study and instruction on account thereof. Thereby trade is unfairly diverted to respondent from competitors engaged in the sale in commerce between and among the various States of the United States and in the District of Columbia of correspondence courses intended for preparing students thereof for civil service examinations as well as from those so engaged in such sale in other lines of study.

There are among the competitors of respondent those who in the sale of their respective courses of study and instruction do not similarly or in any manner misrepresent the same or matters pertaining thereto. As a result of respondent's said practices, as herein set forth, substantial injury has been and is now being done by respondent to competition in commerce between and among the various States of the United States.

PAR. 7. The aforesaid acts and practices of the respondent as herein alleged are all 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.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission on April 22, 1938, issued, and on April 25, 1938, served its complaint in this proceeding upon the respondent, Civilian Preparatory Service, Inc., a corporation, charging it 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, the Commission, by order entered herein, granted respondent's motion for permission to withdraw said answer and to substitute therefor an answer admitting all the material allegations of fact set forth in said complaint and waiving all intervening procedure and further hearing as to said facts. Thereafter, this proceeding regularly came on for final hearing before the Commission on the said complaint and substitute

answer, 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. Said respondent, Civilian Preparatory Service, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of West Virginia with its office and principal place of business located at Simms-Keller Building, in the city of Huntington in said State.

PAR. 2. Said respondent, Civilian Preparatory Service, Inc., a corporation, is now, and has been for more than two years last past, engaged in the sale and distribution in commerce between and among the various States of the United States of courses of study and instruction intended for preparing students thereof for examinations for certain civil service positions under the United States Government, which said courses of study and instruction are pursued by correspondence through the medium of United States mail. Respondent in the course and conduct of said business during the time aforesaid caused and does now cause its said course of study and instruction to be transported from its said place of business in West Virginia to, into and through States of the United States other than West Virginia to the various purchasers thereof in such other States.

PAR. 3. During the time above mentioned other individuals, firms, and corporations in various States of the United States have been and are 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 intended for 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. Said respondent has been, during the time aforesaid, in substantial competition in commerce between and among the various States of the United States in the sale of its said courses of study and instruction with such other individuals, firms, and corporations.

PAR. 4. Said respondent, in soliciting the sale of and in selling its said courses of study and instruction has made many misrepresentations to prospective students both directly and through its representatives, among which misrepresentations are the following:

1. That such representatives represent or are connected with or are under the supervision of the United States Government or the United States Civil Service Commission.

Findings

30 F. T. C.

2. That respondent, in conducting said business as aforesaid, is an agency or representative of or connected with the United States Civil Service Commission, or that it is cooperating with or working in conjunction with or by authorization of the United States Civil Service Commission in preparing students for civil service examinations.

3. That a Government job is assured or guaranteed to the student taking the course offered.

4. That respondent has means of securing and does in fact secure advance information concerning examinations to be held by the United States Civil Service Commission.

5. That Government positions are open and available to students taking respondent's course and passing the civil service examination.

6. That civil service examinations will be held at definite times or places or within a specified time.

7. That the prospect solicited has been selected for a definite Government position after qualifying by taking respondent's course and passing the civil service examination.

8. That it is necessary to take respondent's course in order to take a civil service examination or secure a Government position under the classified civil service.

9. That respondent school has been selected by the United States Civil Service Commission to select and prepare candidates for civil service examinations and positions.

10. That the balance due after the initial payment may be paid after the student starts working for the Government.

11. That respondent school is recognized or approved by the Government.

12. That students of the school conducted by respondent are given preferences in civil service examinations or in appointments to Government positions.

PAR. 5. In truth and in fact neither respondent nor its representatives represent or are connected with the United States Government or the United States Civil Service Commission, nor do they cooperate with or operate by authority of said Civil Service Commission in preparing students for civil service examinations. Respondent cannot assure or guarantee a Government job to its students and does not fulfill such representations when made by its representatives. Respondent has no means of securing advance information concerning examinations to be held by the United States Civil Service Commission that is not open to members of the general public, nor does it in fact secure such information. In the greater percentage of cases of solicitation of students by respondent's representatives, Government positions are not open and available at the

time and civil service examinations are not fixed for a definite time or place or to be held within a specified time in the future, nor are examinations for such positions held within a reasonable time thereafter. Neither respondent nor its representatives have any official authority to select prospects for Government positions or for examinations therefor. It is not necessary to take respondent's courses in order to take civil service examinations or to secure Government positions under the classified civil service. The school conducted by respondent has not been selected by the United States Civil Service Commission to prepare candidates for civil service examinations and positions. Respondent does not fulfill promises made by its representatives that payments on the cost of its courses may be made after its students start working for the Government, but requires payment therefor during the period of instruction regardless of employment by the Government. The school conducted by respondent is not recognized or approved by the Government and students thereof are not given preferences in civil service examinations or in appointments to Government positions.

PAR. 6. The foregoing representations used by respondent through its representatives in offering for sale and selling its courses 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 as set out in paragraph 4 hereof are true, and to induce them to purchase such courses of study and instruction on account thereof. Thereby trade is unfairly diverted to respondent from competitors engaged in the sale in commerce between and among the various States of the United States and in the District of Columbia of correspondence courses intended for preparing students thereof for civil service examinations as well as from those so engaged in such sale in other lines of study.

There are among the competitors of respondent those who in the sale of their respective courses of study and instruction do not similarly or in any manner misrepresent the same or matters pertaining thereto. As a result of respondent's said practices, as herein set forth, substantial injury has been and is now being done by respondent to competition in commerce between and among the various States of the United States.

CONCLUSION

The aforesaid acts and practices of the respondent, as herein found, are all to the prejudice and injury of the public and of respondent's

Order

30 F. T. C.

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 and the answer of the respondent, in which answer respondent admits all the material allegations of fact set forth in said complaint, and states that it waives all intervening procedure and further hearing as to said facts, and the Commission having made its findings as to the facts and conclusion that said respondent has violated the provisions of the Federal Trade Commission Act.

It is ordered, That the respondent, Civilian Preparatory Service, Inc., a corporation, its officers, representatives, agents, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of its courses of study and instruction, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing that the respondent or its representatives have any connection with or are under the supervision of the United States Government or the United States Civil Service Commission, or that respondent is cooperating with or working in conjunction with or by authorization of the United States Civil Service Commission in preparing students for civil service examinations, or that its school has been selected by the United States Civil Service Commission to select and prepare candidates for civil service examinations and positions.

2. Representing that the respondent is able to secure any advance information with respect to civil service examinations which is not available to the general public.

3. Representing that Government positions are open or available to students taking respondent's course and passing the civil service examination, or that civil service examinations will be held at a specified time or place, unless such examinations have in fact been set by the United States Civil Service Commission for such time and place.

4. Representing that a prospect solicited has been selected for a definite Government position after qualifying by taking respondent's course and passing the civil service examination, or that it is necessary to take respondent's course in order to take a civil service examination or secure a government position under the classified civil service.

5. Representing that students of the school conducted by respondent are given preferences in civil service examinations or in appointments to Government positions, or that respondent's school has the recognition or approval of the United States Government or the Civil Service Commission.

6. Representing that the payment of the purchase price of respondent's course of instruction, or any part thereof, may be deferred until after the student has obtained a position with the Government, unless and until such is the fact.

It is further ordered, That 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.

Complaint

30 F. T.C.

IN THE MATTER OF
METZ BROS. BAKING COMPANY

COMPLAINT, FINDINGS, AND ORDER IN REGARD TO THE ALLEGED VIOLATION
OF SEC. 2 (a) OF AN ACT OF CONGRESS APPROVED OCT. 15, 1914, AS AMENDED
BY SEC. 1 OF AN ACT OF CONGRESS APPROVED JUNE 19, 1936

Docket 3740. Complaint, Mar. 20, 1939—Decision, Dec. 28, 1939

Where a corporation engaged in manufacture, offer, sale, and distribution of bread between and among the States of Iowa, Minnesota, South Dakota, and Nebraska, for resale in said various States and, as thus engaged, in substantial competition with others similarly engaged in manufacture, sale, and distribution of said product in commerce—

Discriminated in price between different purchasers buying said bread of like grade and quality sold by it in interstate commerce for use, consumption, and resale, through giving and allowing to some of its purchasers lower prices than given or allowed to others of its purchasers, in lowering prevailing wholesale price of bread sold by it and its competitors in various trade areas in aforesaid section from 11 cents to 8 cents for 24-ounce loaf, and from 8 cents to 6 cents for 16-ounce loaf, while retaining, in certain Iowa trade area, price of 10 cents for 24-ounce loaf, 8 cents for 20-ounce loaf, and 6 cents for 16-ounce loaf;

With result that effect of said discrimination in price thus made by it was to substantially lessen competition and to injure, destroy, or prevent competition between it and its competitors in sale and distribution of such product, and to tend to create monopoly in it in line of commerce concerned in the various localities or trade areas in the United States in which said competitors respectively were engaged:

Held, That such acts and practices, under the facts and circumstances set forth, were in violation of section 2 (a) of act of Congress approved October 15, 1914, as amended.

Before *Mr. Webster Ballinger*, trial examiner.

Mr. John T. Haslett for the Commission.

Sifford & Wadden, of Sioux City, Iowa, for respondent.

COMPLAINT

The Federal Trade Commission, having reason to believe that the party respondent named in the caption hereof, and hereinafter more particularly designated and described, since June 19, 1936, has violated and is now violating the provisions of section 2 of the Clayton Act as amended by the Robinson-Patman Act, approved June 19, 1936 (U. S. C., title 15, sec. 13), hereby issues its complaint, stating its charges with respect thereto as follows:

PARAGRAPH 1. The respondent, Metz Bros. Baking Co., is a corporation organized and existing under and by virtue of the laws of the