

IN THE MATTER OF
MCKINLEY-ROOSEVELT COLLEGE OF ARTS AND
SCIENCES

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

Docket 3571. Complaint, Aug. 31, 1938—Decision, Apr. 23, 1940

Where a corporation engaged in sale of courses of home study instruction in various subjects, including education, writing, psychology, theology, chemistry, business and commerce, law, agriculture, engineering, accounting, advertising, sales management, and many other subjects, and in sending lesson material and text books in the respective courses sold by it to the purchasers thereof in various other States, from the apartment in which was carried on the entire business of the school and which was occupied as a residence by the individual and his wife who were president and secretary-treasurer thereof—

- (a) Made use of words "College" and "University" as respectively included in corporate and former corporate name under which it did business, and displayed said names, as case might be, on catalogs descriptive of the various courses and subjects taught by it, and on letterheads and other printed matter, and in advertisements in periodicals of general circulation in various States set forth, and represented thereby that it offered home study courses of instruction leading to degrees in art, sciences, philosophy, education, and a large number of other branches of learning, at low cost and on easy terms; Facts being school conducted by it as aforesaid lacked all the requirements with respect to equipment and educational facilities which would entitle it to be classified as a college or university, and, while it might be possible for a student to take by correspondence one-half of required work leading to a degree, all accredited educational institutions of higher learning require that at least 2 years of study of the full 4-year course leading to a degree be by actual attendance in classes, and degrees conferred by it were not recognized by such institutions;

With result that, through such false and misleading use of words "College" and "University," there was created in minds of members of public desiring to obtain an education by correspondence, erroneous impression that it was in fact conducting a college or university, as generally accepted and understood as meaning educational institutions of higher learning, with power to confer degrees, resident students, and resident faculty of learned persons acting as instructors in various branches of learning, including the liberal arts and sciences, and, in case of universities, one or more special branches of learning such as theology, law and medicine; and

- (b) Set forth in its catalogs names of the officers of administration and faculty members, followed respectively by a series of letters indicative of and representing various academic degrees, such as those conferred in recognition of academic work or scholastic attainment by recognized colleges and universities, and thereby represented to prospective purchasers of its courses of study that persons thus named and referred to therein as members of its faculty possessed degrees which had been granted them by recognized colleges or

universities, and that such persons were all educators of high scholastic attainment and fully qualified to give instruction in the respective subjects listed in said catalog, and that they were full-time resident members of the faculty of the school;

Facts being degrees referred to were conferred by said corporation or business while being carried on under corporate name including word "University," and were so conferred, in many instances, without having respective persons concerned complete the course or courses of instruction by correspondence or otherwise, or make any showing as a basis for the conferring of such degrees, which, in some instances, were conferred upon faculty members without their knowledge, and which, as aforesaid, were listed in its catalogs distributed widely in the various States and the conferring of which was beyond the authority of such business or corporation, with no faculty of learned persons acting as instructors in various branches of higher learning, including the liberal arts and sciences and one or more special branches of learning, such as theology, law or medicine;

With tendency and capacity to confuse, mislead and deceive members of the public into the erroneous belief that its said claims and representations were true, and that the school conducted by it was a college, university, or graduate school with authority to confer degrees, and with resident student body and resident faculty of learned persons, with academic degrees granted by recognized institutions of higher learning, and to induce members of public, including prospective students, to purchase its courses because of erroneous belief engendered as above set forth, and to divert trade to it from competitors engaged in sale in commerce among the various States and in the District of Columbia of similar home-study correspondence courses, and with effect of diverting business to it from competitors who do not make the same or similar misleading representations and do not misrepresent the nature of their schools, the qualifications of their instructors or the academic degrees earned or awarded to them, but truthfully and accurately state the facts in respect thereto; to their substantial injury and prejudice:

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 in commerce and unfair and deceptive acts and practices therein.

Before *Mr. Miles J. Furnas* and *Mr. William C. Reeves*, trial examiners.

Mr. William L. Pencke for the Commission.

Mr. William R. Peacock, of Chicago, Ill., 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 McKinley-Roosevelt College of Arts and Sciences, a corporation, hereinafter referred to as respondent, has violated the provisions of said act, and it appearing to the Commission that a proceeding by it in respect thereof would be

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in the public interest, hereby issues its complaint, stating its charges in that respect as follows:

PARAGRAPH 1. Respondent, McKinley-Roosevelt College of Arts and Sciences, is a corporation, organized, existing, and doing business under and by virtue of the laws of the State of Illinois, with its office and principal place of business at 4240 Clarendon Avenue, in the city of Chicago, State of Illinois. Said respondent is now, and has been since on or about the 1st day of December 1936, engaged in the sale and distribution in commerce between and among the various States of the United States of courses of study and instruction in various subjects such as arts and sciences, home economics, engineering, agriculture, psychology, education, chemistry, business, theology, letters, speech, and law, all of which are pursued by correspondence through the medium of the United States mails. 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 Illinois to the purchasers thereof located in the several States of the United States other than the State of Illinois and in the District of Columbia. For more than 2 years prior to the said 1st day of December 1936, said business was conducted by the same corporation under the then corporate name of McKinley-Roosevelt University. On the date above given, the corporate name was changed to McKinley-Roosevelt College of Arts and Sciences.

PAR. 2. There is now, and has been at all times hereinafter mentioned, a course of trade in said courses of instructions so sold and distributed by the respondent in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 3. In the course and conduct of its business as aforesaid, respondent is now, and for many years last past has been, in substantial competition with other corporations and with individuals, partnerships, and firms engaged in the sale and distribution of similar correspondence courses of instruction in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 4. In the course and conduct of its business, respondent distributes to purchasers and prospective purchasers of its said courses of study catalogues descriptive of the various courses and subjects taught by it. Said catalogue bears on its outside cover the title

McKinley-Roosevelt
College of
Arts and Sciences
College of
Engineering
Annual Catalogue

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and on the title page the inscription

McKinley-Roosevelt
University
Founded 1908
Charter in 1913 by the State of Illinois
As an Educational Institution
Not for Profit

Page 3 of said catalog contains the names of the officers of administration and faculty members. Each of said names is followed by a series of letters, indicative of and representing various degrees or titles conferred in recognition of academic work, a number of names carrying four different degrees.

On its letterheads and other printed matter appear the words "McKinley-Roosevelt University."

PAR. 5. The use of the words "College" and "University" in respondent's corporate name, catalogs, and other printed matter as aforesaid serves as a representation to prospective purchasers of respondent's courses and to students who enroll that said McKinley-Roosevelt College of Arts and Sciences is in fact a college or a university. The use of the words "College" and "University" to describe or refer to respondent's correspondence school is false and misleading in that it creates in the minds of a part of the public, and especially those members of the public who are interested in obtaining an education by correspondence, the impression that the respondent is operating and conducting a college or a university, which terms are generally accepted and understood to mean an educational institution of higher learning with the power to confer degrees and with a resident faculty of learned persons acting as instructors in various branches of learning which include the liberal arts and sciences and one or more special branches of learning, such as theology, law, and medicine.

In setting forth said various academic degrees after the names of its said administrative officers and faculty members, respondent represents to prospective purchasers of its said courses and to students enrolling in its said correspondence school that the persons possessing said respective degrees are all teachers of high scholastic attainments, especially well qualified to teach the several subjects offered by said school, and implies that said members of its faculty are full-time resident teachers and professors.

PAR. 6. In truth and in fact said McKinley-Roosevelt College of Arts and Sciences is not an educational institution of higher learning consisting of resident colleges but is a correspondence school conducted by the president of respondent from an apartment in the city of Chicago; it has no power to confer degrees which are recognized by

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colleges and universities having a reputable character as institutions of learning; it has no faculty of learned persons as instructors in various higher branches of learning including the liberal arts and sciences and one or more special branches of learning such as theology, law, or medicine. The faculty listed in respondent's said catalog consists of individuals residing in various States of the United States who are engaged in professions and avocations other than teaching. Lessons and papers which are received in respondent's place of business in Chicago from its students for review and correction are forwarded by respondent to said various faculty members, who grade or correct the lessons and return them to respondent's office in Chicago, whence they are again sent to its said students. Final examinations of said students are conducted in the same manner.

In truth and in fact, a number of the degrees appearing after the names of said faculty members are not degrees conferred by a duly recognized institution of higher learning in recognition of scholastic attainment but are conferred upon said persons by respondent, and in some instances without their knowledge.

PAR. 7. The false, misleading, and deceptive practices as hereinabove described, in using the words "College" and "University" in its corporate name and the words "College" and "University" in its catalogs, stationery, and otherwise; in representing by the use of said corporate name and through advertisements, catalogs, circulars, and otherwise that it is an institution of higher learning with power to confer degrees in the arts and sciences; in representing that the members of its faculty are all individuals possessing many degrees conferred upon them by institutions of higher learning for study and scholastic attainment and as well qualified to teach the respective subjects described in respondent's literature, all have a tendency to and do induce prospective purchasers to subscribe to respondent's courses of study and to enroll in its said extension school, in the erroneous and mistaken belief that the representations and statements made by respondent as hereinabove set forth are true.

PAR. 8. There are among competitors of respondent many who truthfully represent the character of their schools and the accomplishments and attainments of their teaching personnel and who do not in any other manner unfairly and untruthfully represent their method of doing business.

PAR. 9. Each and all of the false and misleading statements and representations made by the respondent, as hereinabove set out, are calculated to and do have a tendency and capacity to lead a substantial portion of the purchasing public into the erroneous and mistaken belief that said representations are true. Further, as a direct conse-

quence of such mistaken and erroneous beliefs, induced by the aforesaid acts and representations of respondent, a substantial number of the consuming public has purchased respondent's courses of instruction, with the result that trade has been unfairly diverted to the respondent from other corporations, individuals, and firms likewise engaged in the business of selling similar correspondence courses of instruction who truthfully advertise and represent their schools and who do not hold themselves out to be universities. As a result thereof, injury has been, and is now being, done by respondent to competition in commerce among and between the various States of the United States.

PAR. 10. The aforesaid acts and practices of respondent are all to the prejudice of the public and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices within the intent and meaning of the Federal Trade Commission Act.

REPORT, FINDINGS AS TO THE FACTS, AND ORDER

Pursuant to the provisions of the Federal Trade Commission Act, the Federal Trade Commission, on August 31, 1938, issued its complaint in this proceeding and caused the same to be served upon respondent, McKinley-Roosevelt College of Arts and Sciences, a corporation, charging it with the use of unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce in violation of the provisions of said act. After the issuance of said complaint and the filing of an answer thereto by respondent, testimony and other evidence in support of the allegations of said complaint were introduced by William L. Pencke, counsel for the Commission, before Miles J. Furnas and William C. Reeves, examiners for the Commission theretofore duly designated by it, which testimony was reduced to writing and filed in the office of the Commission, together with numerous pieces of documentary evidence received as exhibits. No testimony was tendered by or on behalf of respondent in opposition to the allegations of said complaint, but counsel for said respondent tendered three pieces of documentary evidence which were received as exhibits. Thereafter, the proceeding regularly came on for final hearing before the Commission on said complaint, the answer thereto, testimony and other evidence and briefs in support of the complaint and in opposition thereto, 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. The respondent, McKinley-Roosevelt College of Arts and Sciences, is a corporation organized under the laws of the State of Illinois, with its principal place of business at 4240 Clarendon Avenue, in Chicago, in said State. Since on or about December 1, 1936, respondent has been engaged in the business of selling courses of home-study instruction in various subjects, including education, writing, psychology, theology, chemistry, business and commerce, law, agriculture, engineering, accounting, advertising, sales management, and many other subjects. It has caused the lesson material and textbooks in the respective courses of instruction sold by it to be sent by the United States mail from its place of business in Chicago, in the State of Illinois, through and into various other States of the United States to the respective purchasers thereof. In the conduct of its said business respondent has been, and is now, in active competition with various persons and partnerships and other corporations also engaged in the sale of courses of instruction of the same general nature as those sold by respondent, as well as in other lines of study, in commerce between and among the various States of the United States and in the District of Columbia.

PAR. 2. Respondent, McKinley-Roosevelt College of Arts and Sciences, is the successor of a number of correspondence schools operated under various corporate names by Walter Raleigh Taylor. Respondent's immediate predecessor was McKinley-Roosevelt University, a corporation, which by change of name became McKinley-Roosevelt College of Arts and Sciences, the designated respondent herein. The said Walter Raleigh Taylor is the president of respondent corporation, and his wife, Jessie M. Taylor, is its secretary-treasurer. Respondent corporation was originally incorporated in 1913 as Washington University and has operated under the charter then granted after several changes of the corporate name. Respondent has also made use of the name McKinley-Roosevelt Graduate College to designate its school and courses of instruction offered.

PAR. 3. The respondent since its organization has not conducted a residence school, and neither did it when operating under the name McKinley-Roosevelt University. The entire business of the school conducted by respondent is carried on in an apartment of a building located in one of the residential districts of Chicago, Ill., which apartment is occupied as a residence by the said Walter Raleigh Taylor and his wife, Jessie M. Taylor. The school so conducted by respondent lacks all of the requirements with respect to equipment and educational facilities which would entitle it to be classified as a

college or university. It has set up courses of study to be given entirely by correspondence. Respondent has caused and is causing advertisements to be published in magazines and other periodicals having a general circulation in various States of the United States, in which advertisements the announcement is made that the respondent offers home-study courses of instruction leading to degrees in art, sciences, philosophy, education, and a large number of other branches of learning at low cost and on easy terms. One type of such advertisements was headed:

Earn a Degree at Home.
Home Study Courses Leading to
Degrees in Arts, Sciences * * *

It may be possible for a student to take by correspondence one-half of the required work leading to a degree. However, all accredited educational institutions of higher learning require that at least 2 years of study of the full 4-year course leading to a degree be by actual attendance at classes. Degrees conferred by respondent are not recognized by accredited institutions of higher learning.

PAR. 4. In the course and conduct of its business, respondent distributed to purchasers and prospective purchasers of its said courses of study catalogs descriptive of the various courses and subjects taught by it. Said catalogs had on their outside cover the title

McKinley-Roosevelt
College of
Arts and Sciences
College of
Engineering
Annual Catalogue

and on the title page the inscription

McKinley-Roosevelt
University
Founded 1908

Chartered in 1913 by the State of Illinois
As an Educational Institution
Not For Profit

Said catalogs contained the names of the officers of administration and faculty members. Each of said names is followed by a series of let-

ters indicative of and representing various academic degrees such as those conferred in recognition of academic work or scholastic attainment by recognized colleges and universities.

On its letterheads and other printed matter appear the words "McKinley-Roosevelt University."

PAR. 5. The use by respondent in its corporate name of the word "College" and the word "University" and the reference in its catalogs, advertisements, and advertising matter to the correspondence school conducted by it as a college or university serve as representations to prospective purchasers of the courses of instruction offered for sale by it that such school is in fact a college or university. The use by respondent of the words "College" and "University," as stated, is false and misleading and is calculated to, and does, create in the minds of members of the public who desire to obtain an education by correspondence the erroneous impression that respondent is in fact conducting a college or university, which terms are generally accepted and understood to mean educational institutions of higher learning with power to confer degrees, having resident students and a resident faculty of learned persons acting as instructors in various branches of learning, including the liberal arts and sciences, and in reference to universities one or more special branches of learning such as theology, law, and medicine.

PAR. 6. While the business conducted by respondent was being conducted as McKinley-Roosevelt University, numerous degrees were conferred upon numerous persons described in its catalogs as members of the faculty of the school conducted by it, which catalogs were given wide distribution in various States of the United States. These degrees were conferred upon the respective persons in many instances without having them complete the course or courses of instruction by correspondence or otherwise, or make any showing as a basis for conferring such degrees, and, in some instances, such degrees were conferred upon faculty members without their knowledge. The letters indicative of the degrees so conferred appeared after the respective names of the persons described in such catalogs as members of the faculty and thereby said McKinley-Roosevelt represented to prospective purchasers of the courses of study for sale by it that the persons possessing said degrees had been granted the same by recognized colleges or universities, that they were all educators of high scholastic attainments and fully qualified to give instruction in the respective subjects listed in said catalogs, and that such persons were full-time resident members of the faculty of said school.

PAR. 7. While the school now conducted by respondent was being conducted as McKinley-Roosevelt University, a stipulation was made and entered into on November 17, 1936, by and between the Commission

and said McKinley-Roosevelt University, in which stipulation it agreed and the Commission now finds that said McKinley-Roosevelt University was not an educational institution of higher learning; that it did not have authority to confer degrees; that it did not have a faculty of learned persons acting as instructors in various branches of higher learning including the liberal arts and sciences and one or more special branches of learning such as theology, law, or medicine; and that it had conferred a large number of degrees upon a number of persons, including persons described by it as members of the faculty of the school conducted by it. In said stipulation said McKinley-Roosevelt University further agreed to cease and desist from the use of the word "University" as a part of its corporate name and from the use of a corporate or trade name containing the word "University," in any way that would import or imply that said school was in fact a "University" as commonly understood and generally accepted by the public. It was further stipulated that said school should cease and desist from using symbols representing academic degrees after the names of members of its faculty when such degrees were conferred by it and did not represent degrees conferred by institutions of higher learning in recognition of study and attainment. Thereafter, the name of the corporation was changed as heretofore stated. Since said change of name, respondent has made use of catalogs, office, and business stationery and advertising matter which it has given wide distribution in various States of the United States in which the school so conducted by respondent is described and referred to as the McKinley-Roosevelt University founded in 1908. Catalogs so distributed also contain a list of names of persons described as members of the faculty of such school, and after each of said names are combinations of letters indicative of college or university degrees, many of which were conferred upon the respective persons by said McKinley-Roosevelt University and did not represent degrees conferred by institutions of higher learning in recognition of study and attainment.

PAR. 8. The representations of respondent as aforesaid are false and misleading and have had and do have the tendency and capacity to confuse, mislead, and deceive members of the public into the erroneous belief that such claims and representations are true and that the school conducted by respondent is a college, university, or graduate school, with authority to confer degrees and with a resident student body and a resident faculty of learned persons with academic degrees granted by recognized institutions of higher learning. Said representations of respondent have had the tendency and capacity to induce members of the public, including prospective students, to purchase respondent's courses of instruction because of the erroneous belief engendered as

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above set forth and to divert trade 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 similar home-study courses pursued by correspondence. There were and are among the competitors of respondent those who do not make the same or similar misleading representations as made by respondent, as herein set out, and who do not misrepresent the nature of the schools conducted by them, the qualifications of their instructors or the academic degrees earned or awarded to them, but who truthfully and accurately state the facts in such respects. Respondent's said acts and practices have tended to and have in fact diverted business to respondent from its said competitors to the substantial injury and prejudice of such competitors.

CONCLUSION

The acts and practices of respondent as herein found are all to the prejudice and injury of the public and to competitors of respondent and constitute unfair methods of competition in commerce and unfair and deceptive acts and practices in commerce within the intent and meaning of the provisions 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 respondent, testimony, and other evidence taken before Miles J. Furnas and William C. Reeves, examiners of the Commission theretofore duly designated by it, in support of, and in opposition to, the allegations of said complaint, and briefs filed herein, 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 the respondent, McKinley-Roosevelt College of Arts and Sciences, 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 correspondence courses of study and instruction in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist:

1. From using the word "college" or the word "university" in the corporate or trade name used in the conduct of such business or as descriptive thereof.

2. From representing, through the use of the word "college" or "university" in any corporate or trade name or in catalogs, advertising literature, or otherwise, or by any other means, that the business con-

ducted by respondent is a university or college or institution of higher learning.

3. From representing, through the use of the symbols indicating academic degrees after the names of members of its faculty, or by any other means, that members of its faculty are educators duly qualified by a higher education, when the degrees so indicated are not the result of study pursued in residence at recognized colleges or universities duly authorized to grant the respective degrees indicated, or when the symbols of academic degrees used do not represent degrees actually granted by such institutions to such members of its faculty for attainment in the field of knowledge, and when the persons to whom the degrees represented by the symbols used are attributed are not teachers, educators, or persons of high educational attainment.

It is further ordered, That the 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.

IN THE MATTER OF
ANESTHETIC LABORATORIES, INC., FORMERLY
GUILD ANESTHETIC LABORATORIES

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

Docket 3816. Complaint, June 9, 1939—Decision, Apr. 29, 1940

Where a corporation engaged in manufacture of medicinal preparation for use as local anesthetic, under name "Guild Procaine Epinephrine Anesthetic," and in sale and distribution thereof to purchasers, such as practicing dentists, physicians and dental colleges, in other States and in the District of Columbia; in advertisements which it disseminated concerning its said product through the mails, in circulars and other printed or written matter distributed in commerce between the various States, and through other means, and which were intended and likely to induce purchase of its said preparation—

- (a) Represented that it was a guild or association of persons operating for the benefit, education, and enlightenment of the dental and medical professions, without profit, and that its purpose was the advancement of the science of anesthesia, through use of its corporate or trade name "Anesthetic Advancement and Research Guild, Inc.," and statements displaying the same, and such matter or legends as "Organized in the Interests of the Medical and Dental Professions" and "* * * has made a most thorough study and analysis of local anesthetics and finds that there is absolutely no reason nor foundation for present high prices," and "In its serious efforts to help the Dental Profession the Guild feels that its policy of education and enlightenment should include, wherever an item is not equitably priced, the production in its own fully equipped laboratory of the Equivalent or Better of the item involved that it may thus offer to the dentist at the lowest possible price," and "The success of the Guild is your success. * * *," etc.; and
- (b) Made use also of trade or corporate name "Guild Anesthetic Laboratories" in various advertising matter, circulars, letterheads, and other printed matter disseminated as aforesaid, and featured in certain of such matter word "guild" in such corporate or trade name, and thereby represented that its organization was that of a guild or association of persons engaged in kindred pursuits for mutual protection, aid and cooperation, and not a commercial corporation organized for profit;

Facts being it was not a guild or association of persons engaged in such pursuits, but commercial business organized, existing, and operated for profit, was not impartially engaged in research for purpose of advancement of science of anesthesia for benefit of dental or medical professions, and did not operate solely for benefit, education, and enlightenment of such professions;

With effect of misleading and deceiving substantial portion of purchasing public into erroneous and mistaken belief that such false statements, representations, and advertisements were true, and of inducing portion of such public,