

IN THE MATTER OF
ROY E. REED AND FLORENCE A. REED, TRADING AS
DIESEL ENGINEERS, ASSOCIATED

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

Docket 3258. Complaint, Nov. 1, 1937—Decision, Dec. 29, 1939

Where an individual, and the wife of said individual, active participant with him in business in question and, together with him, responsible for policies and activities thereof, including advertising, and possessed of a wife's community property interest therein under the laws of the State concerned, engaged together in the conduct, through courses of study and instruction, by correspondence and through classroom instruction, of a school in the theory, operation, maintenance, and repair of Diesel engines and air-conditioning equipment, and, as thus engaged, in soliciting students in said and other States through salesmen or agents and in also advertising both courses of study and instruction by radio and by newspapers located in aforesaid and other States, and having general circulation throughout the United States, and in circulars distributed through their said agents and through the mail—

- (a) Represented and implied, through "blind advertisements" in the "Help Wanted" columns of various newspapers in the several States, such as "Wanted men and young men to earn while learning Diesel and Air conditioning. D. E. A., 807 S. Flower," "Diesel Air-conditioning Refrigeration Classes now forming. Summer rates in effect. Jobs furnished while training. You can work and earn while you learn," "Men—Small but welcome earnings while learning Diesel. Mechanically inclined ambitious men only. Minimum initial fee \$15 * * *," and others of similar tenor, that persons responding would be afforded opportunity to learn to construct, operate, maintain, and repair Diesel engines and air-conditioning equipment while working for pay in a factory or shop in which such engines and equipment were made and repaired by a person or concern engaged therein;

Facts being such advertisements were inserted in "Help Wanted" columns, not to offer employment but to obtain students for school in question, individuals concerned did not own any such factory or shop, and, while conducting an employment bureau in connection with school in question, did not afford students opportunity to work in a factory or shop constructing, operating, maintaining, or repairing such engines or equipment except in very rare instances, and did not afford students, in many instances, opportunity to work at anything, and it was not until after making of initial payment for instruction to said individuals that facts aforesaid became known to person responding to advertisements in question;

- (b) Placed on their letterheads, used in correspondence with prospective students soliciting sale of their said courses and instruction, words "Diesel Engineers, Associated. Consulting Engineers" and, on printed agreements with students, set forth same legend, together with words "Application Associate Engineering Membership," and in such agreements described students as
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members, agreement as membership, and diploma to be awarded upon completion of course of study and instruction as "Associate engineering membership;"

Facts being organization with which student became connected was not, as thus represented, an association of engineers banded together for the promotion of some common enterprise of mutual benefit to members, but trade school conducted by individuals aforesaid for profit, persons whose names were set out and designated as above set forth on such letterheads were not consulting engineers, nor engineers at all, and no degrees in engineering had been received either by any of said persons thus referred to or by any member of staff or faculty of school in question, of which Bachelor of Science degree was only one of any kind possessed by any member, and, notwithstanding possession of practical experience with engines of various types by some of such members and theoretical courses in engineering subjects and certain consultation by students, teachers, and occasionally others in such subjects, but without remuneration, they were not in fact consulting engineers or persons with thorough education and wide experience competent to give valuable professional engineering advice;

- (c) Represented, through their agents by means of printed matter and instructions placed in said agents' hands, that there were growing opportunities to make or earn large amounts of money in the "wonderful" and "new" field and salaries amounting to hundreds of dollars a month, and that their teachers or staff were expert engineers, and that after theoretical training was completed there was a laboratory available for practical training, including necessary and practical machine shop training on lathes, drill presses, etc., so as to give student "a complete working knowledge of the things necessary for him to know so he can hold down a good job," and stressed the qualifications of their "Chief Engineer" as "a writer of note," with many years of "practical Engineering Experience";

Facts being there is little demand for services of students trained in their school, such persons, after completing their courses of study and instruction, are not engineers nor qualified thereby to do work of engineers or of people skilled in construction, maintenance, operation and repair of Diesel engines or air-conditioning equipment, many of their students are unable to obtain work in the field for which they have trained, their said school is not well equipped for laboratory or shop work nor is their teaching force well qualified to give the instruction advertised, and representations made by them as above set forth grossly misrepresent and exaggerate demand for and qualifications and earnings of persons trained by them, and education, training and experience of their teachers, and nature and extent of the equipment available to students at their said school; and

- (d) Represented to prospective students that initial amounts of money paid for tuition would be refunded if student was unable to go on with the training, and that students would be paid a specified salary for working in said individuals' plant and thus reimbursed, and that, upon completion of course of study sold, positions would be available for their students in which the knowledge acquired by them in said courses could be applied, and made practice of allowing an asserted special discount from price set forth on contracts or agreements;

Facts being, excepting cases where payment was made by minor without consent of parents or legal guardian, refunds of initial payments or other pay-

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ments were at all times refused regardless of salesmen's representations, in reliance upon contract statements to effect that no oral representations would be recognized, said individuals did not own or operate a plant in which students were employed, nor pay students specified or any salary or secure work reimbursing students for money paid to said individuals, money received by such students in cases in which employment was secured for them by said individuals did not reimburse them for their tuition, they did not secure positions or work for students completing their courses in which latter might apply knowledge acquired from said courses, positions of such a nature in many cases were not available to such students through their own efforts or otherwise, and price secured through asserted special discount by the various students was the price regularly charged others for same course at same time;

With effect of misleading and deceiving many prospective purchasers of their said courses of study and instruction and causing them erroneously to believe that representations and implications made and used by said individuals in connection with offer, sale and distribution thereof were true, and of causing many prospective purchasers, because of such erroneous beliefs, to purchase said courses of study and instruction from such individuals and thereby unfairly divert trade in commerce to them from their competitors who do not use acts, practices and methods employed by individuals aforesaid; to said competitors' substantial injury and to that of public:

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

Before *Mr. Charles P. Vicini*, trial examiner.

Mr. Harry D. Michael and *Mr. William L. Pencke* for the Commission.

Mr. P. E. Cavaney, of Los Angeles, Calif., for respondents.

COMPLAINT

Pursuant to the provisions of an act of Congress, approved September 26, 1914, entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," the Federal Trade Commission having reason to believe that Roy E. Reed and Florence A. Reed, 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 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. Respondents Roy E. Reed and Florence A. Reed are individuals presently trading under the name and style Diesel Engineers, Associated, formerly trading as Diesel Training School, with their office and principal place of business at 805½ South Flower Street, Los Angeles, Calif.

Respondents are now, and have been for more than 2 years last past, engaged in the sale and distribution of courses of study and instruction in the construction, operation, maintenance, and repair of Diesel engines and air conditioning equipment. When said courses of study and instruction are sold, respondents cause the books, lessons, and other printed and written matter used in connection therewith to be transported from their said place of business in the city of Los Angeles, Calif., to the purchasers thereof located at various points in the several States of the United States, other than the State of California, and in the District of Columbia. Respondents now maintain, and have maintained at all times mentioned herein, a constant current of trade and commerce in said products between and among the various States of the United States, and in the District of Columbia.

In the course and conduct of their said business, as aforesaid, respondents are now, and for more than 2 years last past have been, in substantial competition in commerce between the various States of the United States and in the District of Columbia, with various other individuals and with corporations, partnerships and firms engaged in the sale and distribution of like and similar courses of study and instruction in the construction, operation, maintenance and repair of Diesel engines and air conditioning equipment.

PAR. 2. Respondents, in the course and conduct of their business, as aforesaid, for the purpose of inducing individuals to purchase said courses of study and instruction, place advertisements in newspapers circulated in various States of the United States and employ a number of representatives who travel in various of the States of the United States making personal solicitation of prospective students for said courses of study and instruction.

PAR. 3. Respondents have adopted the practice of running what are commonly known as "blind advertisements" in the Help Wanted Column of various and sundry newspapers located in the several States of the United States. Among and typical of these advertisements are the following:

WANTED men & young men to earn while learning DIESEL & AIR CONDITIONING. D. E. A., 807 S. Flower.

DIESEL Air-Conditioning Refrigeration Classes now forming. Summer rates in effect. Jobs furnished while training. You can work and earn while you learn. DIESEL ENGINEERS ASSOCIATED. Room 715. Hotel Whitmore. Sunday Only.

OPPORTUNITY FOR DIESEL ENGINEERING—Learn under lic. engineers, earn while learn. Sun Box 133.

MECHANIC—Part time job while learning. Diesel. Salary and tuition. Address Box 308 News-Pilot.

MEN to earn while learning air conditioning or Diesel. 807 S. FLOWER.

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MEN—Small but welcome earnings while learning Diesel. Mechanically inclined ambitious men only. Minimum initial fee \$15. Write Box 61-G. News-Journal.

EARN money while learning Diesel. Write Box #575, Oklahoman and Times.

In said advertisements respondents represent and imply that persons responding to said advertisements will be afforded an opportunity to learn to construct, operate, maintain, and repair Diesel engines and air conditioning equipment while working for pay in a factory or shop in which Diesel engines and air conditioning equipment are manufactured and repaired by a firm engaged in that business. In truth and fact, the respondents do not own or operate a shop or factory where Diesel engines and air conditioning equipment are manufactured or repaired, nor do they provide employment in such a shop or factory for persons responding to said advertisements. Said advertisements are simply a "blind" to secure contact with prospective purchasers of said courses of study and instruction so sold and distributed by the respondents, as aforesaid. This fact does not become known to persons responding to said advertisements until after the making of an initial payment by such persons.

PAR. 4. On letterheads used in corresponding with prospective students in soliciting the sale of and selling said courses of study and instruction, the respondents place the following words:

DIESEL ENGINEERS, ASSOCIATED Consulting Engineers

J. D. Moore,
Chief of Staff

John F. Voogt,
Chief Consulting Engineer

V. F. Payton,
Consulting Engineer

E. Norrbom,
Consulting Engineer

J. L. Mercer,
Consulting Engineer

On agreements with students, respondents place the following words:

DIESEL ENGINEERS, ASSOCIATED Consulting Engineers

APPLICATION ASSOCIATE ENGINEERING MEMBERSHIP

In said agreement the student is described as a "member," and the agreement of enrollment is described as a "membership," and the "diploma" to be awarded the "member" upon completion of the courses of study and instruction is described as an "associate engineering membership."

By the means and in the manner aforesaid, respondents represent and imply that the organization with which the "member" is to be associated is an association of engineers, banded together for the promotion of some common enterprise of mutual benefit to the members;

that the said J. D. Moore, designated Chief of Staff, and John F. Voogt, designated Chief Consulting Engineer, and the other persons designated as Consulting Engineers are engineers with a thorough education and wide experience, competent to give valuable professional advice in engineering matters and persons who, because of their rank and profession, are consulted by other engineers. In truth and fact, the organization with which the student, or "member," becomes associated is not an association of engineers banded together for the promotion of some common enterprise of mutual benefit to all the members, but is simply a trade name used by the said respondents in furthering the sale of said courses of study and instruction for the profit and for the benefit of the respondents. In truth and fact, the said J. D. Moore, designated Chief of Staff, and John F. Voogt, designated Chief Consulting Engineer, and the other persons designated as Consulting Engineers are not engineers with a thorough education and wide experience, competent to give professional advice in engineering matters, and are not persons who, because of their rank and profession, are consulted by other engineers on engineering matters.

PAR. 5. Respondents, in the course and conduct of their business as aforesaid, through said representatives, and in printed matter placed in the hands of said representatives, grossly misrepresent and exaggerate the demand for, and the qualifications and earnings of, persons trained by the respondents in the construction, operation, maintenance, and repair of Diesel engines and air conditioning equipment, and grossly misrepresent and exaggerate the education, training and experience of the teachers employed by the respondents and grossly misrepresent the nature and extent of the equipment available to "members" in respondents' "shops," purportedly operated at their said place of business at Los Angeles, Calif., and the instructional force available to teach such "members" in said "shops."

PAR. 6. Respondents, in many instances, represent to prospective purchasers of said courses of study and instruction that upon completion of a specified number of assignments, the respondents will return to purchasers the initial amount of money paid for the "membership" and represent that if the earnings of the "members" are not sufficient to enable the "member" to live in Los Angeles, Calif., while receiving instruction in respondents' "shops" that the initial payment made will be returned, and in some instances respondents represent that if for any reason the "member" is unable to complete said courses of study and instruction, that all money received by the respondents will be returned to such "member." Respondents, in some instances, represent to prospective purchasers of said courses of study and instruc-

tion that the "member" will be paid a specified salary per week for working in the "plant" of the respondents, which earnings would reimburse the "member." In other instances, respondents represent to prospective "members" that, upon completion of said courses of study and instruction, positions will be available for such "members" where the knowledge acquired from respondents' said courses of study and instruction can be applied.

In truth and fact, the respondents do not return to purchasers the initial amount of money paid for the "membership" upon completion of a specified number of lesson assignments. In many instances, the earnings of the "members" are not sufficient to enable them to live in Los Angeles, Calif., while receiving instruction in respondents' "shops" and respondents do not return the initial payment made. Respondents do not return the money received from a "member" who has been unable to complete said courses of study and instruction. Respondents do not pay to "members" a specified salary per week for working in the "plant" of respondents, and positions are not available to "members" upon completion of respondents' said courses of study and instruction.

PAR. 7. Respondents, in many instances, represent that the prices at which said courses of study and instruction are offered are a special price available for a limited time only, and, in other instances, the respondents represent that the price for said courses of study and instruction is to be increased by \$25 or \$50 in the near future. In truth and fact, the prices at which respondents offer to sell and sell said courses of study and instruction are not special prices, limited in time, but are the prices at which said courses of study and instruction are regularly offered for sale and sold. In truth and fact, in those instances where the respondents represent that the price is to be shortly increased by some \$25 or \$50, respondents do not contemplate, nor do they make, such raises in the price at which said courses of study and instruction are sold.

PAR. 8. The aforesaid acts, practices, and methods of the respondents have the capacity and tendency to and do mislead and deceive many prospective purchasers of respondents' said courses of study and instruction in the construction, operation, maintenance, and repair of Diesel engines and air conditioning equipment, and cause them erroneously to believe that the representations and implications so made and used by the respondents in connection with the offering for sale, sale and distribution of their said courses of study and instruction are true, and have the tendency and capacity to and do cause many prospective purchasers, because of said erroneous beliefs, to purchase said courses of study and instruction from the respond-

ents, thereby unfairly diverting trade in said commerce to the respondents from their competitors who do not use the acts, practices, and methods used by the respondents, to the substantial injury of said competitors in said commerce and to the injury of the public.

PAR. 9. The above alleged acts, practices, and methods of the respondents are all to the injury and prejudice of the public and of respondents' competitors and constitute unfair methods of competition in commerce within the intent and meaning of section 5 of the 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 November 1, 1937, issued and on November 5, 1937, served its complaint in this proceeding upon the respondent Roy E. Reed and upon the respondent Florence A. Reed, individuals trading under the name and style Diesel Engineers, Associated. After the issuance of said complaint and the filing of respondents' answer thereto, testimony and other evidence in support of the allegations of said complaint were introduced by Hilburn H. Covington, attorney for the Commission, and by P. E. Cavaney, attorney for the respondents, before Charles P. Vicini, 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, and brief in support of the complaint (respondents 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 Roy E. Reed is an individual formerly doing business under the name and style of Diesel Engineers, Associated. The same business was formerly conducted by respondent Roy E. Reed under the name and style Diesel Training School. Subsequent to the issuance of the complaint in this proceeding, the respondent changed the trade name under which he conducted said business from Diesel Engineers, Associated, to Allied Engineering

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School. The business under whichever of the three names mentioned above conducted is, and at all times hereinafter mentioned has been, owned by the respondent Roy E. Reed. The respondent Florence A. Reed is, and at all times hereinafter mentioned has been, the wife of the said Roy E. Reed, and both said respondents are now and have been at all times hereinafter mentioned citizens and residents of the State of California, domiciled therein. The principal office and place of business of said business is, and at all times mentioned herein has been, located at 805-807 South Flower Street, Los Angeles, Calif. The respondent Florence A. Reed now has, and at all times hereinafter mentioned has had, the community property interest of a wife in said business under the laws of the State of California and at all times mentioned herein has actively participated in the management of said business, and is now and at all times herein mentioned has been, together with the respondent Roy E. Reed, responsible for the policies and activities of said business, including its advertising.

Respondents in the conduct of said business are now, and for more than 2 years last past have been, engaged in the conduct of a school offering a course of study and instruction in the theory, operation, maintenance, and repair of Diesel engines and air-conditioning equipment. In said school respondents offer said courses of study and instruction both by correspondence and by classroom instruction, at 805-807 South Flower Street, Los Angeles, Calif. In connection with both types of study and instruction respondents employ salesmen or agents to solicit students in California and in other States of the United States. Respondents also advertise both courses of study and instruction by radio, and in newspapers located in California and in other States of the United States, and having a general circulation throughout the United States, and in circulars distributed by their said agents and by United States mail. As a result of such solicitation and advertising, respondents do obtain, and at all times herein mentioned have obtained, students residing in California and residing in other States of the United States, both for the correspondence and for the resident courses of study and instruction. In connection with said correspondence courses of study and instruction, respondents do mail, and at all times herein mentioned have mailed, lesson sheets and other literature by United States mail to students located in California and in other States of the United States. In the course and conduct of said business, as aforesaid, respondents are now, and at all times herein mentioned have been, in substantial competition in commerce between the various States of the United States and in the District of Columbia with various

other individuals and with corporations, partnerships, and firms engaged in the sale and distribution in interstate commerce of like and similar courses of study and instruction in the theory, operation, maintenance and repair of Diesel engines and air-conditioning equipment.

PAR. 2. As a part of the advertising of said business and for the purpose of obtaining students for both courses of instruction in said school, respondents have inserted and caused to be inserted in the "Help Wanted" columns of various and sundry newspapers located in the several States of the United States certain advertisements, known as blind advertisements. Among and typical of these advertisements are the following:

Wanted men and young men to earn while learning Diesel and Air Conditioning. D. E. A., 807 S. Flower.

Diesel Air-conditioning Refrigeration Classes now forming. Summer rates in effect. Jobs furnished while training. You can work and earn while you learn.

Opportunity for Diesel Engineering—learn under lic. engineers, earn while learn. Sun Box 133.

Mechanic—Part-time job while learning. Diesel. Salary & tuition. Address Box 308 News-Pilot.

Men to earn while learning Air conditioning or Diesel. 807 S. Flower.

Men—Small but welcome earnings while learning Diesel. Mechanically inclined ambitious men only. Minimum initial fee \$15. Write Box 61-A, News-Journal.

Earn money while learning Diesel. Write Box E-575. Oklahoman and Times.

By the use of said advertisements, and others of similar import not herein specifically set out, respondents represent and imply that persons responding to such advertisements will be afforded an opportunity to learn to construct, operate, maintain, and repair Diesel engines and air-conditioning equipment while working for pay in a factory or shop in which Diesel engines and air-conditioning equipment are manufactured and repaired by a person, firm or corporation engaged in that business. Said advertisements, in truth and in fact, are inserted in said "Help Wanted" columns not for the purpose of offering employment but for the purpose of obtaining students for said school. Respondents do not own or operate a factory or shop where either Diesel engines or air-conditioning equipment is manufactured or repaired. Respondents conduct an employment bureau in connection with said school, but do not afford students an opportunity to work in a factory or shop constructing, operating, maintaining or repairing Diesel engines or air-conditioning equipment except in very rare instances, and, in many instances, do not afford an opportunity to work at anything. These facts do not become known to persons responding to said advertisements until after an initial payment for instruction has been made to respondents.

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PAR. 3. On letterheads used in correspondence with prospective students, soliciting the sale of and selling said courses of study and instruction, respondents place the following words:

Diesel Engineers, Associated
Consulting Engineers

On said letterheads said words are followed by the names of various persons connected with said school, including the names of John F. Voogt and others who are described on said letterheads as consulting engineers.

On printed agreements with students respondents place the following words:

Diesel Engineers, Associated
Consulting Engineers

Application Associate Engineering Membership

In said agreements students are described as members, the agreement of enrollment is described as a membership, and the diploma to be awarded upon completion of the course of study and instruction is described as an "associate engineering membership."

By the means and in the manner aforesaid, the respondents represent and imply that the organization with which the student, described as a member, is to be associated is an association of engineers banded together for the promotion of some enterprise of mutual benefit to the members, and that the said persons designated as consulting engineers are engineers with a thorough education and wide experience, competent to give valuable professional advice in engineering matters and persons who because of their rank in the profession are consulted by other engineers. In truth and in fact, the organization with which the student or member becomes associated is not an association banded together for the promotion of any common enterprise of mutual benefit to all members, but is a trade school conducted by the respondents for profit. The persons designated as consulting engineers are neither engineers nor consulting engineers. Neither said persons designated as consulting engineers nor any of the members of respondents' staff or faculty holds or has received any degree in engineering. Only one member of respondents' faculty holds a degree of any kind, to wit, James D. Moore, who holds the degree of Bachelor of Science. Although some of the members of respondents' staff and faculty have had practical experience with engines of various types, have had theoretical courses in engineering subjects, and are consulted by students, teachers and, occasionally, by others wishing advice on engineering subjects, none of them receive remuneration.

neration for such consultations, are in fact consulting engineers, or are persons with a thorough education and wide experience, competent to give valuable professional engineering advice.

PAR. 4. Respondents in the course and conduct of said business have placed printed matter in the hands of their said agents, and have otherwise instructed said agents concerning representations to be made to prospective students, which representations are made by said agents to prospective students. Typical of said instructions are the following:

Many prospects will ask technical questions about the operations of Diesels. It should be easy for you to get around such questions by saying, "Mr. —, I am not a diesel engineer. The school maintains a staff of expert engineers to answer technical questions. If I were an Engineer, I would be drawing a nice salary of from three to five hundred dollars per month, but I am getting into this new industry, and in a short time I expect to be in a position to earn some real money, for I know what fortunes were cleaned up when the automobile industry was new".

It is wonderful and it is new. There are so many opportunities in this field for men who are really *Properly* trained that you could spend hours telling of them.

If I can show you where I have something that will give you an advantage over other men, if I can show you where in a short length of time you can be in a position to earn good money, and at a cost that you can afford, is it possible for you to raise a small amount of money with which to get started?

We want to impress upon the prospective members of this organization the fact that we know how they should be taught. We give them all the necessary theory in twenty assignments. After these are completed, they are ready to go into the laboratory for practical training. A member is not ready for practical work until he knows Diesel theory. It would be like "putting the cart before the horse" to put him in the laboratory and then teach him theory. In the laboratory we give him the necessary training in machine shop work—working on lathes, drill presses, shapers, etc. We also give him welding experience. In fact a practical training has been arranged to give him a complete working knowledge of the things necessary for him to know so he can hold down a good job.

Stress the engineers who have written the text for this course. There isn't a man in the field today who has the qualifications for editing a practical theory course as has our Chief Engineer, J. D. Moore. He is a writer of note, besides having had twenty-five years of practical Engineering Experience. Study the data given on the engineers.

Through these representations and others of similar import not specifically set forth herein, respondents grossly misrepresent and exaggerate the demand for and the qualifications and earnings of persons trained by respondents, and grossly misrepresent and exaggerate the education, training and experience of the teachers employed by respondents, and grossly misrepresent and exaggerate the nature and extent of the equipment available to students at respond-

ents' said school in Los Angeles, and the instructional force available to teach said students. There is little demand for services of students trained in respondents' said school; said students, after completing respondents' said courses of study and instruction, are not engineers and are not qualified by said course of study and instruction to do the work of engineers or the work of persons skilled in the construction, maintenance, operation and repair of Diesel engines or air-conditioning equipment; many of respondents' students are unable to obtain work in the field for which respondents have trained them. Respondents' said school is not well equipped for laboratory or shop work. Respondents' teaching force is not well qualified to give the instruction advertised by respondents.

PAR. 5. Respondents have represented to prospective students that initial amounts of money paid for tuition would be refunded if the student was unable to go on with the training. In truth and in fact, except in cases where a payment is made by a minor without the consent of such minor's parents or legal guardians, respondents refuse at all times to refund initial payments or other money paid by prospective students for either of said courses of instruction, regardless of representations made by them, or their salesmen, relying in such refusal upon statements made in their contracts with such students to the effect that no oral representations will be recognized.

PAR. 6. Respondents have represented to prospective students that said students would be paid a specified salary for working in respondents' plant, which earnings would reimburse the student, and have further represented that upon completion of the course of study sold positions would be available for such students in which positions the knowledge acquired by the pursuit of respondents' said courses of study and instruction could be applied. Respondents do not own or operate a plant in which students are employed, do not pay students a specified salary, or any salary, and do not secure work for students which reimburses them for money paid to respondents. In cases where employment is secured by respondents for students, money received by said students is paid in compensation for services rendered and does not reimburse said students for tuition. Respondents do not secure positions or work for those students who complete either of their said courses of instruction in which knowledge acquired from respondents' said courses of instruction can be applied, and, in many cases, such positions are not available to said students through their own efforts or by any other means.

PAR. 7. Respondents indicate the price of their courses of instruction and study on the contracts or agreements entered into with students, and make a practice of allowing a discount on said price so

stated on said contract or agreement. When said discount is allowed, the rate after the deduction of the discount is represented to the student as a special rate or price to him, whereas, in fact, the price or rate paid by the student is the price charged other students for the same course at the same time.

PAR. 8. The aforesaid acts, practices, and methods of the respondents have the capacity and tendency to, and do, mislead and deceive many prospective purchasers of respondents' said courses of study and instruction and cause them erroneously to believe that the representations and implications so made and used by the respondents in connection with the offering for sale, sale and distribution of their courses of study and instruction are true, and have the tendency and capacity to and do cause many prospective purchasers, because of said erroneous beliefs, to purchase said courses of study and instruction from the respondents, thereby unfairly diverting trade in said commerce to the respondents from their competitors who do not use the acts, practices and methods used by the respondents, to the substantial injury of said competitors in said commerce and to the injury of the public.

CONCLUSION

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

ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission, the answer of the respondents and other evidence taken before Charles P. Vicini, an examiner of the Commission theretofore duly designated by it, in support of the allegations of the complaint, brief filed by William L. Pencke, counsel for the Commission (respondents having neither filed a brief nor requested an oral argument), 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, Roy E. Reed and Florence A. Reed, individually and trading under the name and style of Diesel Engineers, Associated, Diesel Training School, Allied Engineering School, or any other name, their representatives, agents and employees, directly or through any corporate or other device, in con-

nection with the offering for sale, sale and distribution in interstate commerce or in the District of Columbia of courses of instruction in Diesel engineering, air-conditioning or in any other subject or subjects, do forthwith cease and desist:

1. From representing, through advertisements in classified advertising pages of newspapers, magazines and other advertising literature, under such headings as "Help Wanted" or "Employment," or in any other manner, that persons responding to such advertisements may obtain an opportunity to work for pay while receiving instruction relating to Diesel engineering, air-conditioning equipment or any other subject.

2. From representing, in any way, that said respondent, or either of them constitutes or is connected with, or that the school which they conduct is, an association of engineers banded together for the promotion of any enterprise of mutual benefit to the members, and from representing that their students become members of such an organization.

3. From representing, in any manner, or by any method, that their students become members of any organization except as students in a school, and from representing that the school conducted by said respondents is any kind of organization other than a trade school.

4. Representing that the teachers in respondents' said school are consulting engineers, unless such persons are in fact fully qualified by education and practical experience in the engineering field to be designated as such and are employed and consulted by concerns or individuals actively engaged in the engineering field other than respondents.

5. Representing that teachers in respondents' said school are engineers, unless such persons are in fact fully qualified by education and practical experience in the engineering field to be designated as such.

6. From misrepresenting and exaggerating the demand for and the qualifications and earnings of persons trained in respondents' school.

7. From misrepresenting and exaggerating the education, training and experience of teachers employed by respondents.

8. From misrepresenting and exaggerating the equipment available to respondents' students at respondents' place of business or elsewhere.

9. From representing that initial payments made by prospective students, or any other amounts paid by students for tuition, will be refunded, when such refunds are not in fact made.

10. From representing that students will receive a specified salary, or any salary, while pursuing courses of instruction at respondents' school, or that students will be reimbursed for their tuition in any way, unless and until a salary is paid or students are reimbursed for the tuition paid in some manner.

11. From representing that upon completion of any of respondents' courses of study and instruction positions will be available offering work in the field of said courses of study and instruction, unless such positions are available and may be secured by students.

12. From representing that the price at which a course of study is offered is a special price, unless said price is lower than the sum charged other students for the same course of study and instruction at the same time.

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
GIMBEL BROTHERS, INC., AND MORRIS KAPLAN
& SON, INC.

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

Docket 3364. Complaint, Mar. 28, 1938—Decision, Dec. 29, 1939

Where a corporation engaged in the operation of a department store from which it sold wools, woolens, and mixtures of wool, and rayon and cotton and other materials used in making of women's coats, dresses and suits, to members of purchasing public in the various States and in the District of Columbia, in substantial competition with others engaged in sale and distribution of wools, mixtures, and other materials used as above set forth—

Represented and described as "woolens" and "luxurious woolens" certain joblot of fabrics which consisted, as case might be, of all wool, wool and rayon, wool, rayon and cotton, and wool and cotton, and which, consisting of mill ends purchased at different times from various manufacturers and sold to said department store "as is" by vendor wholesaler and jobber of woolens, dress goods and pile fabrics, and known to trade as "experimental pieces," were mostly labeled "as are," and thereby represented to members of purchasing public that such fabrics were woolen fabrics and composed solely of wool;

Notwithstanding fact very large part of dress goods thus advertised and sold were composed largely of cotton and rayon, tests made thereon by National Bureau of Standards and others showed proportions of wool falling far short of minimum of 95 percent by weight of total fiber content, requiring, under standards promulgated by said Bureau, accompaniment, as therein set forth, of word "wool" with figure stating guaranteed percentage thereof, in as visible and distinct style as label word "wool," "woolen," or "worsted," and dress goods in question, in very large part, could not truthfully be advertised as "wool" or "woolens";

With tendency and capacity, through word's unqualified use as aforesaid, to mislead and deceive public into belief that said dress goods or cloth were composed entirely of wool, or fleece of sheep, as long definitely and specifically understood by manufacturers, retailers and consuming public generally, from words "wool" or "woolen," and, as such, held in high esteem in products made thereof for preeminent qualities and for warmth, durability and beauty of fabrics made therefrom, and preferred over other fiber admixtures by public, which, relying chiefly on seller representations for fabric wool content, cannot generally distinguish admixture from wholly wool product, and thereby cause members of public to purchase such fabrics, in aforesaid erroneous belief, as wool wholly, and not mixtures of wool and cotton, or wool, rayon and cotton, or wool and rayon, or wool and any other material, and divert trade unfairly to said store from competitors, of whom many do not misrepresent nature, character or content of fabrics offered by them, and of whom some, possessing, in common with many leading department stores and store herein concerned,